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MINUTES OF COMMITTEE MEETINGS

17 Nov. 1967

Columbia, South Carolina  
December 19, 1967

To: Members of the Constitutional Revision Committee

From: Robert H. Stoudemire, Staff Consultant

The minutes for the November 17 Meeting are enclosed. I have read them and feel that all objectional statements have been removed.

According to our understanding the minutes are confidential until officially approved at our meeting.



## MINUTES OF COMMITTEE MEETING

The Committee to Make a Study of the Constitution of South Carolina, 1895, met in the Wallace Room of the State Board of Health, Columbia, South Carolina, on Friday, November 17, 1967, at 10:00 a. m.

The following members were present:

### Senators-

Richard W. Riley  
John C. West, Lieutenant Governor

### Representatives-

Solomon Blatt, Speaker of the House  
J. Malcolm McLendon  
W. Brantley Harvey, Jr.

### Governor's Appointees-

Miss Sarah Leverette  
T. Emmet Walsh  
W. D. Workman, Jr.  
Huger Sinkler

### Staff Consultant-

Robert H. Stoudemire

The meeting was called to order by the Chairman, Lieutenant Governor John C. West.

MR. STOUDEMIRE: The first thing would be the approval or the disapproval of the minutes of October 6th meeting. I don't believe there are any changes, are there Mrs. Bryan? This is for the September 16th meeting. The pages you have here are already approved.

MRS. BRYAN: That's right.

MR. WORKMAN: The last minutes we have are for the meeting before last.

MR. STOUDEMIRE: Yes. The other ones are not quite through yet.

MR. WEST: Are there any changes, additions or corrections. If not, they stand approved.

MR. WEST: What is the next item?

MR. STOUDEMIRE: The last time we left off, I believe, with Working Paper on The Executive Department, Section 23, 24. We had dealt partly with that but not altogether. In other words, Working Paper No. 7, Executive Department, page 43. This was from the last meeting. This concerns the constitutional officers. Tentatively, as you know, the Comptroller General has been made an appointee of the Legislature; the Adjutant-Inspector General has been made an appointee of the Governor; and the Superintendent of Education an appointee of the Board. This leaves us then undecided as to what we would do with the Secretary of State and the Attorney General as embraced within this article. Nettie, do you have the extra on No. 7? Mr. Blatt, do you have a copy of No. 7? Does anybody need a copy? Nettie, will you give Mr. Blatt a copy.

Also, Mr. Chairman, Dr. Bain brings up for consideration here as to how we might feel on the executive power of the Governor. He raises such questions as:

Should the Governor be given explicit directive power over state agencies and programs?

Should the Governor be given the power to appoint the heads of all principal executive departments?

Should the Governor's power to suspend be expanded to include the power to remove?

Should the Governor be constitutionally empowered to reorganize state agencies by executive order?

Should the maximum number of Executive Departments be constitutionally fixed?

Should a constitutional provision require a civil service system?

These are some of the things that you pick out of other constitutions in other areas, so I wonder what your pleasure is?

MR. HARVEY: You are referring to Working Paper No. 7?

MR. STOUDEMIRE: Yes, that's right.

MR. WORKMAN: Our point precisely though is with Section 24, isn't it?

MR. STOUDEMIRE: Right.

MR. WEST: We have to decide whether the Secretary of State and the Attorney General shall continue to be popularly elected.

MR. HARVEY: I thought we agreed on that last time, didn't we?

MR. WORKMAN: No. We agreed that the Superintendent of Education should be elected by the Board, that the Comptroller General should be elected by the Legislature and the Adjutant General should be appointed. That leaves us the Attorney General, the Secretary of State and the Treasurer. I think we have two different categories here. The Secretary of State and the Treasurer -- their duties are ministerial. I think we should perhaps differentiate those from the Attorney General who is a reflection of public policy and can set public policy. If any of these three were to continue to be elected, I think he is the one that deserves consideration. I don't see any need for electing by public vote the State Treasurer or the Secretary of State, one reason being that the public is almost unaware of the requirements of those jobs and in some cases of the existence of those jobs.

MR. STOUDEMIRE: So far as I know now, the General Assembly is left free to define the duties of all these. The constitutional situation does not concern the duties. I think it concerns how you get the person.

MR. SINKLER: Would the Treasurer be elected by the General Assembly the way we provided for the Comptroller?

MR. WORKMAN: I think the question was boiled down that we make it appointive by the Governor or that we have him elected by the General Assembly. The Legislature certainly would be in a better position to appreciate the importance of the office and the qualifications of the person to put in than would the general public. I think that the thinking consensus without it being expressed is that we are not aiming at a cabinet system, in which the Governor comes in and fills these slots. I haven't seen anything to indicate that.

MR. WEST: I haven't either.

MR. WORKMAN: So, if we are not moving in that direction, then we ought to move in the direction to determine what agency is best equipped to select the Treasurer and I think the General Assembly is. If we are going to take it out of the popular election and not make it appointive, the General Assembly is the logical place for it to be.

MISS LEVERETTE: Don't you think, too, that we are making a little division there between the executive and the legislative . . . . .

MR. WORKMAN: With some distinction -- Sol, this is one thing you'd be interested in - that we have determined in post-audit function that the Comptroller General ought to be more responsive to the General Assembly and because of that be selected by the General Assembly. But the Treasurer and the Secretary of State are looked upon as not having functions which are peculiarly related to the General Assembly as the Comptroller General would be, so here would be a question of the General Assembly simply performing the role of selection without any ramage of the function of either of those two offices specifically with the Legislature.

MR. SINKLER: Sol, what do you think? I think continuity in the office of State Treasurer is very important to the State. Do you think our system at the present time is the best one to assure continuity in office? The one that gets elected stays in for life practically.

MR. BLATT: Well, that goes back to what Bill said awhile ago that a lot of people don't know that he is in existence or that the office exists.

Very often I notice that with reference to the Comptroller General, somebody can stand at a box and carry that box for the Comptroller General or the Secretary of State and nobody knows anything about it. The question as to whether he should stay in office depends upon the type of man you have elected. If he is a good man he ought to be there, and if he is a bad man he ought to get out.

I think you have to spend a lot of money to get elected to these jobs and if you elect them some other way, in a more intelligent way, I don't mean to say that the people are all ignorant or anything like that, but then most of them don't know that the Comptroller General exists.

MR. WORKMAN: They don't concern themselves with the office.

MR. BLATT: I'll bet you could walk down the streets of Barnwell and there wouldn't be one out of twenty people who could tell you who the Comptroller General is.

MR. WEST: Not one out of one hundred could tell you what his job is either.

MR. RILEY: There is no question but what we want to leave the Treasurer out of . . . . .

MR. STOUDEMIRE: Throughout the country most Attorneys General, according to this table, are elected. On page 66, actually, of the Book of the States it reads: "The Treasurers are by and large constitutionally elected." This means that they are elected and specified in the Constitution - for whatever guidance that this might give us.

MR. WORKMAN: What page is that on?

MR. STOUDEMIRE: It's on page, our page 66, or actually page 138 in the Book of the States.

MR. RILEY: It's next to the last page in the No. 7.

MR. WEST: In other words, most of the Secretaries of State are constitutionally elected also?

MR. STOUDEMIRE: Gentlemen, these are, as you well know, your very very ancient state positions and, of course, were put in constitutions in an early time when this was about all they had, really.

MR. WORKMAN: I see no real reason to take them out of the Constitution. The roles that they perform with the Budget and Control Board and with various other agencies on which they serve as ex officio - we will do well, I think, just to leave them in the Constitution, but perhaps alter the means by which they are chosen.

MR. SINKLER: The Secretary of State has two very important functions recently given to him, the UCC, the security, which is very important, and Frank has done a very fine job, but again we are talking about individuals.

MR. STOUDEMIRE: The question I raise is - in talking about the Treasurer continuing in office and so on, I don't know how two-partyism would affect these positions. Under one-partyism, as you all know, if a man got elected for the first time, then normally he continued for many years. Now, whether this will continue to be true, your guess is as good as mine.

MR. WEST: I don't believe we have ever had a Treasurer or Comptroller General who failed to be re-elected, have we? Not in my memory - Mr. Speaker, how about you?

MR. BLATT: I don't think so either. That's true too with the Adjutant General and Attorney General.

MR. WALSH: That's one of the reasons we have some of the problems we now have.



MR. BLATT: I'll tell you one thing you are going to run into if you change this system. Say that you have an election by the Legislature for some - like the Comptroller General - and the Secretary of State and the Treasurer have to make a race all over South Carolina. If they all draw the same compensation, you'll have problems, with the Comptroller General drawing \$20,000.00, elected by the Legislature, and say others like the Secretary of State and Attorney General running all over South Carolina, all getting \$20,000.00 a year, you are running into a problem. I think the man who has to make a race over the whole state might be entitled to a little bit more expense money or what not.

MR. WALSH: I am just wondering if we aren't overlooking one point. If we make all these elected by the Legislature, you still don't have much executive control. I think one of the problems we are going to increasingly run into in the future is when they are elected, they really aren't responsible to anybody. Nobody can say, "bring me this information or do this". The Legislature sets down the policy and passes the laws but somebody has to carry them out. Certainly we have many many laws on the books with just nobody to carry them out.

MR. WEST: Would a suggestion that the Treasurer be elected by the General Assembly and the Secretary of State be appointed by the Governor be a reasonable approach? The Secretary of State is more administrative.

MR. WALSH: That might be a pretty good idea - the Attorney General to be elected by the people and the Treasurer be elected by the General Assembly.

MR. STOUDEMIRE: If your Comptroller is to be your legislative post-auditor, he should be auditing agent . . . . .

MR. WEST: What do you suggest then?

MR. STOUDEMIRE: I'm for a strong Governor and I'd have the Governor to appoint him straight out.

MR. WORKMAN: I would say of the various appointments that the Governor could make that most general acceptance from both the public and the General Assembly would be the appointment of the Secretary of State and the Treasurer, neither one of whom are regarded as being a political stepping stone or powerhouse or a point from which he can influence much in the way of politics. If those two were appointed by the Governor, with confirmation by the Senate or the General Assembly. . . . . I think you'd be pretty generally acceptable -- keeping the Attorney General as publicly elected.

MR. HARVEY: How about the Secretary of State's duties on registration and election laws?

MISS LEVERETTE: His duties are primary administrative and ministerial.

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MR. WORKMAN: The point that Bob made that in our present thinking, the role of the Comptroller General is moved much closer to the Legislative branch, which we think is proper, the functioning of both the Treasurer and the Secretary of State are executive in nature, in that they are administrative; so I see no impropriety in having them more closely identified with the Governor.

We still are not getting, John, into much of a spoils system, if they're the only two out of the constitutional officers over whom he has any appointive control. . . . It may be a kind of a compromise way out - to let the Governor appoint the Secretary of State and the Treasurer, with Senate confirmation.

MR. SINKLER: I'm inclined to think that the Treasurer ought to be elected . . . . I believe the Treasurer is a significant officer and I think a man of proper caliber would add to any Governor's ticket. . . . .

MR. WORKMAN: Are you thinking about popular election as to the Treasurer?

MR. SINKLER: Yes, keep the Treasurer where it is.

MR. STOUDEMIRE: Mr. Chairman, would a general discussion of what the Governor's appointing power should be, be in order now? I don't know how this group feels at all, whether you want to give the Governor any more appointive power or not, and this might be your basic premise to determine whether this should be done.

MR. WEST: I think perhaps we are going to take up the general powers of the Governor, and this is a part of them, and so maybe we ought to have a general discussion.

MR. STOUDEMIRE: The big question really is: Do you wish to make the Governor the truly Chief Executive by letting him appoint with Senate confirmation most of the executive department heads?

MR. WALSH: Isn't it a little broader than that? Should we say whether we are going to have an executive branch of government or whether the Legislature is going to have most of the executive provisions?

MR. STOUDEMIRE: Yes. That right. In our case is what would be at stake is who would control the Highway Department; who would control the Welfare Department; who would control the Employment Security Commission and on down the line.

MR. WALSH: How do you mean control?

MR. STOUDEMIRE: I mean who would be responsible for the duties.

MR. BLATT: If you are going to give this power to the Governor, he is going to control and I'm opposed to that.

MR. WALSH: Personally, I think we need to take a close look at the executive of the State. If we have a strong Legislature in the State, the Legislature would have all the legislative duties and half the executive duties. There has not been that clear distinction between executive and legislative. It goes all the way from the State right down to the county. We have county delegations who<sup>are</sup> doing purely executive work and it is not working. It used to work wonderfully well. The problems of the State are changing so that it is certainly not working well now.

MR. STOUDEMIRE: All right, if there is no objection, let's pass on to page 47.

On page 47 we find:

Should the Governor be given explicit directive power over state agencies and programs?

This would mean - on page 48 - at the top of the page: "The governor shall be responsible for the faithful execution of the law. He may, by appropriate court action or proceeding brought in the name of the State, enforce compliance with any constitutional or legislative mandate, or restrain violation of any constitutional or legislative power, duty or right by any officer, department or agency of the state" - and so on. "This authority shall not be construed to authorize any action or proceeding against the legislature."

MR. SINKLER: That's not too strong. I think we do that anyway.

MR. STOUDEMIRE: Each fiscal department shall be under the supervision of the Governor, you see.

MR. WORKMAN: This would put more of a mandate on the Governor to be in fact as well as in name, the Chief Executive -- make him responsible for agencies, explicitly, instead of just . . . . .

MR. WEST: I think that's a fairly good statement. You see the New Jersey Constitution and the Alaska Constitution. . . they all have the provisions that shall not be construed. . . . .

MR. SINKLER: Wouldn't you think the Governor has this very same power now?

MR. WEST: He probably does, Huger.



MR. STOUDEMIRE: Huger, our Governor has the power to faithfully execute the laws of the State, but I don't think too many of them have used this in an administrative sense, have they? I mean to pick a major battle with an executive department.

MR. WEST: Not since Olin lost the Highway Department battle.

MISS LEVERETTE: That does spell out in a general way the procedure. . . .

MR. SINKLER: Actually, it's a restriction on his powers, I think, over what we have now.

Mr. Walsh: I would say, to look at it pretty carefully, that the way it is now that the Legislature will make the policy and then elect people to carry it out, and you don't have an independent agency to see that it is carried out properly. The thing that concerns me is that the Legislature makes an awful lot of good laws, but nobody seems to be carrying them out -- no agency, no persons have any authority to carry them out. You can find any number of good acts on the books. If we do anything to the Constitution, we need to do something that would improve that situation.

MR. McLENDON: Is that normally the case?

Mr. WALSH: In most cases it is.

MR. WEST: I rather like the New Jersey provision which says the Governor has a right to investigate conduct in office for any officer except the members of the General Assembly. . . It is still a right healthy thing for there to be fixed upon one person the responsibility of saying that nobody is a crook in office.

MR. WALSH: That's true, John, but that's just a minor, minor part of it. Obviously if somebody is a crook in office somewhere down the line, somebody is going to find some method of getting him out.

The more important thing is to put the responsibility on somebody to see that, administratively, the laws are carried out fairly, impartially -- give him sufficient power to enable him to do it. Let him get the information and get the facts about it.

MR. WEST. I sense there, and correct me if I am wrong, that there is no particular objection to some general statement which we all agree is probably within the scope of the present Governor but not spelled out perhaps precisely. Is that a correct statement or feeling or does anyone take exception to it?

as it is done here.

MR. STOUDEMIRE: Are you referring to page 48?

MR. WEST: Yes.

MR. WORKMAN: Here again, I think we have got to remind ourselves that by the time this gets before the Legislature generally, or before the people, we will probably have more public interest in government. We must show that there is strong feeling behind our recommendations, as we do in each instance, or, in changing the Constitutional officers, as we have done so far - - Comptroller General -- Superintendent of Education -- The Adjutant General and so on.

At the same time, I think we should show that we are concerned with the powers of the Governor, as Chief Executive, and within the bounds of South Carolina tradition and the proper procedure. We want to make him, in effect, Chief Executive, and spell it out in some degree and put that burden on him in the Constitution; so I would be in favor of a statement such as is contained in either Alaska or New Jersey. You say, in effect, that here is the Chief Executive and if the public has quarrels with any agency, they can go to the Governor, if they want to, instead of stopping at whatever agency level, because he is the man responsible for the total administration of the government -- the administrative branch as against the legislative and judicial. I'd be in favor of a statement to put that burden on him.

MR. WEST: Are there any objections?

Bob, will you draft some statement to that effect. I think you have the opinions of the group.

MR. STOUDEMIRE: I assume you are talking primarily about the New Jersey?

MR. WEST: Right. Now, to get to the question in Issue 2 . . .

MR. McLENDON: Before we get to that shouldn't we, at this time, consider this statement which says: "Each principal department shall be under the supervision of the Governor."

MR. STOUDEMIRE: We haven't gone that far. That comes over on page 49, Issue No. 2., which reads:

"Should the Governor be given the power to appoint the heads of all principal executive departments?"

Some states now limit the number of departments which, I think, is bad constitutionally, except for two or three which are reserved to the electorate; then the Governor makes the appointment usually, with the confirmation. This is a practice that is developing in a number of states now.

MR. BLATT: Give us an example of what you mean?

MR. STOUDEMIRE: Well, take New Jersey, Alaska, New York, and so on -- the Governor is to the state just as the President of the United States is to the federal government. In other words, the Welfare Director, the Highway Director, all of your major state departments, the persons in charge of those departments are appointed by the Governor, with Senate confirmation.

MR. HARVEY: I think that's true in North Carolina too.

MR. STOUDEMIRE: I want to bring up as many thoughts as are being circulated whereby we could show that these thoughts have not been passed over without some consideration.

MR. HARVEY: Our method now in every case that I can think of is that the head is appointed by a board or commission. . . .

MR. WEST: In many instances, the Governor is the ex officio member of the board, but that's not always true.

MR. SINKLER: What we really do is to leave it to the Legislature. The Legislature has perfect power to name any board it wants and let the Governor have that appointment.

MR. STOUDEMIRE: Oh, yes!

MR. RILEY: Actually, this Alaska thing -- you are probably talking about the Attorney General, the Treasurer, the Comptroller General, and all that -- because it explicitly says: "except the Secretary of State as provided". . . . so I think it will probably go a lot farther than just the Department of Health.

MR. WORKMAN: I don't see that there is any public dissatisfaction to call for a change in the method of selecting a health officer, board of public welfare, or things of that type and, if we preserve that system virtually as is, which is statutory, within these non-constitutional officers, and at the same time spell out the obligation of the Governor to see that the department is run correctly and that these legislative mandates are carried out, I think we will accomplish the most desirable end, short of doing what Bob suggested in giving the Governor the appointive power.

We say that these heads of departments, generally non-constitutional, will continue to be selected as at present by the boards and so on -- but that the Governor is given administrative oversight to see that all these agencies function correctly.

MR. WALSH: Bill, let me ask you this -- you mean like -- say you have somebody who elects a commissioner -- how can the Governor go in there and have any authority if some other group elected by the Legislature, elects him. We'd better leave it like it is.

MR. BLATT: Yes, but we'll have this problem too. Suppose the highway commissioners are appointed or elected by the Legislative delegations from the area from which they come. Then, do you want to let the Governor appoint the Chief Highway Commissioner -- let the Highway Commission set a policy -- and the top man in there is appointed by the Governor and the Governor has another policy. Where are we going?

MR. WORKMAN: I say let the appointment or the selection or election of the heads of our state agencies stay as it is -- within the power of the General Assembly or the board or whoever makes these appointments either directly or indirectly. Then we say that the Governor is charged with oversight of these in the sense that these agencies and department heads must comply with the Constitution and must comply with the statutes that set them up.

In other words, he, in effect, becomes the enforcer of what laws and constitutional requirements that exist but so far as the mechanics of putting these people in office -- stay as it is.

MR. WEST: Bill, I like that idea. I don't think we ought to give the Governor extensive appointive power.

MR. SINKLER: No - not have a spoils system like Georgia.

MR. WALSH: I believe that the people of South Carolina have a little bit more foresight and a little bit more strength than that. I think if we don't meet this problem - this is one of the two problems of the Constitution - if we don't meet it, we might as well just forget about the Constitution. We have situations in South Carolina where administrative officers are about as completely removed from the people -- they are not responsive to the people -- they don't carry out the constitution -- they don't carry out the laws, and nobody can touch them. Now, if that is what is wanted, let's leave it like it is.

I don't think giving the Governor oversight over them or giving him some vague supervisory authority without responsibility is going to help. It is a question of which way you want to go. I think that every group that's ever looked at the Constitution has said "we have a weak Governor." The Governor is charged with carrying out the laws and he has no power to carry them out. He has no power to positively act. I think we are talking about the very heart of state government. Personally, I think we have a lot of problems to be corrected -- they are getting worse.

MR. BLATT: What do you have in mind, Emmet?

MR. WALSH: I think the Highway Department is a typical example. We have never had any graft and corruption -- that's good, but it takes more than just the absence of that to solve the problems we have today. The Highway Department has a number of laws on the books that they don't follow. They make no bones about it. They are not going to follow them.

MR. WORKMAN: Well, what I am trying to suggest, Emmet, is this -- I concur with you in a lot of respects. It is essential frustration when a member of the general public runs into a . . . . .

MR. WALSH: There's a law on the book -- and the state agency says, "well, I'm sorry we can't go by that". The General Assembly passed it and what are you going to do?

MR. WORKMAN: Well, if by putting this language in here that the Governor has executive authority over these, I think we can generate whatever heat is necessary that the Governor can get into the act and say that the General Assembly, by statute, is such and such, or the Constitution says such and such, and I, as Governor, am charged with executing this and I am going to move.

If a group of people in Spartanburg County or Richland County or any place else take upon themselves to go up and squawk to the Governor, he is going to be responsive. Whereas, the agency, which is directly appointed by the Legislature, is going to say, well -- this is the way we look at it and that's the way it is. I'm confronted with that right now, personally, with the Highway Department, but you hit a ceiling and you can't go above it.

MR. RILEY: All this says is that "he shall take care that the laws be executed".

MR. STOUDEMIRE: You're referring to page 48 now, aren't you?

MR. RILEY: Yes, page 48.



MR. STOUDEMIRE: Not page 49?

MR. WEST: Don't overlook one important thing, and again we are getting into practice rather than into theory. A reasonably strong Governor has considerable influence over the appropriations. For example, when you hold the purse strings you have influence whether you realize it or not. Again - take the McNair situation. I don't know of any conflict that Bob has with any state department -- he has differences -- but he just uses quiet persuasion and a little bit of pressure on the money side. . . .

MR. STOUDEMIRE: Gentlemen, I might throw one thought in here. The question is really the constitutional provision of the Governor. You see right now in South Carolina, so far as I can tell, there is nothing to prevent the General Assembly from repealing every board in the State and saying, by law, the Governor shall make these appointments -- whether it be the Highway, Welfare, a single Tax Commissioner -- or what not. Some of this could be done by law if the General Assembly saw fit to do so.

MR. WEST: Why don't we just say that the Governor shall appoint the heads of all administrative groups, except as provided by law.

MR. WALSH: What are you accomplishing there?

MR. STOUDEMIRE: You would give an emphasis to it.

MISS LEVERETTE: The General Assembly would have to take positive action.

MR. WEST: They would have to take positive action and take away the appointive power.

MR. SINKLER: You'd have to have <sup>the</sup> two branches of the General Assembly to concur.

MR. WEST: And you'd have to override the Governor's veto if you didn't approve.

MR. WALSH: In some of the states where they have to approve things, the whole General Assembly approves -- not necessarily the Senate. That's becoming more and more the practice.

MR. WEST: Gentlemen, will you excuse me. I have to make a quick trip and will probably be back a little after two o'clock.

The Vice Chairman, Mr. Malcolm McLendon, assumed the chair in the absence of the Chairman.

MISS LEVERETTE: I am inclined -- just for the record -- I don't know just how it can be done -- to agree with Emmet, that this is an opportunity for us to correct one of the greatest weaknesses we have in the Constitution, and that is the Executive Department. I think it is the cause of some rather bad consequences. Therefore, I think that giving him the power, through a strong provision, not one where he might never exercise his power, he could be able to take action when it is spelled out that he could do so. That might take care of a lot of these situations.

MR. SINKLER: John's thinking is as far as I'd want to go. I think our work should be considered from a practical standpoint. Frankly, I think that if you suddenly gave all the power of appointment to the Governor of South Carolina, even if the Legislature passed this thing, it would give twenty per cent . . . . .

MR. BLATT: It would never pass the Legislature.

MISS LEVERETTE: I think we're having to hit a happy medium.

MR. WALSH: I don't think we should spell out in any constitution all of these things. A lot has to be left to the General Assembly. If the General Assembly doesn't choose to do it, all right. But on the other hand, I think we have a fatal defect in the carrying out of our laws. I don't believe you can remedy it amongst fifty agencies and expect responsibility from no one.

MISS LEVERETTE: Well, are you saying, Emmet, now we are talking about two things, the power of the Governor to take some action on one hand, and his power to appoint the heads of departments. Now, are you saying both . . . . .

MR. WALSH: I'm saying that just giving him the power to act if something is wrong won't solve a single problem. We have a good record of honest government in this State. We solve a problem by having somebody to positively come up to a solution to whatever that problem is.

MR. SINKLER: Well, let's compare the situation in South Carolina with that of the State of Georgia. I think they have more graft and corruption than, certainly, any state that I know of. And where the Governor, with all this power -- and Governor after Governor -- presumed to grow wealthy in office -- plain graft that's what it is.

South Carolina has had about the best government of any state that I know of in the nation. I certainly wouldn't want to swap it for anything I have seen. But as far as I'd want to go is this statement in the New Jersey Constitution, that one paragraph on page 48. I do think it is probably more appropriate to give him directive action rather than to simply state "faithfully execute the laws". I think this is a little more strengthening and I think the right Governor, what this really does, is to tell a guy to keep people honest. It doesn't give him the opportunity to set up a corrupt situation. All I know is what I read in the newspaper and what I have these guys in Atlanta tell me but Georgia Governors have been notorious, isn't that right?

MR. WALSH: I don't think we can approach a constitution with the belief that everybody is a crook. I think we have to approach it with the belief that every one has good intentions.

MR. SINKLER: I think we have to approach it from a practical standpoint.

MR. WALSH: If, in South Carolina, you have somebody for stealing money, you can take care of that now.

MR. BLATT: Huger is saying -- is what is liable to happen -- as a result of the change you are talking about.

MR. RILEY: I don't know if I like the general thought of this -- which more or less is encouraging court action between the executive and the various departments. As a practical matter -- say we get into a two-party situation where you have a real hostile Governor towards the current departments -- and by way of being over technical and so forth -- could just be in court on any number of issues. It could upset the stability of the State. I don't know if I like the particular emphasis on the enforcement in court of that. I guess it appeals to me, generally, but I think we ought to talk that out.

MR. WALSH: When you think of good government from the standpoint of fraud and corruption, we have perhaps the best in the nation. That is to say -- nobody has been stealing. . . . but that's one thing of putting forward a coordinating positive program -- would solve the problems which are cropping up around us. It is something else again -- putting in his hands something positive.

MR. RILEY: The Governor would be faced with the choice under the two views as I see it. If somebody was going completely contrary to what he thinks -- the Constitution says it ought to be -- he has the choice then of even bringing an injunction or calling the man in and firing him. Isn't that what we are talking about basically?



MR. McLENDON: You mean if he appoints him, he has a right to fire him?

MR. RILEY: Yes. I'm just wondering if that's basically what we're talking about.

MR. WALSH: What we really have to realize is the Constitution is basically a restriction on the General Assembly. It's a guarantee in certain areas that they will do -- and certain areas that they will not go into. Otherwise, there's no need for a State Constitution.

MR. BLATT: You give the Governor more power in these departments -- what you're getting to is a dictatorship in South Carolina. You let the Governor in this State appoint every important man in every department in South Carolina and he controls absolutely that department to the exclusion of everybody connected with it because he has the purse strings. He names a man and says "if you don't do what I want" -- you won't get any roads. You let him have charge of the top man in the Highway Department -- the Department of Public Welfare -- and he can do as the Governor of Georgia has been able to do -- take fifteen million dollars and walk into the City of Augusta and say to the people of Augusta -- you voted for me, I'm going to build you another Medical College.

This is what we don't want to happen. South Carolina has been the most fortunate State in the world because we have had a legislative government with the three distinct branches of government -- checks and balances -- this is what we want to maintain. For God's sake, let's don't ever do anything that could lead to a dictatorship. Going back to the days of Olin Johnston and the Highway Department -- here's a man fighting for control of the Highway Department and he had the troops -- if he gets the Highway Department -- he gets another branch of the government -- he's a dictator.

MR. WORKMAN: Sol, I don't think there's any argument about this.

MR. WALSH: We've had a dictatorship in the General Assembly.

MR. BLATT: No. The Supreme Court has done its job by saying to the General Assembly that -- when we pass a law to say that a road was to be built in a county -- we had to go to the members of the House of Representatives or the Senate to get approval of the construction of that road. The Supreme Court has said "no, that's the executive branch of the government, you can't do it." As long as we have these checks and balances against each other, we won't have it. But you put it all into the hands of the Governor and you'll see what you'll have.

DR. AYCOCK: I'm sorry to interrupt. I just want to welcome you to the State Board of Health. I have never had a chance to come in at a better time -- and this is not a good time -- but I want to welcome you here and to say that we're delighted to have you. If it gets too hot in the room, we can arrange for some cooler air.

MR. McLENDON: Thank you very much, doctor.

MR. WALSH: I would be the last one ever to even suggest that we turn everything -- every department -- over to the Governor. I don't believe in that. I do believe there is a happy medium. I think we are at one extreme of the spectrum in that theoretically or not basically the executing of the laws are left in the hands of those who make the laws.

MISS LEVERETTE: We've been talking about what the Governor can do in a negative way -- the bad things he can do with power -- now my understanding of the concept of the executive in a proper governmental setup is that he can put forward a positive program -- things for the good of the state -- not necessarily that he will do everything wrong. I think if we could hit, as Emmet has said, a happy medium -- not turn everything over to him -- but balance it off a little bit more.

MR. SINKLER: If he is a real leader, he can always get his programs through the Legislature. I think the strongest politician that ever came on the scene was old Ben Tillman -- Ben Tillman wrote this Constitution because he envisioned that the Governor would be the leader of the Legislature and thus control the policy of the State. It didn't work out the way Ben planned it, except for a very short length of time but the possibility is still there. I think we are coming to two-party government and you may well get an executive elected who has had no background in government in South Carolina. I think that is quite possible. I think if we will look over the Governors that we have had in my lifetime and the ineffective ones, or the most ineffective ones, are the ones who really had never had any schooling in the General Assembly and did not understand the scheme of South Carolina government. I could name off two or three. One was a very close personal friend of mine who was a very ineffective Governor.

MR. RILEY: On page 50, Section 26, it goes into a related situation about a regulatory or quasi-judicial agency. Perhaps, I think, most of those now are recommended by the Governor. I was thinking maybe we could talk in terms of the way they handled that under Section 26 and then do away with 25.

Are there any boards or commissions or regulatory agencies that would fall under Section 26 that would be objectionable to being appointed by the Governor, with the confirmation of the Senate or a majority of the Legislature in joint session; might be the Industrial Commission or Employment Security Commission and also the Public Service Commission.

I was thinking we are looking for common ground. I know there are areas in the fields of administrative courts where there are remarkable complaints on the manner in which they are . . . . Without saying that the system is good or bad, I wonder about the advisability of having the Governor more or less responsible for the administrative courts by appointing them and the General Assembly having a say-so by being able to say "yes" or "no" to who he appoints. I think the Governor would have nothing but people who would be acceptable to the General Assembly -- people who would be, probably, of pretty high caliber. How would that work?

MR. WALSH: Did you know the New York Constitution was defeated by about two and one-half to one?

MR. SINKLER: That was purely on a Catholic - nonCatholic basis.

MR. WORKMAN: That was one factor. You had opposition from extreme left and from the extreme right and from a lot of groups in the middle. You had groups of people who were completely motivated by different reasons other than religion. That was a prime factor but I don't think it was necessarily the controlling factor.

MR. STOUDEMIRE: I heard this discussed in detail in Milwaukee this week by these delegates.

MR. WALSH: Let me make this point and that is that almost two-thirds of everything they had in that constitution can be enacted by the General Assembly. Actually, when you come to a state constitution, practically everything we're talking about -- if the General Assembly wanted to do it, they could. It really serves in two areas only and that says these are certain things you must do and these are certain areas you cannot go into.

MR. SINKLER: Just to bring the matter to a head, I move that we basically stay with the system we have and modify it to use the language that appears in connection with New Jersey on page 48 as the mandate to the Governor, rather than the language that we personally use.

MR. BLATT: Let me ask you this question. Are you keeping in there "each principal department shall be under the supervision of the Governor"

MR. SINKLER: No, no.

MR. WORKMAN: The effect of your motion is that whatever language we choose basically is that the Governor will be given a mandate for-- or to enforce the law in the Constitution as it applies to these various agencies. It makes him Chief Executive really -- no further appointive powers.

MR. McLENDON: You are referring to page 48, the middle of the page?

MR. STOUDEMIRE: Within the quotes.

MR. McLENDON: The motion is generally that we stay with the same system we've got, but that we incorporate, or work around, or draft around this New Jersey provision.

MISS LEVERETTE: Are you touching on the appointment power too.

MR. SINKLER: Yes, but I'm not trying to cut off debate, I'm just trying to bring the matter to a head to see where we stood.

MR. WALSH: Is there any merit in considering the statement in the constitution "that the Governor may participate in decisions . . . boards and commissions?"

MR. WORKMAN: Well, he is now ex officio member. I don't think we can very well make him move into an area without any reason for his so doing.

MR. WALSH: We are putting so much emphasis on the negative aspect of the Governor. We are not going to solve the problems of the 20th Century without some leadership, positively to solve the problems.

MR. McLENDON: Has there been a study made comparing the efficiency of legislative states as we are with strong executive states like Georgia?

MR. STOUDEMIRE: Not that you can put your finger on. In a strong state you can come closer to evaluating what the Governor has done. ....

MR. SINKLER: We have increased the power of the Governor in our preliminary draft by giving him two consecutive terms -- that gives opportunity for leadership. Let's just stick where we are with this thing.

MISS LEVERETTE: You are including in that this appointment power?

MR. SINKLER: No. I'm excluding the appointment power. My motion really covered -- not to give the Governor any more powers. Let that be a matter for the Legislature to do if and when it sees fit to do it. It is merely making positive that the Governor is the enforcer of the laws and use a little bit more appropriate language than in 1895. That's really ~~what~~ all that I have said.



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MR. STOUDEMIRE: This would be a substitute for the current Section 12 of the Constitution?

MR. SINKLER: That's right.

MR. WORKMAN: What is the current Section 12?

MR. STOUDEMIRE: (Article 4, Section 12): "He shall take care that the laws be faithfully executed in mercy."

MR. McLENDON: Let's now move forward.

MR. BLATT: We have not voted.

MR. WALSH: I just want to ask this question: What about this sentence saying: "Each principal department shall be under the supervision of the Governor?"

MR. SINKLER: I wouldn't put that in.

MR. WORKMAN. To the degree that he wants to, he can imply that.

MR. RILEY: My idea, frankly, would be to leave Section 12 as it is and strike the "in mercy".

MR. SINKLER: I think it would be nice to have this business of courts because I think he ought to clearly have spelled out to him the power that the Attorney General has to bring an action. I think the executive ought to have a right to bring an action.

MR. STOUDEMIRE: There is one thing I like here: Let's assume that there is a bad situation. To me this would give the people who want this situation corrected a more direct political appeal to the office of the Governor.

MR. BLATT: The word "shall" is used, isn't it?

MR. STOUDEMIRE: Yes. But this would actually give a group of people -- would give them a leverage.

MR. WORKMAN: Would give them a place to appeal.

MR. McLENDON: Gentlemen, shall we put this question now that we have. Have we finished our discussion? This is on Mr. Sinkler's motion. Do we understand the position or the question we are voting on?

All of those in favor of the motion, please raise your hands.  
One, two, three, four, five, six.

All oppose - two - so the motion is carried.

Now, Bob, What is next?

MR. STOUDEMIRE: Let's see if we have any more thoughts on this.

MR. WORKMAN: Now, Bob, we've got to revert to Section 24, haven't we?

MR. STOUDEMIRE: Yes.

MR. SINKLER: Is there any need for this other thing: "The Governor may cause an investigation to be made of the conduct in office of any officer?"

MR. STOUDEMIRE: What page are you referring to?

MR. SINKLER: The bottom of page 48. What about the Governor's power to investigate corruption in office?

MR. WORKMAN: Where is that Section? The one on removal of officers which relates to . . . . I think that ought to be strengthened.

MR. STOUDEMIRE: We changed that around.

MR. SINKLER: We don't need anything more on the Governor, I don't believe.

MR. STOUDEMIRE: I don't believe we do, but let me ask this just for the record -- just to be sure?

I am a little bit behind on getting just what we have decided. My memory is now on the current section on embezzlement. The thought was that a Governor ought to be able to remove people on grounds broader than embezzlement. Is that the understanding, so that I may be able to get that worded into it.

MR. McLENDON: All right what section do we take up now? Do we go back to Section 24?

MR. STOUDEMIRE: I think so - wait just a minute.

MR. McLENDON: On page 43, I believe.

MR. SINKLER: We have taken out Comptroller and we have taken out the Adjutant General.

MR. WORKMAN: And the Superintendent of Education.

MR. STOUDEMIRE: Mack, I think all these answers will be no but just to get it cleared up. I would like to ask this: "Should the Governor be constitutionally empowered to reorganize state agencies by executive order?"

MR. WORKMAN: This would be -- in 1947 -- during Thurmond's administration, when the Legislature agreed to certain policy of reorganization which gave the Governor certain things. Now they can go that again if they want.

MR. STOUDEMIRE: Is there any feeling constitutionally the number of executive departments should be limited?

MR. WALSH: I certainly feel that they ought to be limited. We have our executive functions spread out among so many agencies that no workable program could be put forward. There is no coordination one with the other -- no business in the world could operate efficiently and effectively as we operate our executive department in this state. The Highway Department has no coordination with any other department, and the various Welfare Agencies and etc. don't coordinate one with the other. You can't run a State without more coordination than than.

MR. WORKMAN: How would you achieve that within the Constitution?

MR. WALSH: I don't believe you can achieve it unless there would be some willingness to give the Governor of the State -- or reorganize the Executive Department so there is direct responsibility.

MR. SINKLER: You are right. It is a constitutional problem, but if you want to approach it from that standpoint -- I personally prefer to leave it with the Legislature.

MR. WALSH: We don't do anything when we say in the Constitution that we're going to leave it with the Legislature. They have it anyway. We just put in a little more ink.

MR. STOUDEMIRE: It is not a question of who does it. If you constitutionally limit the number of agencies, this means then that someone -- and the way you left it -- would be the General Assembly would have to pass laws consolidating a certain number of agencies that we now have so that you don't end up with more than whatever the number officially - whether it be twenty, thirty, one hundred and thirty or what not, you see. That is the principal of the thing -- whether you constitutionally demand that you bring in the number of state agencies that you now have.

MR. RILEY: You mean just stating the number or a limit?

MR. STOUDEMIRE: This would make you consider whether Vocational Rehabilitation really is an independent function or whether it is related to education and therefore you'd bring it back to education where it originally was.

MR. RILEY: Yes, but technically as far as a safeguard, if they had just a numerical limitation, they could have ten of them and have them all in the field of education.

MR. WALSH: Let's just assume you say twelve executive departments as may be determined by the Legislature.

MR. WORKMAN: This, I don't believe, lends itself to a solution in the Constitution because the General Assembly is going to have as many agencies as the General Assembly wants -- no matter what they call them or where they put them. It is more of a matter of attitude or joint-attitude of the Governor and the Legislature. In the case of the Thurmond administration, he had enough support in the Legislature -- and the inclination existed on his part and that of the Legislature -- to consolidate a lot of agencies when they had this reorganization plan. They boiled it down from one hundred and three to . . . . . the various state agencies. But since then that inclination has gone somewhat like this: now, take Vocational Rehab. -- they pull it out -- they take Mental Health -- they pull it out and put them together. They have got the Board of Education which they pulled out and the Educational Finance and ETV -- pulled them out and put them back. This is something that's going to reflect the prevailing attitude of the Governor and the Legislature, one influencing the other no matter who takes the lead.

MR. McLENDON: Well, isn't that better than tying it down to the Constitution?

MR. WORKMAN: YES. I say this is the determining factor and we don't have much impact on that by what wording we put on it. This is something that if the public wants, the public should make itself known through its Legislators, or the Governor ought to say that I am going to reduce the number of state agencies and eliminate duplications but I don't think we can mandate him to do it in the Constitution by putting an arbitrary number in.

MR. McLENDON: Gentlemen, in order to move forward, is there a motion on the floor in connection with that?

If not, then we will take up Section 24.

MR. RILEY: I move, Mr. Chairman, that we not limit the departments by any specific number.

MR. McLENDON: Those in favor of Mr. Riley's motion, please indicate by raising your hands.

MR. WALSH: I vote against it. . . . .

MISS LEVERETTE: I'd like to see it, but I don't think that is the way to do it.

MR. McLENDON: The vote is seven to one.



All right we'll get back now to Section 24. Have we discussed this problem enough to vote on it without further discussion or do we want to go into it again?

Let's deal with one at a time. (Section 24, page 43).

MR. WORKMAN: I move that the Attorney General continue as a popular elected officer.

MR. McLENDON: All right, you have heard the motion that the Attorney General continue as a popular elected constitutional officer.

MR. RILEY: I second the motion.

MR. McLENDON: It is moved by Mr. Workman and seconded by Mr. Riley. Is there any discussion?

If not, all in favor, please raise your hands.

It is unanimous - there is no opposition.

All right, that will take care of the Attorney General.

MR. RILEY: It is the Comptroller General we have taken care of otherwise, isn't it?

MR. McLENDON: Yes. Now, that leaves two.

What is your desire with reference to the Secretary of State?

MR. WALSH: I move he be appointed by the Governor, upon approval by the General Assembly.

MISS LEVERETTE: I second that motion.

MR. RILEY: By way of discussion, let me ask one thing, which poses a problem. I know we want to move ahead but - say, within a two-party situation a Republican Governor was elected and sent to the General Assembly -- and suppose we had a Democratic General Assembly to name a Republican for the Secretary of State . . . . say that possibility exists. It certainly is something we ought to think about. You could have a problem there in having a tie-up of having no Secretary of State and, rather than having stability in government which I think we're all hunting for, you could really have a period of temporary problems.

MR. WORKMAN: You can't avoid that. You had precisely the same thing when Thurmond appointed Faith Clayton -- and it hung up how long, Sol, in the Senate?

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MR. BLATT: A long time.

MR. WORKMAN: They had a filibuster and it was carried over from one session to the next.

MR. RILEY: Do you think we ought to draw in here the framework of having that sort of situation.

MR. SINKLER: In giving the Secretary of State's office this UCC, it's got to be handled professionally. He has other duties which are very important and I am rather inclined to believe . . . and I move that the Secretary of State be elected.

MR. McLENDON: Bill already has a motion before us.

MR. SINKLER: I beg your pardon.

MISS LEVERETTE: I might say this. I am not so sure that the election would preserve the qualified man. I think the people could do it -- but it depends upon who runs.

MR. WORKMAN: That's the point I tried to make awhile ago. If an individual who looks covetously upon one of these jobs, such as Treasurer or Secretary of State, without any qualifications whatsoever, can maneuver himself into the position through politics to get that job, because the public isn't aware of its importance or concerned with it. And a man, as Sol says, who is interested can carry a whole box because the box doesn't care. And if a friend there says that so and so is the guy, they'll go along with him, not knowing better.

I think that Dick's motion which says "The Governor shall appoint", which in effect makes him somewhat responsible for his choice right then, "with the approval of the total General Assembly", has more likelihood of coming out with the caliber of man who is desired and someone is responsible for him.

MISS LEVERETTE: The people have no choice when you put it on a popular basis; they have to take whoever is running.

MR. WALSH: I just believe that with the caliber of Governors we have had recently, I think they would be more inclined to appoint a competent man. I think the possibility of that would be safeguard of having the General Assembly approve him.

MR. SINKLER: And a fellow holds over until his successor is elected?

MR. WALSH: Right.

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MR. McLENDON: Emmet has made the motion that the Secretary of State be appointed by the Governor, upon approval by the General Assembly.

MR. WORKMAN: Would you accept the inclusion of the Treasurer within that same category?

MR. WALSH: It would suit me fine.

MR. RILEY: I am ready to vote but one more thought -- do you think Emmet, that that would be a safeguard of having them to be approved by the General Assembly is definitely desirable?

MR. WALSH: I would rather give it to the General Assembly than to the Senate.

MR. RILEY: Or give it to the Governor by himself?

MR. WALSH: I am inclined to feel that under the existing climate in the State that that would be a more acceptable method of having him approved.

MR. HARVEY: I'm just impressed with making a change here for no real reason. We have had good government in these positions. We have gone over to a minority position in the states as far as these two offices go, the majority of the states being just like we have done down through the years -- having them constitutionally elected. I'm not convinced yet of the need for the change.

MR. WORKMAN: If you substitute "blank" for "blank", then how do you feel about it?

MR. HARVEY: The people didn't do that though.

MISS LEVERETTE: The thing is, Brantley, you are limiting the people in their choice.

MR. WALSH: The trouble is that they have never had a choice. Jeff Bates was appointed by the Governor. Jeff Bates would have never run, if he had had to run at that particular time. He wouldn't have made a state campaign. He was appointed by a Governor of South Carolina to fill out an unexpired term.

MR. WORKMAN: And Frank Thornton was elected initially by the Legislature.

MR. WALSH: Both of these people were selected, just the way we are proposing. The people just never had any other choice.

MR. SINKLER: I'll tell you what could happen -- if, let's just say a guy gets elected who has had no political background and experience -- on a statewide ticket -- he is going to have with him a Treasurer and a Secretary of State, running on that ticket, and he is, in effect, in that way, going to have the appointive power over those offices . . . . I'm thinking not so much of the man as I'm thinking about the continuity in these offices, which are very important from <sup>an</sup>administrative standpoint in state government. I believe you have it right -- let the Governor appoint but make it subject to Legislative confirmation.

MR. WORKMAN: That puts a big, strong rope around him.  
do

MR. SINKLER: Yes, it does. What/you think, Sol?

MR. BLATT: The thing that worries me about this is -- why wouldn't it apply to the Attorney General too -- you'd get a better Attorney General.

MR. WORKMAN: I think the people identify more with the Attorney General. They look on him as being custodian of law and order, and he is the guy that's going to run out the bootleggers or stop the gambling or whatever.

MR. RILEY: Someone told me yesterday that a problem came up on our registration act, and he said: well, by George, we'll put us in a new Attorney General next time.

MR. WALSH: I'll say this -- you ask somebody in Spartanburg who the Secretary of State is and they wouldn't know. You ask who the Attorney General is and they seem to be more closely identified with him.

MR. McLENDON: Gentlemen, in Dick's motion we congealed in it the appointment of the Secretary of State and the Treasurer by the Governor, upon approval or confirmation by the General Assembly.

MR. BLATT: You mean approval by the House and Senate.

MR. McLENDON: Yes, House and Senate.

All those in favor of this motion, indicate by raising your hands.

It seems to be unanimous.

MR. McLENDON: Now we move on. Bob, what is the next item?

MR. STOUDEMIRE: Let's go back and pick up some of these things we have hanging fire.

You asked me to draft some things and I have three alternative proposals here.

You recall that you accepted the idea of a post-auditor and that the Comptroller General should perhaps be this person and that this post-audit should be done in the name of the General Assembly and, therefore, the person doing it should be selected by a joint vote of the General Assembly.

The idea here would mean that the General Assembly would have a financial agent who would do all the state's post-auditing, a person who could make inquiry -- like on travel requirements or anything else you would want to investigate with a financial nature. This person would report annually, at least, to the General Assembly on findings of his overall audit -- and so on. The books now are audited only partly in the name of the General Assembly -- audited in the name of the Budget and Control Board, which is both executive and legislative.

MR. McLENDON: The feeling behind this is that the legislative department needs an audit.

MR. STOUDEMIRE: Since they appropriate money, they need someone to tell them, and to be the total agent, that the administrative branch of the Government has or has not spent the money according to the way it was appropriated.

The State Auditor would become then a budget officer. He would be responsible for directing and controlling the expenditures as they are made. He would be actually left to the budgetary and pre-approval of expenditures -- drafting the budget -- and then your Comptroller General would become your State Auditor to audit books after they have been -- after the money has been spent.

MR. BLATT: The Auditor would handle the job up until the expenditure . . . .

MR. STOUDEMIRE: For instance, if the University had an inquiry about whether or not it could do thus and so, the current State Auditor as the Budget Officer would give this approval and if they would be scared, they would go on to the Comptroller who does the posting to see what he would say about it.

MR. WORKMAN: This, in effect, puts the Comptroller General, by whatever name called, the head man of what would be a general accounting office for the Legislature.

MR. STOUDEMIRE: I feel very strongly that the General Assembly ought to each year have a report coming directly to it in which



this man is independent of the executive branch, and this man can say -- I examined the books of department X and they were lousy, or I found that they were not keeping up with their travel vouchers as they ought.

MR. RILEY: I thought one of the main things we wanted to get in here -- to have the word "function" in here somewhere that not only auditing the figures but auditing also the function for which the money was expended, seeing whether or not the function is being economically reached. Does that go this far?

MR. STOUDEMIRE: Here's my feeling on this thing. In dealing with the constitution that really you ought to stick to fixing the idea, and the idea only, and then say that ~~the~~ other responsibility shall be . . . .by law. If you get too many details as to what he is going to do, these details become out of date and I think the General Assembly ought to be left free constitutionally to say that this post-auditor shall make investigation -- he shall see that this function is legally included in the appropriation bill, and so on.

MR. WORKMAN: I think in furtherance of Dick's suggestion that if we take alternative . . . . towards which I lean. If we say that the Comptroller General shall be elected by a joint vote of the General Assembly for a term of 4 years, or whatever, and shall have such qualifications and functions as may be specified by law.

MR. SINKLER: Dick, you want to know that they didn't divert the money -- that the legislature appropriated it for one thing -- that they didn't use it for another?

MR. RILEY: Right. And not necessarily the auditing of the funds.

MR. STOUDEMIRE: An auditor audits not only for accuracy but for legality.

MR. RILEY: If we appropriate ten thousand dollars to this department, for this purpose, then it is my idea that under the office of the Comptroller General, they would go in there and see whether it was put to an economic use to accomplish that function and not put into other relative areas within the same department; and also to see whether it was being properly put to that function.

MR. McLENDON: In the second sentence: "The Comptroller General shall perform the post-audit of state revenues and expenditures as required by law." Wouldn't that be his responsibility anyway, Dick?

MISS LEVERETTE: How about in alternative "C" you have a sentence in "C" which says "detecting or reporting any defaults, and determining that expenditures have been made in accordance with appropriation acts."

MR. McLENDON: That takes care of it. Where is that found?

MISS LEVERETTE: It's in alternative C - the second sentence.

MR. STOUDEMIRE: Now actually Alternative C is the wording -- for those of you have been around a long time -- from the old Preparedness for Peace Commission report. This is what they devise as law.

MR. WORKMAN: That's back when we were winning wars.

MR. STOUDEMIRE: Sarah, where did you pick up?

MISS LEVERETTE: The second sentence in Alternative C.

MR. RILEY: I wanted to go a little bit further than that. I wanted to go into a study of the operations.

MR. STOUDEMIRE: Alternative "A" says: "and shall perform such other duties as the General Assembly may prescribe."

I think you are wiser if you establish financial official as a servant of the General Assembly by constitution (period). And then enact a law to spell out what you want him to do and how. I have it here "to report at least annually". There's no reason why you can't make him report quarterly -- no reason by law why you can't tell him X, Y, Z, and on and on and on.

MISS LEVERETTE: Yes, but Bob, there's no assurance that that will ever be done.

MR. WALSH: Put in it the significant things you want him to do.

MR. McLENDON: If we agree that it's built in the language, what's the harm in spelling it out a little tighter?

MR. SINKLER: I think we ought to have -- and I think we've got a real hole in our government -- many a time an appropriation is made for something that's not a lawful purpose under the Constitution, and I think this Comptroller ought to have the responsibility for determining whether any appropriation is for a lawful purpose. I think this is really one of the gaps that we have in our set-up at the present time.

MR. STOUDEMIRE: You want to add here then "shall perform the post-audit of state revenues and expenditures as required by law, and shall perform such other duties as the General Assembly may prescribe."

MR. RILEY: How does this sound: "The Comptroller General" -- I'm in the middle of Paragraph A -- "shall perform the post-audit" --

that says a good bit right there -- "of state revenues" and add, "the functions for which such expenditures were made".

I think the "function" goes into how it is done.

MISS LEVERETTE: Dick, looks like you'd accomplish more if you would use this wording in Alternative C.

MR. STOUDEMIRE: Read the "and", Dick, down where Sara is -- don't get lost in all that other stuff -- "and determining that expenditures have been made in accordance with appropriation acts.

MR. RILEY: I like that but I want to go in a little deeper than that.

MR. HARVEY: How about both "A" and "C"? How about in "A" up there -- in the second sentence -- make it read this way: "The Comptroller General shall perform the post-audit of state revenues and expenditures and report at least annually the results of his audits and of investigation into the operating efficiency of the various departments of the state government." Isn't that what you want?

MR. WORKMAN: You might be clogging it up by requiring the Comptroller General to do a complete survey of every state agency's functions every year. This would be too much of a burden, I think.

MISS LEVERETTE: Take that second sentence in Alternative C -- and substitute "Comptroller General".

MR. STOUDEMIRE: You mean to read like this: "The Comptroller General shall be vested with the duties, powers, and responsibilities involved in performing post-audits of all financial transactions of the State Government, detecting and reporting any defaults, and determining that expenditures have been made in accordance with appropriation acts."

MR. SINKLER: I want you to put two words in that last. I want to put in the words "lawfully made".

MR. STOUDEMIRE: Read it then, Huger, please?

MR. SINKLER: "determining that expenditures have been lawfully made and in accordance with appropriation acts."



MR. STOUDEMIRE: All right, then to go back -- this is the way it would read:

"The Comptroller General shall be elected by a joint vote of the General Assembly for a term of" -- and I'll leave the number of years out -- "years and shall have such qualifications as may be specified by law. The Comptroller General shall be vested with the duties, powers, and responsibilities involved in performing post-audits of all financial transactions of the State Government, detecting and reporting any defaults, and determining that expenditures have been lawfully made and in accordance with appropriation acts."

MR. WORKMAN: So that sentence will be picked up and put in Alternative A.

MR. WALSH: Would it be helpful to add "and report at least annually the results of the audit to the General Assembly and any recommendations".

MR. STOUDEMIRE: That would be automatic.

MR. SINKLER: I don't think you'd want him to recommend anything. I think you want him reporting.

MR. STOUDEMIRE: Gentlemen, please leave the detail regulations to law.

You will have to pass a law to carry this thing out and then you would say that the Comptroller General must make recommendations. You can give him detailed instructions as to how far it would go.

MR. RILEY: We might not be on that committee. .

MR. STOUDEMIRE: Every CPA report that I have ever seen of a city, really automatically tells the city council that the treasurer has not been sharp enough on delinquent taxes and that they ought to nulla bona some of these old records they have been carrying for forty years -- and so forth.

MR. BLATT: Don't they make a recommendation on how this is to be accomplished?

MR. STOUDEMIRE: Yes.

MISS LEVERETTE: Bob, would this audit be automatically available to the public?

MR. STOUDEMIRE: Yes.

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MR. McLENDON: Bob, read it one more time and I believe we are ready to vote.

MR. RILEY: Now, do you want "four years"?

MR. STOUDEMIRE: It should coincide with the term of the Governor. That's what we have done with the others, isn't it?

MR. RILEY: Do we say to "coincide with the term of the Governor"?

MR. STOUDEMIRE: I think somewhere here, maybe in a miscellaneous section, that we are going to have to have a provision which says: "All officers specified in this constitution shall begin their terms with the Governor and all other constitutional officers."

MR. RILEY: That's not so now, is it?

MR. STOUDEMIRE: No. But this would have to be done.

MR. RILEY: I move that we leave it "four years".

MR. McLENDON: All right, that seems to be the consensus of opinions.

Before we vote on it, read it like it's going to be.

MR. STOUDEMIRE: "The Comptroller General shall be elected by the joint vote of the General Assembly for a term of four years and shall have such qualifications as may be specified by law. The Comptroller General shall be vested with the duties, powers, and responsibilities involved in performing post-audits of all financial transactions of the State Government, detecting and reporting any defaults, and determining that expenditures have been lawfully made and in accordance with appropriation acts."

I think we need to put a period there.

"He shall report at least annually the results of his audits to the General Assembly, and shall perform such other duties as the General Assembly may prescribe."

This would give you the right to make him an investigating officer.

MR. WORKMAN: I raise this point -- whether or not -- the thinking before was that all constitutional officers . . . their terms of office would geared specifically to the Governor's term or to a specific date, so that we'll know when these guys take office.

Now in the instance, however, of the Comptroller General, who is going to be elected by the General Assembly, I am wondering whether the commencement of his term might be -- that's got to coincide so that it doesn't make the Legislature elect him on the opening day, we'll say. I can see some rough edges there. This needs a little consideration. Bob, you don't happen to have what language we used before on the constitutional officers taking office, do you?

MR. SINKLER: Well, he holds over until his successor is elected.

MR. BLATT: Bill wants the Comptroller General to take office at the same time the Treasurer would take office.

MR. WORKMAN: Well, what we've done so far would make them all take office at the same time. But here, the election of this individual must necessarily depend upon the convening of the General Assembly. I am wondering whether there would be some time to overlap in there.

MR. STOUDEMIRE: You want me to check on whether or not the General Assembly would have time to elect?

MR. WORKMAN: Yes.

MR. HARVEY: Your Treasurer does now too. And the Secretary of State -- the General Assembly has got to be seated to approve this appointment.

MR. STOUDEMIRE: I think when I get all the stuff redrafted, then we will have to determine whether or not we have any inconsistencies or any terms that do not jive.

MR. MCLENDON: Let's vote on this proposition. -

All in favor of this proposition will indicate by raising your hands.

It is unanimous.

All right, Robert, what does this lead us to now?

Or does anybody want to stop for a few minutes? Or do you want to move forward? It is 12:00 o'clock. I am going to have to leave at 5 or 10 minutes until one and will be back at 2.

MR. WORKMAN: We can take a lunch break at 12:30 - say from 12:30 until 2:00.

MR. MCLENDON: I thought if you ate downstairs as you did before, we didn't take but 30 or 40 minutes.

MR. STOUDEMIRE: Now, gentlemen, we have delayed the property tax

situation, waiting to get our letters which I have mailed out to you with the thing on the courts. We never did hear from Mr. Clarkson. I gave him a reminder and I thought one was enough but we did hear from Mr. Joe Allen of the Tax Commission and Mr. Wasson, Chairman of the Tax Commission, and my long-time friend Mr. George Aull.

MR. RILEY: What page is it?

MR. STOUDEMIRE: It is Working Paper 5. The enclosures were sent out with the courts - - I don't know if you have separated them or not.

MR. WORKMAN: Well, it relates to Working Paper 5?

MR. STOUDEMIRE: Yes. There was a bunch of photostat letters. It is right under Memo. No. 7.

Do you have enough letters to go around?

MR. McLENDON: I think we all have them.

MR. STOUDEMIRE: Well, gentlemen, I don't know if you have all read the letters or not. Actually, they didn't help too much. Mr. Allen did point up one factor about taxation of banks which I think he includes is really regulated by federal law and there's nothing we can do about it. It probably should be taken out of the constitution.

I think we are right back to the question where we were before, Mac, and I have something I want to pass to you. But there are several big questions in this.

Shall you leave taxation up to the General Assembly -- property taxation?

Shall you make it constitutional?

What rate shall you fix it, on market value?

Shall you allow the General Assembly to classify, which is in effect what we are doing now, automobiles at one rate, and Mr. Wasson shows you a good example in his letter of the actual classification.

And then what types of property in it should be exempt from taxation as a constitutional provision.

You can say that the General Assembly has the right to make exemptions and put a period and not get into the types of

of exemptions.

I think, really, the first major question is: Do you want the Constitution to have something to say on property taxes?

MR. McLENDON: What is the present provision?

MR. STOUDEMIRE: Well, it says a great deal about it shall be assessed at full value, etc. Now, of course, if you don't say anything, that leaves the General Assembly free to put on a property tax; free to regulate as it sees fit; free to abolish it when it gets ready and so on.

MR. WALSH: I think by all means we need to say something.

MR. STOUDEMIRE: Gentlemen, for a discussion point, I tried to draft a thing which, I hope, will bring out our opinions whether you agree with what I drafted or not is of no great consequence to me.

MR. McLENDON: This finance and taxation thing you have given us for discussion now, what present sections of the Constitution would we be dealing with?

MR. STOUDEMIRE: Numerous ones - but 10 mostly. Also you go back to one legislative article which says, the property shall be assessed on actual value. There is one on declaration of rights.

Mr. Chairman, I think what you need to do is to agree on some principles, which -- in other words -- are you going to allow in the Constitution the General Assembly to classify? Are you going to allow in the Constitution that certain properties are to be exempt and which cannot be disturbed. These are the things we need to know.

MR. SINKLER: I think you had better limit the exemptions in the document because I think you don't want the Legislature to be subject to the pressures of exempting this or that.

MR. STOUDEMIRE: Mac, in the first sentence here, I have started off "All real property and all personal tangible property" -- from all the evidence I can get we do not tax intangible property now.

MR. HARVEY: I disagree violently. I don't think we should currently mark off stocks and bonds.

MR. WORKMAN: This is a real bucket of worms.



MR. RILEY: Let's strike the word "tangible".

MR. STOUDEMIRE: All right, that's what I'm getting at.

All real property and all personal property shall be subject to ad valorem taxes unless exempt by this Constitution or by law? Now, is that a good basic statement?

MR. WALSH: What do we mean "treated uniformly"?

Mr. MCLENDON: Let's deal with the first sentence first?

MR. SINKLER: Ad valorem is spelled wrong.

MR. RILEY: If all the words are spelled right, I think that's all right.

MR. MCLENDON: Bob, is that the way you want us to approach it?

MR. STOUDEMIRE: I think so.

Now, the next is "All property subject to taxation shall be treated uniformly throughout the state and all assessments shall be -- now here's where it is getting touchy -- determined from the market value.

I don't know whether that says what I'm trying to say or not. I worked on that thing for ages. In other words, if you are going to classify -- you can't exactly have market value if you classify -- and yet you have got to classify from a base.

MR. BLATT: How are you going to determine market value? To say -- is it by sale, assuming that a piece of property sells for ten thousand dollars, is that going to be the market value? The Tax Commission has this problem before it now.

If that be true that I could buy a piece of property from my son that's worth ten thousand dollars for five thousand dollars.

MR. STOUDEMIRE: You know we had in the old Constitution that there shall be one assessment but since the State no longer uses the property tax, this leaves this wording a little bit awkward, I think. Now, I think that the principle to be established is: "Shall all assessments be uniform throughout the State?"

MR. SINKLER: I think they ought to be uniform throughout the State.

MR. RILEY: Does that mean that it would have to be done by a state agency?

MR. STOUDEMIRE: It would mean to me that: someone could bring

a court action, if a home in Greenville was not assessed on the same basis as one in Charleston.

MR. HARVEY: On the same basis?

MR. STOUDEMIRE: Yes. Also, this would give the Legislature the right to say that the Tax Commission, or anybody else you wanted to say, could go out and see, and rule like -- for instance Ohio -- they make spot checks and if they find a certain percentage deficiency in assessments, then the State Tax Commission has the authority to order a reassessment of all property within that taxing district.

MR. McLENDON: Shall all assessments be uniform throughout the State? //

MR. WORKMAN: Well, you're not getting into the market value here now?

MR. STOUDEMIRE: No, we're not talking about values.

MR. McLENDON: Is this the general consensus, or is anybody opposed to that proposition?

If not, we will accept it and go on to the next one.

MR. STOUDEMIRE: Now, I think before we get into the question of market value, maybe we need to discuss whether or not we want to authorize in the Constitution, the classification of property for taxes.

In other words, the General Assembly can say that different types of property can have different assessments -- different assessed ratios, provided each class is uniformly and equally treated.

MISS LEVERETTE: Well, they're doing that now to some extent.

MR. STOUDEMIRE: Yes. This thought would actually make constitutional and legal that which we have been doing in the State for many, many moons.

MR. SINKLER: I don't know whether you're right or not. Now the Seaboard Railroad, or one of the railroads, has just successfully brought a suit in Georgia at which they pointed out that they were taxed by the State Tax Commission on a -- whatever they have over there -- on a fifteen per cent basis -- that one town had the property on two per cent and another

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on five per cent, and the court just struck that down as violating . . . process. You've got to be very careful about your classification.

MR. WALSH: I personally am opposed to this classification for assessment purposes.

MR. WORKMAN: Now, we've got two scares in mind. One of them is the one you are mentioning now which is a very legitimate fright on the part of corporations. There is another one which I find to be right much of an inequity that exists right here in Richland County. I want to divert just a moment to explain it - because it ought to be in our thinking.

If Emmet and I live out here on the Charlotte Highway and we each have one hundred acres of land. We are both farmers. Emmet sells his to Eastman who wants to build a plant - he's getting a good price for that, ~~by virtue of the~~ and price for his land, the price skyrockets for everybody's land. Well, I'm not interested in doing anything, except continuing to farm. In fact if Tennessee Eastman is located next door to me on Emmet's property, it doesn't make my land any more productive with the plant built, than before the plant came. So, I 'm still farming a hundred acres of land but my taxes are going to skyrocket because of the value. Sol, has seen it down in Barnwell County.

The cold-blooded answer is O. K., sell your property and go somewhere else and start farming. Now, that's a hardship to work on people who have been farming prior . . . This is where classification might help. If my land is classified as farm land despite the fact that -- here's a plant next door and a filling station next door. If I'm still farming it legitimately, I contend that there's a strong cause for that individual, me, to be given consideration -- not be taxed for other than farm land. But under the present theory of the highest and best use means that I'm going to be assessed at what that land would sell for, if somebody would go in and ask to put industry on it.

It is working a hardship on a good many individuals and I know it personally, because there's a farmer out here whose daughter is at Columbia College, who is in precisely the situation and his taxes have risen from something like \$72.00 to about \$380.00, which in his case is an appreciable increase.

Now there is one theory which is attractive. I don't know whether it can be worked out constitutionally, is that if I hold on to my land that I continue to be assessed as farm land until

What I think we ought to do here is to stick with uniformity.

MR. WALSH: I do think we need to consider very strongly as to whether the Constitution would not permit a different rate on property. For this reason, an improvement on the land, under the general law, is a part of the land, and I think a different rate under some circumstances, perhaps, ought to be permitted.

For instance, in New York and in every city, if they had the property tax situation that we have, they wouldn't have a single skyscraper in town. They tax the land. What you use that land for has very little additional taxes on it. That is because the local taxing authorities have a small degree of discretion what they will tax the improvement, if the land is improved. If it is just left open, it is all taxed alike, but when you start improving, the additional taxes are put on.

MR. WORKMAN: I'd like to have Sol's views on that.

MR. BLATT: The difficulty with your proposition, Bill, is this. Let's just say that a plant comes in here and builds adjoining your land, and pays one thousand dollars an acre for the land. After twelve years you are still farming over here, and you've got a one-hundred-dollar-an-acre land over here that you're farming -- you die -- and somebody inherits this property from you. Then all of a sudden another plant comes in and buys a portion of land. Now go back ten years. This poor person who inherits from you is going back and pay taxes on this one thousand dollars an acre land for ten years?

MR. WORKMAN: My concern is -- now this may be philosophical only -- would the right of the individual be left alone and not be taxed out of his endeavor. He's out there by himself. He is not bothering anybody. He is not inviting industry and he is not inviting anything -- just to farm his forty acres or whatever it is. Then from conditions completely apart from him, he may be ten miles from town -- here comes an unpredictable factor which increases his land to a value of highest and best use or something in the neighborhood of five hundred to a thousand dollars an acre.

What I'm doing is trying to search for some way to protect this guy, who is not bothering anybody.

MR. SINKLER: That guy is going to be basically protected by the assessor.

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MR. STOUDEMIRE: Mr. Chairman, may I throw this in? As we now know, we might as well forget about our Constitution basically as to what is happening to property of the State, I think. The General Assembly has said merchants can, and the Tax Commission has said manufacturing, somebody has said automobiles, and so on and so forth.

I'm leading to this. Professor Aull, in this letter, is on record as stating that he would leave all property taxation in the hands of the General Assembly, which would be about what we have been doing. . . . His statement is "That the General Assembly shall see that there shall be a fair and equitable system of property taxation."

Now, how does that strike you?

My interpretation is that the General Assembly shall see that there shall be "a fair and equitable" would leave room for the General Assembly to determine value -- would leave room for the General Assembly to classify -- or to continue the current classification, and etc.

MR. WALSH: They can do that now.

MR. RILEY: I don't like that. As far as the market value is concerned, I think the "fair market value" is right, but I think that in the Constitution you might ought to use the words "actual value".

MR. STOUDEMIRE: That's the old language.

MR. RILEY: Yes, that's the old language -- and leave it up to the General Assembly to determine what the actual value is. You could get into a market situation where property -- market ability of it is nothing -- and you could get into a discussion as to what to do with it.

MR. STOUDEMIRE: Dick, I picked that up from Mr. Aull, but really, on better constitutional drafting grounds, keep your old language unless there be some good reason to change it and I think your point might be well taken.

MR. HARVEY: Shall it be determined from the actual value? //

MR. RILEY: Yes, instead of market value.

MR. STOUDEMIRE: This still leaves us as to whether we will say anything on classification.



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MR. McLENDON: Shall we deal with this second sentence -- that's what we are discussing:

"All property subject to taxation shall be treated uniformly throughout the State and all assessments shall be determined from the actual value."

Is that what we are saying?

MR. WALSH: I suggest that we change the word "treated" and say:

"All property subject to taxation shall be assessed uniformly throughout the State and all assessments shall be determined from the actual value."

MR. STOUDEMIRE: Let's take out the word "the" - - just say "actual value".

MR. McLENDON: Is that the sense of our understanding about this?

MR. STOUDEMIRE: I would propose a change once you determine what you're going to classify.

MR. SINKLER: Somebody will argue that the word "from" is a starting point and go from there. . . .

MR. STOUDEMIRE: Mr. Sinkler, that language -- I would propose a change, once you determine what you are going to classify.

"Determine from" was the way I was trying to get around -- trying to say that you would still classify but you have to determine the classification from "actual".

Now, if you are not going to classify, I would take out "determined" and put "based on".

MR. SINKLER: Or on "the basis of".

MR. WORKMAN: Or say "shall be based on actual value".

MR. STOUDEMIRE: To classify -- there's going to be some hard drafting.

MR. SINKLER: I move we strike out "classification".

MR. WALSH: I second the motion.

MISS LEVERETTE: Let me ask a question, Huger, on that.

Under this present situation, where we do this classification -- as far as industrial property is concerned -- now, that is unconstitutional?

You say it comes under due process too. But nevertheless we are faced at the present time with a situation that actually does not conform with the constitutional provisions, is that right?

MR. SINKLER: That is correct . . . .

MR. STOUDEMIRE: Mr. Chairman, just to be sure that we understand -- that we set the language "assessment shall be based on the actual value", then we do not classify.

I want you to give me a concrete illustration than. Not that I'm arguing with you, I just want to make sure I understand you.

If we do away with classification, and just say the property shall be based on "actual value" . . . . .

MR. WALSH: Where we have an industrial plant that is assessed at twenty per cent of actual . . . . and a home that is assessed at five per cent, they're going to have to assess them all at the same.

MR. STOUDEMIRE: And it could be at a ratio less than a hundred.

MR. HARVEY: Based on "actual value" not "the actual value". 

MR. SINKLER: The courts are going to resolve this question for you and it's going to take time. . . . .

MR. STOUDEMIRE: Well, gentlemen, if you look at Mr. Wasson's letter -- if you'd bring "homes" up a little bit, really with the percentage that Mr. Wasson now uses, you are not so far from a common assessment.

MR. HARVEY: "Uniformly"?

MR. STOUDEMIRE: Yes, that is right.

MR. McLENDON: For the purposes now of your drafting, we agree that the last sentence in the first paragraph is to be eliminated -- the one beginning with "The General Assembly may classify . . . .".

The majority of the consensus is that it comes out.

Now, we have to go back to the first sentence. That second sentence says as I understand it:

"All property subject to taxation shall be assessed uniformly throughout the State and all assessments shall be based upon actual value."

We need to dispose of this.

MR. HARVEY: I move that we adopt that sentence.

MR. WALSH: I second it.

MR. McLENDON: All those in favor will say "Aye". And it seems to be unanimous.

Mr. StouDEMIRE: Now, you have no objection to my submitting that sentence to Joe Allen?

MR. McLENDON: No.

MR. STOUDEMIRE: He would know as to the best terminology. Where we have "uniformly" -- for some reason he may know that the word "equal" should also go in.

MISS LEVERETTE: Tell me one thing. Is this just a re-wording of what is already in the Constitution?

MR. STOUDEMIRE: What?

MISS LEVERETTE: You've got a requirement for uniformity.

MR. STOUDEMIRE: You take out "full" Sarah.

MISS LEVERETTE: Take out what?

MR. STOUDEMIRE: "Full". "All property subject to taxation shall be based upon" -- I would argue that this would mean they would be treated all alike.

MR. WORKMAN: "Based upon" -- you can approach it with whatever ratio you have in mind?

MR. STOUDEMIRE: Yes.

MR. WORKMAN: But the ratio has to be uniform?

MISS LEVERETTE: And "laid upon the actual value" -- I'm talking about Article III, Section 29.

MR. STOUDEMIRE: We switched that.

MR. WORKMAN: Bob, what is the last sentence of the first paragraph? How does it read?

MR. STOUDEMIRE: It's out.

MR. WORKMAN: The whole sentence?

MR. STOUDEMIRE: Yes.

MR. MCLENDON: What's next, Bob, on your agenda?

MR. WORKMAN: First, let me get this straight in my mind. . . . When we eliminate this classification, we mean that the property which is owned by industry is going to be assessed at the same rate that the property which is owned by the resident who lives on his land? Right?

MR. STOUDEMIRE: That's right.

MR. WORKMAN: The result of that is going to be that when the people who live on that land -- the tax on industry is going to drop to here -- and their taxes have got to come up to here to meet it -- there's going to be one hulluva of an outcry.

MR. WALSH: The easiest way to pay for new industry is to forget about these exemptions, and put this taxation on a constant level.

MR. WORKMAN: Now, back to what Emmet talked about regarding improvements on the land. It does tend to, in effect, affect the classification, because land which bears a manufacturing plant on it, and the land of equal acreage which bears a residence on it -- the improvements affect the classification.

MR. RILEY. Emmet's idea would get it, from a practical standpoint, further out of line than what we're saying. He's saying the tax improvements are at a different rate than you would tax the property itself.

MR. WALSH: You may be able to use the tax for its highest and best use and Atlanta wouldn't be Atlanta today if they had our taxation. Charlotte wouldn't be Charlotte if they had our taxation. . . .

MR. HARVEY: What you're saying is applicable to cities -- not to rural areas.

MR. WALSH: It may be that we need to make -- take something into consideration there.

We had, for instance, an apartment building to close in Spartanburg. When they were told what taxes would be on it, they just threw their hands up, folded up plans and this is the last we heard of them.

MR. McLENDON: All right, gentlemen, where are we?

MR. STOUDEMIRE: We're down to exemptions.

MR. McLENDON: All right, let's deal with this subject. Bob, will you gather it all together for us.

MR. STOUDEMIRE: "Exemptions for taxation may be granted only by general laws."

This is worked out a little bit backwards but maybe you might want to turn it around.

"Exemptions may be altered or repealed except those exempting real property"-- said to be personal property, not tangible -- "used exclusively for public purposes or political entities within the state and for religious, educational or charitable purposes, defined by law and owned by a corporation or association organized or conducted exclusively for one or more such purposes and not operating for profit."

I have this down in parenthesis if you want to pinpoint it, based on the old South Carolina history, a little more on property, which may be exempt shall not extend beyond the buildings and premises devoted to religious, educational or charitable purposes.

MR. WORKMAN: I question the use of the word "devoted", which allows some interpretation. This parking lot or whatever it is that is devoted to a charitable purpose but the intent of the present Constitution is not to grant that exemption unless those premises are occupied by something which is a part of a school or hospital or a church.

MR. SINKLER: What is our present language?

MR. WORKMAN: It is frequently violated. We have a study going on in Richland County right now because they exempted the Odd-fellow's Hall and land adjacent to a church which may or may not be productive land.

MR. RILEY: How about "used exclusively" on line 3?



MR. WALSH: In that connection, there is another thought which I think might be considered. That is, that we require all property, even though exempt, be put on the books, so we'll know what it is. Every now and then you buy a piece of property from an organization, tax exempt, nothing there. . . . .

MISS LEVERETTE: One state requires a separate listing.

MR. WALSH: In other words, every piece of property ought to be put on the books. If it is exempt from taxation, they don't have to pay any tax rate on it, but we would know what is exempt.

MISS LEVERETTE: Like these 990s you file with a tax exempt organization on their income tax?

MR. STOUDEMIRE: Let me ask a basic question before you get down to your wording.

Do you want exemptions to be granted only <sup>by</sup> the Constitution or do you want to give the General Assembly the right to expand on exemptions?

MR. WALSH: You have got to tie it down in the Constitution as tight as you can tie it down.

MR. STOUDEMIRE: All right, then, you're going on back into personal, cows, pigs, watches -- and start off by saying "All real property and all personal property is taxable."

MR. HARVEY: No, you say it is subject to taxation.

MR. STOUDEMIRE: Well, I would interpret that to be taxable. Unless you give the General Assembly the right to expand on your constitutionally protected exemptions, then you are going to have to go in and describe everything under the blue sun, intangible, if you are going to exempt these watches and so on.

I was trying to work out a wording here such as "Exemptions from taxation may be granted only by general law."

It leaves the General Assembly free to handle the question of bonds and intangibles, watches, cows and pigs, household furniture, etc.. which will clutter up your constitution with all these little items.

MR. WORKMAN: Those little items like cattle, watches, mules and so on are in the property tax pattern right now but they were taken out so far as Richland County was concerned but I don't think they were properly taken out. Because when you make an effort to do that -- if Emmet invests one hundred thousand dollars, maybe I'd better go down a little bit -- ten thousand dollars in a

filling station or something, which is -- there it is, you can see it and tax it. If I invest ten thousand dollars in a herd of black angus cattle, and put it out here on the land, that cattle is personal property, and under an act of Richland County today it is not taxable. You're paying on yours and I'm not paying on mine. That's just as inequitable as it can be.

I think the intent would be that in expanding the home-stead idea -- you can say that a man has so many head of milk cows or a pair of mules or something could enlarge his home-stead back in the old days and be legitimately exempt, but not to the extent of a hundred head of black angus cattle.

MR. WALSH: Like Mr. Horace Bomar had a cow on a lot there in front of Converse and he was running short of milk -- he had a pretty good size family -- so he got another cow and one of his neighbors complained and they put an ordinance on the books that no man could have more than one cow.

MISS LEVERETTE: You had a county last year to exempt a two-cow family.

MR. SINKLER: I think we had better resolve this thing and allow some exemptions by general law.

MR. STOUDEMIRE: I grant you, Huger, the wording -- as you modernize the wording from our other Constitution -- may be more appropriate than the way I have it expressed here.

MR. SINKLER: I'm not fussing about it.

MR. McLENDON: Didn't we get into a big round with the Baptist Church in that tremendous investment in Cheraw, two or three million dollar building, owned by the Baptist Convention, three or four years ago? We had it in the General Assembly. What did we do with that problem?

MR. SINKLER: I was trying to get back to taxation to cover the cows and watches.

I don't think you can cover this unless you use this first sentence in the second paragraph.

MR. STOUDEMIRE: Gentlemen, that is really -- I hate to tell you that that law came from the New York Constitution. That was the angle -- and I think they had the same problem we have, as to how you get around not taxing all this little stuff.

MR. SINKLER: I move that that first sentence of the second paragraph be deleted.

MR. STOUDEMIRE: We are looking at Article X, Section 4.

MR. McLENDON: What does it say, Huger, are you looking at the book?

MR. SINKLER: (Reads Section 4)

"There shall be exempted from taxation all County, township and municipal property used exclusively for public purposes and not for revenue, and the property of all schools, colleges and institutions of learning, all charitable institutions in the nature of asylums for the infirm, deaf and dumb, blind, idiotic and indigent persons, except where the profits of such institution are applied to private uses; all public libraries, churches, parsonages and burying grounds; but property of associations and societies although connected with charitable objects, shall not be exempt from State, County or municipal taxation; Provided, that as to real estate this exemption shall not extend beyond the buildings and premises actually occupied by such schools, colleges, institutions of learning, asylums, libraries, churches, parsonages and burial grounds, although connected with charitable objects.

Provided, further, the General Assembly may by act exempt from taxation household goods and furniture used in the home of the owner thereof."

I think you gotta' stick with your Article X, Section 4, because that's been the subject of litigation after litigation and the courts have come out and done a pretty good job with it. Let's stick with 10-4 as now construed. Let's pick up the first sentence of the second paragraph -- in other words the way I'd read this thing -- I'd use the first two sentences in the first paragraph, eliminate the third -- we have already taken that out -- I'd use the first sentence of the second paragraph and I'd go ahead and pick up Article X, Section 4, except for the exempting proviso at the bottom but you've got that covered by your first sentence. 11

MR. STOUDEMIRE: I think Article X, Section 4, needs some remodeling. For instance, is a public service district building now exempt? According to the Constitution, I'd say no.

MR. SINKLER: Well, put political entities -- you go ahead and change that wording.

MR. RILEY: I'd be a little careful with this language you have here on political entities. I don't think that is specific enough.

MR. WALSH: I do feel like that we ought to tie the thing down tight. I think charitable organizations cannot own property

for income purposes.

MR. HARVEY: Read that -- that's good.

MISS LEVERETTE: This first sentence would take care of a lot of things.

MR. SINKLER: That would give you the watches -- the General Assembly hasn't abused this thing -- this has been on the books for years.

MR. McLENDON: Well, Huger's motion is then as to this second paragraph that we adopt the first sentence: "Exemptions from taxation may be granted only by general laws", and then pick up the present 10-4 -- and strike out the rest . . . .

MR. STOUDEMIRE: And adding the left-outs and modernizing the language.

MR. HARVEY: That first sentence of the same paragraph had better come after your 10-4, hadn't it?

MR. WORKMAN: Let me ask this question. Our first sentence here: "All real property and all personal property shall be subject to ad valorem tax" etc. "unless exempt by this Constitution or by law." Now is it your feeling that, by law, you could exempt your watches and your cattle.

MR. SINKLER: Yes. The law specifically say so . . . . .

MISS LEVERETTE: That makes it general law.

MR. SINKLER: Actually that first sentence of the second paragraph could well become the second sentence.

MR. McLENDON: Someone has suggested that we adjourn for lunch. What time do we want to return?

MR. SINKLER: Just whenever the chairman can get here.

MR. McLENDON: I can be back at 2:00 O'clock.

MR. STOUDEMIRE: Mac, I'm not advocating what we do one way or the other, but they have a very nice buffet at the Varsity Grill which is only a short distance away. I have eaten there before and it is comparatively fast to get served.

MR. SINKLER: Let's put the vote on this last one.

MR. McLENDON: All in favor of the proposition under discussion, will indicate by saying "aye". All oppose "no". The "ayes" have it.

There is no opposition and it is unanimous.

MR. McLENDON: All right, gentlemen, shall we resume -- what is the next thing on the agenda?

MR. STOUDEMIRE: Let's see if we can make some progress on debt provision, which is a part of Working Paper No. 6. I sent you some tax information, along with the legislative information. Do all of you have these tax tables?

MR. McLENDON: Working Paper what?

MR. STOUDEMIRE: No. 6. The tax information starts on page 20 of that paper.

MR. WORKMAN: I don't find page 19.

MR. STOUDEMIRE: Maybe I missed a page -- yes, I just skipped one.

Gentlemen, I have compiled from the State Budget Report -- I believe our understanding was that we would try to fix limitations based on tax collections as opposed to total revenues. I pulled out the revenues and combined highway and regular funds and figured the tax collections for three years.

If you will notice that for the years 1965-1966 -- which is the last full-year information I have your taxes come up to about \$342 million. Pat Smith doesn't have it quite put in the usual form yet. That would run I think about \$375 million now.

I think as we look forward over the next few years -- you see it jumped from 293 to 342 and from 267 to 293 and if that keeps up, even at a reduced pace, you'll soon be -- three times this would give you a debt of a million dollars, isn't that right?

MR. SINKLER: Yes, which is too much.

MR. STOUDEMIRE: Or two times would give you 800,000.

MR. WORKMAN: What about these nontaxes?

MR. Stoudemire: We have a good many thing that -- this could be some of the fees that the University might have collected and sent over -- departmental revenues, etc. Well, take in the Agriculture Department, I went through and broke it down and took out some of their fees as opposed to some of the taxes they collect and I didn't worry much over defining taxes.

MR. SINKLER: I think the idea of a formula makes sense. Don't you think so -- relating to revenues, rather than to assessed values.



MR. STOUDEMIRE: Now, this indebtedness sent out has been taken from the Budget Reports -- we are down to \$162 (million), and if you double that figure, there would be a big rash of issuing bonds all at once, wouldn't there?

MR. SINKLER: I think we may have increased that a little bit as of the last fiscal year.

MR. STOUDEMIRE: You may be interested in knowing that New York arrived at -- and I didn't see this in the New York Constitution ahead of time -- but New York used the same theory that we are using . . . . . debt can be so much of the tax. . . 12%, I think.. it's the same general theory that we are going under.

MR. McLENDON: On strictly state indebtedness.

MR. STOUDEMIRE: Yes. I have the local here, but I thought we'd get one out of the way.

Gentlemen, you remember last time, I believe our thinking was this -- that we would lump all state indebtedness together and make it general obligations of the State, with the exception of such things as Santee Cooper.

MR. BLATT: Highway funds in there too?

MR. STOUDEMIRE: Yes.

MR. SINKLER: I was thinking, frankly, of eliminating those dormitory revenue bonds for the University -- I mean the colleges . . . I want to give this some further thought.

MR. WORKMAN: You'd set those out in a separate category?

MR. SINKLER: I was just going to let them continue that practice . . . . I was certainly going to make this clear that -- make certain that nothing like Santee Cooper -- that they could issue general obligations to something like Santee Cooper, for instance.

MR. WALSH: Couldn't the General Assembly do it now?

MR. SINKLER: I suppose they could issue General Obligations Bonds to the Santee Cooper for public purposes . . . . .

MR. WORKMAN: It would have to go to a vote, wouldn't it, ordinarily?

MR. SINKLER: It's supposed to go to a vote.

MR. STOUDEMIRE: Let me ask, gentlemen, if I have somewhat reflected your thinking from last time?

"The State shall have the power to incur indebtedness for any public purpose in the manner and upon the terms and conditions as the General Assembly may describe by law" -- and if you leave that next provided out and make it -- wait a minute and let's jump over -- "may prescribe by law and provided" -- pick it up with the next sentence "and provided that all such indebtedness shall be secured by an irrevocable pledge of the full faith and credit and unlimited taxing power of the State." Then such State indebtedness shall not mature later than thirty years.

MR. WORKMAN: To what extent, Huger, is the full faith and credit pledged, in so many words, to borrowing such bonds as school bonds and highway bonds?

MR. SINKLER: In specific words?

MR. WORKMAN: Yes.

MR. STOUDEMIRE: By skipping down like I did, I think it is much clearer that these things are general obligation of the State.

Then I think we agreed to the idea last time that:

"If at any time the General Assembly shall fail to provide for the timely payment of the interest and principal of such indebtedness, the State Treasurer shall immediately impose a statewide property tax levy sufficient to meet the payments due. I don't know how you would activate that, really, in a Constitution."

MR. SINKLER: That's good enough and that puts in the thought that I want to use to help sell our bonds. . . .

MR. WORKMAN: When the last vestige of state property tax went off. It just went off, didn't it?

MR. SINKLER: That's right.

MR. WORKMAN: And there was no prohibition or anything against putting it back on.

MR. SINKLER: The power is there and the only thing I'd like to have -- I'd like to have to really think that full faith and credit means as much as it can. I think we save a lot of money -- I think that sentence will be worth certainly thousands of dollars to us by putting it in there.

MR. WALSH: That is, even though these other bonds are not technically pledged the full faith and credit.

MR. SINKLER: Let me tell you what's happening to you here. I don't know that I'm too much opposed to this -- the revenue bond area -- we've got revenue bonds issued for the dormitories -- in addition to that we've now got revenue bonds issued for state ports. . . . It would be perfectly proper that those port facilities generate money for themselves. They are not going to ever be able to carry quite the full load but they're going to be able to carry a great part of it. While, of course, we do pay a little more interest for revenue bonds than we pay for other bonds, it still makes -- it respects their -- it puts certain restrictions on them. . . . The very issuance of revenue bonds tends to police the particular activity -- it's pretty healthy.

When we come to the State Ports bonds, we have a problem there because the investor says "suppose we have a nationwide strike for a year" -- no provisions . . . so we put a covenant in there that they would establish a one-year debt service reserve for those bonds. That's a special trust fund to take care of that. And the covenant that they have made provides that if they issue any future bonds, they've got to up the ante on that reserve so as to still maintain the margin of one year. That keeps them from going just helter-skelter.

MR. WORKMAN: It seems reasonable to build those safeguards around them.

MR. SINKLER: The people that lend you money make you do it. They scrutinize those things with a fine tooth comb.

MR. STOUDEMIRE: Gentlemen, I think our decision is -- if you come down almost to the next to the last sentence.

"All indebtedness incurred by the State for any agency supported or for any purpose/in whole or in part by the taxing resources of the State shall be issued within the authorizations and limitations of this section."

Now, I think before we can decide on the number of times and so on, we need some discussion as to whether you . . .

MR. SINKLER: You're writing up revenue bonds?

MR. STOUDEMIRE: That's right. And trying to write out the creation of other authorities and so forth and so on, and the way I have tried to phrase this -- this would exclude Santee Cooper because it is not supported in whole or in part, you see, by tax resources. Now, what is your pleasure? Do you want to leave some . . . for dormitory bonds or . . .

MR. SINKLER: Well, I've got to put revenue bonds too. Those are the only two things I can think of.

MR. STOUDEMIRE: My interpretation of this would include the Ports Authority. When I look at the State Treasurer's report that some two million dollars or something like this went to bonds for State Ports from the . . .

MR. SINKLER: They haven't gotten an appropriation in recent years, I don't believe but they have in the past.

MR. STOUDEMIRE: The Ports Authority does not appear in the State Budget as receiving state appropriations, but they do appear: State Ports Bonds, expenditures estimated for 1966-67, one and one-half million dollars.

MR. SINKLER: . . . I didn't think they'd get that much from revenue.

MR. STOUDEMIRE: I don't know if they get that much from revenue.

MR. SINKLER: Actually they're just paying off the general obligations. They'd come under that. What you'd do here is you'd limit them to general obligation financing.

MR. WORKMAN: As you now have this written, Bob, this removes all requirements, not only to do away with the percentage ceiling on assessment but it does away with all requirements for referendum. And in effect requires extraordinary vote within the General Assembly to be granted for going beyond the two-thirds.

MR. STOUDEMIRE: Or going beyond the fixed limit that we have put in here.

MR. WORKMAN: The limitation becomes geared now to tax revenues instead of to percentage of assessed property.

MR. STOUDEMIRE: I am really asking for your guidance here on this sentence -- talking about indebtedness incurred by . . . Do you interpret it . . .

(faulty tape)



MR. HARVEY: The State Legislature has got to come back and appropriate every penny necessary to provide the tuition.

MR. WORKMAN: To fill that gap.

MR. HARVEY: Yes, to fill the tuition gap.

MR. BLATT: What you say is correct, but when it comes to the practical matter in the issuance of bonds, won't they fall in line much easier along the lines suggested previously?

MR. STOUDEMIRE: Unless, I'm wrong, though, all of these bonds which have been issued by all these agencies have had to be done by a law of the General Assembly, authorizing them to do it.

Now, for instance, you'll have to recognize that the Mental Health Building going up right down here -- being built with its own revenue -- and when you do this, you know that you are decreasing the amount of money that comes in to the fund by -- and listen to this -- the departmental revenues.

MR. SINKLER: This is a clean picture, really.

MR. STOUDEMIRE: You're worried about the psychology of getting it through and not the wisdom.

MR. BLATT: The end effect of it is the same.

MR. SINKLER: The Whitten Village notes and all those things are an abomination. We've been trying to get them off the books for a long time.

MR. WALSH: You're going to have to put them all in the same basket or they'll just multiply.

MR. STOUDEMIRE: Well, let me ask you one other practical thing.

Do you visualize that we'll have a public hearing on this. If we leave it sorta like we have it and let those who object take the initiative -- I mean keep in the back part of our heads that a revenue idea may have to creep back in here if you get the proper amount raised from good sources.

MR. HARVEY: Let's adopt this thing with a question mark by it temporarily?

MR. SINKLER: Let's talk about the two or three times. I would rather go two times. Two times is adequate, especially, I think, since you have your two-thirds proviso.



MR. WALSH: When you look at these how much they owe now, very few of them owe more than one time.

MR. McLENDON: All right, have we chewed it over enough? Shall we adopt this indebtedness section as proposed?

MR. STOUDEMIRE: Suppose I read the last sentence to see if I have said what you think we need to say.

"The provisions of this section do not apply to indebtedness now existing."

I think we agreed upon that last time.

MR. SINKLER: Well, I don't know that you need that now.

MR. STOUDEMIRE: Indebtedness incurred while in anticipation of current tax collection. Now is that last sentence needed or not?

MR. BLATT: Let's just leave it in.

MR. McLENDON: All right, all those in favor of this provision with our understanding of Mr. Harvey's other question mark -- is there anything else about it?

MR. SINKLER: Well, I don't think the present indebtedness is going to last very long. I think I'd just take that provision out because then you are going to have the question -- Suppose you refunded some of that? -- what would apply?

MR. STOUDEMIRE: The provisions of this section do not apply to indebtedness incurred in anticipation of current tax collections.

MR. McLENDON: Strike out "indebtedness" . . . .

All in favor of it will indicate by saying "aye".

There are no "nos".

MR. STOUDEMIRE: All right, now gentlemen, turn over to the next page. That brings us down to local government.

I have checked the minutes which you haven't yet seen, very carefully, because most of them are typed and I think after long drawn-out discussions, we came back that all other local units be restricted to locally collected -- some ratio of locally collected taxes. We went through various ideas but eventually came back to that.

Now then, we start off with counties, municipalities, school districts, special districts, and any other political unit or you

might want subdivisions in the state -- may incur indebtedness for public purposes now and hereafter authorized by law upon the terms and conditions that the General Assembly may prescribe. All such indebtedness shall be secured by the irrevocable pledge of the full faith and credit and unlimited taxing powers of the unit of government of subdivision issuing the indebtedness.

Counties and so on may incur such indebtedness upon the approval of the governing body, when such indebtedness shall not exceed X times the average of the total amount of taxes and licenses collected locally in the three preceding years by the unit or subdivision of government, issuing the indebtedness. Such indebtedness in excess of this limitation shall be issued only upon approval of the qualified electors within the subdivision of government issuing the bonds. The provisions of this section shall not apply to obligations now outstanding -- you may want to consider that -- to indebtedness incurred in anticipation of current tax collections or to revenue bonds now or hereinafter authorized by law -- which I think we agreed to last time that revenue would not be revenue bonds for municipalities and counties and so on would not be in here.

I put it all in one section thinking that school districts normally only do have educational functions by law, therefore they could not have revenue bonds. But also the thought hit me that who can say twenty years from now a school district may be a major recreational area as well as schools, by law you may want to have a school district to issue revenue bonds.

MR. WORKMAN: It has been suggested from time to time the possibility of tuition charges against public school students in certain conditions. For example, the Orangeburg crowd -- Orangeburg and Calhoun used to get something in the nature of a tuition charge against children whose parents were not residents in the counties. So it is not beyond the realm of possibility that sometime in the future there may be possible some revenue accruing to schools.

MR. STOUDEMIRE: Now, gentlemen, on this county tax on -- now getting the time is a little bit more difficult -- you will notice over on page 21 -- this is from the Comptroller General's report. For the sake of discussion for a moment, let's use three.

If you use that for Allendale, that's about \$240,000.00 -- come on down to Abbeville and so on, then you see as you get bigger -- you notice that your taxes collected increase pretty good. Come on over to Greenville County, three times would give you twelve -- or give you about fourteen million dollars bonds that could be issued without a vote.

Now municipalities are a little bit different but yet look at Charleston, Greenville and Columbia. Each one have about three million dollars, which would give them around nine. I am not necessarily advocating three, I'm just showing that three would do.

Then when you get down to the little towns, of course, I doubt a town under five hundred -- it's very unlikely they would issue general obligation bonds anyway.

Now when we get over to schools, we will notice that Greenville, for instance, has issued bonds since -- . . . but if you will look at Greenville, since it has more bonds outstanding than any other district, I believe.

MR. WALSH: What page is that?

MR. STOUDEMIRE: Page 31.

You see, three times will give Greenville right now about what it has outstanding -- a little bit more than it has outstanding here but -- Dick, don't you have about sixteen outstanding now? And this is taken from the Superintendent of Education's report.

MR. SINKLER: Of course you're not hurting anybody because you can always float again.

MR. STOUDEMIRE: My town information goes back to 1963, but I doubt if tax collections for these towns -- I would say would probably jump ten per cent since '63, would probably be as good a figure as any to add to this.

MR. WORKMAN: Now watch the columns in your counties and the school districts -- because the items are just reversed.

MR. STOUDEMIRE: What?

MR. WORKMAN: Schools have the collections and then the indebtedness. Your counties have the indebtedness and then the collections.

MR. STOUDEMIRE: You can tell an editor..

MR. WORKMAN: But you can't tell him much.

MR. WALSH: Mr. Chairman, let me inquire about this? In one of our previous sessions, we discussed the situation about prohibiting bonded indebtedness for a purpose when they used it somewhere else, like in Section 8 on page 4, that you worked up on that very recent thing you gave. Where is that provided in here, Bob?

MR. STOUDEMIRE: Down here in this note -- the provisions pertaining to indebtedness.

MR. WALSH: We tentatively agreed one time that we ought to put that in.

MR. STOUDEMIRE: We had some arguments whether that would go as part of debts or whether it would go as local government restrictions. Actually, however, I think if we are going to use it, indebtedness is the proper place perhaps.

MR. STOUDEMIRE: We had adopted about a year ago this concept. . .

MR. WALSH: That no laws should be enacted incurring bonded indebtedness by any counties for any of the following purposes unless it shall prescribe a special assessment, tax or service charge in an amount sufficient to provide debt services -- should be imposed in the area or persons receiving the benefits therefrom.

MR. STOUDEMIRE: That's to cover water, sewerage, or fire, street lighting, garbage and so on.

MR. HARVEY: On the other hand, the county ought not to be able to put the burden on some -- that already have sewer systems.

MR. WALSH: Yet, they ought to have that right.

MR. WORKMAN: I don't know just where to incorporate it, but I think it ought to go in there.

MR. STOUDEMIRE: But first, do you think we can put all these units of government, subdivisions, into one part? And say two times, three times or ten times and treat them all under one time. Or are we going to have to pull some of them out and treat them separately?

MISS LEVERETTE: The ratio is the same.

MR. STOUDEMIRE: Yes.

MR. SINKLER: Here's what you have got to make clear to avoid a law suit.

In this sentence: Such indebtedness in excess of this limitation shall be issued only upon approval of the qualified electors. . . .

Let's take the school district, if they issue bonds with a vote, then the next year they come up and want to issue some of the bonds without a vote. If the bonds that are voted should be excluded from the calculation, you ought to say so. Otherwise, you have to go to the Supreme Court to find out what you need.

MR. SINKLER: I think basically that's all right. I think once you vote bonds -- that's excluded from your limitation -- that's just as though you amended the constitution. . . which is just what we have been doing. We have been having special Constitutional Amendments for all these dam things.

MISS LEVERETTE: In other words you go ahead and let them issue the bonds up to a point but when you get beyond that, the people vote on it. It would be up to the people as to whether they want to do it.

MR. SINKLER: That's right.

MR. WORKMAN: If I read you right, if County X wants to issue bonds which are in excess for a project for two times their tax levy -- that would have to go to the people -- they'd say, all right, we authorize the issuance of five million dollars of bonds for whatever purpose it is. That is a fait accompli bond issue to undertake this project. Now, if the next year or the year after, they determine that a need exists for some other project, your feeling is that this five million dollars in bonds should be excluded from the formula?

MR. SINKLER: Yes. Otherwise you'd very quickly put them in a position where they'd have to vote everything.

MR. WORKMAN: Well, I think that's what we're aiming at.

MR. SINKLER: Of course, what I aimed at originally was to make everybody vote. We had this long session with the school people and the school people pointed out that in case of these larger school districts right here in Columbia, for example, Mr. Flora, I guess it was, said: "All right, we find that we have a need for a school in one section of Columbia. If you make us vote those bonds, the people are going to turn down that particular bond issue. So here's what we're going to do. We're going to work up a massive program, which is going to give something to every part of this school district to get our one school over here that we wanted.

We decided that he was right and my initial approach was wrong. So if that is the case to carry that thought out, you've got to exclude from that calculation anything that has been voted.

MR. WORKMAN: Except you get away from your purpose, as I see it, because the reason is that we want to have some restraint on the unrestricted issuance of bonds and we say up to here . . .

MR. SINKLER: I'd make that rather small. I'd try to get all county school districts in municipalities to vote their bonds.



MR. WORKMAN: But if we say to these people -- you go operate as you want to within your own governing board under this limit, but to go above that limit, you've got to have the approval of the people. The people say O.K., we'll let you raise it up to here. Now, that's a special circumstance, but I think just being up to here -- that ceiling is right there now, because we are again trying to put some restraints on them, and if they say well to pull this out is. . . .

MR. SINKLER: No, but that ceiling is not up to there. That ceiling for the purposes of that one issue is up to there. . That the ceiling has been established.

MR. WORKMAN: But that subdivision owes that much money. Then if they want to issue any other bonds, I think the people ought to vote on it.

MR. SINKLER: That brings that right back to where we were in connection with this Richland School District.

MR. WORKMAN: I know that. I see that. I have arrived at that conclusion -- it's a consideration.

MR. SINKLER: Well, that's a policy, but there are good arguments both ways, Bill.

MR. STOUDEMIRE: Well, I see one thing, we've got to clear up some things.

MR. McLENDON: What is it, Bob, do we need to look at it a piece at a time?

MR. STOUDEMIRE: Well, I think one thing we need to agree on -- let's say that a given district, its number of times now, whatever it is, comes out to be five hundred thousand. So you issue a five hundred thousand bond issue here without a vote and your debt now outstanding is five hundred thousand. Three years from now you want to issue a three hundred thousand. Now, can you go ahead and issue another three?

MR. WALSH: You can take the outstanding at the time you want to issue the bonds.

MR. STOUDEMIRE: All right, do you want to have an accumulative total here?

MR. SINKLER: No. That's the reason I think that my idea would be to make that a rather small limitation, so that they could build the one school building that they need or whatever, but once they voted bonds, those bonds would stand aside and they'd still have that modest limit that they could meet emergencies.

MR. STOUDEMIRE: I am going to have to go to the language that any bond issue in excess of so many times shall have to be voted upon right? This is what I want decided.

MR. WALSH: . . . at any one time, three times or four or whatever -- that is from the time they want to issue those new bonds.

MR. STOUDEMIRE: Now, say that they have ten thousand dollars outstanding now, but they can issue fifteen thousand -- but they want to issue now a seven thousand, I mean seven million bond issue -- then they would have to vote on that, is that right?

MR. SINKLER: Yes.

MR. WORKMAN: Now, the question that we get back to is what are we actually doing in the final analysis -- is establishing a dollar mark, a clinch mark, above which bonds are going to have to be voted by the people. We are arriving at it by a formula now on tax revenue instead of by a percentage of assessment.

MR. WALSH: And any time they reach up there regardless of how those bonds are issued. . . .

MR. WORKMAN: That's right, except that it brings in the disadvantage that Huger says, and I agree with him, that once you have -- that is the people have authorized going beyond what is their limit, then once they have gone beyond that, my philosophical feeling is that then any vote which would raise the amount when it is paid down to that, O.K., but if it doesn't pay down to that, any other amount would have to be voted upon by the people.

This brings us right back to the disadvantage that the school people brought out of having to so pad a program to get statewide support -- I mean get countywide support -- that we're back into the padding business and not being able to cope with the situation as it is.

MR. SINKLER: I really believe it is the greater evil in having a situation that is the other way around and what you can do is this. You can give them always a smaller limit that they can issue without a vote. In other words -- if you put the general limit say, three times, and vote that, then whenever it is in excess of that, they can't issue bonds of more than one time, without the Of course that gives them within a given period of time (vote of the of the calendar year or something like that. people.

MR. WORKMAN: One thing that we have not built in here is any limitation on the amount above the ceiling to which they can go.

MR. SINKLER: There is no limitation . . . .

MR. WORKMAN: But having done that, then if we allow to be piled on top of that debt, additional debts, without a vote, it is somewhat undoing.

MR. SINKLER: I don't subscribe to your theory that if they issue, let's say Charleston County, or it doesn't make any difference -- could issue a million dollars in bonds -- and they vote four million more. Now that ceiling isn't five million, so that when they come down to four million they can issue another million. But they still have to vote every time they go over the million. That's my idea -- the basic limitation stays.

Any time the indebtedness sought to be created exceeds that, it's got to be voted. That's the best way to handle it, except for the situation that Mr. Flora pointed out.

MR. WORKMAN: Now, your feeling is that this specially authorized bond issue will be pulled aside from this consideration?

MR. SINKLER: That's the suggestion that I made.

MR. WORKMAN: And they could come up to the million dollars if they hand't already surpassed that?

MR. SINKLER: That's right.

MR. WORKMAN: Well, there's argument on both sides.

MR. SINKLER: In other words, what I was going to do was to make that limit rather low, so that in effect we'd be making everybody vote these bonds every time. Voting bonds are healthy, for everybody, but I would still have biennial period or annual period or something that they could issue bonds for the one little school that they ought not to have to go to the expense and trouble of voting or it might actually get voted down, the unpopular things that are necessary.

MR. WORKMAN: You are never going to allow the small schools to get it, for instance, if you've got a county with a lot of people like Richland -- the program is to put on ten million dollars. Richland County would vote it because it's composed of schools in Columbia, but how about schools down in Eastover now where they needed a little bit of money.

MR. McLENDON: But how will this be done?

MR. SINKLER: I'd do it by letting them have the limit of bonds that can be issued without a vote of the people.

MR. McLENDON: But if you have already voted the ten million dollar limit up here in Richland, how are you going to get the forty million. . . .

MR. WORKMAN: Huger is not thinking in terms of ceiling, he is thinking of authorizations for single bond issues. If a single bond issue goes beyond this, then they have got to vote on that bond issue, right?

MR. SINKLER: And having voted on that bond issue, that's taken apart from the calculation of debt. In other words, any bonds that have been actually voted, the people have put those bonds on are not going to deprive the governing agency in the area of the power to meet these needs. That's why we've got to have a low limitation that you can issue without a vote of the people.

Suppose they have a million dollars -- let's say that Greenville can issue bonds -- let's say five million dollars. All right, they go ahead and issue five million dollars -- that's in this little pile over here -- then they come along and issue ten million dollars over here voting -- then - now they pay this five million dollars down to four million -- I'd say let them have the right to go back to five million dollars in this area.

MR. WALSH: If you're going to put a limit on it, you ought to say they can't owe but so much.

MR. SINKLER: I'm not trying to put a limit on it. My limit is what the people authorize.

MR. WALSH: They borrow every year and there is just absolutely no limit.

MR. SINKLER: They've still got the five million dollars. That's the complete ceiling.

MR. WALSH: Well, they never would have issued over five million, they issue four and one-half million every year.

MR. SINKLER: No, but they've got to have a ten million dollar program which they vote.

MR. WALSH: They're not going to have a ten million dollar program which they vote, they're going to have a four and one-half million dollar program each year.

MR. SINKLER: No, but that four and one-half million dollars is going to be the limit whether they issue -- I'm not giving them an annual limit of issuing bonds, I'm just saying there is a limit.

MR. WORKMAN: Emmet and I are talking about a house with a ceiling on it to which you can add rooms all around it.

MR. SINKLER: You're talking about two houses. Let's go back to assessed values.

MR. WALSH: It's all debt.

MR. SINKLER: I know that. It's all got to be paid. But what will they do now -- they can have a special Constitutional Amendment and vote it. I'm just simply eliminating some of all that red tape.

MR. WORKMAN: But they raise it to a limit -- eight per cent to fifteen annual or whatever.

MR. SINKLER: Let's say that Greenville County can issue bonds -- whatever limit you want -- five million dollars. They issue those five million dollars. All right, they have another program -- five million outstanding -- they want to put on another five. They obviously are up to the limit, so they have to vote them. They vote this five. Now, three years later, this original five million has become four million. I want them to be able to issue a million dollars of bonds because the five million that they have voted are disregarded in computing this other limitation -- in other words, what I'm, in effect, doing is what we have done indirectly by successive Constitutional Amendments.

MR. HARVEY: But for appealing causes, they could vote this year and then they could vote another five next year and directly you'd have the limit up to . . .

MR. SINKLER: Well, there is no limit, if they vote it.

MR. WORKMAN: The question is -- there's no quarrel about the voting -- what Huger is trying to arrive at is to give a little leeway without the vote.

MR. SINKLER: That's right.

MR. WALSH: Let's give them a right good bit of leeway. Let's don't make it so small.

MISS LEVERETTE: What difference does it make as long as you . .

MR. WALSH: You owe the money.



MISS LEVERETTE: If you've got it there at any one time, it seems to me -- you put it there the first time -- all right, they pay that off, they can still go back up. What's wrong with that?

MR. WORKMAN: It's a question of what our objective is. If the objective is to set a ceiling and to devise a means whereby that ceiling can be raised, that's a fairly simple thing. The difficulty comes in if they let that ceiling be raised and then while the ceiling is still above what the normal limit is, to allow some areas to issue without voting.

MR. SINKLER: Let's eliminate this revenue aspect with respect to these subdivisions and let's go back to assessed values.

Let's let anybody issue bonds up to eight per cent or whatever figure you want of their assessed value, without a vote of the people, and let's them issue whatever else they want with a vote of the people but don't count what they voted against the original limitation.

MR. WALSH: Let's get away from that assessed value -- that's what we have been talking about for a couple of weeks, trying to get away from that.

MR. SINKLER: Well, I don't care. It's more readily understandable as far as the school districts are concerned.

MR. RILEY: I don't believe we can draw into the Constitution a system wherein we can have a limitation and still enable the issuance of bonds without a vote right down the line. I believe we are going to have to simplify it that we have a limitation of some kind and the municipality or whatever it is stay within that limit. I understand it but I think it would be completely confusing to the citizens to go in and vote for a ten million dollar school bond program . . . .

MR. WORKMAN: This is an area that John is interested in because he has had this situation over there in Kershaw. John, the controversy boils down to this:

The question is, if we adopt a formula on a county level or some other than state, we permit this subdivision to issue bonds without a vote of the people or motion of the governing board, up to two times the tax revenues, or whatever formula we determine. No question. Now, if they go above that, they have to have a vote of the people for an unlimited amount so that that's no question about that.

Now, the question is posed: -- whether on this vote by the people which authorizes what some of us regard as a feeling

to be from "here" up to "here" -- whether or not that imposes a hard ceiling on any subsequent things, meaning that they've got to vote everything else, or whether or not -- you take Huger's suggestion that this special vote is, in effect, removed from consideration and put in a special category -- doesn't affect the ceiling, and then you can still within your original limitation issue bonds without a vote of the people.

There are some questions as to whether or not we are thinking in terms of ceiling or in terms of adding rooms around the house.

MR. SINKLER: In other words, I was really going back to Mr. Flora and Richland School District No. 1, and I wanted to limit, of course, originally I wanted everything voted or either. . . , John. I have gotten away from that, so my idea was once these districts get to the top limit, that means that they're going to have to vote everything, and instead of being able to issue a small amount of bonds to build a much needed school district in one place here, they don't have to wait until they get a big program going or a school building burns down.

I think there ought to be some little flexibility in the local agency that they could issue bonds without that vote, therefore I say that all bonds that are voted are stuck over in this category and are not considered within this basic limitation.

MR. WEST: In other words, if you have a limitation of five million dollars and then want to issue another million, you have to have the vote of the people.

MR. SINKLER: That's right. But when the five million becomes four million, you can go right back and issue without a vote.

MR. WEST: That makes sense to me.

MR. SINKLER: I want the people to vote everything -- I want that limit to be relatively low. I want that school building that has burned down to be able to be rebuilt without that vote of the people, because they might not be able to get it. It might be like Richland County -- he illustrated it with one or two school buildings he needed -- if I have got to vote this thing, I've got to work up a program to give a gymnasium over here -- something over here -- and something there, to be able to get it.

MR. WEST: You, perhaps are a little more conservative than I am. I think there ought to be a fairly reasonably high ceiling and then if the people want to sell themselves in an extraordinary debt to vote . . .

MR. WORKMAN: Well, now beyond that, then what.

MR. SINKLER: Do you like my theory of the two aspects of the limit?

MR. WEST. Yes, I like that.

MR. WORKMAN: We are all agreed up to that second bond issue -- beyond the first bond issue.

MR. SINKLER: We're talking about the third bond issue.

MR. WEST: I think that you ought to set a fairly high ceiling, a ceiling that has a relationship to the tax collections of the last one or two or three years and I think that any substantial increase over that ought to go to the people and it ought to be set aside.

MR. SINKLER: To set aside is what we're arguing about now.

MR. WEST: In each category.

MR. WORKMAN: Now, the next vote comes up -- the next bond issue -- do you vote on it, or does the governing board issue it?

MR. WEST: The governing board issues it if it can be within the original limitations.

MISS LEVERETTE: What I don't understand is -- at no time do you -- if you are using his house over here and you have your ceiling, it goes down and they issue another and it goes back up. At no time do you have more than the total -- the ten million the people voted -- and the five million here. You are always keeping this under the five.

MR. WORKMAN: The concept that was our intention was to limit the incurring of debt within certain reasonable bounds, so that it couldn't get out of hand without the people saying so. Now, if we put in a limit, say of five million dollars, and the governing board can operate within that five million dollar limit to do what they think needs to be done -- O.K., that's within the limit set by the formula. There comes a special need. Then, they say, all right, we are going to authorize four million dollars or another five million dollars to meet this special need. The people vote and they approve it -- that's all right. Now, we come back to this next bond issue which comes up. You may have reduced your original so that you've got a million dollars worth of leeway here now. The question is whether the people who now owe, not five million dollars but nine million dollars, are going to have to vote on this one million or whether the governing board

can do it without them.

MR. SINKLER: And the answer to it relates itself to the practicality of the school house that has burned down -- the theory you're advocating now. They have got to have an election for the school house that has burned down, because the governing board has had its discretion taken away from it.

MR. WEST: I think again -- to go back to the governing board -- the politics of it -- it's a strong, economy-minded move.

MR. WORKMAN: But the essence of the thing is this -- that having once reached your limit by formula, shall thereafter every bond issue that exceeds that be voted on by the people?

MR. RILEY: My idea is one thing and then I'm going to hush. I think that sounds real good, but I am afraid as a practical matter that you're going to keep that small limitation up to the hilt -- I don't care if it's a school building that has burned down. I don't believe you're going to have the situation to exist of the delegation saying all right, let's hold back a million dollars in case a school building burns down.

If a crowd wants a library and comes in there and pushes for it -- it's going to cost five million -- you got a million left over here -- they'll say, all right, look what we can do. We can get this million here and we won't have to vote on but four.

MISS LEVERETTE: That's the practical matter.

MR. WALSH: I would rather see us have a pretty broad limit, taking into consideration anything that's reasonable. Leave it up to the governing body of the various cities and towns. And anything above that, let the ceiling be the maximum of everything that is owed. It seems to me that the only purpose of putting a limit is to put some reasonable constitutional limit on the total amount owed by a given agency. Otherwise, leave it unlimited.

MR. WEST: The rationale to me of the thing is that the people vote on a bond issue that goes over the ceiling, they should vote and with the realization that this probably would mean an increase in taxes.

MR. WORKMAN: You are still above that and you want another relatively modest bond issue -- the question is whether or not you are going to have the people vote for it.

MR. WALSH: You'd still have to raise the taxes.

MR. WEST: You woudn't have to raise another time if you have stayed within your normal limit, plus your voting limit.

MR. WORKMAN: Dick points out that there isn't going to be any slackening.

MISS LEVERETTE: I think Dick has the practical answer.

MR. WORKMAN: Dick was talking big counties -- a lot of the small counties have retired their debt down. You can't make a statement categorically. Our approach to it has got to envision a likelihood of there being little or no slack. We have to decide whether we want to put in the Constitution the requirement of a vote.

MR. WALSH: You look at the indebtedness that some of these -- like local school indebtedness -- Anderson doesn't owe anything.

MR. STOUDEMIRE: Anderson -- I have it accumulative - five million. These multidistricts -- I didn't put down for each one of those. Can we figure out a wording and put it to a vote?

MR. WORKMAN: If I put my motion, I'd do it with reluctance, because it doesn't permit that flexibility that you all acknowledge is desirable.

MR. SINKLER: I might fall out with John if he goes too high. John and myself are together at one point, but we vary on another. I want that power that they can issue bonds at the local level -- I want that relatively low.

MR. BLATT: I think we ought to refer this to a subcommittee.

MR. SINKLER: Let's do this, let's put school districts in a different category -- the theory for school districts that John and I are advocating -- and put the other people in . . . . .

MR. WALSH: Just why should school districts be in a different category?

MR. SINKLER: There is no reason why people in the cities -- they can borrow money for waterworks, sewers, etc. Let them continue to do that. If they want to build a new city hall or something like that, let them vote the thing. Now school districts -- we've got the immediate need of the building right now.

MR. WALSH: Suppose you need some housing money -- there isn't much use to send them to school -- just turn them loose.

MR. SINKLER: Oh no, not turn them loose, just give them some degree of flexibility.



MR. WORKMAN: You would separate this recommendation here into subdivisions of government other than school districts -- and these separate from these counties, municipalities, townships and so on, would have the ceiling effect, but so far as school districts are concerned, you would then let special bond issues stand aside and then let the school board operate within the whatever latitude they've got below the original limit?

MR. RILEY: Now, is there any possibility of putting language in there, an exception to the limit, or anything else in the event of an emergency and signed by the General Assembly or something like that?

MR. WALSH: We always have an emergency.

MR. WEST: What's wrong with this indebtedness as to the state level? Have we agreed on this or are below this?

MR. STOUDEMIRE: We're down below that now on page 36, no it's page 37.

MR. HARVEY: Huger, I don't see if a school burns down where you're going to have any trouble getting people to vote.

MR. SINKLER: I came out strong for all . . . I allowed myself to be converted by that meeting we had there.

MR. HARVEY: How many times are you going to make it, two or three?

MR. STOUDEMIRE: Does anybody have an extra 37? I have scads of them around here.

MR. WORKMAN: There they are. Down there.

MR. WALSH: If anything, schools ought to be an exception and have tighter controls.

MR. RILEY: I'd like to make one suggestion.

MR. STOUDEMIRE: Tell me where you are?

MR. RILEY: At the last where we have blank terms -- I think it ought to be annual average. Average of three times one year.

MR. HARVEY: If you're going to say times your annual taxes collected -- average in the last three years, just say -- shall not exceed the total collected in the last three years. You get the same thing.

MR. RILEY: That's right.

MR. HARVEY: Add three and divide it by three.

MR. STOUDEMIRE: Wait a minute now. Three times the total amount of taxes.

MR. WEST: And you're going to say three years.

MR. HARVEY: Just don't put three times the average -- just say tax collected . . . Three is a pretty good figure.

MR. WORKMAN: It's the three factor that does it. If you have the percentage and the number of years.. .

MR. STOUDEMIRE: Of all revenues -- are we going to leave the language like I have it then?

MR. HARVEY: "Such indebtedness does not exceed the total amount of taxes and licenses collected in the three preceding years."

MR. STOUDEMIRE: It would be an accumulative ceiling -- is that what you're saying?

MR. HARVEY: I don't like the word "locally"; that's not a very good word -- collected in the subdivisions seeking to issue the bonds.

MR. WORKMAN: Not collected in -- collected by subdivision.

MR. SINKLER: I think you should say "incurring". You don't need the "such". Take out the "such" -- incurring such indebtedness.

MR. STOUDEMIRE: Instead of bonds, you mean?

MR. SINKLER: Yes. -- incurring such indebtedness.

MR. STOUDEMIRE: Now, the provisions of this section shall not apply to obligations now outstanding -- yes or no -- to indebtedness incurred.

MR. HARVEY: Wait a minute, we knocked that out.

MR. STOUDEMIRE: I have three exceptions here.

Mr. Harvey: What have you got -- subdivision, that's got. . .

MR. STOUDEMIRE: Just to let them vote, that's all.

MR. HARVEY: Suppose a school district owes five million dollars, and under this formula they can only owe two million.

MR. STOUDEMIRE: It would not invalidate.

"The provisions of this section shall not apply to indebtedness incurred in anticipation of current tax collections."

Is that O.K.? Or, and I thought, based upon our decision last time -- to be sure -- "or to revenue bonds now or hereafter authorized by law."

We decided that revenue bonds would not be -- and since we are spelling this thing out, it is my feeling that we ought to take the -- add to the length of the Constitution by five words and specifically say it.

MR. SINKLER: You've got to have water and sewer.

MR. STOUDEMIRE: I mean I thought it ought to be stated in the Constitution.

MR. SINKLER: That revenue bond is a bad word. We've got to spell it out.

MR. STOUDEMIRE: I was thinking that revenue bonds really had a legal history unto itself.

MR. SINKLER: You've got to use -- revenue producing project or something of that sort.

MR. STOUDEMIRE: O.K., we'll do that.

MR. SINKLER: I think we ought to leave the provision of letting the people build sewers. The guy that has the sewer never votes the sewer for his neighbor.

MR. STOUDEMIRE: How many times? Three?

MR. WORKMAN: Yes. It works out the total amount of taxes collected in the three preceding years.

MR. STOUDEMIRE: Yes, but it does not exceed three times?

MR. SINKLER: I think we ought to stick to two times -- I think that is enough to let them vote.

MR. WORKMAN: We came to two in the state.

MR. HARVEY: Say -- not exceeding three.

MR. WORKMAN: We are thinking in terms of accumulative now, three is not so high.

MR. WALSH: Looking at some of these counties, three is not so high.

MR. STOUDEMIRE: I think I have figured that when you use accumulative that sometimes you'll have to go as high as five to take care of what people now have.

MR. HARVEY: Maybe three is the average annual.

MR. WORKMAN: Now we come to the question on building into this provision wherein the special district will be assessed and taxed for a special benefit -- fire, water, etc.

MR. WALSH: On page 4 -- I think Huger worded some of this originally. Start with the word "provided".

MR. STOUDEMIRE: Where are you?

MR. WORKMAN: He's way back in some of the early pages.

MR. STOUDEMIRE: Are you on Section 7?

MR. WALSH: Section 8.

MR. STOUDEMIRE: It's on page 15 of Working Paper No. 6 -- which is now in this paper Section 7, I assume.

"No law shall be enacted permitting the incurring of Bonded Indebtedness by any county for sewerage disposal or treatment, fire protection, street lighting, garbage collection and disposal, water service or any other service or facility, benefiting only a particular geographical section unless the General Assembly shall prescribe that a special assessment, tax, or service charge in an amount 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 benefits therefrom."

This is in Working Paper No. 6, page 15, which is a photostat of the thing we worked on last summer.

MR. WALSH: Well, that's the thought.

MR. STOUDEMIRE: Gentlemen, that would just have to be as a separate article of your Constitution.

MR. SINKLER: No, you can say the limitations of this section

shall not apply in the instance of bonds issued for -- but no bonds shall be issued unless.

MR. WORKMAN: That's right.

MR. HARVEY: Not, wait a minute. You have got to watch that word "General Assembly" there too.

MR. STOUDEMIRE: No, no, we're in local government now.

MR. SINKLER: We are taking it out of the General Assembly.

MR. WALSH: I think so.

MR. SINKLER: The provisions of this section shall not apply to bonds issued for special services for a particular geographical section, but all such bonds -- but no such bonds shall be issued unless -- then, you go ahead with your special services.

MR. WALSH: That language that you have in 7 is basically what we want.

MR. STOUDEMIRE: Let me go back here to a cross reference.

MR. WALSH: I don't know what the position is in regard to tomorrow, but it might be well to poll the members on who will be here tomorrow.

I know several have indicated that they would not be and if we are not going to have a real representative group, perhaps we ought to adjourn tonight.

MR. STOUDEMIRE: Well, who can be here tomorrow? How many can be here?

MR. McLENDON: I don't believe we should meet, then, without a quorum.

MR. WORKMAN: Whatever we negotiated would have to be re-negotiated with the larger group.

MR. STOUDEMIRE: Yes.

MR. WEST: Let me ask you this. If you don't mind bring me up to date.

MR. STOUDEMIRE: We approved the Comptroller General as being the post-auditor and so on. We left the Attorney General to be elected. The Secretary of State and Treasurer to be appointed by the Governor, upon approval of both Houses of the General Assembly -- gave the Governor a stronger power to look into and



supervise and bring cases, but did not add anything to his appointive power, other than the two offices just mentioned.

MR. WEST: Are the new main items now the legislative and the judicial.

MR. STOUDEMIRE: And the next time we have scheduled local government.

MR. SINKLER: Which is the easiest to go on with, the legislative?

MR. STOUDEMIRE: Let's take a break for a moment because I want to discuss this court thing. I feel that I am partly responsible for it the way it is developed.

MR. WEST: Yes, I think we can have some general discussion about courts. I think what we probably want -- if my view are accepted. I believe I speak for the lawyers and legislators. I think we will probably want some rather substantial redrafting.

MR. STOUDEMIRE: I think, really, if you make certain basic conclusions that these things can be inserted. This thing has been thought out carefully.

Professor Abernathy went over this thing with Mr. Dreher. He asked me what should he do. I said, do what you think that a good Constitutional Article ought to say -- and so the fault is mine. Primarily I said -- you have ten lawyers on here. If they are going to take another approach, they're going to take it. But I would like to see an approach from a non-lawyer and see what might come out.

MR. WEST: My approach to the thing is first of all -- this New York thing scares me, for the reason that I can see us making one mistake in political judgment. . . . If we make one basic mistake in political judgment, we can be pure theorists and say we have discharged our responsibility under our legislative-designed mandate but we haven't done the people any good.

My thinking is that we ought not to change something that's working reasonably well. I am perfectly willing to discuss the reasons why we ought to change, say -- the method of electing the judges or anything like that.

MR. STOUDEMIRE: What do you say about magistrates, John?

MR. WEST: I think we ought to eliminate magistrates.

MR. STOUDEMIRE: You see, we're not so far apart.

MISS LEVERETTE: I agree with what he has put out there -- the idea -- but some of it is impractical. I believe in a unification proposition -- for changing selection of judges, but I think it should be done to fit into South Carolina's scheme of things.

MR. STOUDEMIRE: If you take the unification and you take the change of selecting the judges, you've about got . . . How far did we unify now? Where did you cut the bottom of unification?

MR. WEST: I'd make the Chief Justice the administrative head of . . . .

MR. STOUDEMIRE: He's going to be the administrative head of what?

MR. WEST: Of all the court systems.

MR. STOUDEMIRE: Regardless?

MR. WEST: Yes.

MR. WORKMAN: What about magistrate levels?

MR. STOUDEMIRE: I see one thing we have to do here. I don't believe that the big metropolitan areas can solve their problems as long as they have magistrates. I don't believe for a moment . . . is going to surrender its recorder court to a magisterial system.

MR. WEST: I don't think that we can say from a state level whether a municipality should have a traffic court or not.

MR. STOUDEMIRE: You word it so that it can.

MR. WEST: I don't think you ought to have a magistrate as a constitutional officer. If the General Assembly sees fit to include a magistrate as a part of the court system, under the supervision of the administrative authority of the Chief Justice, fine.

MR. WEST: To me there's no question but that we ought to have a unified court system with the chief justice or someone designated by him as administrative head.

MR. STOUDEMIRE: You think it ought to be the chief justice?

MR. WEST: Yes.

MR. BLATT: What authority would you give him?

MR. WEST: I think the authority to assign judges; authority to initiate complaints; to remove inferior judges, perhaps -- I don't know if you want to go that far or not.

MR. BLATT: I want to see some authority set up with somebody to have some control over the judges of this State.

MR. WEST: That's what I'm saying.

MR. BLATT: If a man comes into my county and comes in on Monday -- and goes hunting on Tuesday -- and doesn't take up the case on Wednesday because it might go until Friday, I want somebody to say -- well, you're not doing your duty and if you don't do it, something is going to happen.

MR. WEST: I quite concur with you and right now whether the Chief Justice has any such authority, I don't know.

MR. BLATT: I don't think he does.

MR. WEST: I don't know whether he does but I think he ought to be given the authority.

MR. BLATT: Does he want the authority? Has anybody conferred with any of the courts or justices or judges about what should be done?

Do we have any recommendations from the courts or judges or the Bar Association as to what should be done?

MR. WEST: Not to my knowledge.

MR. BLATT: Don't you think this should be done? I believe I wrote Bob about this.

MR. WEST: We are trying to get a rough draft of what we think and then we are going to submit our program to the various agencies -- the courts and so on and get their reaction to it -- give them something to chew on.

We had some hearings early in the game and we didn't get any reaction at all. So we decided that we ought to take the initiative to get what we thought was reasonable.

MR. STOUDEMIRE: Would you say that if a chief judge is made the Head of a Unified Court that you would give him supervision over all courts, whether they be constitutionally established or established by law?

MR. WEST: Definitely.

MR. BLATT: If a Chief Justice becomes an undesirable judge, who is going to regulate him?

MR. STOUDEMIRE: The Constitution, of course, ought to provide for a Supreme Court, should it not?

MR. WEST: I think the Constitution ought to provide for a Supreme Court, Circuit Courts and such other courts of limited jurisdiction as may be necessary.

MR. STOUDEMIRE: Should not the Constitution provide for a -- permit the General Assembly to establish a court in between? You have the Constitution -- you hope, for fifty years -- we don't need an appeal court now apparently, but to me it seems that we would be foolhardy not to provide that the General Assembly could activate a court between the General Circuit and the Supreme Court.

MR. WEST: Many states have it.

MR. STOUDEMIRE: At the moment, I don't see where we would have a need for it, but I don't know about twenty years from now.

MR. SINKLER: I think that ought to come with a Constitutional Amendment.

MR. BLATT: Somebody would look upon that as an opportunity to be elected judge.

MR. WEST: Very frankly, we would probably have done something like that last year or year before -- we even considered enlarging the Supreme Court.

MR. BLATT: You know I have a note on that in my file that the Supreme Court ought to go to 7 in number. I am not trying to put anybody on the court, but I do think so. I think you should have a provision of law that the judges have got to hand down their decisions in ninety days. I have seen a decision stay there a year.

MR. STOUDEMIRE: Now, the size of the court is the question. Your general trial court should be based on circuit, or should it?

MR. BLATT: I think we ought to ask the Supreme Court how they feel about additional justices. If they don't think they're needed, I don't think we should provide for 7.

MR. WEST: I sent out some feelers when we were trying to unscramble our political situation . . . . got negative answers.

MR. BLATT: I certainly wouldn't want to vote for 7 then.

MR. McLENDON: I don't know which one it was that I talked to, but I talked to Judge Brailsford or Judge Bussy one and I was told that five was plenty.

MR. WEST: Don't you think that if we can spell out that the Chief Justice is the administrative authority. . . . If the Chief Justice does the proper job on the administrative level or the supervisory level, shouldn't he recommend changes in circuits, changes in court assignments, and the addition of roving judges and what have you?

MISS LEVERETTE: I think we would have to remove this thing we have now -- this limitation of one judge to a circuit.

MR. WEST: Right.

MR. SINKLER: Greenville and Columbia, I think, are the places where extra circuit judges are needed.

MR. STOUDEMIRE: You have the criminal and . . . . court separated as they are now in the Constitution. It talks about there'll be a general common pleas.

MR. SINKLER: Why shouldn't the Chief Justice fix the terms of court. He would know better than anybody under this system when you need courts and when you don't need courts; provided, that there'll be at least a minimum of courts held in every county.

MR. HARVEY: You certainly want to have a county court in every county included as a part of the system in the Constitution.

MR. WEST: Your trial court of unlimited jurisdiction, appellate court, your supreme court, then, and other inferior courts as may be established by law, all under the administrative supervision of the chief justice.

MR. WALSH: The idea that's building up in this State is not good -- the way they are now operating. This may be something that we don't want to deal with. Are we prepared to go ahead on this particular article, making any real firm decisions, short of perhaps asking the Bar Association to take a look at this and also give us their ideas for improvement of the court system?



MR. WEST: We have a pretty good cross-section of lawyers here in every category and if we can't come up with something -- we should -- about as good as any other group, I think.

MR. WALSH: I do feel that this is something pretty close to lawyers and I think the Bar Association would be vitally interested.

MR. HARVEY: Let's get a rough draft and give it to them.

MR. STOUDEMIRE: If you give someone something in writing, he'll tell you that you have used the wrong adjective or something.

All right, now, the Probate Court you would leave Constitutional?

MR. WEST: No, I wouldn't.

MR. STOUDEMIRE: The clerk of court -- would you leave constitutional?

MR. WALSH: No.

MR. STOUDEMIRE: Who would appoint the Clerk of Court?

MR. WALSH: You'd better let it stay elective.

MR. HARVEY: The draft says he shall be appointed by the judge.

MR. STOUDEMIRE: Professor Abernathy took out the constitutional nature of the Supreme Court's clerk. Would that person still be constitutional?

MR. WORKMAN: The suggestion among those who were the most interested in Juvenile Domestic Relations Court was that there be some uniformity within the State, so that you could build up a procedure that would be applicable -- instead of having them all separately exist. Now, would this plan that we are talking about lend itself to establishing a working procedure into which these would fit if they determine they need one in the county?

MISS LEVERETTE: I think the same thing should be true of your county court because we do need uniformity but it would be up to the General Assembly.

MR. WEST: Is it proper for the statutes to say that the chief justice, as the chief administrative officer, can make rules and regulations and establish uniform standards for the establishment of inferior courts?

MISS LEVERETTE: I was more thinking along the lines of allowing the General Assembly, or somebody, to set up a uniform system -- maybe the Chief Justice.

MR. BLATT: I am going to have to run because I'm going to try to get to Dr. Workman's office before he closes to see him about my eyes.

MR. WEST: Thank you for coming today.

MR. BLATT: I enjoyed being with you all.

MR. STOUDEMIRE: Now, what about the selection of judges?

MR. SINKLER: Leave it like it is.

MISS LEVERETTE: I'll take the Missouri plan.

MR. McLENDON: Publicly elected is bad, appointment is bad -- you don't have but three methods -- public election, appointment and selection by the General Assembly, unless you set up some commission to do this.

MR. WORKMAN: This is the Missouri system she is talking about -- limitation of nomination.

MISS LEVERETTE: Well, actually, I didn't mean Missouri, but something similar to that.

MR. STOUDEMIRE: Professor Abernathy set up his own Missouri system, which involved the chairmanship of the Judiciary Committee and so on.

MISS LEVERETTE: I think that is the biggest issue in this whole judiciary proposition.

MR. STOUDEMIRE: The question I raise -- if you retain your current method, are we going to be able to give judges a long term, in fact, although they have short terms, under the two-party system?

And if you don't, you have destroyed your system if you have a dog fight every four years. Now, I think I'm correct

that if a Judge has given decent service that when his term is out nothing could be more routine than his reappointment.

MR. WEST: I know of only one Judge who has failed to be re-elected since, I believe, the turn of the century, and he lost his mental capacities.

MISS LEVERETTE: I don't want to be adamant about this, but don't you all feel that there is -- we don't pay a great deal of attention to this -- unless they get involved in it with a court. . . on a magistrate level -- don't you think there is a feeling about this?

MR. WORKMAN: To the public -- a feeling of closed shop.

MISS LEVERETTE: And we have been lucky -- we have been fortunate, but there's no reason to continue and depend upon luck.

MR. SINKLER: Well, now, bear in mind you are not going to get to first base with this document as a whole if you take away the legislative power and such. I thought we had to be realistic as well as I have, for instance, when they got the prohibition this up -- I'm perfectly willing to let it go along as it is on the theory -- I want to get some good out of our efforts -- and I frankly think if you try to put popular vote -- change the method of electing judges, you wouldn't get this thing anywhere.

MISS LEVERETTE: Somebody has to do it sometime.

MR. WEST: Let me argue with you a little bit about that. What state has a higher caliber of judiciary than South Carolina?

We have been fortunate over a fifty-year period, and I think that a system that consistently produces good judges -- that isn't luck.

MISS LEVERETTE: Yes, but the point is now -- Bob has a point there about the two-party system.

MR. STOUDEMIRE: Only a lawyer can really judge the qualification of judges.

MISS LEVERETTE: Now, one thing about it -- this nominating commission idea that -- have their own people on there -- it's a representative proposition.

I know, politically, that it's not good but, at the same time, I think it has got to start somewhere. Somebody has to bring it up at sometime. There are only four states that do it.

MR. RILEY: Won't you have this problem -- the members of the General Assembly aren't going to let that change take place, I don't presume. Some people -- and I'm not one of them -- that are qualified people, who run for the General Assembly for that purpose in hopes of the possibility of running for a judgeship.

MR. WORKMAN: Because that's the only door by which they can get in.

MR. RILEY: That's one of the good results of making that the only door.

MR. WEST: Let's go one step further. Isn't it a pretty good test of a man for him to have to get elected to the General Assembly and then a judgeship, if that's true? If he doesn't have the confidence of his own people to get elected to one House of the General Assembly, then the confidence of the General Assembly -- he doesn't get to be judge. That's a pretty good test.

MR. WALSH: I think your circuit system is just completely all out of reason.

MR. WEST: Let's go back to Richland County. Jack Grimball would never have run for the General Assembly if the Richland County Bar had not seen the need for him as a judge. He was drafted. Jack was just not the sort of fellow to get out and shake hands.

And by the same token -- Clarence Singletary -- Clarence was more or less induced to run for the General Assembly as I recall. But there was a draft for Jack Grimball. I was more or less intimately associated with that situation.

MR. WORKMAN: Now occasionally to offset that, we have situations, without naming names, where you've got a guy whose background and interest is political rather than judicial and he gets that bug and he goes after it by getting votes without any qualifications at all.

MISS LEVERETTE: Does this argument hold water, John, along with what you are talking about? The old argument that if you are limited to the General Assembly, then there are a lot of people of judicial temperament who are not of a political temperament. Are we overlooking. . . .

MR. WEST: Sarah, I don't mean to cut you off, but I don't buy that. I don't think there is such a thing as judicial temperament and political temperament.

I think a judge has to understand human nature. The more understanding he has of human nature, the better judge he is going to be and I can show you some judges that barely got out of law school and are pretty good judges.

MISS LEVERETTE: I know one.

MR. STOUDEMIRE: Well, on the other side of this point -- the so-called Missouri system and so on is also political.

MR. WALSH: There are some real problems arising. Those problems are that they are not properly distributed throughout the State. When you get right down to it, most of your justice is not administered by your circuit court or your supreme court. And to say that you can appeal from a magistrate's court or a recorder's court is a pretty empty thing now, because it costs you five hundred to seven hundred and fifty thousand dollars to just say, Hello, to the supreme court.

Somebody said in Spartanburg the other day -- nobody has ever had a case -- nobody knows how Judge Littlejohn tries a case or Judge Weatherford. Such a small group of people see them -- they hear of their reputation and they respect them.

They know more about what E. C. Burnette does as a judge. They can tell you about that, because they have been up there for traffic violations, and I think that we handle a thousand cases a month.

There are people there -- people with money -- there are school teachers and so on and children. They get their impression of what is going on in the courthouse right there before that judge or that magistrate.

MR. WORKMAN: Pretty poor impressions sometimes?

MR. WALSH: That's the theory I'm thinking about.

MR. WEST: Well, I am not disagreeing with that.



MR. STOUDEMIRE: We have a different system proposed by Professor Abernathy.

All right, we know what our system is now. O.K., Here is one system versus the other. Let's take a vote and settle it.

I wonder if we should give some thought, really, next time on the county courts and so on. Would it be wise constitutionally to say that these things have got to be done by general law?

MR. WEST: The Legislature may establish by general law -- say inferior courts.

You can say that in counties having a population of thirty-five thousand and over, there can be a county court of jurisdiction up to ten thousand dollars in civil cases, and so on.

MR. WORKMAN: Would be enabling legislation.

MR. STOUDEMIRE: There's one thing -- I think probably Professor Abernathy and I are both a little bit guilty of -- anticipating United States Supreme Court and the decisions they have been handing down lately, and we are not going to get by with magistrate courts as we have known them in the past. We are just not going to do it.

MR. WORKMAN: Let me throw something out here.

MR. STOUDEMIRE: O. K., now solicitors.

MR. WORKMAN: That's just what I was getting at.

MR. SINKLER: Before we get past courts, I think what I'd sorta' like to have the feeling on -- that is, how are you going to fix numbers of the circuit courts? You certainly are not going to confine them to judicial circuits.

MR. STOUDEMIRE: I think we'll have to give the General Assembly the right to establish the number of judges that are needed. Somebody is going to have to have the authority. . . .

MR. WEST: You might say the General Assembly and the administrative officers.

MR. RILEY: An argument I always have made is -- this business of a county like Greenville, where the county pays the county

judge, the county pays the two juvenile domestic relation judges, and the county pays for the master in equity. All of these salaries are fifteen thousand and over -- up to eighteen and nineteen thousand.

Those people, all of them, are doing the functions of circuit judges, and that ought to be a state responsibility. I don't know whether that should get into the Constitution or not, but your circuit court system ought to have enough judges to cover domestic relations and your equitable matters, etc. in your big areas.

MR. STOUDEMIRE: Are solicitors a constitutional question now?

MR. WORKMAN: Well, my recommendation on solicitors are that they be full-time officers and barred from the practice of law.

MR. RILEY: Will that be in the Constitution?

MR. WORKMAN: I don't know.

MR. RILEY: I think they ought to get more compensation than they get now.

MR. WORKMAN: It would be worth it to the State.

MR. McLENDON: It certainly would.

MR. STOUDEMIRE: Of course your solicitor system would have to bear some relationship to this that we agree on for the major trial court.

You haven't made as many changes as you expressed this morning.

MISS LEVERETTE: Let me ask one question on this thing. You said something here -- when you're thinking in terms of your circuits or whatnot of some specific area -- he does set up not only the chief justice but he brings that down with chief judges and that sort of thing -- he has a line down there.

MR. WEST: I think the General Assembly should pass a law saying "administrative assistant" -- just like the Federal Court system has.

MISS LEVERETTE: Something to make it possible for him to realistically take care of it.

MR. HARVEY: I don't think it is a constitutional question, but if you abolish your magistrate -- as we provided they can be abolished -- we talked about the bad features of the magisterial system, but who is going to then issue your arrest warrants, who is going to hold your preliminary hearings?

MR. WALSH: It's going to get to the point where your county judge is going to have to do that.

MR. STOUDEMIRE: We have checked that point out. You see what worried us when we talked about this county court business and so on, really, is where are you going to get the qualified legal talent to accept all the jobs that need to be done, that is by qualified legal people.

MR. McLENDON: Some counties can't provide it.

MR. WALSH: You're going to have to do it by district, really.

For instance, you might have a situation like in New York, where the question of whether a warrant ought to be issued -- the highest judge there -- he can go before them if he is available. And they do go before them.

MR. WORKMAN: Let me tell you this. The people of South Carolina are going to look very favorably on anything that tends to strengthen the court system and law enforcement, because they are getting a belly full of sorry judges at whatever level. The breakdown at that level in some instances gets right bad.

MR. WEST: You are right.

MR. WORKMAN: Most of the complaints -- a lot of them are down at the lower courts. . . people are becoming more crime conscious now. I don't know about common pleas, except you get the feeling sometimes that the delay in the courts is right bad.

MR. WALSH: If you have an administrative officer, do you think that every motion or every case taken under advisement has to be listed and reported monthly?

MR. WEST: I know that I had a case before Judge Hemphill not long ago. The lawyers all agreed and we were about to settle it but it was dragging out. He called up and said, "look, I have to face that administrative character in Richmond. He's looking down my neck. Let's settle this case or let's try it, and we disposed of it.

MR. STOUDEMIRE: A circuit judge recently, one of colleagues, who looks like a foreigner, but is not really, went into the

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Richland County Circuit Court. The case concerned mostly negroes. The man sat down. He was pinpointed out. He was asked who he was and why he was there.

Then the judge became very friendly and started discussing it with him, but it made the man furious and made me more so, because I thought as long as he went into the court in a respectable manner that the judge had no business inquiring why he was there. One wonders at his motive.

If you want to turn to impeachment, we can finish that today, I think.

MISS LEVERETTE: Where is that, Bob?

MR. STOUDEMIRE: Working Paper 10, page 1, after the legislative thing.

MR. RILEY: Are we going to get back into the courts?

MR. STOUDEMIRE: Yes. I was trying to get some guidelines for Professor Abernathy. When we get back to the courts, I'm asking him to come, if you have no objections, because if some of you people raise a technical point, we would need him!

The Impeachment Article is Article 15. Does everybody have it?

I think the significant down here comes -- if you'll read the last two sentences, based on a Supreme Court Case, I think Dr. Larson told me, applying to a sheriff.

Impeachment applies -- "authority and jurisdiction extends over the entire state, and whose office is created by the Constitution or by statute and is filled by election by the people at large".

We cited a case here, you see -- somebody tried to impeach a judge at sometime -- 92 S. C. that goes way back, doesn't it?

Now, if you'll see Dr. Larson's cross reference here. Just check Article III, Section 27, which provides . . . .

MISS LEVERETTE: Where are you, Bob?

MR. STOUDEMIRE: Working Paper 10 -- down at the bottom of the first page, in the quotes.

You see "The House of Representatives shall have the sole power of impeachment. A vote of two-thirds of all members elected shall be required for an impeachment. Any officer impeached shall thereby be suspended from office until judgment in the case shall have been pronounced; and the office shall be filled during the trial in such manner as may be provided by law."

MR. WORKMAN: Now, that's what?

MR. STOUDEMIRE: This is Section 1 -- Working Paper No. 10.

Now, notice here that this does not give any grounds -- now the Federal Constitution says that the President, Vice-President, and all civil officers shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

One would assume that similar grounds would be used in South Carolina, would you not? Do you think that we should clear this up and insert the grounds? Or first, do you want to leave impeachment in the Constitution?

MR. SINKLER: Yes, but I think you ought to make it clear that impeachment doesn't extend to a minor county official who ought to be removed by some form of proceeding initiated by the Governor.

MR. STOUDEMIRE: All right.

MR. SINKLER: If you put the sole power of impeachment in the House of Representatives, nobody is ever going to get thrown out of office.

Article III, Section 27 --

MR. STOUDEMIRE: Now, Huger, over in / over in the next article back, the Legislature has the right to provide by law for the removal of all officers not otherwise provided for.

MR. WORKMAN: Now, your question is do we spell out grounds for impeachment?

MR. STOUDEMIRE: Yes, and if so, I would think that the federal wording would be the one we would want to take as being standard.

MR. WEST: Impeachment for conviction of treason, bribery, or other high crimes and misdemeanors. Frankly, that's pretty inclusive. Misdemeanor is anything -- so he could be impeached for a traffic ticket.



MR. WORKMAN: Unless you use the adjective "high" misdemeanor.

MISS LEVERETTE: What's a high?

MR. WORKMAN: I don't know. What's a high sign?

MR. STOUDEMIRE: Now, here Dr. Larson says this is -- federal experience has tended to fix impeachable offenses as indictable offenses. Although the South Carolina Constitution is silent on this matter, it is reasonable to assume that the same standard is intended, particular since Section 4 of this Article now provides a method for removal of officers for other causes.

MR. WEST: I sorta' like "for serious crimes or serious misconduct in office".

MR. WALSH: Would you like some wording to this effect -- that serious crimes affecting public interest? A fellow can be guilty of some things that have no affect on how he runs his office.

MR. WORKMAN: You're always splitting hairs, Emmet.

MR. WEST: I think it is a matter of policy. Do you think a man should be impeached if he runs off with another man's wife?

MR. WALSH: I'll say this, I expect there are a right good many in office if that were a high crime, it might be impeachment. Now, they might not run off with another man's wife, but I expect there are a few of them that are just staying put.

The point I'm trying to make is -- from something personal as to something pertaining to his office.

MR. WEST: Suppose the Governor of the State got caught driving drunk, at night?

MR. SINKLER: Or worse yet, how about some notorious conduct. That might affect his ability to administer the law.

MR. WALSH: I know one that does that frequently -- not in this State -- the Governor of another State -- and nobody tends to say that he is disqualified.

MR. STOUDEMIRE: Well, one term they always use is "infamous crimes". What is worrying John is the misdemeanor angle.

MR. WEST: Right.

MR. WALSH: I think we are wasting time on this.

MR. HARVEY: Why not leave it like it is?

MR. STOUDEMIRE: Then the court apparently ruled that state-wide officers, specified by the Constitution and elected by the people. So it really doesn't leave you many -- and is filled by the people at large.

You'd want a judge to be impeached, wouldn't you? I mean you'd want impeachment to apply to a high judge, would you not?

MR. WORKMAN: Well, he'd be a constitutional officer -- start with a supreme court and a circuit court -- that makes him a constitutional officer -- would not apply to county courts; just spell those out.

MR. WALSH: Why don't we put in treason, bribery or felony?

MR. WORKMAN: One thing, if we get into definition, it ought to be fairly precise; otherwise, leave it like it is. I can envision grounds for the impeachment of a Governor which is completely devoid of any criminality, in the sense of complete inertia.

If we had a Republican Governor and a Democratic House or vice versa, in which the Governor says "I won't sign anything -- I won't do anything. A guy could be completely arbitrary and obstruct the procedures of government, but do nothing illegal -- nothing that would subject him to indictment. Yet, in my judgment, he could be inviting impeachment.

When Andrew Johnson was impeached, he was not impeached on anything that had to do with illegality or criminality. His was an obstruction, or charged with an obstruction, the will of the Congress. I forget the terminology.

MR. WEST: We could say felony or serious misconduct in office.

MR. HARVEY: Why say anything -- just say House can impeach.

MR. STOUDEMIRE: This is what Maryland says:

"The House of Delegates shall have the sole power of impeachment of elected officials, judges and any other state officer who may be designated by law in cases of serious crimes or serious misconduct in office. The affirmative vote of three-fifths of all the members of the House of Delegates shall be required to impeach. Impeachments shall be tried by a special tribunal of ten judges appointed by the Supreme Court from among the judges of the state" and so on.

MR. WEST: It makes a lot of sense.

MR. McLENDON: Make sure that you relate that to constitutional officers.

MR. STOUDEMIRE: Well, Impeachment of elected officials, constitutional officers -- say judges, which would be constitutional officers -- we could change that wording around to fit ours. I think it might well -- for instance, a state official in this state now might need to be impeached more than a constitutional officer.

MR. HARVEY: That's what I was just thinking. The Model State Constitution says "Heads of Principal Departments."

MR. STOUDEMIRE: I like this thing here "and any other state officers may be designated by law". You have your old fashioned thing here of elected officials, constitutional officers.

MR. HARVEY: Does it mean they are elected statewide?

MR. STOUDEMIRE: It doesn't say here.

MR. WALSH: That leaves a flaw in it.

MR. STOUDEMIRE: Statewide elected officials, judges and then any other state officers who may be designated by law.

MR. HARVEY: Don't you want to go ahead and put in right here, Heads of Principal Departments.

MR. SINKLER: Why don't you use this language "any other state officers designated by law."

MR. WORKMAN: Sarah, do you know of any statute on it?

MISS LEVERETTE: I don't know of one -- that one area is one that I don't know . . . .

MR. WEST: Is that agreed? Does anybody object to it?

MR. STOUDEMIRE: Or we can go back to our two-thirds, but base it on Maryland.

Now, our Senate sits as a court. Maryland has this special provision that three-fifths of the members and tried by a special tribunal of ten judges. Judgment upon conviction shall be removal from office and so on.

Do you want to leave it with the senate?

MR. WEST: This Reynolds vs. Sims -- why don't we try two-thirds of both Houses as necessary for impeachment and be tried by a special tribunal?

MR. STOUDEMIRE: All right.

MR. SINKLER: Instead of having the House sitting as a Grand Jury, have the General Assembly.

MR. RILEY: Are you talking about two-thirds in joint session?

MR. STOUDEMIRE: In other words, if you are trying to impeach me -- then it's before both Houses.

MR. RILEY: What we're doing gradually here is diminishing the importance of the Senate, which might be all right, but we keep fluffing things in joint session and the Senate has a very small voice in joint session. Whereas, if you say two-thirds of one House and two-thirds of the other. . . .

MR. WORKMAN: I don't see where Reynolds applies here, John.

MR. WEST: What I'm saying here is to get the same basic make-up of both House and Senate. . . .

MR. WORKMAN: I think that the maintenance and the separation is advisable.

MR. STOUDEMIRE: I would say, let's leave the Senate in because this is one case that's really not a serious thing.

Down in Tampa, Florida, about three years ago, they trumped up charges on a judge -- the Democrats or the Republicans -- I forget who is who, but they had a devil of a time.

All right, then, I'll rework No. 1 based on Maryland. The Senate stays and the trial.

Now -- "Officers Liable."

"The Governor and all other executive and judicial officers shall be liable to impeachment; but judgment in such cases"-- but that would be combined with No. 1 then -- wouldn't it?

MR. WEST: Yes.

MR. STOUDEMIRE: Combine it with No. 1 and base it on the Maryland description.

MR. WEST: I think that "but judgment shall not extend further than removal from office", is sound.

MR. STOUDEMIRE: Keep sentence on judgment.

Now, Section 4. "For any willful neglect of duty, or other reasonable cause" -- that's never been used.

I told Dr. Larson the other day "man, that's not in the South Carolina Constitution."

MR. WEST: What does it mean "upon address" - - action?

MR. HARVEY: Says joint resolution passed by two-thirds shall do it -- that's what it says.

MR. STOUDEMIRE: Now, Dr. Larson says here, "Removal of an officer for neglect of duties or other 'reasonable' cause shall be by the Governor upon address of two-thirds." In other words, it's noncriminal. Is that right?

MR. HARVEY: This gets back down to your lesser administrative executives.

MR. McLENDON: That's the point we were hollering about awhile ago.

MR. HARVEY: In any of these executive -- these commission run executive branches or principal departments of our State Government -- if the commission didn't do anything -- or director or chief commissioner was either guilty of crimes or malfeasance in office - - I don't see why it is not a pretty good. . .

MR. STOUDEMIRE: Article III, Section 27, gives the General Assembly the right to remove officials -- for ordinary removals, it ought to be set aside by law and not fixed in the constitution.

MR. WORKMAN: Under what authority did the Governor suspend the magistrate -- not magistrate but the judge of the probate in Abbeville?

MR. McLENDON: Disposing of money, wasn't it?

MR. STOUDEMIRE: By what authority did Jimmy Brynes remove the Aiken Sheriff? And that was involved, you know, in letting the island under the bridge be a night club, gambling and so on, I think was one of the big charges. But it was not related to embezzlement. I suppose he relied upon statutory. . .



MR. WALSH: There must be some statutory law and there is . . .

MR. WEST: The statute says that the Governor may remove or may suspend any officer who has been indicted by the Grand Jury.

MR. HARVEY: We have been over that.

MISS LEVERETTE: Yes they make a reference to Section 143 and 1-124 of the Code.

MR. WORKMAN: Well, it seems to me that what we are concerned with now in Section 4 is the removal of officers. It might as well be measured with what we decided upon in the thing on embezzlement.

MR. SINKLER: The only thing I don't like about that is -- this could be held that that was a limitation on what we regard as a broader power or necessary power to remove, which I thought was covered a couple of meetings ago.

MR. HARVEY: That leaves it solely with the Governor. . . .

MR. SINKLER: Somebody could well argue that this was an exclusive method. I don't mind if you keep it in just so long as you say it's not exclusive.

MR. WORKMAN: We are just in impeachment where the initiative rests with the Legislature. We have now shifted gears and we say in items short of impeachment, initiative rests with the Governor. That's the way I see it.

MR. SINKLER: This is the initiative of the General Assembly but the Governor shall remove, "on the address", but the initiative is with the General Assembly.

MR. STOUDEMIRE: I'm sorta' in favor of striking it. Read down where Dr. Larson raises some questions, "Does the Legislature have a choice? Is removal by the Governor mandatory on the address of the General Assembly? Further, can the section be employed to remove minor civil and judicial officers or are these officers subject to removal only as provided by law under Article III, Section 27?"

MR. WORKMAN: Are there any annotations on this?

MR. WEST: You'd have a kangaroo court. They are entitled to trial, with lawyers, and everything.

MR. SINKLER: You can eliminate it with a very valueless appendage.

MR. WEST: Is there any objections to taking it out?

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There are no objections, so we will take it out. ✓

MR. STOUDEMIRE: O.K., now we can turn back to the Legislature, if you gentlemen would like to go on.

MR. SINKLER: What page was it?

MR. McLENDON: No. 1, under Memo No. 8.

MR. STOUDEMIRE: I haven't had time to read it yet myself.

MR. WALSH: There are certain basic things that I think we should take, decide how we feel on them -- on is whether reapportionment is going to be left up to the General Assembly -- whether you are going to put it in an independent body.

MR. STOUDEMIRE: Do we want to get into reapportionment until we see what the court has to say?

MR. WALSH: You are going to have reapportionment regardless of what the court has to say.

MR. SINKLER: When is the court going to decide that case, do you have any idea?

MR. WEST: I'd say that the most encouraging part of it is that they have not set a hearing.

MR. STOUDEMIRE: All right, gentlemen, we have delayed here Section 2 from the Bill of Rights.

"Representatives in the House of Representatives shall be apportioned according to population."

Now, Dr. Larson made a suggestion which I agree with -- that this should be removed from the Bill of Rights, which I think we did before relating to consideration for 3, and it actually seems to me to be redundant because when you get to talking about the allocation of House Members, you're going to have to repeat this in some form.

MR. WORKMAN: Is this thing here, what shows as Section 2 out of the Bill of Rights -- shown as Section 2 under legislative. Let's strike it out of the Bill of Rights.

MR. STOUDEMIRE: All right.

Mr. STOUDEMIRE: Now No. 3. "Meeting of General Assembly." from the Bill of Rights again. "The General Assembly ought frequently to assemble for the redress of grievances and for making new laws, as the common good may require."

MR. McLENDON: Strike the word "ought" and make it "shall".

MR. STOUDEMIRE: Dr. Larson says, Article III, Section 9 and then the Governor's right calling special sessions. These two requirements cover the intent of this section very well and deletion is recommended on the assumption that annual sessions and authority to call special sessions will be continued.

Now, we are down to Article III, proper, then.

"The legislative power of this State shall be vested in two distinct branches, the one to be styled the 'Senate' and the other the 'House of Representatives,' and both together the 'General Assembly of the State of South Carolina'."

MR. WORKMAN: Well, the older language is what is recommended, 1790.

"The legislative authority of this state shall be vested in a general assembly, which shall consist of a senate and a house of representatives."

That was the original language of the first real constitution.

MR. McLENDON: I like that.

MR. WORKMAN: It says it clearer.

MR. STOUDEMIRE: The legislative authority of this state shall be vested in a general assembly, which shall consist of a senate and a house of representatives.

MR. RILEY: It seems like they are trying to emphasize in the current one the fact that they're distinct branches. I think we ought to leave it like it is -- they end up by saying both together the "General Assembly of the State of South Carolina." But they are emphasizing that they are both separate and distinct.

MR. WORKMAN: You're right. The 1895 is on the distinction of the two branches, whereas the first of 1790 says general assembly may consist of. It's a question of emphasis.

MR. STOUDEMIRE: All right you have a choice of 1790 and . . .

MISS LEVERETTE: Don't tell anybody where you got that -- they'll say we're going backwards.

MR. WEST: All right, then, who's in favor of 1895?

There is no reason for change, is there?

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MR. WORKMAN: No, we wouldn't accomplish much.

MR. STOUDEMIRE: Section 2, page 4. "House of Representatives"

"The House of Representatives shall be composed of members chosen by ballot every second year by citizens of this State, qualified as in this Constitution is provided."

MR. WEST: Let's leave the thought and smooth the language.

MR. STOUDEMIRE: "every second year by citizens of this State,".

MR. WORKMAN: By the qualified electors of this State.

MR. STOUDEMIRE: "chosen by ballot every second year". Should say "qualified to vote".

MR. SINKLER: No, no. Each guy in the House of Representatives gets voted on at large, qualified as in this Constitution -- "is provided" relates to the fact that they have got to be-- let me go back and say that you vote for them by county. The people of the county elect them, not the people as a whole. Be careful not to make them run at large. You can smooth the language but just don't lose the thought.

MR. STOUDEMIRE: Let's say qualified as provided in this constitution.

MR. SINKLER: You want them to be chosen by ballot every second year.

MR. WORKMAN: The qualifying clause here, relates not to the citizens but to the method.

MR. SINKLER: That's right exactly -- that is correct. But the thought is badly expressed.

MR. WALSH: They mean that the citizens of the State are going to choose the members of the House. . . .

MR. WORKMAN: In the manner prescribed.

MR. WALSH: Provisions as set forth in the Constitution.

MR. WEST: No one disagrees with the two-year term for the House?

MR. STOUDEMIRE: Now -- "Number of members - enumeration of inhabitants."

Of course, this is all excessive now. If you leave the same form, there's no point in enumerating all this stuff again, is there?

This thing is loaded, according to Dr. Larson, the three sections together.

MR. WORKMAN: Let's go back -- we're in Section 3, are we not?

MR. STOUDEMIRE: Yes.

MR. WORKMAN: Well, after that first sentence beginning "Each County shall constitute one election district." I am wondering whether or not that might not make for confusion with the senatorial districts and other things which might be required.

MR. WALSH: I'm wondering if you ought not to refer to the election districts in both of them, because I think the time is going to come when. . . .

MR. HARVEY: What was that?

MR. STOUDEMIRE: In this Reynolds vs. Sims, -- will not allow each county to have a House Member after 1970.

MR. SINKLER: What county is going to lose now?

MR. WORKMAN: McCormick.

MR. STOUDEMIRE: Really if I lived in Newberry or Colleton now, I would bring a new case and pinpoint it that our ten thousand overage is more than the population of three or four counties. You have four counties who lost last time, and by luck those four counties have from nine to ten over, which added to McCormick, Calhoun, Allendale, and so on, makes your average strike out and gives you that perfect 47% ratio -- I mean almost perfect.

MR. SINKLER: Why don't you say -- the county, unless otherwise prescribed by the General Assembly shall be the . . .

MR. WORKMAN: Is it necessary to prescribe an election district?

MR. SINKLER: It might be if you had McCormick losing its representatives. Once you violate a county line you'll violate several.

MR. WALSH: Once you jump over one county line, it may be necessary to jump over another one.

MR. STOUDEMIRE: John, are we going to stick to 124 members?

MR. WALSH: I think that's a good number.

MR. RILEY: I think we could just leave out "Each County shall constitute one election district.", and let the General Assembly . . .



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MR. SINKLER: Unless otherwise prescribed by the General Assembly, is what I was going to say.

MR. WEST: Wouldn't that do it, Dick?

All right we are agreed on that.

MR. HARVEY: This doesn't say that enumeration may be made -- let's just skip on down and say that it shall be done according to the decennial census.

MR. STOUDEMIRE: That's right.

MR. HARVEY: Well, instead of saying "An enumeration of the inhabitants for this purpose shall be made in the year Nineteen hundred and One," etc. -- just say, shall be made. . .

MR. SINKLER: The apportionment of representatives shall be made in accordance with -- immediately following the decennial census of the United States of America.

MR. RILEY: Do you want to say the annual session following?

MR. HARVEY: Following publication.

MR. SINKLER: John, I'm correct, we've never failed to apportion the House, have we?

MR. WORKMAN: No. We have one of the best records in the county.

MR. STOUDEMIRE: Now, that's all we need to say there in that section, isn't it?

MR. WORKMAN: You have decennial now, because there is a move to have five years, but we won't fool with that.

MR. WEST: O.K., we'll eliminate the rest of it.

MR. STOUDEMIRE: Section 4. "Assignment of Representatives".

"In assigning Representatives to the several Counties, the General Assembly shall allow one Representative to every one hundred and twenty-fourth part of the whole number of inhabitants in the State: Provided, That if the apportionment of Representatives", and so on.

Would that live up to Reynold's or not?

MR. SINKLER: Better leave that -- it's destroyed by that suggestion that I made after the word "district" in the first line of the pre-

ceding section "otherwise provided by law".

MR. WORKMAN: I'm inclined to make the effort to retain one representative per county, and if the Federal Court is going to knock it out, make them knock it out.

I think without respect to apportionment of population enough governmental consideration exists to warrant representation from each county. Now the court bought that on this last go-round. They said the disparity between McCormick and the other counties was not so great as to override it. I think a good argument can be made for continuity and simplicity of government that there should be a representative from each county -- one representative. They knocked it out on the Senate, but I think by virtue of the Senate having lost that, that there can be an argument made.

MR. WALSH: In connection with this -- there are a number of states that will allocate representatives direct to cities. We have a very bad situation in this State where half your population gets really no voice in the General Assembly at all.

It worked very well in Virginia. Richmond . . .

Mr. Sinkler: There is no county around Richmond.

MR. WALSH: I know. They don't have a dual government like we have.

There is no duplication of taxes and things as we have here.

MR. WORKMAN: Richmond is an independent city.

MR. WALSH: Petersburg, Roanoke -- they have their own particular problems, but they have somebody to speak for them. Spartanburg has nobody to speak for us.

MR. WORKMAN: Well, you do. And I think you had a larger voice in the last go-round, and your remedy there is that the people of the municipality should elect who they want.

MR. WALSH: You can't do it. It is physically impossible.

MR. SINKLER: Well, you are not going to resolve this thing in this business here. The only way you are going to resolve it is under your local government, and to prescribe in your section on local government -- a constitutional amendment. Charleston is going to be opposed to you all next year, which is going to be that we be allowed to vote on a commission form of government -- in other words the city of Charleston will take in all Charleston County.

MR. WORKMAN: I think what Emmet is bringing up is political as well as constitutional.

MR. HARVEY: You're talking here about -- if you are going to assign representatives or permit cities to have representatives. .

MR. WORKMAN: If we are going to do that, but I'm talking about the situation he has in Spartanburg.

MR. WALSH: You've got it in Greenville and you've got it everywhere else.

MR. WEST: You'll run into difficulty on that -- you know they had a fight about two Senators in Charleston in 1895 -- started to assigning them and saying cities would get them and so on.

MR. WALSH: Certainly if we are going to put aside everything we are going to have to fight on, the better thing to do would be not to propose any improvements to the Constitution. I think that would be the easiest way.

We have an awful lot of problems that are not being met -- the people are being discriminated against -- people are being dealt with unjustly -- people are being taxed when they don't get one penny of benefit from it. Unless we recognize it in the Constitution, where in the world will it be recognized?

MR. SINKLER: The way to accomplish that is not here. The way to accomplish that is in a municipal corporation and to provide that municipal corporations can extend their limits the way they do in North Carolina and Texas and other states. That's the way to handle it. Then your metropolitan area goes out. I don't think we are going to agree on that. I think the best we are going to do is to come to a provision in the constitution that would permit counties to incorporate themselves as cities.

MR. WEST: I think certainly we ought to have a --permit a section to allow a single government for an area.

MR. WALSH: If you are going to have to have something like that, the situation has reached intolerable proportions. The State of South Carolina is not keeping up with the national average now. If we are going to keep up -- not go ahead -- just keep up, we are going to have to take account of half of the people who live in cities today are just getting short-changed.

MR. RILEY: Emmet, to take somewhat some amount of issue with you, the municipal association claims that last year they accomplished everything in the General Assembly they attempted other than one or two things.

MR. WALSH: I know but that's just window dressing. It is a question of whether they tried to accomplish much.

MR. WEST: I can't agree with you, although I don't want to argue without specific knowledge, in the last several years in the General Assembly, the municipal lobby -- if you want to call it that -- has been very sympathetically received.

MR. WALSH: I'm not saying they haven't been sympathetically received.

MR. WEST: They have gotten just about everything they have asked for. That's a matter of fact.

MR. SINKLER: Emmet, you get hurt by your local county delegation in the City of Spartanburg. And you're going to continue to do that until you get to this single unit form of government.

MR. WALSH: How can you run a city when we get \$600,000 in road money -- they take all that \$600,000 and spend it out in the county -- won't even say Good Morning to you in the city when it costs more -- then tax the city ten mills to build some more roads out in the county and then say, boys you all have your own problems, put some more tax on.

MR. SINKLER: You are not going to resolve that thing. . .

MR. WALSH: They build it right up to the city line -- a six-lane road and say, oh, that's your problem to build it on in there.

MR. WORKMAN: That's political. You have got to get rid of that delegation.

MISS LEVERETTE: Don't you think the local government situation as that that's handled in here is . . .

MR. WALSH: It depends upon what you would do. There is a problem. It is a constitutional problem -- a problem guaranteeing people certain basic rights.

MR. SINKLER: I think you ought to use a totally different approach. It ought to be done under the local government. It ought to be to simplify the way from cities getting . . .

MR. WALSH: Now, if you come to that you would solve a great number of problems. Eliminate the duplication of government -- the taxing of people for things they never receive the benefit.

MR. STOUDEMIRE: One problem that will automatically solve itself over the state, I think, when you get county council in every county. Because then you've got city council vs. county council appealing to State Legislators for funds, and so on.

I have always argued that municipalities were restricted in their approaches because if Brantley Harvey here as a House Member from Beaufort votes to give Beaufort City one-half of the one-cent gasoline tax, then he has to accept the political burden of going out there and upping the property taxes to make up for it.

Now, when Beaufort County has a council of its own, it's the Beaufort City Council vs. the County Council and Brantley is out to, I think go along more.

MR. WALSH: I don't believe that will solve the problem. The problem is going to have to be solved on a constitutional basis. You are going to have to recognize that this thing of taxing people for things that they never get a benefit from has got to stop.

MR. WORKMAN: How would you do it?

MR. WALSH: One way I would do it would be to give a representative of a municipality over certain population -- let them elect somebody direct to the General Assembly. He would be elected by that particular area.

MR. McLENDON: Emmet, isn't there a fallacy in your argument -- seventy-five per cent of the General Assembly come from cities now. You get first-class representation. Every member of the Marion Delegation lives in one of the two towns--Every man in Beaufort the same way -- practically all in Greenville.

MR. WALSH: We say we have amended our annexation laws. We have done nothing on our annexation laws compared to what they are in other states. In a practical manner, you have not met the problem.

MR. WEST: . . . despite what you say, and I can't argue with you on Spartanburg politics, you can't convince me that if the people of Spartanburg aren't sufficiently alarmed and concerned, if they can't get together and get a candidate in. . .

MR. WALSH: They can't do it -- not with the population situation like it is -- it's mathematically impossible.

MR. RILEY: If you are going to be a state legislator, you ought to have a statewide approach and that would lessen that



if you had a man pinpointed to come down.

MR. WORKMAN: The local government section should address itself to this problem.

MR. WALSH: It may well be that that section will remedy it. That is something they have in other states -- we have an intolerable situation here.

MR. SINKLER: I take issue with you -- you don't have it in other states. You don't have it in Virginia at all. The city of Richmond becomes a county.

MR. WALSH: Then, let's let the City of Spartanburg become a county for that purpose then.

MR. McLENDON: <sup>are</sup> What/you going to do with the rest of the area?

MR. STOUDEMIRE: Emmet is basically right in his statement, but it is done by a different basis. A great number of states use single-member districts.

Now, we say each county shall constitute one election district unless otherwise provided by law.

MR. SINKLER: Let's take that "otherwise provided by law" out.

MR. STOUDEMIRE: I don't think the Constitution ought to prohibit the use of single-member districts if the consensus of opinion want it. This is my feeling.

MR. WEST: I don't disagree with the district theory.

MR. WALSH: A district theory would probably solve it, because a city would almost automatically. . . but that is whether or not we are going to elect them at large from a county. . . .

MR. WORKMAN: If the one man, one vote, rationale is carried to its logical conclusion, it is going to require single districts, because the man from McCormick, as I cited before, he's got one man representing his interest in the General Assembly. The man from Greenville has got part of eleven, Emmet, eleven men representing him. The Greenville resident's voice is magnified to the extent of eleven in the General Assembly, whereas the man from McCormick -- only one. If you're going to apply one man, one vote you're going to ultimately come to the single-member. I don't know about the courts -- the courts are backing off a little on that -- they make certain exceptions along the road. They have not come to grips with that aspect of it.

MR. SINKLER: Seriously, I can't think of anything worse than assembly districts as they have in New York. Think of the caliber of people you'd get from some of those New York districts. Think of the caliber of people you'd get from the city of Charleston.

MR. WALSH: Some of them are not, but some of them are very qualified.

MR. SINKLER: For instance, I suppose that the members of the House that come from the city of Charleston, most of them come from that tiny little area at the tip of the peninsula.

MR. WORKMAN: What you need is another Ben Tillman down there to shake that up.

MR. SINKLER: I want to get at what I asked you to put in.

MR. STOUDEMIRE: What was that?

MR. SINKLER: After the word "district", I want to take that out.

MR. WORKMAN: You want to make it that each county shall constitute one election election district?

MR. SINKLER: No. I want to leave it just like it is.

MR. WALSH: I think we ought to leave that other in there; otherwise we are not getting anywhere.

MR. RILEY: I feel that the true interpretation of reapportionment cases will end up by knocking out McCormick and a couple of others. As soon as we do that we are going to have a Constitution should this one be revised . . .

MR. STOUDEMIRE: I feel that the people of South Carolina in some time to come want to say that Sumter County's four house members shall come from specified districts within Sumter County -- that this should be able to be done by law without having it in the Constitution to do it.

MR. WEST: I am inclined to think that if we look beyond our present situation we ought to agree with him . . . .

MR. STOUDEMIRE: I am not opposed to several negroes being in the General Assembly representing negroes.

MR. SINKLER: I might vote for one. In fact, I did vote for one in the Democratic Primary against some of that trash we had.

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MR. WORKMAN: Let's leave it like it is.

MISS LEVERETTE: You want to leave that "unless otherwise provided"?

MR. WEST: All agreed.

MR. STOUDEMIRE: We were down to Section 4 -- "That if the apportionment of Representatives any County shall appear", etc.

All right, apportionment shall be made by Legislature. Right? I think Mr. Workman was saying we ought to leave . . .

MR. WORKMAN: I said, retain the proviso "That if the apportionment of Representatives any County shall appear not to be entitled . . . each County shall, nevertheless, send one Representative".

I would retain that.

MR. STOUDEMIRE: Now, what would strike out? Anything?

MR. WORKMAN: No. The suggestion was made that we strike it in anticipation of its being invalid, but I say leave it, and make the courts strike it.

MR. STOUDEMIRE: Beginning with "assigning Representatives to Counties"?

MR. WORKMAN: No. Beginning with "That if the apportionment".

MR. STOUDEMIRE: Oh. Strike out the first part of that?

MR. WORKMAN: No. I'd leave it in. I don't want to strike anything.

MR. STOUDEMIRE: That's what I'm asking you.

MR. WORKMAN: Yes.

MR. STOUDEMIRE: "To the several counties or districts"?

MR. SINKLER: No. I wouldn't put districts.

MR. STOUDEMIRE: O.K.

MR. WORKMAN: I'd leave Section 4 just exactly like it is.

MR. STOUDEMIRE: All the way through? O.K. it suits me.

Now, Section 5 - "Apportionment takes effect."

"No apportionment of Representatives shall take effect until the general election which shall succeed such apportionment."

MR. HARVEY: That means that you don't do a fellow out of his seat when you reapportion.

MR. STOUDEMIRE: All right -- Section 5 -- leave it in?

Dr. Larson raises a point over here. Now, you know that a number of states give the right to reapportion to a commission. This is done frequently throughout the county and I don't know whether this should be discussed or killed or phrased or what.

MR. McLENDON: We've been through blood, sweat and tears. I believe we are pretty well educated in our reapportionment. I believe the General Assembly can handle it from here on.

MR. STOUDEMIRE: Well, actually, with the Federal Court hanging over your head . . .

MR. WALSH: Well, it's kinda' like Tennessee. They refused to reapportion anything for fifty years.

MR. WORKMAN: But there are some states which provide for Legislative reapportionment by the Legislature and that in the event that within a specified time the Legislature does not act, then it devolves upon other governmental officials -- the courts or somebody.

MR. McLENDON: The court has done it now.

MR. WORKMAN: Well, the court has done it by judicial interference. What I'm talking about is the legislative procedure -- if the legislature doesn't do it, then this agency does it.

MR. RILEY: I like that better than asking the commission to do it. Make it incumbent upon the General Assembly to do it and if they don't within that next ensuing session to turn it over. . .

MR. WORKMAN: To the Supreme Court.

MR. WEST: I don't like to predict that the Legislature won't do its duty -- and we know that if the Legislature doesn't do it, the court is going to do it.

MR. WALSH: Why shouldn't the state take care of its own problems?

MR. SINKLER: You could go to state court . . .

MR. STOUDEMIRE: The state courts would say we had to have 46 senators. So based on that opinion, if the General Assembly doesn't reapportion as it is supposed to -- I'd bring me a case -- I may very well bring it in the state court now -- I think that's a faster way -- as long as it is taking to do this one -- I think maybe I would.

MR. WORKMAN: Dick and I were talking about the assurance that it would be done with instigating any litigation.

MR. McLENDON: It's sorta' a reflection on the Legislature . .

MR. STOUDEMIRE: Now, some constitutions also have a statement that any time you use a district for representation. . . There is a big argument as to whether the U. S. Supreme Court is going to really get into this.

MR. WORKMAN: This has been a part of what Sellers' long-pending bill is included in contiguous compact area. Now, out in California they have drafted the most outlandish . . . man that you ever saw, with little skinny slivers and dumbbell shapes and everything by collusion among the Democrats and the Republicans -- swapping constituents so they could perpetuate themselves in office. They look like they are going to make the grade on it.

MR. STOUDEMIRE: As long as we use counties as our base, we have got to be compact, I think.

MR. WORKMAN: They've got something like congressional districts.

MR. RILEY: You didn't see that original Legare State Plan -- went from Greenville down to McCormick?

MR. WORKMAN: Well, where are we?

MR. STOUDEMIRE: We're down to Section 6.

MR. HARVEY: We're saying that we don't need a commission to apportion? Or any other body?

MR. WORKMAN: That's right.

MR. STOUDEMIRE: (Section 6) Now, the question before the Senate, I think, is does one keep 46 members, or does one adopt some type of a sliding scale?

MR. WEST: I think we ought to keep 46 or 50.

MR. HARVEY: I like "not more than".

MR. SINKLER: Let's put not more than 46.



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MR. WALSH: If it worked out better to have 45. . .

MR. HARVEY: Then they could have 45.

MR. STOUDEMIRE: I had my students working on that thing -- if you had 47, it would solve all types.

Anyway, not more than 46 is good.

MR. WORKMAN: What you based it on was existing population.

MR. STOUDEMIRE: All right, now, in the light of the decision -- "not more than forty-six". //

Look over on top of page 9. I think Dr. Larson has a proposed draft.

"The Senate shall be composed of not more than forty-six members." Is that right?

MR. WORKMAN: Yes.

MR. STOUDEMIRE: "For the purpose of electing senators, the state shall be divided into as many districts as there shall be members of the senate." Oh, that's not what we want.

MR. SINKLER: I don't think you'd better write that.

MR. STOUDEMIRE: The Senate shall be composed of not more than forty-six members. All right, we agree to that. //

Now, do we need to say anything about the districts or the counties?

MR. RILEY: Provide for as many districts as the General Assembly shall determine.

MR. WORKMAN: Well, now, that gives them the latitude as was suggested by -- I think it was the Marshall May's plan -- that you take so many from congressional districts or judicial circuit or whatever.

I don't think we ought to pin them down in the Constitution.

MR. STOUDEMIRE: Let me read this to you.

For the purpose of electing, the state shall be divided into as many district as the General Assembly shall determine.

Now, do you want to include "Districts shall consist of compact and contiguous territory"?

MR. HARVEY: Yes.

MR. STOUDEMIRE: "And each district shall be so nearly equal in population".

MR. HARVEY: No, we don't want that.

MR. STOUDEMIRE: Wait a minute. "shall be so nearly equal in population".

MR. HARVEY: But you do want the compact and contiguous.

MR. WALSH: I'd say 100% for that. I think in one House or other they ought to come from single election districts. Otherwise, you just don't have people who are representative of the people.

MR. WORKMAN: Well, you're thinking in terms that if we have forty-six senators -- that there'll be one senator from each of forty-six districts.

MR. RILEY: That Spartanburg be divided into three districts.

MR. WORKMAN: Right.

MR. WEST: I agreed with you for about three months and I changed my mind when I saw it was impossible.

MR. WALSH: I think it is a very desirable thing.

MR. WEST: I said time and again that I thought you ought to have single districts or districts with two senators. . .

MR. WORKMAN: What I meant was that forty-six seemed to have messed up.

MR. STOUDEMIRE: All right then, gentlemen, we have the term now.

He has a suggestion down here.

"A senator shall be elected for a term of four years by the qualified electors of each district, provided that no term of office shall extend more than one year after the year of a federal census or other census taken for purpose of fixing representation in the legislature."

You can't say that. . .

MR. WORKMAN: You don't get your '60 census until 1962.

MR. STOUDEMIRE: Anyway, the first one will fit.

MR. WEST: Does everybody agree to four-year terms?

MR. STOUDEMIRE: "Shall be elected for a term of four years".

MR. WEST: Here's a point that I heartily concur with. I think you ought to have a second term, if possible.

MR. HARVEY: Dick, how about thoughts on these staggering terms. I know you all must have hashed this around, didn't you?

MR. RILEY: Yes.

MR. HARVEY: Ten years doesn't quite work out.

MR. RILEY: All these things are inter-related -- you get into the numbering, seating, districts, staggered terms, census and I don't know but that we're going to have to leave most of that up to the General Assembly, because every census is possibly going to change. Problems are going to be a little bit different. I don't know how much of it we can anchor down in the Constitution. We can put a requirement for staggered terms, but it is almost impossible to do that and have reapportionment every few years. At the end of ten years . . .

MR. WORKMAN: Somebody has got to give.

MR. RILEY: You are going to end up with people drawing straws and having people run for terms -- and once they get down there they are going to find it is for a two-year term instead of a four-year term or something like that.

MR. WORKMAN: To maintain the staggered terms means that somebody has got to serve less than four years? Either at the beginning or at the end of an apportionment period.

MR. RILEY: Yes, and they don't know when they are running, in a lot of cases -- then they get down there and they have to reapportion and then they are going to have to drop out.

If we could avoid it in here, Of course, I like to stagger terms and I know John does. Everybody else does, but it is just a difficult thing.

MR. SINKLER: Put a five-year term authorization in the Constitution.

MR. HARVEY: Then, how are you going to stagger them?

MR. WORKMAN: One means of getting something of the benefits would be that in the Constitution that we provide as a saving clause in there that the first elections for the senate following the adoption of the Constitution -- that Senators from odd-numbered districts would be elected for two-year terms, thereafter four-year terms, which sets you off on a staggered basis. Right now everybody is on an even keel. If you are

going to hit staggered terms, you've got to somewhere along the line either extend somebody's term or curtail somebody's term.

MR. SINKLER: But you don't accomplish that because you'd have Greenville sending up five people. . . .

MR. WORKMAN: That's right unless you have got only single-member districts which would accomplish what I have suggested.

MR. WEST: Why don't we get the thing to a head and say that the General Assembly may provide for staggered terms?

MR. STOUDEMIRE: "shall be elected for a term of four years -- terms may be staggered by the. . ."

MR. HARVEY: You can't put that if you're going to need some of these two-year terms.

MR. STOUDEMIRE: That's right.

MR. SINKLER: You couldn't work it out on a five-year basis with staggered term?

MR. STOUDEMIRE: Go to a two-year or a five-year term.

MR. WORKMAN: If you just make it four years, the means that the Senate goes through the same throes that the House does -- pretty good continuity there.

MR. HARVEY: The Federal Court wouldn't let you get by with reapportioning -- twelve years and then eight years and then twelve and then eight?

In other words go from '72 to '84 and from '84 to '92.

MR. WORKMAN: I don't believe the court would agree to that.

MR. RILEY: What you are going to have to do to get into single districts ---now say Spartanburg lost a man -- which one is it going to be?

You've got to get to that point -- you've got to draw straws or you've got to do something or you've got to have single districts. If you have single districts, you can work it out similar to how the House does.

MR. STOUDEMIRE: According to Dr. Larson, New Jersey elects four-elects four and then elects two.

MR. HARVEY: Is that set forth in the Constitution.

MR. STOUDEMIRE: I don't know -- I've never heard of it before, until I read it right here -- talking about "un-representative as to invite court action" -- to get re-apportioned.

MR. RILEY: I'll bet they don't have any multi-member districts.

MR. STOUDEMIRE: New Jersey has adopted a 4-4-2 plan for the Senate.

MR. HARVEY: I think we agree that we're going to have to make this pretty vague on the term of senators.

MR. STOUDEMIRE: The Senator shall be elected for a term of four years.

MR. WEST: For terms of four years.

MR. RILEY: No use to get too definite on this anyway cause this court has got to. . .

MR. HARVEY: It looks to me like we are going to have to come back to this 4-4-2. The election of 1970 and of 1980 should be for two-year terms.

MR. WORKMAN: Let's agree on the four-year terms right now and then carry it forward.

MR. WALSH: We might have a decision here in about two weeks.

MR. WORKMAN: No. Your two-year term would come on your decennial year. So you would serve from '70 to '72, thereafter there would be 4-4-2.

MR. STOUDEMIRE: Yes, but we are electing in '68 for four-year terms, aren't we?

MR. HARVEY: And we are on schedule.

MR. RILEY: You're saying '72, then half would run for two years and half for four. Is that what you would suggest?

And in '76 you'd elect half and in '78 the other half. .

MR. WORKMAN: Brantly and I were talking about this. The 4-4-2 is simply to make the guy's term of office -- let him know what term of office he is running for. It doesn't get into the staggering business.

MR. HARVEY: No it doesn't provide a staggering.



MR. WORKMAN: This means that a guy can be elected with assurance in 1972 for four years -- with assurance in 1976. This is to insure that we don't elect a guy for four years and then the court rubs him out in two years.

MR. RILEY: You got a provision in the House section that says you won't reapportion until the next general election. You can put that in here -- that a man can't be cut short of his term.

MR. WORKMAN: If, for example, we've got to reapportion on the basis of the 1970 census, which is quite likely, on the Senate side. That means that in 1972 we come up with a new plan. It means that the Senator who was elected for four-year term in 1970 is going to be phased out in 1972.

MR. HARVEY: Or be a two-year lameduck.

MR. STOUDEMIRE: I believe that the U. S. Court would approve -- if you faithfully reapportion in '72 -- let it be known that this is the plan that will be effective for the senators in '74, I think the court would let it alone.

MR. WEST: I think we ought to go ahead and put it four years like it is. I don't think we ought to bow out of here to the court.

MR. STOUDEMIRE: Ahead of the axe?

MR. WEST: Right.

MR. HARVEY: Or twelve years hence?

MR. WEST : Right. And for the sake of getting ahead, shall we agree on that?

MR. WORKMAN: Agree on that and make no reference to staggered terms?

MR. WEST: Right.

MR. STOUDEMIRE: The Senator shall be elected for a term of four years by the qualified electors of each district -- I think we want that, don't we?

MR. WEST: Right.

MR. WORKMAN: You'd better make it senatorial district.

MR. SINKLER: Yes, senatorial district.

MR. WORKMAN: Spell it out.

MR. STOUDEMIRE: And strike the rest of this then?

All right - Section 7.

"No person shall be eligible to a seat in the Senate or House of Representatives" -- now we're back in both houses now -- "who at the time of his election, is not a duly qualified elector under this Constitution in the County" -- now we have got to change "County" to "district" haven't we? "in which he may be chosen. I think the word "district" would apply -- a county could be a house district, you see.

MR. WORKMAN: Just say in the house or senate district.

MR. STOUDEMIRE: "in which he may be chosen".

Now, I assume we want to keep a man -- for a man to be a qualified elector -- and I assume you'd want him to live in the district?

MR. WORKMAN: O.K.

MR. STOUDEMIRE: "Senators shall be at least twenty-five and Representatives at least twenty-one years of age."

MR. WEST: You know the teen-agers are going to be in a majority in a couple of years.

MR. STOUDEMIRE: Now here is the staggered section -- Section 8.

MR. WALSH: Rework that in accordance with our views.

MR. STOUDEMIRE: Right.

MR. WEST: We'll just skip that -- nothing we can do with it.

MR. STOUDEMIRE: Section 9. "Sessions of General Assembly".

"The annual session of the General Assembly heretofore elected, fixed by the Constitution of the year. . . Should the casualties of war or contagious disease" . . .

MR. HARVEY: You can just say the annual session shall be on the second Tuesday of January of each year.

MR. STOUDEMIRE: Right.

MR. WORKMAN: Have we heretofore specified that they will meet? Annually?

MR. SINKLER: No, we have not.

MR. STOUDEMIRE: The General Assembly shall meet annually in the City of Columbia, on the second Tuesday, and so on.

MR. HARVEY: Of January.

MR. SINKLER: Use the word "convene".

MR. STOUDEMIRE: Yes, right.

Unless -- do you want to make it "unless"? "Should the casualties of war or contagious disease render it unsafe to meet at the seat of government, then the Governor may, by proclamation, appoint a more secure and convenient place of meeting." "Shall not receive any compensation"-- better leave that out.

MR. HARVEY: How about should war or contagious disease or other casualties?

MR. STOUDEMIRE: Should the casualties of war -- everybody agree to that?

MR. HARVEY: I would say war or.

MR. WORKMAN: War or contagious disease.

MR. RILEY: Why don't we say -- emergency conditions exist, the Governor shall have the right.

MR. WORKMAN: I think this -- should war, contagious disease or other emergency conditions render it unsafe.

MR. STOUDEMIRE: All right. "emergency conditions render it unsafe, the the Governor may, and so on.

Now, we are down to the money. "Members of the General Assembly shall not receive any compensation for more than forty days of any one session."

I do ask a serious question. You want nothing in the Constitution concerning compensation?

MR. HARVEY: And shall be paid an annual salary -- shall not be increased during the term of office.

MR. STOUDEMIRE: Shall be paid annual salary which shall not be increased.

MR. McLENDON: "or decreased".

MR. STOUDEMIRE: "or decreased during the term of office."

That does it.

Now, gentlemen, we have taken out that 40-day thing. Do we assume or let me raise the question. Do you need anything on limit? I violently disagree on limits. I don't see how you can say a Legislature can finish state's business in X number of days.

MR. WORKMAN: I'll tell you one thing but I don't know how it can be accomplished. If there is any way in which the closing days of the Legislature could be more orderly, it would be less likelihood of rabbits . . . something sadly needed.

MR. HARVEY: We have talked about cutoff date for introductions.

MR. WORKMAN: That could come by rules?

MR. STOUDEMIRE: That could be done by rules. And you can't pass more than two bills on the last four days.

MR. WALSH: And you can't pass more than 15 bills in the sine die resolution.

MR. HARVEY: We've cut that out.

MR. STOUDEMIRE: Well, gentlemen, this is according to -- if you read this publication -- this goes along with what they have to say that: The General Assembly should be amply paid, that they should not be put into straight jackets -- that is constitutional straight jackets -- and it ought to be allowed to act like a legislative office.

MR. WALSH: Things are moving too fast now -- it's getting to where you have to stay in session longer. Problems change from year to year.

MISS LEVERETTE: How do these two-year states manage?

MR. WORKMAN: They move . . .

MR. STOUDEMIRE: When should a legislator take office? Section 10.

MR. RILEY: That's a question we had in Greenville. We had a recount, if you recall, and it lasted over a period of about ten days. During that period of ten days we had a delegation meeting, our regular monthly meeting came up, and in that regular monthly meeting we made an appointment to just one of our ordinary boards there in the county, which was vacant.

The Republicans, of course, came back in headlines in the paper that the delegation was holding illegal meetings, and we were in ill repute at that time. We met, for the sake of good will and said we would revoke any action we took. However, I felt that the election was not complete until the recount was completed and the people were declared elected. The Republicans took the position that after election day, that was the end of the election.

You can get into a real tough question to determine "following such election". Does that mean when the votes are all put in the box or does that mean when the election process is completed? I think it would have to mean ~~that~~ when the election process is completed.

MR. WORKMAN: To whatever board of commission is charged with certifying results of elections -- I think anything is premature up until that time.

MR. RILEY: You have got to have continuity.

MR. WALSH: The ideal way to take over immediately after election is to have immediate response to the people's wishes I suppose.

MR. STOUDEMIRE: Well, gentlemen, will you buy the first day of December?

"The terms of office of the Senators and Representatives chosen at a general election shall begin" -- this would give you time for . . .

MR. HARVEY: Gives you about three weeks.

MR. STOUDEMIRE: It would also give a member time to become familiar with what he has to do. Or to say the first Monday of December?

MR. WALSH: It ought to be on the first Monday in December.

MR. RILEY: You know there can be a problem on that. You could have a situation when an election was over, and the new people were elected and the old people had two or three weeks delay, they could come in upset the whole county. If -- that is -- if they were inclined along that way. So it might be a bad situation to have hold-overs.

MR. WEST: Dick, I don't really think that we're going to run into that because of your county council and local government.

MR. STOUDEMIRE: One thing, I think Dick, by delaying it three



most election contests could be handled by that time.

MR. WALSH: What about just saying that they shall take office on the first Monday following the declaration of . . . .

MR. SINKLER: Well, suppose you got to go to court?

MR. WORKMAN: I don't think there is any necessity for all of them throughout the State taking office at the same time. They straggle in and are sworn in by Frank Thornton sometimes on the next day after the election, sometimes the next week, sometimes they wait two or three weeks. And over a long period of time between November election and the convening of the Legislature, the various members come up here and get sworn in. It is not necessary to have all of them take office at the same time.

MR. STOUDEMIRE: But you are overlooking a point. The Governor called a special session of the General Assembly. The date ought to be fixed exactly, because then you are going to have to find out who is the legislator.

MR. RILEY: Another problem is "when does the one that's in go out?" When do the new ones come in?

MR. WORKMAN: I would say -- that the terms of offices of the senators and representatives chosen in the general election shall begin upon their certification of election.

MR. SINKLER: How about an appeal from your certification -- therefore your certification isn't effective.

MR. WORKMAN: But he is certified. . . the burden of proof rests on the guy who has challenged him.

MR. RILEY: Until he is certified, then the other fellow is still in?

MR. WORKMAN: Yes.

MR. STOUDEMIRE: As long as you have the threat of a special session being called, it ought to be fixed on a fixed date. If the Governor calls a special session, he knows when all are in.

MR. WORKMAN: Some of our elections are getting so closely contested . . . that the Monday following election that all the smoke hasn't cleared away yet.

MR. McLENDON: Well, I don't see any doubt about this -- it says chosen at a general election. It means that was the day he was voted on. And he shall be sworn in on the Monday following such day, which was general election day.

MR. WORKMAN: I'd say the certification of election is the requirement before a guy can take office.

If you run the risk of a special election and the heat builds up on that election commission to certify this guy -- the Governor is not going to say we'll meet tomorrow, he's going to say we'll meet a week from next Tuesday or so.

MR. McLENDON: Is he certified on the local level or is he certified in Columbia?

MR. HARVEY: You've got a senator serving three counties.

MR. WORKMAN: He's got to be certified by somebody. I'd just put it upon certification of election.

MR. RILEY: Do you think we should have the phrase "and shall end at such time as his successor is certified."

MR. WORKMAN: No, if you say his term begins upon certification, I think that's clear.

MR. RILEY: Say, if certification takes two weeks, you don't think you need something to make the old man hold over for that two weeks?

MR. WORKMAN: Well, you don't have a general provision to hold off until elected and qualified.

MR. SINKLER: Let's accept Section 10 tentatively.

MR. STOUDEMIRE: What is agreed here?

MR. WORKMAN: I move that it shall begin upon certification of election.

MR. McLENDON: What will happen now with the two-party system in which you're talking about because everybody in Marion County is appointed by a . . . . of which I am a part. Suppose the Republicans take over and my crowd of people down there involved fail to certify .

MR. WORKMAN. I know you can mandamus him.

But you can't come up here and present yourself to Frank Thornton on the basis of what the man. . . .

MR. McLENDON: I move we adjourn.

MR. WEST: All right, ladies and gentlemen, the next meeting is

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MR. STOUDEMIRE: Gentlemen, we will pick up, as far as I am concerned, with the legislative session and then we will go back to the courts.

MR. HARVEY: Let's try to establish if we are going to meet Saturday or not.

MR. STOUDEMIRE: Let me clarify one thing that I picked up by State House rumor. Now we're talking new committees -- we never agreed that this commission would not look into local government, did we?

MR. McLENDON: No.

MR. STOUDEMIRE: This was told me that the special committee counties would attend to that and I just wanted to make sure.

MR. McLENDON: You know when we discussed it before, we said we'd pass it over temporarily.

The meeting was adjourned at 6:15 p. m.