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MINUTES OF COMMITTEE MEETINGS

15 FEB. 1967

21 JULY 1967

15-16 SEPT. 1967

WORKING PAPERS MISSING :

#s 1, 2, 3, 10,

15 is my last one

Minutes: Blue marks indicate those filed

- August 25, 1966
- Sept. 8, 1966
- Sept. 29, 1966
- Oct. 27, 1966
- Nov. 10, 1966
- Dec. 1, 1966
- Dec. 16, 1966
- Dec. 26, 1966

now  
filed  
OK

None filed for

1966

Also filed:

1/19/68

3/4/69

3/5/69

3/12/69

- Feb. 15, 1967 ✓
- ~~Mar 27, 1967~~
- July 21, 1967 ✓
- Sept 15, 1967 ✓
- Sept 16, 1967 ✓
- Oct. 6, 1967 ✓
- Oct. 7, 1967 ✓
- Oct. 27, 1967 ✓
- Nov. 17, 1967 ✓
- Dec. ~~28~~ 1967 (quad) ✓
- Dec. 29, 1967 ✓
- Jan 19, 1968 ✓
- Jan 24, 1968 ✓
- Feb. 6, 1968 ✓
- April 17, 1968 ✓
- Dec. 19, 1968 ✓

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MINUTES OF COMMITTEE MEETING

The Committee to Make a Study of the Constitution of South Carolina, 1895, held a public hearing in the Senate Chamber, State House, Columbia, South Carolina on Wednesday, February 15, 1967 at 2:30 P. M.

The following members were present:

Senators-

John C. West - Chairman  
Richard W. Riley  
Marion H. Smoak

Representatives-

W. Brantley Harvey, Jr.  
J. Malcolm McLendon  
Judson F. Ayers, Jr.

Governor's Appointees-

T. Emmet Walsh  
Huger Sinkler  
W. D. Workman, Jr.

Staff Consultant-

Robert H. Stoudemire

The Chairman called the meeting to order and welcomed the speakers. He noted that this was a public hearing to study the Constitution of 1895 for proposed constitutional revision to indebtedness.

The following were notified of this hearing on February 8th.:

South Carolina Bankers Association  
South Carolina Municipal Association  
South Carolina School Boards  
State Department of Education  
State Highway Department  
South Carolina Bar Association  
South Carolina Tax Commission  
Comptroller General  
Treasurer  
South Carolina Textile Association  
South Carolina Chamber of Commerce

Mr. Robert L. Stoddard, South Carolina Municipal Association, said they basically approved the recommended revisions and said they would like to see it simplified. Mr. Stoddard stated that they favored retaining the present authority of issuing revenue bonds without the necessity of election. He also said that they favor removing debt limitation. He suggested permitting two governmental agencies to join together and issue bonds if necessary.

Mr. J. Kenneth Crowson, Secretary-Treasurer of the State Highway Department, said if the Constitution is going to be amended it should be put in where it can be done without referendum. Asked if he thought the limitation of 100 million dollars was realistic, Mr. Crowson said he did. He stated that he felt a more desirable limiting factor would be a ratio.

Mr. West asked Mr. Crowson to submit his suggestions in writing.

There was no one present for the opposition.

The public hearing adjourned at 3:00 P. M. and the members went into a private meeting in the Education Committee Room of the Senate.

It was decided to write Mr. Busbee of the School Board, and also Mr. Herbert Smith.

Mr. McLendon informed the committee of how the State of Maryland was handling this situation, noting that they had decided on the convention method, and to have four sub-committees. He noted that the only way Maryland was able to get anything concrete done was to isolate themselves for two or three days. Mr. McLendon stated that Maryland had gone about this very systematically, even to recording all sessions. They are submitting articles that the convention can adopt without changes. He informed this committee that Maryland uses the comparison form of old vs. new. He also noted that Maryland had been able to get expert witnesses without charge. He said they have about four people working full time. They use an attorney to help edit their hearings.

Mr. Sinkler expressed disappointment that no school representatives were present today at the public hearing.

Mr. Walsh suggested the committee consider what sort of staff is needed to make the necessary study.

Mr. West suggested employing some graduate students to help.

Mr. Sinkler noted that local government and indebtedness are

the two things of greatest importance to study.

Mr. West suggested that if the committee can revise by wholesale amendment, that should be recommended.

Mr. Sinkler noted that our present Constitution is not as bad as most think and that only a good cleaning up is needed.

Mr. Workman moved that pursuing revision of bonded indebtedness be the principal order of business of this committee until it is effected one way or the other and that the committee proceed with a draft of this. He noted that this committee is stymied until the 1967 Legislature decides what it is going to do on its own, and in the light of what the Federal Court is going to do. He suggested asking for a resolution to extend and enlarge the committee and funds be carried over, and as soon as this legislature acts affirmatively then the committee can gear up again.

Mr. Sinkler suggested consolidating the city and county aspects.

Mr. Stoudemire noted that we have good patterns in Charleston and Kershaw Counties.

Mr. Riley said he thought the committee should have something to present to the public so they could be thinking about it.

Mr. Workman felt that the committee should define what the major problems are.

Mr. West suggested a detailed study of the nine sub-committees listed on page 6 of the report.

Mr. Stoudemire said that he would be glad to meet with any sub-committee.

Mr. West stated that first of all the committee's initial priority is to get finance and debt to the legislature, and next get resolutions out with funds. When that is done the sub-committees should be reconstituted and then appoint some person with knowledge to have a preliminary meeting with the members to get some observation. He suggested that the sub-committees assign to the research man responsibility of getting a plan back to the sub-committee.

Mr. Workman said he would have the assessment question worked up into memo form and present it later for information.

The meeting was adjourned, to meet again subject to call of chair.

Meeting adjourned at 4:10 P. M.

W. D. Workman, Jr.  
Secretary

Norma C. Russell  
Recording Secretary

MINUTES OF COMMITTEE MEETING

The Committee to Make a Study of the Constitution of South Carolina, 1895, met in the Senate Conference Room, State House, Columbia, South Carolina on Friday, July 21, 1967 at 10:30 a.m.

The following members were present:

Senators-

Richard W. Riley  
John C. West, Lieutenant Governor

Representatives-

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

Governor's Appointees-

T. Emmet Walsh  
W. D. Workman, Jr.

Staff Consultant-

Robert H. Stoudemire

The meeting was called to order by the Chairman at 10:45 a.m.

CHAIRMAN: I am glad to see you all back here. The Committee has not met regularly and has been somewhat inactive during the session. The reasons are fairly obvious to members of the Legislature. Hope that the Governor's appointees understand. I regret that we have not made more progress. There are some things that we ought to think about and not rush into. I am delighted to have the addition of Speaker Blatt to the Committee. His wisdom, knowledge, and prestige will greatly enhance the Committee. The Governor still has not made his appointment. There is one additional appointment. If any member of the Committee has a suggestion, I think he would welcome it. I have been quite concerned about the structure of the Committee. The Committee was kind enough to change the composition so that the presiding officers of both houses could continue. The experience of last fall taught me that there is only so much that can be done. I would like for you to give some thought to the structure that will get you a chairman who will work and who will have the time to work. Perhaps it would be well to have a frank discussion of what the organization should be. You should make a conclusion as to a chairman.

MR. WORKMAN: I think as part of our approach to get back on the main line, it is going to be necessary to effect an organization that can, whether the Legislature is in session or not--can keep going. I would suggest that this be accomplished at a meeting of a different type than what we have had here. We need to meet for an extended period of time over the weekend, or at least one complete day, for discussion in total group or sub-committee, and come up with some Committee policy on it. Our organization should be done at that time and at that type of meeting. We do a lot of wheel spinning here. We have almost a "first of the session" every time we meet. There is pressure to get away. Free and open discussion is for a limited time and not productive. My solution: if we gear up for a full session of work that we undertake it in meetings of at least a full day and more, if possible. Could be held anywhere. I am fully convinced that the job we have is not impossible. Some of the areas require pick and shovel work. There is no real basis for continued or extended argument or debate over what needs to be done. Bob Stoudemire will not have to undertake much more than has been done locally. Stoudemire's study and stuff pulled together from other states gives us a resource. All we need do is sit and decide what direction we are going and do it. Organization is going to be subject at that meeting. Make our decisions. If decisions are going to require supplemental research, get Stoudemire to undertake it as soon as it can be done. We need to decide what our recommendations will be when the Legislature comes back in 1968. We should present a total package with what we think ought to be done. I, for one, am in favor of a constitutional convention. We ought to be able to say what we find deficient. These are the specific recommendations that we think will improve the constitution and this is the method by which we think it ought to be done. This should not be too difficult to accomplish between now and January. We should set up a regular schedule of substantial meetings. I am going to be out of the country in the month of August. I will be available, beginning in September, whatever time is agreeable. We should start a series of monthly meetings of some substance and length. One thing we ought to bring up today. Whether or not we ought to undertake spreading some information and enlightenment and sharing the problem with the people. We should tell these people what the Committee is faced with doing. The two most important things are: (1) Organization when the Governor makes his appointment so each can know his responsibility. (2) Schedule of meetings so we can discharge our responsibilities.

MR. BLATT: My idea would be to go along with these meetings Bill is talking about. This ought to come out--this ought to be enlarged and go on through it section by section of the constitution. I think he is going to have to call in some people to help him. We ought to set up some council in the Department. Somebody that the judges are responsible to. The people have been fussing in certain

sections of this State. You ought to give consideration to it. If a judge isn't doing what he should do, you should have someone to see that he does. You have got to do this. There is nobody in control of the judiciary. I think you are going to have to go through it, paragraph by paragraph, section by section. Pass in the present constitution what is good and remove what is bad, decide what should come out, what should stay in, and what should be added. We should get these changes written so that at the next meeting we can see it and approve or disapprove.

MR. McLENDON: We haven't been able to do it for many reasons. Until we sit around this table with a problem and decide what to do with this problem, we are not making any progress. We are going to have to take it section by section. There are not really a great many sections that would give us a great deal of trouble. We could probably eliminate 50 to 60%. Then we could concentrate on these things that really bother us. I don't think the breaking down into sub-committees is going to be successful. Ten or twelve people is not too cumbersome. I don't think the sub-committees are really necessary. This Committee is small enough that they can work together, and make the studies.

MR. WORKMAN: Full strength would be twelve.

MR. McLENDON: That's not a cumbersome group itself. Is there someone we can hire? An attorney?

MR. WORKMAN: Bob stands ready to do virtually what you have said. If the Committee gives direction. If we say what we want done by the next meeting. Our main problem so far as staffing is determination of what we want and then the throwing of it to Stoudemire.

MR. STOUDEMIRE: This came out very clear in my visit to Maryland. This one person supervises the farming out and the tying together, because Article 4 does bear relation to Article 6. This person was able to require a researcher after the determination had been made by the full Committee that certain paragraphs needed to be studied. Maryland is going into convention in September. He had all of these background studies made. I think we are fortunate at this stage that so many other states are ahead of us and so much of the background work has been done. I have the New York series of studies. It has the advantages and disadvantages of various methods of selecting judges. It shows how the new Federal Court decisions may affect a bill of rights. A lot of pros and cons have already been evaluated. Some of the things that might be question marks, they have already pointed out.

MR. WALSH: They have pretty much all the court decisions in the United States.

CHAIRMAN: One of the topics we discussed informally at the Lieutenant Governors Conference was constitutional revision. It was generally agreed that it was one of the great problems facing most states. Constitutional revision by amendment seemed to be quite in the majority, the qualification being that the constitutional convention required a whole lot more advanced preparation. Both have advantages and disadvantages. Have to decide fairly early which route we want to take. Are we going to point our work toward background studies or a series of amendments to the existing Constitution. I think that decision has to be made.

MR. WORKMAN: I think the general consensus is that we set as our goal the formulation of an acceptable constitution for South Carolina, adding those things we think should be added, making deletions, making changes that will be acceptable to the business of South Carolina. How can that best be accomplished? Some by constitutional convention, some by piece-meal amendments, or one whole amendment as done in Georgia. We ought to have a document, or the essence of a document, in January in which we say that the twelve members hold this up to be an acceptable, effective constitution. We suggest it be approached in this manner, or in this manner, but the goal is the same. Goal should be the formulation of a constitution which we think is good. The Legislature would be given our recommendations.

MR. BLATT: I think you ought to decide what you want and then the way you ought to do it. The way to get this job done is to get a competent staff. We think this ought to come out, this ought to go in.

MR. WALSH: I talked to Bill Workman a couple of times on the telephone. The sub-committee system would just not work. I would then say that we need what the Speaker and Bill Workman say. First, get a Committee organization. I say channel through Bob Stoudemire. One thing, he has already done a lot of work. He's acquainted with our views. We have a number of lawyers on the Committee. I don't know how a lawyer, as such, can add remarkable influence to it. In addition to that, one of the first things would be to get the entire new Committee together. Go through it together. What good things, what bad things about it. See what other states have done. Could we make any real changes there? Give Bob the general views of the Committee. Make the changes and then send it out. Come back one month later and pass on it. We should have at these meetings someone to take these ideas down and type them up so that we can see them. Every Committee meeting should have a court reporter so that it could be typed up before the next meeting.

Then everybody would know what position they took. When I was on the Penitentiary Committee, they always had a court reporter. I always thought that the cost of that paid for itself many times over.

MR. WORKMAN: I want to offer my best cooperation to Bob. It is relatively easy for us to get together. Out of whatever organization or reorganization comes up, Bob and I can undertake to have available at the outset and prior to the meeting at a predetermined advanced date, a listing of the area concerned, what are the improvements, what are the points to be checked? In any event, we can survey what has been done elsewhere. This is the area of discussion for the meeting. Here are the things the Committee should determine, so that we don't leave out anything. We should have a series of set meetings and say that we are going to discuss these various things at this meeting. Should be subdivided into areas that have some general cross identification. We have grouped them. These are areas that we can take--the sub-committee divisions. By the time that session is over the consensus as to whether there is general agreement or minor disagreement, whether there is going to require more pick and shovel work should be determined.

MR. STOUDEMIRE: I would like to go along with this idea of going through this constitution. I am willing to do a lot of work, but unless there is a real reason to investigate a section, I don't see any reason to do it. I have already made a check list. For example: on the Bill of Rights. Some states have a section on collective bargaining. South Carolina people would not be interested in inserting this in the constitution. Jot down major ideas that you find in other states' Bill of Rights. At least the idea has not been automatically passed over. If one merits study, then it can be done. We have established that our debt provisions are a major thing. We could come up with a corps of ideas. When we get these various corps--how can we bring these changes about? Convention, amendment, or whatever. I think the Committee would represent the State fairly well. Only six or seven of forty-seven are major changes.

MR. BLATT: Have you determined how much help you need? Has any plan been made about his compensation? He ought to be paid something for the work he has done. Is he willing to do the work? I would like to see him do it, personally. I would like to determine with him to leave compensation with us when this work is concluded. If we don't have enough money we can go back and get it and employ as much staff as he needs.

MR. HARVEY: Put on agenda issues before each meeting.

MR. BLATT: Write the Governor and ask what recommendations he has to make in order to make his office more effective. Write

every department of State government.

MR. WALSH: Brantley was asked to do that. He wrote all the former Governors and the Governor and all the State officials.

MR. HARVEY: Wrote all of them. The Adjutant General--major issue, should he be elected or appointed.

SENATOR RILEY: The procedure has been a main source of frustration to me. It is comforting to me to kick the procedural question out and get on with the constitution. I don't feel that I have studied the constitution at all. I have had this roadblock on procedure bothering me. If we can put our sights on a revised constitution and nothing else right now, that is very comforting to me and I am very willing to get into it. We have a starting place. It would be a big help to me if I could come on back in with not only an agenda, but a dissertation or a paper on the various sections for us to start on. That may be too much preparatory work. Break these things into areas. 9:00 a.m. would be militia. Forty states do it this way, ten that. Model constitution recommends this, Pennsylvania recommends this, my studies recommend this. Have this mailed to homes before hand. You could have some ideas yourself. You could come in and sit down and when the next topic comes up, vote on it. Turn it over to be drafted and then we look over the draft.

MR. WALSH: Some advance information is a requisite. We should not have a study in depth. When you say we are going to take up at a meeting certain areas and we receive information two or three days prior, saying these are the pros and cons, then you could go home at night, look them over, get them in your mind and be prepared to discuss it.

MR. WORKMAN: Bob, would you have available to you first class stenographic help? You could dictate to someone effective ways the executive branch of government should operate. I am thinking in terms of informal discussion.

MR. STOUDEMIRE: What you are talking about now is work. How all the attorney generals are selected.

SENATOR RILEY: You might could come out with ten sample states. Ten representative states.

MR. STOUDEMIRE: However, whenever the Committee is ready, I have the history down with the tabulation of what has been done through 1964. I have the 1966 on a separate thing. 424 things have been submitted to the people. 97 have been double-headed propositions. I have the breakdown according to the various articles. Brings out very clearly what has happened after we took the minute things out. The amendment on the magistrates, transferring official

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jurisdiction to the General Assembly.

CHAIRMAN: Bob, in order to bring the thing to a point of departure-- we appointed these nine committees: (1) legislative (2) executive (3) judiciary (4) taxation (5) bill of rights (6) local government (7) revision (8) education (9) miscellaneous. Those were the nine general sections that we had divided our study into. In line with the Speaker's suggestion, could we at a very near subsequent meeting--how much would be involved in your staff coming up with a brief summary of the executive situation? Provide for one four year term, four year term with one re-election, two year term or with no limitation. Then to executive powers. So many provide these powers for the governor, so many do this, etc. Then do the same thing with the legislative branch of the government which is more involved. We have a pretty thorough study with the taxation which Huger says he is not satisfied with and, unfortunately, the Committee wasn't. Bill of Rights might be easier. I would hope it would be a lot easier.

MR. STOUDEMIRE: I think we can do a lot of this by stealing. New York says requirements of various states are broken down as follows ...

CHAIRMAN. One of the speakers made the statement that no legislative branch should have a gross number of more than 100 under any circumstances. He was very positive in his statement. Plagiarizing as much as you can, if we had three or four weekend type meetings, depending somewhat on whether you can do the staff work--my question is this. How much more direction do you need from the Committee in order to do the staff work in order to get into the legislative, judiciary and executive? Send out an agenda saying you are going to take up the executive and bill of rights. We make a decision as to what the Governor's term should be. At the next meeting we have three more, but we have what we think are acceptable constitutional revisions embodying our outline from the last meeting.

SENATOR RILEY: All of that would be leaving out the technical stuff. Give us the major questions.

MR. HARVEY: Try to list in advance--the issues in advance.

MR. WORKMAN: This would serve a very useful purpose that particular attention be given to each section of the constitution for presentation to the public which has come to grips with these things. Say that the Constitutional Committee is recommending a maximum of two terms, a total of eight years against this background (so many states do it this way) over a period of time. Whatever we come up with is going to have to be acceptable to the people, whether directly or indirectly. The material that will be compiled for presenting initially to the Committee, will have additional value

because of presentation to the public. We think in terms--not in the arbitrary discard of something. South Carolina has enjoyed notable success with this, whatever it is. We also have the facility of presenting to the public generally what changes are being made or why changes are not being made.

SENATOR RILEY: Our first would be something similar to the Commercial Code. The section with an explanation underneath. Present it to the public or the General Assembly and then we can go into how to accomplish revision.

MR. WALSH: A good bit of this can be turned over to Bob. He gets the general thinking as to how the Committee wants to study these things. I think if we just give him a ball of rope here and say we are ready to study--we want him to do the advanced work. Outline the issues--give us the information, then we will meet and make these decisions.

MR. STOUDEMIRE: I would like to do it on an experimental basis first.

MR. BLATT: I keep going back to the money. How much should we pay now? I'll go see how much we have.

CHAIRMAN: I think we ought to spend as much of that as we can. How much have we paid out?

(There was a short recess in order for the Speaker and Mr. McLendon to find out how much of last year's funds were still available from the House and how much available from the Senate. There was slightly over \$800.00 left in the House account and the Senate had spent more than the allotted amount.)

CHAIRMAN: The question, then--I think the consensus of the Committee is that we are going to throw it at you. In the words of our distinguished member, Emmet Walsh, tell you to run with it. We're throwing this thing to you now, and asking you to run with it. We're not putting a bridle on you, we're putting the spur to you.

MR. STOUDEMIRE: Could you meet in Columbia if you got away from State buildings? Maybe a room at the University--something of this nature?

MR. WALSH: I don't think we can meet in the Capitol. If Bob can locate a place at the University--some sort of place just to get away from where people are. We would have room enough and be comfortable.

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MR. WORKMAN: Some banks and lending institutions make their rooms available to the public. Most of them are located adjacent to shopping centers where there are eating facilities. One is out at Richland Mall. I feel confident that these people will make them available to us. There is also the Sims Health Building which has a fine auditorium. Then we have got a place like Columbia College, Cottingham Theatre. There won't be any problem finding another adequate place.

MR. HARVEY: I would love to have you come to Hilton Head, but I know reciprocation would be difficult. I think the center of the State is best.

MR. STOUDEMIRE: I would prefer meeting in Columbia. Say, a problem arises in the morning. The matter could be settled if we can get to a library that same day. It is going to be impossible for anybody to bring every fact with him.

MR. WALSH: Is there a place around the University? I do like a chair with upholstery. I do like a little upholstering if we are going to sit around all day.

MR. McLENDON: A prestige place for us to meet.

MR. STOUDEMIRE: To the best of my knowledge, the Board of Trustees meeting room at the University is not used except when the Board meets.

CHAIRMAN: Another think which isn't completely out of line. The Wade Hampton Hotel has some meeting rooms.

MR. STOUDEMIRE: Russell House is not a good place. Too much commotion. You can sometimes hear the meeting next door. It is not the quietest place in the world.

MR. WALSH: If you could use the Trustee Board room--it would be big enough so that you could have three or four staff people there. I don't worry about parking.

SENATOR RILEY: I would like to have you at Greenville. I could get the facilities at Furman if we wanted to spend a couple of days there up in the mountains. If we were going on a two day trip, I would certainly be glad to get those facilities. I am just inclined to think that while we were in Columbia that it would be much easier at least for the first meeting, for an absolutely effective session--no 'phone, right next to the library and all the facts. If we are going elsewhere, it would be well to spend the weekend somewhere else.

MR. WALSH: I'm not sure that I could--I believe Columbia really

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is probably the place to start. There are any number of facilities.

MR. WORKMAN: If we determine on having a full, uninterrupted day of work here, would it be the feeling that you would drive in early in the morning or come in the night before and start at 9:00 in the morning?

MR. McLENDON: If we get started at 9:00, I could leave home at 7:00.

MR. HARVEY: Frankly, once I get here I would rather spend the day or a day and a half.

MR. WORKMAN: What days are most suitable?

MR. HARVEY: I would prefer Friday and Saturday.

MR. WALSH: I would prefer that, too. Most of our offices are closed on Saturday now.

MR. HARVEY: Plus court. Friday, you can excuse yourself.

MR. WALSH: That would enable us also to meet on Sunday.

MR. WORKMAN: Without doing anything definite, it looks as though 9:00 a.m., convening on Friday with a full day Friday and carrying over into so much of Saturday as is necessary to complete that segment which would aim to an early afternoon adjournment.

MR. WALSH: I would say 10:00 a.m. Friday if we are going to carry over into another day.

MR. McLENDON: That's right. We wouldn't meet the football weekends.

MR. WORKMAN: Work on Friday and break up at noon on Saturday. I must confess that idea didn't escape me either.

MR. HARVEY: The Governor and I have to get back to Charleston to see the Citadel play.

CHAIRMAN: I know my wife is going to be there whether I am or not.

MR. McLENDON: It will be about the time of the football weekends. If we don't adjourn until noon on Saturday, I would be missing half of the party.

CHAIRMAN: Do we want to set the first meeting for the 15th of September or the 8th?

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MR. STOUDEMIRE: Not the 8th.

MR. WALSH: How about the 15th and 16th?

MR. WORKMAN: I think every Carolina home game is a night game.

SENATOR RILEY: 10:00 o'clock on the 15th. Right?

CHAIRMAN: That's right.

MR. STOUDEMIRE: On this day we will discuss (some of us get together) what we think would be an appropriate agenda. Bill of rights, elections, plus something else. Start with Article 1 of the constitution. As I see it, my job would be to get some background information on these things and this background information should be mailed to you prior to the meeting. As further I see it, that after we discuss the Bill of rights and agree on certain things, then at this time we could start translating a new constitution based on the agreements.

SENATOR RILEY: We don't have anything to do with that.

MR. STOUDEMIRE: You mentioned about the commentary going along. It is going to have to be corrected and it is going to cost some money. Article 1, Section 1, same thing as 1895.

SENATOR RILEY: Put a little explanation--same as 1895. We see no reason for change.

MR. STOUDEMIRE: When you make a major change--

SENATOR RILEY: The Committee recommends that this change be made. What has been done in New York.

MR. WALSH: Could take a two page explanation.

MR. STOUDEMIRE: I think it is going to have to be sort of a guinea pig session to start off. I think we are going to have to be frank.

MR. HARVEY: I think we ought to remember this. I know you have a lot of work to do. You will do well to get it to us in a week or ten days before a Committee meeting. All of us have a good bit of independent information. You could tell us three or four weeks ahead what you intend to discuss so we could at least start looking at what we have. We have a whole book on bill of rights.

MR. STOUDEMIRE: I don't know if you have available at your local library the Book of States on Elections. All you have to do is Xerox that section. It is a matter of Xeroxing.

SENATOR RILEY: I would say at the outset that the main thing that you could do would be to single out the broad general questions and set up the agenda in that fashion. If you get into Article 6 where major questions are involved, then list each question and then explain.

MR. STOUDEMIRE: Check will be of Bill of rights. What is obsolete? Are there some provisions that should be placed in other articles? Do any of the long-standing provisions need changing? Could mean search warrants--right of privacy. Any new provisions in conjunction with recent United State Supreme Court decisions. Some people thinking State Bill of Rights. Labor or anti-labor provisions. Discrimination or anti-discrimination.

SENATOR RILEY: That's good, but not as specific as I would like. I would prefer, for my own thinking, where you mention any Supreme Court cases, state case so and so changes so and so.

MR. STOUDEMIRE: These are major thoughts as I see them.

MR. WORKMAN: You could cut physically from a copy of the constitution. Paste down at the head of each section. Bill of Rights, paste on piece of paper. Then when we get to the end we put down what we think it ought to say if we are going to change it.

MR. WALSH: Might even cut up one of the Model Constitutions, run through the margin what we have now, what the Model is, what the suggestions are.

CHAIRMAN: That pre-digests it all, practically, for us.

MR. HARVEY: It seems to me, Mr. Chairman, it may be that our sub-committee system is still not out of pace with what we are talking about. I can see that maybe two heads working with Bob are going to be better on what the issues are.

MR. WALSH: We have got to develop more than the old Committee.

MR. WORKMAN: Bob might get in touch with the Chairman prior to September 15th. Do you have recommendations or points for consideration? If anyone has done any homework, we should have this included.

CHAIRMAN: As soon as possible, if you could give us a tentative outline of the number of meetings that will be necessary to complete the job--time we will need for each of them. You will be wanting to give them a deadline. I would like to plan the entire fall, completing in late November or early December.

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MR. STOUDEMIRE: Tax and finance. The General Assembly is generally free to tax whenever it sees fit.

MR. McLENDON: Bob has the idea that we are going to have to have more than \$15,000.00 to get this done. We will have to increase the appropriations in January.

CHAIRMAN: We asked for \$25,000.00 and we had to cut it to \$15,000.00.

MR. STOUDEMIRE: If I get someone to help, would the pay be what the pay is for the Legislative session?

CHAIRMAN: You are authorized as of now to go ahead and employ a reasonable staff.

MR. HARVEY: What is the situation, Bob, with the University? Have you told us?

MR. STOUDEMIRE: I could be used as a consultant.

CHAIRMAN: We are going to pay for your consulting services.

MR. STOUDEMIRE: I am going to be doing some night work.

MR. WORKMAN: It was determined that on the consultant basis there was no conflict.

MR. STOUDEMIRE: I will get out notices next week to all members of the Committee that we are meeting at 10:00 a.m. Now, then, who is going to put the bee on the Governor to make his appointment?

CHAIRMAN: There is no question about his going ahead. We talked about it. I don't know who he is going to appoint.

MR. WALSH: I talked with him about a month ago and he had several people in mind.

MR. HARVEY: Would it be in order to make a motion that the Chairman approve a voucher out of the House funds of \$800.00 to pay Dr. StouDEMIRE and that the Chairman, Vice-Chairman and Secretary meet and report to us whether this compensates him for the work done or whether we owe him some more money.

SENATOR RILEY: I second the motion.

CHAIRMAN: The ayes have it. Is there anything else to come up? I have talked to some of you informally as to the matter of organization. I do want you to give some consideration to the matter. Mike,

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I want to talk to you and Dick. First thing would be a reorganization of the Committee. I think we should have some frank, informal caucuses on it. First thing should be the formal reorganization of the Committee.

MR. HARVEY: Just looking at my calendar--if we meet every third week during the fall, we miss Thanksgiving and Christmas. That will be the 15th and 16th of September, 6th and 7th and 27th and 28th of October and the 17th and 18th of November.

MR. WORKMAN: Then we look to a definite meeting on the 15th and 16th of September, with a possibility, if it looks good, of every three weeks.

MR. STOUDEMIRE: In my letter setting up the meeting, I'll ask each member to please consider the possibility of meeting every three weeks. These meetings will still be open to the press?

CHAIRMAN: I think we should pass a resolution commending the hardy member of the press who has sat here.

SENATOR RILEY: John, I know that we kind of set the procedural aspect aside, however, with the time situation as it is, I wonder should we not mention it possibly to somebody in the Attorney General's department along with the Secretary of State or whoever could be involved of maybe having someone else, independent of us, thinking about it and working on it. We have talked about a declaratory judgment and some other things. Somebody might ought to be working on that.

CHAIRMAN: That is a good idea. We ought to have a clear-cut understanding of what is involved regardless of which avenue is recommended and we do have that declaratory judgment. We decided to use that vehicle and then we couldn't agree that the taxation section was in the shape we wanted it in.

MR. WALSH: We also discussed some sort of declaratory judgment on the extent of the amendment we would use for the purpose of knowing what alternatives. If we had to do it in such detailed fashion--if you could do it article by article that might be an alternative. That still might be something we might ought to put on the first agenda that some direction suit to the Supreme Court or maybe to the South Carolina Attorney General.

MR. WORKMAN: We are without the resources to get a declaratory judgment until January. It is something to talk about and

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consider, but we can't pose the question officially until the Legislature meets. Mr. Chairman, I move we adjourn.

There being no further business the meeting adjourned at 12:40 p.m.

W. D. Workman, Jr.  
Secretary

*Nettie L. Bryan*  
Nettie L. Bryan  
Recording Secretary

Note - Mr. Stoudemire will mail a proposed schedule of meetings in a few days.

CHAIRMAN: This is a good idea. We ought to have a clear-cut understanding of what is involved regarding the union avenue of procedure and we do have this declaratory judgment. We decided to use this statute and when we could agree that the practice should be at the state we wanted it.

MR. WALSH: We also discussed some sort of declaratory judgment on the extent of the amendment we would use for the purpose of knowing what alternatives. If we had to do it in special legislative session you could do it article by article that might be an alternative. That still might be something we might ought to put on the first agenda that some direction give to the Supreme Court or maybe to the South Carolina Attorney General.

MR. WORKMAN: We are without the resources to get a declaratory judgment until January. It is something to talk about and

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 Building, Columbia, South Carolina on Friday, September 15, 1967 and Saturday, September 16, 1967.

The following members were present:

Senators-

Richard W. Riley  
John C. Lindsay (Saturday)  
John C. West, Lieutenant Governor

Representatives-

J. Malcolm McLendon  
W. Brantley Harvey, Jr.

Governor's Appointees-

Miss Sarah Leverette  
T. Emmet Walsh  
W. D. Workman

Staff Consultant-

Robert H. Stoudemire

The meeting was called to order by the Chairman at 10:30 a.m.

Mr. Stoudemire had received a letter from Speaker Blatt in which he stated that he would not be able to attend and expressed his keen interest in the working of the Committee. Lieutenant Governor West informed the Committee that Mr. Huger Sinkler had expressed his regrets by telephone.

After brief opening remarks, the Chairman ruled that the Committee would follow the proposed agenda for September 15 and 16, which was mailed to each member on August 6.

The Committee proceeded to discuss the report on the Preamble and the Declaration, which was compiled by Mr. Stoudemire and mailed to each member on September 6.

The Committee first discussed the Preamble as copied below:

CONSTITUTION OF THE STATE OF SOUTH CAROLINA

Preamble

We, the people of the State of South Carolina, in Convention assembled, grateful to God for our liberties, do ordain and establish

this Constitution for the preservation and perpetuation of the same.

The Committee decided to leave the Preamble as it is with the exception of changing the word "convention" if some other means is used to change the Constitution.

The Committee proceeded to discuss Article I, Declaration of Rights, beginning with Section 1, Political power in people.

Section 1. Political power in people. -All political power is vested in and derived from the people only, therefore they have the right at all times to modify their form of government.

After brief discussion, it was decided to retain Section 1 as it is currently stated.

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Section 2. Apportionment of Representatives. -Representatives in the House of Representatives shall be apportioned according to population.

The Committee agreed to delay consideration of this Section and to consider it when Article III is discussed.

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Section 3. Meeting of General Assembly. -The General Assembly ought frequently to assemble for the redress of grievances and for making new laws, as the common good may require.

The Committee agreed to delay consideration of this Section until consideration of Article III.

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Section 4. Religious worship - freedom of speech - petition. -The General Assembly shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the government or any department thereof for a redress of grievances.

It was decided, after some discussion, to retain the existing Section. It was pointed out that the South Carolina Provision is not nearly so complicated as the sections on religious freedoms in some other constitutions, especially the State of New York. It was decided that this Section is adequate to cover witnesses and jurors who may be questioned because of religious beliefs.

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Section 5. Privileges and immunities - protection of laws. -The privileges and immunities of citizens of the State and of the United States under this Constitution shall not be abridged, nor shall any person be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws.

It was moved that this section be retained as it is in the constitution. Before being adopted, a full discussion ensued and it was decided that this section was ample for cases which might arise under it and that a fuller statement on civil rights and discrimination, similar to the one embraced in the Fourteenth Amendment was not needed.

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Section 6. Taxation. -All property subject to taxation shall be taxed in proportion to its value.

Consideration of this section was delayed and will be taken up under Article X when property taxation is considered.

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Section 7. No tax without consent. -No tax, subsidy, charge, impost tax or duties shall be established, fixed, laid or levied, under any pretext whatsoever, without the consent of the people or their representatives lawfully assembled.

Consideration of this section was delayed and will be taken up under Article X when property taxation is considered.

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Section 8. Attainder - ex post facto law. -No bill of attainder, ex post facto law, law impairing the obligation of contracts, nor law granting any title of nobility or hereditary emolument, shall be passed, and no conviction shall work corruption of blood or forfeiture of estate.

After brief discussion, it was agreed to let this section stand as written.

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Sections 9, 10 and 11 were considered as a unit.

Section 9. -Suffrage. -The right of suffrage, as regulated in this Constitution, shall be protected by law regulating elections and prohibiting, under adequate penalties, all undue influences from power, bribery, tumult or improper conduct.

Section 10. -Elections free and open. -All elections shall be free and open, and every inhabitant of this State possessing the qualifications provided for in this Constitution shall have an equal right to elect officers and be elected to fill public office.

Section 11. Property qualifications - term of office - dueling. -No property qualification, unless prescribed in this Constitution, shall be necessary for an election to or the holding of any office. No person shall be elected or appointed to office in this State for life or during good behavior, but the terms of all offices shall be for some specified period, except Notaries Public and officers in the militia. After the adoption of this Constitution any person who shall fight a duel or send or accept a challenge for that purpose, or be an aider or abettor in fighting a duel, shall be deprived of holding any office of honor or trust in this State, and shall be otherwise punished as the law shall prescribe.

Mr. Stoudemire pointed out how these Sections needed to be coordinated with the various provisions on elections found in Article II. The Committee discussed at length the meaning of the word "free" as used in Section 10, and the need for retaining the word "secret" within the Constitutional Regulations on elections. It was agreed that Section 10 should be left as it is and that it should be placed in the Declaration of Rights. The question was raised if the word "secret" applied to legislative elections and it was decided to the contrary. Some attention was given to the phraseology of Section 10 and it was proposed to make the Section read: "all elections by the people". Several other suggestions were made concerning the phraseology. However, after some discussion, it was decided to leave the wording of Section 10 as it now stands. It was further decided that Section 9 should be combined with the proper Section in Article II. It was emphasized, however, that the wording should be such as to provide for secret and free elections.

Mr. Stoudemire pointed out that Section 11 raised three questions: qualifications for holding office; the tenure of office; and the prohibition against dueling. A discussion ensued on the first sentence of this Section concerning the statement that no property qualification shall be a condition to holding office. It was pointed out that this Section really conflicted with the qualification of an elector as specified in Article II. Mr. Workman explained why the section forbidding the use of property as a qualification for holding office was included in the constitution. It was agreed that sentence one of Section 11 should be eliminated from the constitution and that requirements for holding office would be made a part of Article II.

A discussion ensued on the second sentence of Article II pertaining to the tenure of office. It was decided that the exception for Notaries should be stricken because the general assembly has now established a ten-year term for Notaries by law. It was decided that the exception for officers in the Militia would be retained. The sentence as approved reads as follows:

"No person shall be elected or appointed to office in this State for life or during good behavior, but the terms of all officers shall be for some specified period except officers in the militia."

It was further agreed that this sentence as revised should be transferred to the proper section in Article II on elections.

The last sentence of Section 11, pertaining to dueling and office holding, was deleted without any extensive discussion.

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Section 12. Residence. -Temporary absence from the State shall not forfeit a residence once obtained.

It was decided that Section 12 should be considered along with the residence section in Article II. (On Saturday, September 16, the committee agreed that Section 12 should remain in the Declaration of Rights. See minutes for September 16.)

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Section 13. Suspension of laws. -The power of suspending the laws or the execution of the laws shall only be exercised by the General Assembly or by its authority in particular cases expressly provided for by it.

A full discussion ensued on the need and the meaning of this section. Mr. Harvey pointed out extensive legislation relative to the suspension of the laws being passed by the general assembly so as to take care of atomic attack etc. A general discussion ensued on statutes dealing with the suspension of the laws. Mr. Workman proposed that the word "only" be transferred. The question was raised if the phrase "the execution of the laws" was needed. It was decided to strike this phrase. Mr. West proposed the following phraseology which was adopted:

"The power to suspend the laws shall be exercised only by the General Assembly or by its authority in particular cases expressly provided for by it."

The adoption above is subject to further consideration, depending upon Mr. Stoudemire's checking out the state's statutes on the subject to make sure that there is no conflict between the constitutional wording and the statute.

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Section 14. Departments separate. -In the government of the State the legislative, executive and judicial powers of the

Government shall be forever separate and distinct from each other, and no person or persons exercising the functions of one of said departments shall assume or discharge the duties of any other.

Mr. Stoudemire pointed out that in Kentucky and some other constitutions, there was a move to make a separate Article to deal with the separation of powers clause and the general powers of government. Some discussion ensued on the need for a separate Article. Mr. Workman moved that the current wording of this section be retained in the Declaration of Rights or some other place. He further moved that a comma be inserted after the word "executive" in the second line. Both of these motions passed. Although not specifically stated, the consensus of opinion seemed to be that Section 14 be retained in the Declaration of Rights and that a separate Article not be created.

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Section 15. Courts - remedy. -All Courts shall be public, and every person shall have speedy remedy therein for wrongs sustained.

Mr. Stoudemire pointed out that this appears to be a good section and that South Carolina varies from most states in requiring ALL courts be public. He noted that most states used the word "public" in association with criminal prosecutions. He further stated that there was some question about the use of the word "public" in association with juvenile and domestic relations courts. He stated further that research on how the word "public" as used in Section 15 would apply to juvenile and domestic relations courts had revealed essentially nothing.

Mr. Workman expressed his concern over the application of the word "public" to court proceedings. It was agreed that this question had not really been decided by our courts. The committee agreed that the constitutional statement should require that all courts be public. The committee agreed that Section 15 would remain as currently stated in the Constitution.

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Section 16. Searches and seizures: -The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized.

The committee agreed that Section 16 should remain, but that it should be revised to take care of the invasion of privacy through modern electronic devices. All committee members agreed that this further protection was needed. After some discussion, the committee thought that the phraseology of the proposed Maryland Constitution adequately covered the subject. Mr. Workman raised the question as to whether or not the phraseology would impede the task of the law

enforcement officers. The Maryland section was approved by the committee. After this approval, the question was raised by Mr. Riley if the word "interception" in the Maryland draft was the best one which could be used. Mr. West raised the question if the word "invasion" may not be a better one. No decision was made, but Mr. Stoudemire was instructed to submit the Maryland proposal to the Attorney General for his comments. (A further recommendation will be made on the use of the word "interception" or the word "invasion" when the Attorney General has had time to comment.) The Maryland proposal, which was adopted, follows:

"The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures and in their oral or other communications against unreasonable interceptions shall not be violated. No search warrant shall be issued except upon probable cause supported by oath or affirmation, and the place to be searched, the persons or things to be seized, or the communications sought to be intercepted shall be particularly described in the warrant."

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Section 17. Presentment of grand jury - not tried twice - private property. -No person shall be held to answer for any crime where the punishment exceeds a fine of two hundred dollars or imprisonment for thirty days, with or without hard labor, unless on a presentment or indictment of a grand jury of the County where the crime shall have been committed, except in cases arising in the land or naval forces or in the militia when in actual service in time of war or public danger, nor shall any person be subject for the same offense to be twice put in jeopardy of life or liberty, nor shall be compelled in any criminal case to be a witness against himself. Private property shall not be taken for private use without the consent of the owner, nor for public use without just compensation being first made therefor.

Mr. Stoudemire pointed out that Section 17 contains three major thoughts, namely, grand jury indictment, double jeopardy and private property. He suggested that the three be discussed separately and this was agreed.

1. Grand Jury and Indictment.

Mr. Stoudemire called attention to the fact that most states associate grand jury indictments with felonies or infamous crimes whereas South Carolina requires it for many crimes not classed as felonies. He pointed out that many states are re-evaluating the need for grand jury indictments and that many states are now allowing the

defendants the privilege of waiving the indictment except perhaps for certain capital cases. A general discussion ensued concerning the need for grand juries and the possibility of waiving indictments. It was pointed out that under South Carolina Statutes indictments could be waived at the present time. Mr. Stoudemire stated that the New York Courts had ruled that indictments could not be waived if required in the constitution and he was wondering if STATE VERSUS HANN, decided by the South Carolina Supreme Court, might not interfere with waiving the indictment.

A discussion ensued on the need for grand juries and whether or not indictments should be fixed by a specified amount of money as now provided in the constitution. It was pointed out by Mr. Workman that the monetary value as expressed in 1895 would be far greater today. The committee agreed to keep grand jury indictments as now required by the constitution, but to base the requirement on possible days in prison rather than any monetary value. It was moved and passed that the phrase, "a fine of two hundred dollars or", be eliminated from Section 17 of the present constitution. Also, it was decided to eliminate, "with or without hard labor". The committee felt that the number of days in prison is still a vital measure for punishment. The committee thought that the hard labor provision is no longer needed as such language is outdated. It was agreed to change the wording of Section 17 thusly:

"Section 17. Presentment of grand jury - not tried twice - private property. -No person shall be held to answer for any crime where the punishment exceeds imprisonment for thirty days, unless on a presentment or indictment of a grand jury of the County where the crime shall have been committed, except in cases arising in the land or naval forces or in the militia when in actual service in time of war or public danger." ....

The above was approved as the first sentence of Section 17.

Further, the committee discussed the wisdom of having a constitutional provision which would permit the defendant to waive the indictment. At this point, there was a discussion concerning the statutory requirements of the state and how the Attorney General may feel about the whole question of grand jury indictments and waivers. There was general agreement that some provision should be made in the constitution for the waiving of indictments and the permission of a trial under an information. Mr. Stoudemire was instructed to check the current statutes on waiving of indictments and to check with the Attorney General. It was pointed out that it may be better to have a constitutional provision which would permit the general assembly to regulate the conditions under which a waiver may be made. A constitutional provision on waiving an indictment will be submitted to the October 6 meeting.

2. Double Jeopardy and Witnessing Against Oneself.

Section 17. ....nor shall any person be subject for the same offense to be twice put in jeopardy of life or liberty, nor shall be compelled in any criminal case to be a witness against himself. ....

During a brief discussion of this portion of Section 17, Mr. Workman raised the question if a person could be compelled to testify against himself in a civil case. Mr. McLendon answered in the affirmative. The committee agreed that this portion of the constitution should remain as now stated, but to be placed as a separate section in the constitution, following the section on indictments.

3. Private Property - Public Use - Just Compensation - Etc.

Section 17. ....Private property shall not be taken for private use without the consent of the owner, nor for public use without just compensation being first made therefor. ....

A full and lengthy discussion ensued on this portion of Section 17, especially from the standpoint of taking private property for urban renewal type projects. The committee agreed that there ought to be constitutional protection for private property, but that the question was how to provide for exceptions. Mr. West raised the question that part of our problem was how to adopt a constitutional provision and yet maintain the status quo. Mr. Workman pointed out that we need to agree on a philosophy related to the taking of private property and then decide how to change the present constitution accordingly. The question was raised if the general assembly could not be allowed to define a public use under this section. Mr. Harvey expressed the thought that there ought to be a constitutional safeguard and that the general assembly should not be allowed this privilege. It was pointed out by Mr. Walsh that the general assembly does have to define public use because it must pass enabling legislation. A general discussion ensued concerning the whole matter of taking private property by such agencies as the highway department, railroads, etc. The point was made that the clearing of a blighted area may be as vital as the building of highways and railroads.

There was discussion on how Spartanburg and York Counties would be protected in the event a limited approach was used. Mr. Stoudemire pointed out that this could possibly be taken care of in the schedule. He also raised the point that it is very likely that the leaders in other communities would follow through in trying to get a change in this section so that these communities may proceed with urban renewal projects.

The committee's attention was called to the section in the New Jersey Constitution which provides for the redevelopment of blighted

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areas as a public use. A great deal of discussion ensued concerning whether or not this could be the correct approach for South Carolina. Mr. Stoudemire raised the thought that the first and last sentences of the New Jersey provision is probably all that we would need.

The committee decided to leave the last sentence of Section 17 as it now stands, but to place it in a new section.

It was further agreed that the blighted area problem would be taken up and discussed as a part of the articles on local governments. It was thought that this discussion could be based on the New Jersey provision.

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Mr. West suggested that the committee discuss reorganization of the committee before recessing for lunch. After a full discussion of various possibilities, the committee decided to retain its present organization, which is: Lieutenant Governor John C. West, Chairman; Honorable J. Malcolm McLendon, Vice-chairman; and Mr. W. D. Workman, Secretary.

The committee recessed for lunch at 1:15 p.m. and resumed meeting at 3:15 p.m.

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Section 18. Trial by jury - witnesses. -In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury, and to be fully informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to be fully heard in his defense by himself or by his counsel or by both.

Mr. Stoudemire pointed out that this section was standard in most states' constitutions except that a number of states were now defining the right of the defendant to have counsel in fuller terms than used in the South Carolina Constitution. After brief discussion, it was decided to leave the existing wording, in that it should insure every person a proper defense. It was also noted that federal court decisions on the provision of counsel would apply.

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Sections 19 and 20 were considered as a unit.

Section 19. Excessive bail - corporal punishment - contempt.  
-Excessive bail shall not be required, nor excessive fines imposed,

nor cruel and unusual punishments inflicted, nor shall witnesses be unreasonably detained. Corporal punishment shall not be inflicted. The power to punish for contempt shall not in any case extend to imprisonment in the State penitentiary.

Section 20. Right of bail - Sureties. -All persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption great.

The committee fully agreed that the protections provided in these sections should remain. A general discussion ensued on how best to make the correct statement, combining the thoughts in the two sections.

The committee agreed to strike the last sentence in Section 19 dealing with contempt cases not being sent to the State Penitentiary. It was agreed to delete Section 20 entirely and prepare a new Section 19 based on the Model Constitution's recommendation on the subject of bail. It was further agreed to accept the recommendation of the Model, but to make two additions: retain the restriction on using corporal punishment and retain the protection for witnesses. The section as approved reads as follows:

"All persons shall, before conviction, be bailable by sufficient sureties, but bail may be denied to persons charged with capital offenses punishable by life imprisonment, giving due weight to the evidence and to the nature and circumstances of the event. Excessive bail shall not be required, nor excessive fines imposed, nor cruel, nor corporal, or unusual punishment inflicted, nor shall witnesses be unreasonably detained."

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Section 21. Libel. -In all indictments or prosecutions for libel, the truth of the alleged libel may be given in evidence, and the jury shall be the judges of the law and the facts.

Some discussion ensued on this provision. It was pointed out that this section does not apply to civil cases. Committee members desired additional information on the application of this section and full consideration was delayed to the October 6 agenda. Mr. Stoudemire requested Miss Leverette to study this proposal for the committee and she agreed to do so. (See minutes for September 16.)

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Section 22. Treason. -Treason against the State shall consist in levying war or in giving aid and comfort to enemies against the State. No person shall be held guilty of treason, except upon testimony of at least two witnesses to the same overt act, or upon confession in open Court.

Mr. Stoudemire pointed out that about half the states making revisions in recent years have retained a similar section. The committee agreed that this section should stay primarily because it would be very difficult to explain its elimination. The point was made that it was hard to see the good which this section provided.

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Section 23. Habeas corpus. -The privilege of the writ of habeas corpus shall not be suspended unless when, in case of insurrection, rebellion or invasion, the public safety may require it.

The committee agreed that this has one of mankind's basic rights and should be retained as it is.

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Section 24. Imprisonment for debt. -No person shall be imprisoned for debt except in cases of fraud. .

It was agreed to retain this section as it is.

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Section 25. Trial by jury. -The right of trial by jury shall be preserved inviolate.

It was agreed to retain this section as it is in that it is a basic right.

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Section 26. Keep and bear arms - General Assembly may maintain armies - how soldiers quartered. -A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed. As in times of peace armies are dangerous to liberty, they shall not be maintained without the consent of the General Assembly. The military power of the State shall always be held in subordination to the civil authority and be governed by it. No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in the manner to be prescribed by law.

The committee agreed to retain this section as it is with the exception of adding two commas in the second sentence so that this sentence now reads:

"As, in times of peace, armies are dangerous to liberty, they shall not be maintained without the consent of the general assembly."

Section 27. Marital law. -No person shall in any case be subject to martial law or to any pains or penalties by virtue of that law, except those employed in the army and navy of the United States, and except the militia in actual service, but by the authority of the General Assembly.

After brief discussion, the committee agreed that this section should be retained, but that the phraseology should be updated. Consequently the words "army and navy" were replaced with the words, "armed forces". The committee also noted the misspelling of the word "martial" in the title.

The committee discussed insurrection as it might be affected by this section. It was decided that it may be best not to include this idea. The section as amended was approved and the amended version appears below:

"Section 27. Martial law. -No person shall in any case be subject to martial law or to any pains or penalties by virtue of that law, except those employed in the armed forces of the United States, and except the militia in actual service, but by the authority of the General Assembly."

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Section 28. Navigable waters free - no tax for use of wharf. -All navigable waters shall forever remain public highways free to the citizens of the State and the United States without tax, impost or toll imposed; and no tax, toll, impost or wharfage shall be imposed, demanded or received from the owners of any merchandise or commodity for the use of the shores or any wharf erected on the shores or in or over the waters of any navigable stream unless the same be authorized by the General Assembly.

A full discussion ensued on navigable waters and wharfage. Generally, the members thought that this section might be deleted, but feared that some damage might be done to the state. It was pointed out that there are supreme court cases pending involving marshlands and other matters associated with the waters of the state. Mr. Stoudemire pointed out that this section could hardly be decided upon without a study of Article 14 on Eminent Domain which contains some of the same subject matter. Mr. Stoudemire proposed that perhaps the committee could retain the first three lines of this section, stopping with the semi-colon in line three, and striking the other lines. Mr. Harvey agreed that this may be the correct approach. After further discussion, it was decided by the committee that the entire question of navigable waters, wharfage, tolls, public lands and so on, as regulated by

Article I, Section 28 and by the entire Article 14, should be submitted to the Attorney General for review. The main question to be put to the Attorney General is in what areas do these sections protect the rights of the State of South Carolina and what might be the effect on the rights of the state if these sections are deleted or materially shortened.

Article I, Section 28 and Article 14 were delayed for further consideration until the October 6 meeting. It is hoped that by that time, the opinion of the Attorney General will be on hand. (Mr. Stoudemire wrote the Attorney General concerning these matters on September 19.)

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Section 29. Provisions of Constitution mandatory. -The provisions of the Constitution shall be taken, deemed and construed to be mandatory and prohibitory, and not merely directory, except where expressly made directory or permissive by its own terms.

Mr. Workman raised the question if this section were needed. Messrs. Walsh, McLendon and West thought that this section was useful and should be retained. After brief discussion, it was decided to leave the section as it is.

The committee proceeded to discuss possible new sections for the Declaration of Rights. Mr. Stoudemire raised the question if we need a statement on reserved rights. Such a statement would be "this enumeration of rights shall not be construed to deny or impair others retained by the people". After brief discussion, the committee decided not to recommend such a section.

The committee then turned to the question of whether a fuller statement was needed on the detention of witnesses. Attention was called to the following statement in the proposed Kentucky Constitution: "Detention of Witnesses. A number of constitutions authorize the detention of witnesses but also grant them protection. The Kentucky Draft uses this language: 'No person who may be a material witness in a criminal proceeding may be imprisoned on that ground, but he may be detained for a reasonable period of time for questioning.'" It was decided that existing sections of the constitution adequately cover witnesses.

No particular interest was shown by the committee in having a section on collective bargaining.

The committee turned to the proposal which would add a new section to the Declaration of Rights on administrative procedures which would grant citizens additional protections when coming before administrative boards. The discussion centered around a section of this nature in

the proposed Kentucky Constitution. This section provides:

"(1) No person shall be finally bound by a judicial or quasi-judicial decision of an administrative agency affecting private rights except on due notice and an opportunity to be heard; nor shall he be subject to the same official for both prosecution and adjudication nor be deprived of liberty or property unless by a prescribed mode of procedure nor shall he be denied the benefit of technical assistance.

"(2) All final decisions, findings, rules and orders of any department, commission, board, bureau or other administrative agency or officer existing under the Constitution or by law, which are judicial or quasi-judicial and affect private rights, shall be subject to direct review by the courts as provided by law; and such review shall include the determination whether the same are authorized by law, and in cases in which a hearing is required by law, whether the same are supported by competent and substantial evidence upon the whole record."

Generally the committee members thought that such a section may well be a good idea, but desired additional information on the application of such a section and the best manner of wording such a section. Mr. Stoudemire pointed out that a section of this nature originated with Professor Rankin of Duke University. He further stated that Professor Rankin is a capable scholar and normally makes recommendations only after very careful thought.

The committee agreed to delay further consideration of this section until the October 6 meeting. The committee recommended that Mr. Stoudemire submit this proposed section to Professor James Underwood of the University Law School and Professor Glenn Abernathy, Professor of Administrative Law in the Department of Political Science at the University of South Carolina. The viewpoints of these two gentlemen are to be reported to the October 6 meeting. Mr. Walsh pointed out that the two university professors should specifically evaluate the section as proposed in the Kentucky Draft. Mr. Stoudemire said he would also write Professor Reeves of the University of Kentucky, who is familiar with the background of this Article and the reasons why it was inserted in the Kentucky Draft.

The committee then turned to considering a possible new article to the constitution as included in Memo #1 by the Staff Consultant. The new article contains two sections as listed below:

## Article II

### Powers of the State

Section 1. Powers of Government. The enumeration in this constitution of specified powers and functions shall be

construed neither as a grant nor as a limitation of the powers of state government but the state government shall have all of the powers not denied by this constitution or by or under the Constitution of the United States.

Section 2. Departments of Government Separate. In the government of this State the legislative, executive, and judicial powers of the Government shall be forever separate and distinct from each other, and no person or persons exercising the functions of one of said departments shall assume or discharge the duties of any other. (Article I, Section 14, of the present South Carolina Constitution)

Mr. Stoudemire pointed out that there is a move in some states to give new emphasis to the powers of state government and the separation of these powers by having a separate article in the constitution. It was noted that the section on separation of powers is the same one which is included in the Declaration of Rights and that the question was where to place such a section. The committee members discussed fully Section I of the proposal, pertaining to the powers of government. Members were concerned particularly about the meaning of the phrase "neither as a grant nor as a limitation of the powers of state government". Mr. Stoudemire pointed out that this section was based on the proposal in the Model Constitution and that a full explanation of its meaning could be found on pages 36 and 37 of the Model. Mr. West suggested that the committee not continue the discussion of the proposed article and especially the section on the powers of government, but that members would be free to call for additional discussion if they so desired.

The committee then proceeded to discuss Article XIV of the Constitution as outlined in Memo #3. Mr. Stoudemire suggested that Article XIV be discussed at this time since the subject matter was related to issues discussed in the Declaration of Rights.

#### Article XIV

##### Eminent Domain

Section 1. Boundary rivers. -The State shall have concurrent jurisdiction on all rivers bordering on the State, so far as such rivers shall form a common boundary to this and any other State bounded by the same; and they, together with all navigable waters within the limits of the State, shall be common highways and forever free, as well to the inhabitants of this State as to the citizens of the United States, without any tax or impost therefor, unless the same be expressly provided for by the General Assembly.

Section 2. Title to certain lands. -The title to all lands and other property which have heretofore accrued to this

State by grant, gift, purchase, forfeiture, escheats or otherwise shall vest in the State of South Carolina, the same as though no change had taken place.

Section 3. Ultimate property in lands. -The people of the State are declared to possess the ultimate property in and to all lands within the jurisdiction of the State; and all lands and title to which shall fall from defect of heirs shall revert or escheat to the people.

A general discussion ensued. Mr. West asked if anyone saw any reason why the whole Article XIV could not be eliminated. Mr. Walsh raised the question if these sections were left out, would any of the basic rights of the State be affected. Mr. Workman pointed out that he was not prepared to decide without a legal opinion as to the need of such a section. It was agreed that Mr. Stoudemire would write to the Attorney General inquiring if any harm would be done to the State in this article is omitted. Mr. Stoudemire also called attention to JENNINGS VERSUS SAWYER in which the South Carolina Supreme Court stated: "The primary right to acquire rests in eminent domain, and that power resides of right and by necessity in the State. The constitution did not create it, but has only affirmed it."

After further discussion, Mr. West asked if the committee agreed definitely to eliminate Article XIV unless someone, including the Attorney General, gives a good reason for leaving it in. Mr. Riley suggested that sections such as this be changed as the committee felt necessary and then be submitted to the Attorney General for his appraisal. Mr. McLendon pointed out that he doubted if the Attorney General's office was adequately staffed to do this. It was also mentioned that Mr. A. T. Smythe of Charleston may have useful information concerning this article, and especially as it might affect marshlands, tidelands, etc. Mr. West pointed out that we should also consider any impending litigation which could be affected by a change in this article. Further consideration was delayed pending advice from the Attorney General and will be considered on the October 6 agenda. (Also see discussion under Article I, Section 28.)

The committee reverted to the beginning of Memo #3, which is Article II, Right of Suffrage. Mr. Stoudemire called attention to the fact that Suffrage and Elections may be a more adequate description of this Article. Mr. West, after brief discussion, moved that the title be changed to Suffrage and Elections and this motion carried.

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Section 1. Elections by ballot. -All elections by the people shall be by ballot, and elections shall never be held of the ballots counted in secret.

Considerable discussion ensued on how to reword Section 1 so as to provide for secrecy in elections and to combine the language

on Section 1 with the language in Section 9 of Article I. The committee agreed to the following wording for Section 1:

"Section 1. Elections by ballot. -All elections by the people shall be by secret ballot, but the ballots shall not be counted in secret. The right of suffrage, as regulated in this Constitution, shall be protected by the law regulating elections and prohibiting, under adequate penalties, all undue influences from power, bribery, tumult or improper conduct."

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Section 2. Qualification for office - two offices. -Every qualified elector shall be eligible to any office to be voted for, unless disqualified by age, as prescribed in this Constitution. But no person shall hold two offices of honor or profit at the same time: Provided, That any person holding another office may at the same time, be an officer in the Militia or a Notary Public: Provided, further, That the limitation above set forth "But no person shall hold two offices of honor or profit at the same time," shall not apply to the Circuit Judges of the State under the circumstances hereinafter stated, but that whenever it shall appear that any or all of the Justices of the Supreme Court shall be disqualified or be otherwise prevented from presiding in any cause, or causes, for the reason set forth in Section 6 of Article V of the Constitution, the Chief Justice or in his stead the Senior Associate Justice shall when available designate the requisite number of Circuit Judges for the hearing and determination thereof: Provided, The limitation above set forth shall not prohibit any office holder from being a delegate to a Constitutional convention.

A general discussion ensued. It was pointed out that Section 2 involves the qualifications for office as well as dual office holding.

The first sentence of this section "Every qualified elector shall be eligible to any office to be voted for, unless disqualified by age, as prescribed in this Constitution." was retained as written. This sentence is to be combined with the second sentence of Article I, Section 11, which was approved by the committee in its morning session. The first sentence of Article II, Section 2 and the second sentence of Article I, Section 11 shall be co-ordinated so as to form a revised Section 2 of Article II.

A general discussion ensued on the dual office holding provision in the Constitution. Members of the committee felt that a regulation on dual office holding should be included in the Constitution rather than being regulated by law. A great deal of discussion ensued on how to phrase such a section without getting involved in a long, drawn out statement. Mr. Harvey suggested that the following phraseology be adopted:

"No person shall hold two offices of honor or profit at the same time, provided that this provision does not apply to

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officers in the militia, Notaries Public or delegates to a Constitutional convention."

Mr. Harvey's suggestion was adopted as the official phraseology.

It was recognized that dual office holding may also affect judges. The committee agreed that this question could be better solved under the article dealing with courts. It was agreed to delay this consideration until that time.

The meeting adjourned at 6:00 p.m.

W. D. Workman, Jr.  
Secretary

Nancy S. Clark  
Recording Secretary

The Committee to Make a Study of the Constitution of South Carolina, 1895, reconvened in the Wallace Room of the State Board of Health Building, Columbia, South Carolina on Saturday, September 16, 1967 at 9:15 a.m.

Mr. West called the meeting to order. Before continuing with the agenda, the committee discussed where future meetings should be held. It was concluded by the committee that meetings should be held in the Wallace Room of the State Board of Health since this was an excellent place to meet and was conducive to good discussion.

Mr. Workman called the committee's attention to several sections discussed on Friday. He pointed out that a publication by Mr. King, formerly of the University Law School, on libel would not solve the problem referred to Miss Leverette for further study on Friday. Mr. Workman also called attention to Article I, Section 10, particularly the interpretation of the phrase "every inhabitant" as it applies to the rights of being elected to office. He raised the question if the wording of this section would not prevent the General Assembly from passing laws disqualifying candidates defeated in primaries from running in general elections. Several members of the committee thought this may pose a problem. Mr. Workman simply called this to the attention of the committee and no decision was made.

Mr. Workman further called attention to the Article I, Section 29, which requires that the sections of the Constitution be mandatory. He pointed out some cases in which he thought that the Constitution had been flagrantly violated. He raised the question as to whether or not there was some way to make the Constitution more self-executing. The question was raised as to whether the Attorney General could be given authority to initiate action to enforce Constitutional Provisions. Mr. West said he thought there should be some Constitutional Provision giving any citizen the right to bring litigation, but he did not think it should be the responsibility of the Attorney General. Mr. Riley recognized the problem, but raised the question on the proper way of enforcing the mandatory provision according to good jurisprudence. Mr. Workman suggested that this be passed over for the time being and that the committee come back to it later if warranted.

Mr. Stoudemire reviewed the decisions of Friday pertaining to Article II. Mr. West called for a discussion of Section 3.

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Section 3. Electors. -Every male citizen of this State and of the United States twenty one years of age and upwards, not laboring under the disabilities named in this Constitution and possessing the qualifications required by it, shall be an elector.

It was agreed by the Committee to leave this section as it is now written with the exception of striking the word "male" in the first sentence. A discussion ensued on the age requirement for voting. Mr. Stoudemire reviewed the custom in other states and called attention to the arguments for and against the reduction of

the voting age as found in the draft of the proposed Maryland Constitution. Mr. West pointed out the reaction at Boys State in favor of reducing the voting age and Mr. Walsh stated that maturity was really the question involved. After some further discussion, the committee agreed to retain the voting age of twenty one.

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Section 4. Qualifications for suffrage. -The qualifications shall be as follows:

(a) Residence. - Residence in the State for one year, in the county for three months, and in the polling precinct in which the elector offers to vote for three months; provided, that ministers in charge of an organized church and teachers of public schools and the spouse of any such person shall be entitled to vote after six months' residence in the State, otherwise qualified.

MR. STOUDEMIRE: As you know, most of the states still have a one-year, but the trend is very definitely toward a shorter period. New York has changed recently to three months; you do have some states with six months.

MR. WEST: I like this recommendation that so far as presidential elections go that it be reduced. I think it is pertinent. I have run into it in every election. They come in and say "Why can't I vote for president. I can see that locally there is some justification, but I know as much about a presidential election as anyone here and I am being disenfranchised." There was one poor fellow who had never voted for a president because every time he had moved just before an election year.

MR. WALSH: Well, coming into that, we are discussing the question of if one year is right in the state. I personally favor perhaps reducing that to six months. It seems to me that we are dealing with such a mobil population.

MR. WEST: We struggled to get that time changed from two years to one year.

MR. WALSH: This day and time we have an awful mobil population. People are going in and out of precincts every time they move, and I think it is a bigger problem than we may think. We have a new law now that you must live in a precinct. It is making it more inconvenient for people to vote.

MR. STOUDEMIRE: Really a six months thing would take out all this garbage about teachers and spouses and so on. Also, on this ward thing, now, if we get into two-partyism and poll watchers and this

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ward resident is strickly enforced, it is going to be the darnest thing you ever saw and actually there are going to be some fights.

MR. WEST: This ward thing is becoming less and less important because generally the feeling is that because of reapportionment you don't have ward elections as much as you do area type. That is a general statement.

MR. WALSH: But I am talking about the fact that you have got to live in that precinct. These precincts are set up on a basis that in order for me to vote, I have got to go three quarters of a mile out of my way and it is the most inconvenient thing in the world.

MR. WEST: I would be inclined to think that maybe we ought to have a Constitutional Provision of one year or six months and leave to the General Assembly the right to regulate any specifics.

MR. STOUDEMIRE: Now, the Kentucky proposal says that the requirement may not exceed one year. Then the General Assembly may lessen. That is the way they did it, but they got whipped.

MR. MCLENDON: The tendency is to make voting easier for the people. That is the philosophy behind this new registration movement, to make everything as easy as possible for the people.

MR. STOUDEMIRE: Haven't the federal registrars removed a lot of the arguments for long residence?

MR. MCLENDON: What was that again?

MR. STOUDEMIRE: You see, I think long residence requirements have been associated with negro voting.

MR. MCLENDON: I don't think so.

MR. STOUDEMIRE: I do, I do.

MR. WEST: I never thought about it that way.

MR. STOUDEMIRE: Well, take the county for instance. Under the old way, you disqualify a lot who farm for you this year, Workman next year, crisscross back to you. I think it is directly related.

MR. WEST: I think the general policy of being conservative about allowing people to vote has helped the status quo, and I think there has been a reluctance to change it because of the feeling that any really stringent modification will help some outsider get in.

MR. STOUDEMIRE: Wait a minute, I'm telling you wrong --- the way they have got this thing here is "age eighteen, who has resided in the

commonwealth one year, county six months and the precinct sixty days, properly registered shall be a voter, but the general assembly may change the length of residency requirements". It gives them the right to change it but it doesn't say they can't go beyond that.

MR. WORKMAN: Let's break up our question now into components and discuss first of all residence in the state. I think the question is whether we want to stick to one year or reduce it to six months.

MR. WEST: I believe that, from a practical standpoint, we should, perhaps, rather than saying six months, we should put in a Constitutional Provision not to exceed one year. If we put in six months, we are going to have some strong opposition.

MR. RILEY: I don't know but what our report ought to be towards the desired goal and that it might be good that in some of these areas that there be places where they could change our report without disrupting the whole thing. If we all think it would be better at six months, then it would not be quite fair with the people that are receiving our report, basically the general assembly, to put one year and to have to get up and say we favored six months.

MR. WEST: I don't know that I would vote for six months now, for this reason: The law as it is presently construed, the one year is figured by the time of the general election, so actually you vote in a primary after having been here only six months, under the present interpretation of the statutes. If you would have resided in South Carolina by November 10, say, for one year then you can vote in the primary in June, but if we say six months and the same interpretation still holds, you can vote in a primary the next day after you arrive.

MR. WORKMAN: Well, I don't see how your individual could have been registered, given a registration certificate.

MR. WEST: I think I'm correct. If you are twenty years old and will be twenty-one by the date of the general election or if you will have been in the state one year by the date of the general election, you can register any time prior thereto. I know it has been done to vote in the primary, now whether that is straining the law or not ---

MR. RILEY: I certainly did not know that.

MR. HARVEY: I know on the age it is.

MR. WEST: I think it is on the residence too, but that may have been something that they permitted over in Camden and it may not be law. I have never had a legal opinion on it.

MR. STOUDEMIRE: Gentlemen, the Model says three, the Maryland Draft says six, New York has reduced its to three, New Jersey six, Michigan six. On the other side, Kentucky left it one year, but bestowed powers on the general assembly, Alaska and Hawaii still have one year. So, that is the movement throughout the country for whatever it may be worth.

MR. WORKMAN: The irritant to the newcomer is that fact that they are obliged to pay taxes as soon as they get here, I mean as soon as they acquire property and so on, regardless of the time that they have held it and they have advanced that as a reason that they should likewise be allowed to vote.

MR. STOUDEMIRE: Are we talking about more than three thousand people.

MR. RILEY: Well, if we are just talking about one and we are talking about a basic right, I think it is something we ought to consider. It is not the number of people.

MR. WORKMAN: The quality of the people we have been getting is so much better than the people we have been losing.

MR. WEST: I certainly think that if we leave it at the one year, we ought to give serious consideration to allowing them to vote in a national election before that because I think that is a flagrant injustice.

MR. RILEY: Ty that do you mean United States Senators and Congressmen?

MR. WEST: No, I'm talking about president.

MISS LEVERETTE: That is among one of the biggest complaints that we have had.

MR. WEST: And there is no answer to it.

MR. WORKMAN: No, you can't argue that down.

MR. WEST: Well, let's by a vote or otherwise get rid of this six months or a year.

MR. MCLENDON: Let's hear from the late comer here, from the other side. He is the only senate representative.

MR. LINDSAY: I'm going to vote for six months myself. I don't see any reason to disenfranchise anybody. I'm not up on your conversation.

MR. WALSH: We just started on it.

MR. WEST: How many are in favor of six months.

MR. RILEY: I'm in favor of six months.

MR. WORKMAN: I think we generally agree on it.

MR. WEST: And that will substantially eliminate the presidential dituation.

MR. WALSH: I think so.

MR. STOUDEMIRE: The six months isn't going to satisfy your duPont

objections. They want to vote if they have been here a month.

MR. LINDSAY: Isn't it going to be a devilish sort of thing though to implement. I just think frankly if we reduce it to six months ---

MR. WEST: I think we ought to reduce it to six months. That is the practical solution. We are not going to correct all the inequities.

MR. RILEY: It would take six months to get your election machinery straightened out.

MISS LEVERETTE: I think that will to some extent.

MR. WEST: I think it will eliminate most of it.

MR. WORKMAN: Well, now if that will solve the problem, election problem, what arguments do we have now for counties and polling precincts.

MR. HARVEY: I feel like a person who has been a resident of Spartanburg and comes to Beaufort is well enough acquainted with the state government and issues, if they are interested at all, to make an intelligent selection of the candidates. They have got to be there a month because the books close a month before the election, so you have thirty days built in.

MR. RILEY: What about people being moved in to vote. That wouldn't be any problem? They would have to be there thirty days, but is that a protection. Do you see what I'm talking about. If you could just cross the line in a real close county, you could ---

MR. WEST: I wouldn't have been elected my first time if we had just had thirty days because Kershaw would have swarmed across.

MR. WORKMAN: All of the arguments is, whether it be for state, counties or precinct, is that a given time to be determined in necessary for an individual to become aware of the personalities and issues on which he is going to evolve in that area. Now, a person from Spartanburg could presume to vote equally intelligently on any statewide issue, whether it be referendum or amendment or what, but the question is whether or not in the voting on school trustees in Beaufort County or in a ward election within the city of something of that sort, if we want to have an exposure time during which he supposedly becomes acquainted with the problems of that local community.

MR. HARVEY: I think thirty days is sufficient for that.

MR. LINDSAY: I don't think you are going to be able to draw a distinction between a state race and a local race, county race, insofar as residence requirements. You are going to have once again people managing the polls being in the throes of a dilemma when it comes to administering the election. In other words, what you are saying is that they ought to automatically be allowed to vote in the statewide

racess, that presumably they are familiar with, and maybe not for a school trustee.

MR. WORKMAN: No, I'm just getting at the category as a resident which we now have, which used to be two years and now we are recommending six months residence in the state and whether there should be a sub-requirement for a lesser period of time to reside in either the county and or the precinct before you have established your residential qualification.

MR. STOUDEMIRE: Well, gentlemen, what I have been thinking about is some such statement that a person shall be allowed to vote in his county or voting district within a precinct if he had maintained a two months residency or something of this order.

MR. LINDSAY: You've got to remember now is the new implementation of this new registration law. It is not going to mean just walking into the courthouse and just automatically getting these things transferred. They are going to have to be processed from the local office to the Columbia office and back to the county office. We will need some period of time for effecting these transfers. These books are going to be made up in Columbia.

MR. WEST: Why do we have to get this specific. Why can't we put the six months in the Constitution and say that the general assembly may provide reasonable additional residence requirements for county or precinct.

MR. WALSH: Would that wind up that they would still have six months in the county.

MR. RILEY: I would prefer just residence in the state for six months and the polling precinct for three months. Don't mention county.

MR. STOUDEMIRE: Now, New York has gone to a two-way ---

MR. WORKMAN: State and voting precinct.

MR. LINDSAY: I don't know if I agree with you. You are talking about three months in a precinct. Then if a fellow moves three months before an election, he can't vote and he may be right in the same city too.

MR. HARVEY: You can vote by going back to your old precinct.

MR. WALSH: No, they have ruled now that you can't do that.

MR. HARVEY: Most of them do it.

MR. LINDSAY: What I was thinking you were talking about was three months in the county --- just cut it half into again --- six months and three months and leave the thirty days. From a practical standpoint, during the thirty days you can't register anyway or transfer.

MR. WEST: Let's provide three months in the county and leave it. You have got the built in thirty days which can be changed by the general assembly presumably.

MR. LINDSAY: Actually, John, you have got thirty days in here.

MR. MCLENDON: We have got three months in the Constitution on the precinct level. We have one year, six months and three months.

MR. LINDSAY: Now, what I was thinking about was six months, three months and one month. One month would really be kind of a superfluous statement because it is otherwise stated, but we could put it in there anyway.

MR. STOUDEMIRE: We need days though, don't we; you know your months vary.

MR. WEST: Yes, six months, ninety days and thirty days. Is that what we are talking about.

MR. STOUDEMIRE: All right, six months then. Do we want to make it days for the others or do we want to say six months, three months and then thirty days.

MR. WEST: That probably would be more proper, more logical.

MR. WALSH: What is that going to be now; six months, three months ---

MR. STOUDEMIRE: John, would you restate that now and see if they agree to that.

MR. RILEY: Instead of an elector offers to vote, do you reckon we ought to say if the elector resides, since we have changed that --- I take it you don't like that.

MR. WALSH: I think that makes it much more complicated.

MR. RILEY: That's what Brantley was talking about though. Under the Constitutional Provision you can go offer to vote in your old precinct.

MR. HARVEY: I don't see anything wrong with that. I don't see why we should prohibit it.

MR. WALSH: The only trouble is that Dan McLeod has put out this memorandum in a book and everything that we have been doing, this memorandum undoes. What I mean by that is, take a city like Spartanburg where such a large portion of the people work in a downtown area. Now, the most convenient place for the people to vote are on your main thoroughfares as they go in or out of work. And that is the way it has been done for years; somebody coming in from the north side would vote at the fire station. Now, they actually might physically live in another precinct, but that is the closest polling place.

MR. LINDSAY: How are you going to keep them from voting two or three times in a situation like you are talking about?

MR. WALSH: Well, they have to be registered on that and they can only be registered on one. They have got to have a registration certificate in that particular precinct.

MR. LINDSAY: In other words what you are saying is that you allow them to register in a precinct in which they are not a resident. Is that the idea.

MR. WALSH: Yeah, but the old law said that, it said the closest polling place. For instance, there are two polling places closer to my house physically than the place where I'm supposed to vote.

MR. STOUDEMIRE: To argue against Emmet here, let's think about municipal elections for a moment.

MISS LEVERETTE: You are supposed to go to the nearest voting place within the precinct to your residence.

MR. MCLENDON: Yeah, that's the point. It may be difficult, but you ought to register where you live.

MR. LINDSAY: Well, another thing, the election law which we just passed provides --- I presume it does --- the form indicates --- in which precinct do you reside, and you put down your precinct on there. Now, Columbia is going to register you in that precinct.

MR. RILEY: That's right. You can't vote anywhere else.

MR. LINDSAY: I don't believe you are going to be able to vote anywhere else, just from the standpoint of the manner in which they are implementing this new election law.

MR. WALSH: The old law says --- it said that, but it went on to say that you could apply and change your certificate to the closest polling place.

MR. HARVEY: But within the precinct.

MISS LEVERETTE: Would it help to read this section?

MR. MCLENDON: That's the new Act.

MISS LEVERETTE: Yes. "---shall vote at the nearest voting place within the precinct of his residence, but in incorporated towns in which officers are elected by wards or other municipal subdivisions, electors shall be registered and shall vote at the voting places nearest to their residences, within the ward or other subdivision of their residences". It's the nearest within the precinct and the nearest within the ward.

MR. MCLENDON: I think that has merit. I'd hate to change it.

MR. WEST: All right, well, let's see if we can wrap this up. On residency, we want residence within the state for six months, in the county for three months and in the polling precinct for thirty days. Now, what is our verbage on the next, in which the elector offers to vote.

MR. MCLENDON: Well, I think we just ought to strike out offers to vote.

MR. WEST: All right, just strike that out. In the polling precinct for thirty days.

MR. LINDSAY: I don't know how you work it in your counties ---

MR. WALSH: That's what I confused with Dan ---

MR. LINDSAY: ---all I can tell you is when a man has moved from Red Hill to Blenheim Precinct, and they don't let him vote in Blenheim, we make sure he gets back to Red Hill in time to vote. That's assuming he's going to vote right.

MR. RILEY: Well, he is in compliance with the Constitution by doing that.

MR. WALSH: Then ac Act of the general assembly is not in accord with this Constitutional Provision.

MR. RILEY: That's right. An Act of the general assembly is not in accord.

MR. WORKMAN: Because in the mechanical purging of the rolls, a person who moves out of a precinct is supposed to be stricken from the record.

MR. LINDSAY: That's right, but they never are.

MR. WORKMAN: No, but I mean if you think in terms of the true mechanics of operating the system we have now, when an individual moves from here to there, here strikes his name off the list and he is no longer entitled to vote there, but when he moves there, he is supposed to be there for X number of days depending on what's agreed on, which is now three months.

MR. RILEY: If we are going to make that thirty days, let's just make it reside, because Lord knows thirty days couldn't effect too many people moving within the county within thirty days.

MR. WORKMAN: I think we ought to pin down the residence to the place --- to the precinct: The guy ought to reside in the precinct in which he votes and he ought to have to vote at that precinct.

MR. LINDSAY: In other words, if he has moved within the period that's prescribed, he can't vote.

MR. RILEY: That thirty day period.

MR. LINDSAY: Now it's three months though, you see the difference, three months is a right long time to ---

MR. RILEY: Well, now you are under this provision here, if he goes back and offers to vote at the old place, --- under this law he can't vote, under the Constitution he can. Now, what we are going to do with that I don't know.

MR. STOUDEMIRE: Your timing here now --- you would use a schedule here on this, I think. You would time it where it would not conflict with any major election processes. In other words, even if your Constitution generally went into effect on July 1, you would by your schedule, make sure that this becomes effective at some time when it would not interfere with the election process, I think.

MR. LINDSAY: Well, we had a dispute, frankly, that arose on the very same thing. These people, there were six of them in a family, had moved to another precinct and they went back to their old precinct to vote and somebody challenged their vote. They were sealed up, but later they were counted. It just happened that these six, it was just obvious to everybody that they had moved. There are a lot of people in these rural counties now, with industries opening up, you have a lot of moving around now inside a county.

MR. WORKMAN: But a test has been, and a proper test, that if these six individuals could come back to their old precinct and show registration certificates which lists them as being from Red Oak or whatever it is, then they are entitled to vote, because they don't have registration certificates for the new precinct, see. They can't get them. When they get the new one, they surrender the old one.

MR. LINDSAY: Well, the Attorney General has in fact ruled that even though they have a registration certificate, they can't vote in the old precinct, if their vote is challenged.

MR. WALSH: That's what happened in Spartanburg. We had a prominent lawyer, been living there from the day he was born, and he was challenged last year by a certain group of people.

MR. LINDSAY: Most of them go unchallenged.

MR. WALSH: Yeah, and he'd been voting in that same precinct for twenty years.

MR. STOUDEMIRE: I tell you, sometimes it gets your conscience if you work at the polls.

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MR. WALSH: --- and it was on that same thing. They said, "No, you're not living here now and even though you have a registration certificate ---

MR. HARVEY: Of course you could eliminate that by thirty days immediately preceding the election, because if you move from precinct to another then you haven't lived in your old precinct immediately preceding the election. You lived there for thirty days some time ago, but you haven't lived there for thirty days before the election.

MR. WALSH: Well, that might be the answer. The point I'm making is that we are moving into an era in which people are paying more attention to this precinct. Therefore, we ought to be as careful as we can that people that are living in a county all their life and just happen to move across the street or something, we need not disqualify him from voting.

MR. WORKMAN: Well, there are going to be certain people who are caught in a bind and we can't help it. If we put down any law, there are going to be certain things that are going to --- that people are going to file on.

MR. LINDSAY: What the general situation is, of course, a man has moved. Maybe he moved six months before or nine months before, but he didn't change his registration, see.

MR. WEST: That's where the real rub in going to come.

MR. WALSH: He forgets about it until two or three weeks before the election.

MR. LINDSAY: He just didn't change it, so therefore he is still registered in the old precinct, and invariably, I think probably generally, they have all gone back to their old precinct and voted.

MR. RILEY: You can come in there and change it even on election day can't you? If you have moved within the county, you don't come under that thirty day provision do you?

MR. SOUDEMIRE: Yes, you sho' do.

MR. LINDSAY: You do.

MR. STOUDEMIRE: The Attorney General has ruled.

MR. LINDSAY: Well, actually, under this law it would have to be, because these books are going to be made up --- the registration books which will be used in each precinct are going to be made up in Columbia, and they will be closed thirty days before the election, so you can't have any transfer from one precinct to the other within that thirty day period.

MR. HARVEY: Well, now, we've got to decide on what our policy is going to be on this. Is it going to be to prevent somebody from going back and voting. Do we want to word it that way or don't we.

MR. STOUDEMIRE: Gentlemen, let me complicate. Maryland said, apparently for many years, "removal from one house district ---", which would be precinct in our case, "---to another in this state shall deprive a person of his qualification to vote in the district from which he has removed until three months after his removal."

MR. WORKMAN: So it gives a terminal --- it gives a time lag afterwards.

MR. STOUDEMIRE: The principal is the same.

MR. LINDSAY: Do they have a three months residency within the precinct?

MR. STOUDEMIRE: They don't have but two I don't think.

MR. RILEY: All that would have to be worked out with your central voter registration period, because they'd have to, after a man moved, they'd have to hold him in there for three months. If he went to try to register somewhere else, they'd have to have something that would indicate he couldn't register for three months.

MR. STOUDEMIRE: I would interpret this that he could vote at either place.

MR. LINDSAY: How about both.

MR. STOUDEMIRE: If he had moved, then he is all right. If he hadn't, then he goes back to the other one, is the way I interpret that.

MR. LINDSAY: Mr. Chairman, I move we just put it here just like we've got it. Just put it one year, six months and thirty days.

MR. RILEY: I think we ought to --- is there any necessity in putting the polling precinct in at all.

MR. WEST: I think not.

MR. WALSH: I'd be inclined to that too.

MR. RILEY: You've got the thirty days.

MR. STOUDEMIRE: All right, let me ask one question now. I live in Columbia for three months. Then, if I am in the incorporated limits, I am automatically, after three months, a qualified voter in a city election and nobody could vote there unless you do live within the bounds of the city, right.

MR. HARVEY: And what precinct you vote in is really ---

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MR. WALSH: Determined by statutory law.

MR. HARVEY: That's right, and you register according to the precinct in which you live.

MR. WORKMAN: If you live outside the city, you'd be qualified to vote in Richland, but you couldn't get a registration certificate except in the precinct in which you live and that would debar you from voting in a city election.

MR. RILEY: But, if you moved from Ward Nine way out to Lower Richland, all within the same county, you could register that very day that you moved to Lower Richland.

MR. WALSH: And vote..

MR. RILEY: Have it transferred --- but you couldn't do it within thirty days of an election. You could do it, but you couldn't vote for thirty days in Lower Richland due to that other proviso, is that right?

MR. LINDSAY: We are confusing the issue ---

MR. HARVEY: John's ruling is that the determination of eligibility is the time of the general election, so you can do that.

MR. WEST: Well, I think it is the ruling of the Attorney General, but I really don't know if he has ever actually ruled. I know that was the interpretation.

MR. HARVEY: In other words, if you moved --- now, if you moved on May the fifth and went down on May the sixth, you haven't been there in the precinct but one day. I mean if we change it to thirty days.

MR. RILEY: All right, say we eliminate ---

MR. HARVEY: Because you are entitled to register in a new precinct because you will have been there thirty days come the election.

MR. RILEY: --- say we eliminated it altogether, couldn't you vote that --- you could register that next day.

MR. HARVEY: That's what I'm saying, but you've got a thirty day lag because the books are closed for thirty days.

MR. RILEY: Thirty days before an election. Now, you could register that next day, but you couldn't vote that next day.

MR. HARVEY: I agree with you. I say leave out the fool thing.

MR. WEST: Does everybody agree that we leave it out?

MR. MCLENDON: How is it going to read now.

MR. WEST: Read it back Bob.

MR. STOUDEMIRE: Residence --- now, we must remember that all this is coming down, I think in sub-heads. Qualification for an elector, then sub-head B would be residence. Then it would be sort of a chopped off sentence, residence in the state for six months and in the county for three months, period.

MR. LINDSAY: You're, in effect, by inference by changing it, by having any requirement, going to make people think that they can go in there and register the day of the election.

MR. WORKMAN: Let me suggest ---

MR. STOUDEMIRE: No, no ---

MR. LINDSAY: Yes you are. That's what they're going to think, now boys. They haven't heard this discussion. You have had a period of time when your Constitution required residence in a precinct. Now, you are taking out any requirement for residence in a precinct. Just by negative inference, they're going to get the impression that if you have lived in the county you can vote in any precinct. I am not going to argue it any further, but I still say that's the net effect of it.

MR. RILEY: I don't think so, because I think everybody realizes that they can't register any way for any election within thirty days of the election.

MR. LINDSAY: People don't consider that they are registering; they consider that they are transferring.

MR. STOUDEMIRE: Gentlemen, this thirty days for the election is in the Constitution. I don't think we can go on this basis. I think that is a decision we've got to make.

MR. WALSH: Yes, we've got to cross that with another provision.

MR. STOUDEMIRE: It's in the Constitution now, thirty days. I think you've got to come to that.

MR. RILEY: I think we'll have to have that due to the central registration thing.

MR. STOUDEMIRE: Right, but the question is whether it should be in the Constitution. I think it ought to be by statute because Dan is caught in this thing now. See, with computers and things in the future, you might be able to register two days before election.

MR. RILEY: That's right.

MR. WALSH: That's true.

MR. STOUDEMIRE: So I'm not sure that the --- everybody knows you've got to have a break-off period, but I'm not sure it's a constitutional question, the mechanics of registration, but all that comes up later.

MR. WORKMAN: Well, now, we have left a big, fat gap in this thing that we just decided on, because when we say residence in the state for six months, you've got to have a reference point. Six months from what.

MR. RILEY: The time you moved in.

MR. MCLENDON: That's a statement he has to make and if anybody challenges him, then he'd have to prove it.

MR. WORKMAN: Well, six months from the election or from the time you get registered or what.

MR. LINDSAY: Six months after you have been a resident of this State and then it must be thirty days before the election.

MR. STOUDEMIRE: That's the way it has always been interpreted, hasn't it?

MR. WALSH: That's why this phrase "offers to vote" is there. If I go down to the county board of registration office and say I just moved in and I want to vote out here at Ward One, Box Three, that's where I live. They take the registration from that day, and go back and say, "when did you move there", and "how long you been living in South Carolina", and then they determine that you are qualified so they give you a certificate. Now, in the case the Attorney General rules, if it is in a general election and they are there, and they find out he has only been there supposedly five and a half months at that time, but will have been there six months by the time of the general election, they go ahead and give him the certificate dated thirty days prior to that general election because he will have fulfilled this requirement when he goes up and offers to vote in Ward One, Box Five.

MR. HARVEY: That's right. I think that's right. We are discussing the qualifications for suffrage, which is to vote. We are not discussing the qualifications for registration. You don't have to have been there thirty days or six months before you register. You have to have been there six months before you vote.

MR. STOUDEMIRE: That phrase is significant, isn't it.

MR. WALSH: Yes, it is. That phrase "offers to vote" is significant.

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MR. STOUDEMIRE: And our history has been, like you say, that if I have been here one year by November the eighth, general election, then I get my certificate.

MR. WALSH: Right, and I'm not so sure that maybe we ought to leave that thing in as a reference point to tie in to our past history.

MR. STOUDEMIRE: I think we ought to leave it in there or definitely understand or explain why we are taking it out.

MR. WORKMAN: I think that because it reaffirms what is built in to another section, without adding to or detracting from it, it might as well stay there, because it just means we are leaving three words in instead of taking them out.

MR. HARVEY: Residence in the state for six months and in the county in which the elector ---

MR. WORKMAN: Oh, in the county for three months, and in the --- residence for three months ---

MR. HARVEY: --- in the county in which the elector offers to vote.

MR. STOUDEMIRE: All right, residence in the state for six months ---

MR. WORKMAN: Why don't we leave the polling precinct then as it is.

MR. HARVEY: I thought we agreed to take it off.

MR. WORKMAN: Well, it's geared to this business "in which he offers to vote".

MR. HARVEY: Why can't you say residence in the state for six months and in the county in which the elector offers to vote for three months.

MR. RILEY: That sounds good.

MR. WALSH: And leave out precinct.

MR. LINDSAY: All I can say is, the way you all are talking about it, you are going to let me vote twice. I don't think it will ever come up, but if I moved here from North Carolina and I've still got my registration certificate from North Carolina and come here and tell them I'll be here six months by the time of the general election and they give me a South Carolina registration certificate and they don't ask you to surrender your North Carolina registration certificate ---

MR. STOUDEMIRE: That's North Carolina's problem.

MR. LINDSAY: Well, it's our problem if we're going to let somebody

vote in North Carolina and South Carolina. The only thing I'm saying is when you start talking about the constitution, even though that's knits and lices, it looks to me like we ought to contemplate knits and lices.

MR. RILEY: Are we saying here that if I move in South Carolina I can go get registered the first day?

MR. LINDSAY: That's what we are saying. If you contend that you will be here by ---

MR. MCLENDON: This is a voting requirement. This is not a registration requirement.

MR. STOUDEMIRE: Gentlemen, you can say what you wish to say by using simple English and putting a period and this might be a case --- that residence shall be measured from the date of the election instead of trying --- you see, we get in here as I see it trying to rewrite this, and we are not quite clear and maybe say that residence shall be six months and three months period.

MR. MCLENDON: To be measured from the date of the election.

MR. WORKMAN: Prior to.

MR. MCLENDON: Yes.

MR. WORKMAN: Prior to the next ensuing general election.

MR. HARVEY: General or do you want to make it primary and general.

MR. STOUDEMIRE: Well, I mean actually state what you want to say.

MR. WEST: I think you would have to make it any election.

MR. LINDSAY: I'm going to shoot knits and lice at that again. I'm up on the North Carolina line. I've got forty people living right across the line. They are registered to vote in North Carolina. They are North Carolinians, but they come down to Bennettsville on a Wednesday and they say, "Well, it's more than six months from the election and I want to register. I'm going to move down here", or "I'm living down here now", and I vote every one of them in Marlboro County.

MR. HARVEY: But this is not a ---

MR. MCLENDON: This is not a registration provision, this is a voting provision.

MR. LINDSAY: But the idea is, Mack, you can't separate it from registration because that's what is going to entitle you to vote.

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If your name is on the registration book.

MR. STOUDEMIRE: Well, we are doing that now, Brother Lindsay. By Dan's interpretation, that's exactly what we are doing now.

MR. WALSH: According to Dan ---

MR. RILEY: We don't want to do that though.

MR. LINDSAY: That's why I say I don't think Dan is right.

MR. STOUDEMIRE: Oh, okey, I don't know.

MR. LINDSAY: I don't think he is right.

MR. RILEY: Maybe we ought to close his interpretation out by language in here.

MR. STOUDEMIRE: I think he would be happy for that.

MR. WALSH: I think this, I'll tell you what's the truth, I believe this whole --- we need to discuss this some and get down on some basic principals, but then we need to get Bob to rethink this thing and discuss it with the Attorney General because this is one area in which he has said, "in my opinion".

MR. WEST: All right, for the sake of making some progress, let's decide. First, does everybody agree on six months.

MR. WALSH: Yes, I think we agree on that.

MR. WEST: Does everybody agree on three months for the county.

MR. RILEY: Yes.

MR. WEST: Then, let's ask Bob to do some more thinking to resolve these technical difficulties on the precinct level ---

MR. WALSH: And reword this thing.

MR. WEST: --- and see if he can come up with a proposed wording that answers most of the objections we have voiced here.

MR. WORKMAN: I'm now of the opinion that we ought to leave the polling precinct in there, because even if it is automatic that they have to be there thirty days to get registered, I don't think it hurts anything.

MISS LEVERETTE: I can't see any objection.

MR. LINDSAY: Yeah, and I say that by leaving it you're ---

MR. MCLENDON: You're creating a controversy.

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MR. LINDSAY: Yes.

MR. WEST: I believe the majority will say tentatively leave it in.

MR. WALSH: Yes.

MR. LINDSAY: In other words, when you go into the legislature with it, and you have nothing in there, it's going to look like, by negative inference, that you have obliterated it.

MR. WEST: All right, let's take a five minute coffee break now.

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The committee recessed for ten minutes.

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MISS LEVERETTE: What I can't understand, maybe I'm being stupid on this, but I can't see any particular reason for taking the polling precinct out.

MR. LINDSAY: Well, that's my argument too. When you take it out, you seem to be doing something, when you aren't doing anything at all.

MR. WEST: All right, now, we have agreed tentatively on the residence situation. Dick, you are the expert on registration, should that be eliminated from the Constitution or what?

MR. RILEY: Well, let's hear from Bob first.

MR. STOUDEMIRE: First, gentlemen, on registration, the Constitution is shot full of it. On this page right here down at the bottom is certificate of registration. If you go over to Section 8, you have more registration. Part of eight actually deals with getting it started in 1895. Then, Section 11 closes registration. Now, embraced in all this is three things: What shall the period of registration be. Most states seem to approach this as a constitutional question. Number two, the period. Now, we are one of the few states, and I think it might be good, where we say that our rolls shall be open for inspection, make it a constitutional question. Then, three, we have in here when the rolls must close, which ought to be determined by law. Now, we go ahead here and give a whole bunch of things in the Constitution about re-issuing and so forth and so on. Now, it would appear to me that once you decided that the general assembly shall provide for a registration of some period, then would not that mandate automatically embrace all the other rights of re-issuing and taking care of lost certificates and this type of thing.

MR. MCLENDON: All that's in the statutes now.

MR. STOUDEMIRE: Yes, but you also have a constitutional basis for a lot of it.

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MR. WORKMAN: You would reduce all the constitutional references to registration to one section.

MR. STOUDEMIRE: Yes, I certainly would.

MR. WEST: And say that the general assembly may provide for registration procedures or something like that.

MR. WORKMAN: That's what it says now, "The general assembly shall require by law for the registration of all qualified electors, prescribe the manner of holding elections, ascertain the results of same".

MR. STOUDEMIRE: I proposed a little section in here that would combine it all. "The general assembly shall provide for a permanent registration system" --- or a registration system of not less than ten years or however you want to state that.

MR. WEST: What page are you on Bob?

MR. STOUDEMIRE: Page thirteen, down in the middle of the page. "The registration rolls shall be public records open to the inspection of any citizen at all times. Each person must be duly registered as a condition of being a qualified elector." And leave everything to the general assembly to regulate. That is my feeling, having the right to prescribe a system would automatically give the general assembly the power to provide for the method of registration, fix dates. What I mean is when you cut it off and so on --- to provide for issuing of lost certificates and the changing of certificates from precinct to precinct and so forth and so on. Now, am I right in my thinking that the general assembly has the right to prescribe a system, then it would automatically embrace the right to prescribe the details of that system.

MR. RILEY: Yes, that's right.

MR. HARVEY: Certainly.

MR. RILEY: I favor a permanent system.

MR. STOUDEMIRE: Well, I don't ---

MR. LINDSAY: What is the argument here, just the theory of purging the rolls every ten years. Is that the idea?

MR. STOUDEMIRE: Jack, historically, I think --- a system of registration is no better than those who administer it and throughout the land, despite all the high sanctimonious laws, people who move, people who die and all the other things, do not get off the rolls, quite frequently, unless the people who administer make sure that they do. Now, the big thing on a ten year thing is that this is one way that you do take care of administrative weaknesses.

MR. LINDSAY: That's a heck of an expensive proposition.

MR. STOUDEMIRE: Yes. Now, if you go to permanent then, this leaves somebody to twist the donkey's tail or the elephants snout, to make sure.

MISS LEVERETTE: Well, it seems to me, Bob, we are moving into a period now when we are paying more attention to this purging business. This central voting registration is evidence of it. It's got to be done and it should be done, whether a ten year program or what not. I would think that a permanent registration with a proper purging provision by the general assembly would take care of it.

MR. WALSH: Let me ask you this, under this voter registration act, we now have in effect a simpler registration. Is there a requirement in the law whereby --- this same IBM computer system is fed all the information on deaths ---

MR. RILEY: Yes.

MISS LEVERETTE: If that's in force, that would go a long way.

MR. RILEY: And also, if they don't vote for two general election periods, their name comes off.

MISS LEVERETTE: Which does away with the argument that the ten year program would help.

MR. WEST: All right, is it the consensus that we will go for the permanent registration system and the phraseology that Bob has recommended.

MR. HARVEY: It seems to me like --- a registration system for a period of not less than ten years, this just guarantees to the people that you are not going to make frequent registrations to impede voting or to harass them. Certainly, if it is not less than ten, you can make it permanent under that provision. You can make it twenty, thirty or forty or anything you want, or permanent, can't you?

MR. RILEY: As a practical matter, it would never be changed probably.

MR. LINDSAY: What about providing in the constitution that the general assembly, if it wants to, can set up a permanent registration system.

MR. HARVEY: Well, that's ---

MR. WEST: That's what Brantley is saying.

MR. WORKMAN: How would it read?

MR. STOUDEMIRE: The general assembly shall provide for a registration

system for a period of time of not less than ten years. Your language may still need refining.

MR. RILEY: Would that encompass permanency?

MR. HARVEY: Yes, I think it would.

MR. RILEY: Or do you think that might be interpreted that we'd have to say a hundred years or what.

MR. HARVEY: Well, you might make two sentences.

MR. WORKMAN: You object to a permanent registration system, is that right?

MR. HARVEY: I don't think I'd ---

MR. WALSH: Why don't we say that the general assembly shall provide for a permanent registration system which shall provide for registration for a period of not less than ten years.

MR. WEST: You're contradicting though, aren't you. A permanent system which would provide for registration ---

MR. WALSH: Well, we are talking about a permanent system, but not a specific requirement then that you would reregister.

MR. STOUDEMIRE: Maybe we need to do it in terms of voters. The general assembly shall provide for the registration of the voters for a period of not less than ten years.

MR. WORKMAN: For periods, not period.

MR. WEST: But if you say periods, then it has to be a period. It may not be permanent.

MR. RILEY: I frankly see no reason why we should not make it permanent and if the general assembly is not satisfied with the way it is working, they can change it. We can derive some system to purge the rolls without having reregistration. That's just out of date.

MR. LINDSAY: The thing about it is if you provide in here, "shall provide for a permanent system of registration", I don't know if the general assembly could come along and reply or not.

MR. WORKMAN: Is it necessary that we, in the constitution, determine whether it be ten years or permanent.

MR. LINDSAY: That's what I'm trying to do is leave it open.

MR. WORKMAN: Just say a system of registration and let the general assembly determine whether it's permanent or ten years or what.

MR. LINDSAY: I think that's a good idea.

MR. HARVEY: Well, you are not protecting your people. Suppose the general assembly for some reason wanted to harass the voters and make them reregister every two years, so that only the most alert citizens would be registered and the slovenly would be disenfranchised.

MISS LEVERETTE: If you put a permanent provision in there, maybe you'll put the pressure on the general assembly to see to a stricter system of purging. Maybe they won't depend or rely on this. Part of that is in your present law. The central voter registration is helpful but I think you would have a pressure there to see that purging was strickly enforced.

MR. LINDSAY: I believe Bill has got the only answer. Just provide that the general assembly shall provide for a system of registration, period. Then leave it up to the general assembly as to whether it was permanent or what.

MR. WEST: Unless there's a definite change in the thinking, what sold the voter registration in the Senate this year was the possibility of an accusation that politicians were making it harder for the people to vote. In other words, everything is make it easier. That's the politically acceptable theory now, and in this day when time is becoming more and more a factor.

MR. STOUDEMIRE: Most states have a permanent system. We are one of only ten, according to the Book of the States.

MR. HARVEY: The general assembly shall provide for a system for the registration of voters.

MR. WEST: All right, how many in favor of that now.

MR. WALSH: What's that now.

MR. WEST: For a system, just without specifying. That would leave it open for permanent or what have you.

MR. WALSH: I just believe we ought to have a little protection there. I believe just say the thing permanent or say some wording whereby --- to my mind a permanent system of registration and the --- bringing it up-to-date not less than every ten years is not inconsistent with each other.

MR. LINDSAY: All right, let's talk about what you can sell to the general assembly. You can sell to the general assembly the discretion to them, but I'm not sure you can sell to the general assembly a mandatory constitutional proviso that you've got to set up a permanent system of registration.

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MR. WALSH: For all practical purposes, haven't we got a permanent system now.

MISS LEVERETTE: Except for the trouble and expense of every ten years.

MR. RILEY: It's cost us a hundred and twenty-five thousand dollars in Greenville and it's absolutely unnecessary.

MR. LINDSAY: It's ridiculous, really. Once you get this system, though, really set up in Columbia, ten years from now it's starting all over again.

MR. WALSH: If it's set up right, ten years from now it ought to be just as up-to-date as you can bring it.

MR. MCLENDON: But your citizens are going to have to go back and reregister.

MISS LEVERETTE: In effect, you're defeating the whole idea behind this central registration system.

MR. WALSH: Right, by putting the ten years in.

MR. HARVEY: But you are not making --- they can't force you to reregister. The general assembly can't require a reregistration more often than ten years.

MR. RILEY: I think if we think it ought to be permanent, we ought to put it in here permanent.

MR. WEST: We had a majority vote, but I'm not going to call it. Gentlemen, we do have to make progress. I think this is important, but has everybody expressed themselves on the thing. Do we have the clear cut issues. As I see it, there are about three proposals. We will put them to a vote. First is that the general assembly shall establish a registration system without specifying any time. Secondly, the general assembly shall establish a permanent registration system, and third, the general assembly shall establish a system whereby they shall not require reregistration at less than ten year periods. That's not the exact wording. Are those the alternates that we have. Are there any others.

MR. MCLENDON: Let me ask you this. As you present these questions, for instance, I would vote for the one you are listing first. If it is defeated, then I would like to take the second one. Now, how am I going to be permitted to vote.

MR. LINDSAY: Well, now, is this out of the question. You couldn't word it like this: the general assembly can provide ---

MR. WEST: May provide.

MR. LINDSAY: I say the general assembly can or may provide for a permanent registration system, but by all means for one not less than ten years.

MR. WORKMAN: Whatever is done mechanically, with respect to registration, has got to be done by the general assembly. So, when we say that the general assembly shall provide for a registration system for voters, we're just saying that they've got to provide for registering the voters, but the mechanics by which they go at it is going to be up to them to determine by statute. Now, I don't envision what Brantley is talking about as a possibility for the harassment of the voters, I don't think the general assembly could get by with it.

MR. WALSH: No.

MR. WORKMAN: In the face of public opposition which would come up if the general assembly looked like it was going to do something to oppress the voter by making them register every one or two years, because the general assembly, despite what people say, is relatively responsible to the public, especially if an issue gets stirred up.

MR. HARVEY: But isn't the basic purpose of a constitution to protect the citizens against such a possibility?

MR. WORKMAN: Right, but not against every possibility.

MR. LINDSAY: You don't get the same result by using your expression, the general assembly shall provide for the registration of voters and may provide for permanent registration system or for one --- or for a registration system of not less than ten years.

MR. WORKMAN: That's meaningless, because you say "may".

MR. LINDSAY: All right, well, you say they've got to provide for a system of registering voters.

MR. WORKMAN: Yes.

MR. LINDSAY: Now they might create a system that's permanent or by all means one for at least ten years. Now where is that in here.

MR. WORKMAN: Or some other system. I mean I think this doesn't add anything. You're just making a couple of suggestions to the legislature.

MR. WALSH: And they have no weight to them at all.

MR. WEST: I don't want to cut off debate, but we've got ---

MR. LINDSAY: I move the previous question.

MR. WEST: How many in favor of the first provision, simply that

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the general assembly shall provide for a system of registration, period.

MR. STOUDEMIRE: That's four.

MR. WEST: All right. How many in favor of the second, the general assembly shall provide for a system of permanent registration.

MR. STOUDEMIRE: Three.

MR. WEST: The final suggestion, shall provide for a system of not less than ten years.

MR. STOUDEMIRE: Brantley.

MR. WEST: All right, Brantley, you are eliminated, so we'll go back to the first question. How many in favor of the provision the general assembly shall provide for a registration system.

MR. STOUDEMIRE: Five.

MR. LINDSAY: Now, from a practical standpoint, that's the only way you're going to sell it to the general assembly. Now, I'm tell you that.

MR. WALSH: But with that particular statement, you're just wasting ink.

MR. WEST: How many in favor of shall provide for a permanent registration system.

MR. STOUDEMIRE: Three.

MR. WEST: All right, I don't want to railroad anything along, but I think when we have milked all the discussion out, to make progress we've got to go.

MR. STOUDEMIRE: Gentlemen, to make sure then. The general assembly shall provide for a system of registration is what we've adopted. Is that right?

MR. WEST: Right.

MR. STOUDEMIRE: "The registration rolls shall be public records open to inspection of any citizen at all times. Each person must be duly registered as a condition to being a qualified elector." All right, now, John, if you will just bear with me for a moment. We've got so much stuff in here on registration that I think we are going to positively eliminate.

MR. WEST: Right.

MR. STOUDEMIRE: Now, B has been taken care of as I see it, on page five.

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MR. WEST: Yes.

MR. STOUDEMIRE: I think C and D --- now, it's my interpretation that C and D are really no longer current anyway, are they?

MR. WEST: No, C and D and E have already been eliminated.

MR. WORKMAN: Now, we strike C.

MR. STOUDEMIRE: And B also, now, you see. Now, F, Certificate of Registration. "The General Assembly shall provide for issuing to each duly registered elector a certificate of registration, and shall provide for the renewal of such certificate when lost, mutilated", and so on. That would come up under the general powers.

MR. WEST: I would think so.

MR. STOUDEMIRE: Okey. Now, if you will please turn over the page ---

MR. RILEY: Let's see. We struck D.

MR. STOUDEMIRE: Yes.

MR. WORKMAN: We substituted for B, killed C, killed D, killed E and F.

MR. STOUDEMIRE: All right, if you will turn to page 16, Section 8. "The General Assembly shall provide by law for the registration ---" and so forth. This takes place of setting up the original boards in there, and I think if you will read it carefully it doesn't apply after the first time. I think all that's obsolete.

MR. LINDSEY: Section 8.

MR. STOUDEMIRE: Page 16, Section 8.

MR. LINDSAY: That's out, right.

MR. STOUDEMIRE: It appears to be, if you agree, it's obsolete. All right. Then, if you go to Section 11, this is the thing we might not have covered yet. "The registration books shall close at least thirty days before an election, during which time transfers and registration shall not be legal: Provided, Persons who will become of age during that period shall be entitled to registration before the books are closed."

MISS LEVERETTE: Where are you, Bob?

MR. STOUDEMIRE: On page seventeen. I would assume under the system we have got now that the general assembly would say that the registration books shall be closed X days before the election, by law, you see.

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MR. WEST: Now, I believe we put in the thirty day residency in the precinct. Right? We tentatively agreed on that.

MR. STOUDEMIRE: Right.

MR. WEST: So, the reason --- one of the reasons for leaving this in the constitution has been eliminated. Right?

MR. STOUDEMIRE: Yes.

MR. WEST: Does anybody see any reason why this should be in the constitution?

MR. WALSH: It answers a very fundamental question.

MR. STOUDEMIRE: What worries me, now, "the registration books shall be closed at least thirty days before an election", is I'm not sure at all if thirty days is not too long a period as we get into the electronic age. I don't think that thirty days is a constitutional question. I think that's a detail that can get out of date and cause difficulty.

MR. WORKMAN: What is the rationale behind it, simply a time to go through the mechanics?

MR. STOUDEMIRE: Yes. I don't see any other reason.

MR. WEST: I mean you have prescribed what a man has to do timewise to vote. So, why be concerned about the mechanics of registering.

MR. STOUDEMIRE: If you go on the basis that every man should be allowed to vote except he who must be disqualified because of a system, if you buy that premise, then I think you'll have to ---

MR. WEST: All right, is there any objection to eliminating it?

MR. MCLENDON: The IBM man talked to us in the Judiciary Committee about this time factor. He indicates that the time factors that they are operating under with these systems now are going to cut these things drastically, and this thirty day period would not be necessary at all. He says they can turn over those registration books statewide in two or three days.

MR. LINDSAY: Actually, what you are in effect saying is no reason for this, though, because of the residence requirement.

MR. HARVEY: That's right.

MR. STOUDEMIRE: And even if there is a reason, I think that would be a mechanical thing that the general assembly is going to regulate.

MR. WEST: Okey, Bob, what's the next section?

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MR. STOUDEMIRE: That will take me a half a minute. Now, you are down to --- we have done age. Let's go over now to page 8.

MR. WORKMAN: I missed what we did with the certificate of registration.

MR. STOUDEMIRE: That will be regulated by law, Bill.

MR. WORKMAN: You struck that and are going to put that under general registration obligations of the legislature.

MR. STOUDEMIRE: Yes. They automatically have that power.

MR. MCLENDON: What page are we on, Bob?

MR. STOUDEMIRE: Page 8. Gentlemen, U. S. Citizen is in here somewhere. Do you wish to have a statement that you have to be a U. S. and a South Carolina Citizen in order to vote? That's the question before you.

MR. WORKMAN: That's already provided for in Section 3. Are you thinking about the possibility of taking it out?

MR. STOUDEMIRE: Oh, we've already covered that.

MR. WORKMAN: Yes.

MR. STOUDEMIRE: You see what I did, this section is so mixed up, I had to go back and outline on a different basis.

MR. WORKMAN: Yes. Well, that's taken care of in Section 3.

MR. STOUDEMIRE: Okey, All right, residence, we have done. Right? Literacy is your next one. On page 9, and goes back to --- we struck too much. Section D, back on page 5, is your statement about reading and writing and three hundred dollars, as you all know.

MR. LINDSAY: That's kinds superfluous.

MR. STOUDEMIRE: Well, now, the question is, I think that one day federal requirements shall be lifted, and I would assume that when and if they are lifted that one reverts back to his constitution. Therefore, shall a constitution say anything on literacy. We have evidence that as long as discrimination is not involved, that you can have a literacy test, as has been decided in North Carolina caes and a few others. Also, we know that this matter of literacy is rapidly being erased, unless you are going to only let the intelligentia vote. By the requirements of literacy of 1895, the delegates did not envision a very literate electorate.

MISS LEVERETTE: I still think we ought to have a literacy requirement in there.

MR. WALSH: I do too.

MR. WORKMAN: Without regard to what the federal courts have now determined.

MR. STOUDEMIRE: About one fourth of the states do have some type.

MR. WALSH: What do the others do, just have none at all?

MR. STOUDEMIRE: That's right.

MR. WALSH: You've got to be warm and twenty-one.

MR. STOUDEMIRE: I doubt if it is really a problem. You see, if you have an illeterate person in Iowa where you have very few minority groups and so on, my guess would be that that person never would present himself to register. I don't know this, I'm just surmising.

MR. RILEY: This comes into the jury question. If it's ever lifted, I think the place for it is there even more so than the voting.

MR. HARVEY: I do too.

MR. STOUDEMIRE: Dick, let me ask you a question. The right to vote and the right to serve on a jury are two different questions, are they not?

MR. WORKMAN: Yes, but they are linked, Bob.

MR. STOUDEMIRE: But I'm not sure they should be linked. I think that whether I can qualify to be a juror is one question and whether I'm qualified to scratch Bill Workman against somebody is another question.

MR. WORKMAN: But the still more important question in my judgement is the obtaining of the name of the person to serve as a juror, which in my judgement could well be divorced from the registration rolls.

MR. LINDSAY: What are you going to marry it up to?

MR. WORKMAN: I don't know, but this is the thing. There are too many people, and I'm constantly amazed at the number of otherwise respectable, reputable persons of substantial standing in the community who don't register simply to keep from being called for jury duty.

MR. LINDSAY: That's exactly right. That's what is happening with a bunch of women already.

MR. HARVEY: I agree with you a hundred percent. We have just been through a term of court in Beaufort and everybody was alarmed. We had juries made up of over half negro women.

MR. LINDSAY: I'll tell you this, the negro women are going to register and you are going to have a bunch of white women not registering because they don't want anything to do with this jury system.

MR. HARVEY: That's exactly right.

MR. RILEY: I think that's a temporary problem.

MR. WALSH: No, I'm not so sure it is.

MISS LEVERETTE: I was just debating whether to open my mouth or keep it shut.

MR. WORKMAN: Well, the situation I'm talking about prevailed before we got into the women thing.

MISS LEVERETTE: And there's no difference between men and women.

MR. WORKMAN: No, I'm not talking about women.

MISS LEVERETTE: I add voting, registering.

MR. WORKMAN: As we get to the area in which we do discuss jurors, I think we ought to give serious consideration to an alternative method of obtaining the names of people to serve as jurors.

MR. HARVEY: I agree with you.

MR. LINDSAY: It's a heck of a problem.

MR. RILEY: I don't see how you can do it unless you tie it into the system. You see, we handle our juries now under the IBM system. I mean it's a big thing. But with a central registration system, it will be done in Columbia. I mean it's liable to hit anybody, but---the central registration, all that is built in to take care of all these things and it offers all the protections. It is very systematic and to pull all that out and start over again with juries, that's something basic to me. The people you are arguing for are the people who are not looking up to their responsibilities. We can't set up a system to suit them.

MISS LEVERETTE: Anybody who does not register because they don't want to be on a jury, I wouldn't want them on a jury.

MR. RILEY: I think you are right.

MR. WALSH: I don't think they are entitled to vote either.

MR. RILEY: That's right.

MR. WORKMAN: If we start tapping the list of persons who are listed as income tax payers, we would be getting some people to serve on juries.

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MR. WEST: All right, the question is, shall we attempt to put a literacy provision in the Constitution or in the proposed draft, looking to the time when federal civil rights bill is not applicable to South Carolina. Thereby putting us within the twenty-five percent who do have a literacy clause.

MR. MCLENDON: What is the literacy requirement now?

MR. STOUDEMIRE: It's D. We struck too fast. It's on page five. "Any person who shall apply for registration---" well, of course it -will have to be reworded, provided he can both read and write any Section of this Constitution submitted to him by the registration officer, or can show that he has paid those taxes.

MR. WORKMAN: Well, now, we get to two fundamental questions. If we want a literacy test, what nature shall it take? This reading and writing or the equivalency of the sixth grade or eighth grade or whatever we determine, which is a more general approach to it. Secondly, do we still want to continue a saving clause in there for persons who are illiterate but who own property?

MR. RILEY: No, I don't think that ought to be in there.

MR. WALSH: Well, I'll say this. I don't think this reading and writing of the Constitution--if that's the literacy test--we just might as well save that ink, because the way it has happened in the past, you know they come up and register anybody.

MR. LINDSAY: Or, on the contrary. In some areas they don't register anybody.

MR. HARVEY: That's right.

MR. WALSH: Well, you've got the reverse and it's used as a system of--- in one area one thing is applied and in another area another.

MR. LINDSAY: There's no question about that. It depends on what registration man happens to be there.

MR. WORKMAN: There's no objectivity in this at all.

MR. WALSH: None at all.

MR. HARVEY: That's right.

MR. RILEY: I tell you--you know we've got compulsory education now and I think the next generation it would be superfluous, but I think right now I'd just as soon that it be in there.

MR. WORKMAN: Well, in addition to that fact that we might put in--we will say standard of literacy would be determined on whether a voter has had a sixth grade education or eighth or whatever we want to set it at or

alternatively that he successfully executes a test for that. Now, New York requires a test for literacy. They've got a form, not like college entry, but they've got this form and if you want to vote, you fill this out and you either pass it or fail it.

MR. LINDSAY: Well, this business of reading this Constitution is nothing. Frankly, I think it's worse than nothing and I vote in favor of taking this out.

MR. HARVEY: I was just getting ready to ask if any state had another test of literacy, and you said New York does.

MR. WORKMAN: New York does.

MR. LINDSAY: What about providing for such a literacy test as prescribed by the General Assembly?

MR. WEST: Provided that the General Assembly may provide for a reasonable literacy test or property qualifications.

MR. STOUDEMIRE: If we are being practical now, I would assume that the federal restrictions on South Carolina will be lifted, but I don't believe that the full federal voting rights act of '65 will be changed--provided that any person who has successfully completed sixth grade in a public or accredited private school is interpreted to be literate.

MR. LINDSAY: What kind of proof could a man give a board of registration that he finished the sixth grade other than just say, yeah, I went to the eighth. I mean from a practical standpoint.

MR. HARVEY: Equivalent to a sixth grade education.

MR. LINDSAY: Well, if you say equivalent, that's just a pandora's box. That doesn't say equivalent. That says if you have six grades of educational attainment you are presumed to be literate. It doesn't say that if you haven't reached it, you are illiterate.

MR. HARVEY: The model does say that the Legislature may by law establish a reasonable literacy test to determine ability to read and write the English language.

MR. LINDSAY: That's the alternative for that. What we've got here is nothing. For one thing, no court is going to leave it up to a registration clerk in Bennettsville or Marlboro County to have one standard and have a separate standard in Greenville County.

MR. HARVEY: That's right and this permits that.

MR. LINDSAY: Yes, it does.

MR. HARVEY: That's right.

MR. RILEY: Let's put "may" instead of "shall".

MR. HARVEY: "May" is the word that they used here.

MR. McLENDON: Read it again, Brantley.

MR. HARVEY: Well, they've got a number of things here. "Every citizen of the age --- shall be a qualified elector to vote in an election for all officers and on all questions that may be submitted --- but the legislature may by law establish" --- and they have "one, minimum period of local residence," which we have already discussed; "two, a reasonable literacy test to determine ability, except for physical cause, to read and write English," and "three ---"

MR. LINDSAY: I don't see why that isn't a perfect provision for us.

MR. STOUDEMIRE: On first thought I almost jumped out of my chair, but on second thought I don't object. I do think one thing is clear, that it can't go beyond the sixth grade because of the federal voting rights act.

MR. LINDSAY: How many sixth graders can read and explain the Constitution?

MR. WEST: Well, I think we ought to --- well, let's just say we are running out of time.

MR. WALSH: This is a startling thing to me. How many people come up as a juror --- Judge \_\_\_\_\_ now, he's been very particular about this. Some of the other judges are not quite as particular. He says all those who haven't finished the sixth grade please stand, and ten or twelve people stand up. Some of them are sixty years old and it's right embarrassing.

MR. RILEY: That's very embarrassing.

MR. WEST: And he starts quizzing each one of them.

MR. WALSH: Yeah, just one by one. He says what grade did you go to? One of them may say, "I went through the second grade."

MR. RILEY: That's very embarrassing. I can understand someone not wanting to serve on a jury if he had to go through that. If I just had a second grade education, , I'd be hesitant to register.

MR. WALSH: Well, he says, then, can you write your name and things like that. What sort of business are you in? If I give you twenty-five dollars and asked you to give me half of it back, how much would you give me, and if he answers that, he says well, you have the equivalent of a sixth grade education.

MR. RILEY: Well, boy, that's tough on a man.

MR. WALSH: Well, they do it and some of them are nice citizens.

MR. RILEY: I wouldn't be for embarrassing or humiliating a man. If he's drug in there to serve, somewhere down the line it should be done before then.

MR. LINDSAY: Well, maybe the judge ought to interview jurors privately then.

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MR. WALSH: I don't think they intend to do it, I'm just saying that some of them do.

MR. STOUDEMIRE: Gentlemen, on this clause, "the general assembly shall provide for a reasonable literacy test to determine ability, except for physical cause, to read and write". Now, I think if we go ahead and say English, that will be stricken. I think you've got to say read and write.

MR. WEST: Now, we've narrowed it down. We have the Maryland provision that gives to the general assembly the right to prescribe reasonable literacy tests.

MR. LINDSAY: I think that's how we ought to go.

MR. McLENDON: I do, too.

MR. RILEY: And strike the property provision on this.

MR. STOUDEMIRE: May --- the way I've got it down here--the General Assembly may provide a reasonable literacy test to determine ability except for physical cause--and I think that ought to be in there--

MR. LINDSAY: It's got to be.

MR. STOUDEMIRE: ---to read and write. To determine--reasonable literacy test.

MR. WORKMAN: I would leave in that English language. If they make us strike it out---

MR. HARVEY: I would, too.

MR. WEST: I think that's academic. All right, those in favor of this provision, raise you hand. All right. Now, again, I'm not trying to railroad you, but I do think we have to move along.

MR. HARVEY: Now, we are going to leave until we get over to juries whether or not we want to make any additional requirements to be a juror.

MR. WEST: That's right. Now, Bob, what's next, disqualifications?

MR. STOUDEMIRE: Section 12--I mean page thirteen, Section 5, appeal, crimes against election laws. We haven't done anything about that. My note here does not seem to be needed. Any person denied registration shall have the right to appeal to the Court of Common Pleas--wouldn't he anyway or not -- or any Judge thereof, and thence to the Supreme Court, to determine his right to vote and so on.

MR. WALSH: Where is that, now, what page are you on?

MR. STOUDEMIRE: Page 13, at the bottom. Section 5, which gives the person the right to go to court by Constitution.

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MR. WEST: If we put in that administrative appeals provision, which I presume we will, it should cover that, shouldn't it?

MR. STOUDEMIRE: Yes.

MR. WALSH: I think so, yes.

MR. HARVEY: Plus the general responsibility for the Legislature to provide the machinery.

MR. WEST: That's right. I don't believe that's needed.

MR. WORKMAN: Well, now, have we got -- did we some way else state the necessity that the General Assembly will provide for protection against bribery and so on?

MR. STOUDEMIRE: Bill, I think when we get through here that we are going to have to consider the wisdom of a four or five sentence section mandating the General Assembly to provide certain things that are essential to voting, like absentee -- you know. I think that will come up later.

MR. WEST: All right.

MR. HARVEY: What did we do with five?

MR. RILEY: We're going to see that that protection is put in there, but under another section or come back to this.

MR. STOUDEMIRE: Right. Tie in with administrative procedures. Now, gentlemen, you are down to Section 6 on disqualifying people from voting. As you know, despite how South Carolina has it worded, I think, historically, most places have dealt with felonies as opposed to our long listing, be that good or bad. Some places now permit the General Assembly to disqualify for serious crimes, is the way they state it, without getting into specifics. Which I assume, therefore, the word "serious" could be defined broader than "felony".

MR. LINDSAY: What has our Act got? Is it the same thing that's in the Constitution?

MR. McLENDON: Except that it added, in this last Act, it added murder and rape. I don't know why it wasn't listed in the Constitution.

MR. WORKMAN: Well, it was assumed, back in the days when justice prevailed, that if a guy was convicted of murder or rape that was the end of the guy. Now, there are more of them on the streets than there are in the pen.

MR. WALSH: You get a shorter sentence for murder than stealing sheep.

MR. STOUDEMIRE: Alaska tried to handle this thing all in one, "no person may vote who has been convicted of a felony involving moral turpitude," whatever that means, "unless his civil rights have been restored." Now, the interpretation I put on that, when I looked at the rest of their

Constitution, that is the way that they have handled the pardoning bit, you see. Without getting involved in a fixed pardon arrangement.

MR. WEST: Well, we've got this, our section says the same thing.

MR. LINDSAY: Except the Governor can't pardon.

MR. McLENDON: They took out the reference in the old Act about the governor because it had been removed.

MR. LINDSAY: Yeah.

MR. HARVEY: He can no longer pardon.

MR. WEST: I know he can't pardon, but --

MR. HARVEY: The Parole, Probation and Pardon Board can, can't they? So,-- this civil rights restored.

MR. STOUDEMIRE: What I think you would say in here now, though, if you are going to use that language is unless a pardon has been granted.

MR. LINDSAY: Yes, if they are pardoned it would remove such disqualifications.

MR. HARVEY: Well, it would do that anyway. If you are pardoned.

MR. McLENDON: That's right. That eliminates it.

MR. HARVEY: He still has been convicted, though. This says if he has been convicted, he is disqualified.

MR. WORKMAN: That's right. Now the question here is--there's a conflict of social philosophy here. One is if a guy is guilty of any of these crimes listed here, he is found guilty, he serves his time, he, theoretically, has paid his debt to society and is supposed to start over again.

MR. WALSH: Washed as clean as snow.

MR. WORKMAN: But, now, is it the intent, and I don't think it is going to show up in a proceeding, that persons once having been convicted for any of these crimes shall thereafter be debarred from voting forever.

MR. LINDSAY: That's what this means except by way of pardon. Pardon, of course, theoretically at least, cleanses the record.

MR. STOUDEMIRE: Well, it depends upon how much you go along with modern penal methods and rehabilitation. Now, of course, I think that they would probably argue that if I'm sent to jail for four years that when I have served my four years --

MR. LINDSAY: You're even.

MR. STOUDEMIRE: I'm even with the world and therefore next month I should be able to vote. That's the way a lot of modern people would argue.

MR. McLENDON: Well, this says that if you have served your term, you can't vote, but if you are pardoned during the term--

MR. STOUDEMIRE: That's right.

MR. LINDSAY: This is supposed to be, the loss of your rights, and added deterrent to crime above your actual sentence.

MR. STOUDEMIRE: I'm raising the question really, do we need some type of provision in here since it is a Constitution that would allow the General Assembly or somebody to change the method of being restored as people's thinking may change twenty years from now.

MR. WEST: Well, I'll tell you, if you debarred everybody who was actually guilty of adultery, bigamy and wife-beating--

MR. RILEY: And the thing about it is, you are letting those who haven't been caught up with vote and the fellow who has been caught up with and served his time, he can't.

MR. McLENDON: That's right.

MISS LEVERETTE: I have no particular respect for these people. I'm not real fond of them, but I don't think they should be permanently barred from voting.

MR. WORKMAN: There are a lot of ridiculous things in here if you measure the seriousness of offenses.

MR. STOUDEMIRE: That's right.

MR. WORKMAN: Assault and battery of a high and aggravated nature doesn't show up in here.

MISS LEVERETTE: Well, now, we are on our way to getting rid of miscegenation, too.

MR. WORKMAN: Yes. There are serious crimes that we do not include in here and there are relatively minor crimes which are in here.

MR. STOUDEMIRE: Well, isn't the question before us what level of crime you wish to disqualify for?

MR. WEST: Just to get an alternative before you, say, shall we disqualify for felonies or not?

MR. LINDSAY: Of course, that raises the question of whether or not felony is--what is a felony--we've taken care of that in the General Assembly because we came along and listed what is a felony.

MR. HARVEY: Did we by Act?

MR. LINDSAY: I thought we did.

MR. STOUDEMIRE: Yes, you have most of them. The Attorney General tells me there are a few things that trouble him that he can't quite put into that category.

MR. RILEY: What do you think of putting something, instead of the old felony idea, this idea that Bill states about a man serving his time, then he ought to be pretty well--the old idea that the blood is not tainted, the old common law there that your blood is tainted when you commit a crime and it stays with you. What about thinking about crimes like maybe crimes against the election laws, treason, or against the State or some kind of things of that nature.

MR. WORKMAN: I'd still be inclined to disqualify them on felonious crimes. Whether permanently or not, I don't know.

MR. WEST: Let's face it. The criminologist say, and I think it's true, that a murderer is ordinarily the most respectable citizen, because the ordinary murderer is a strong person and he does it in a heat of passion and he is the best candidate for parole.

MR. LINDSAY: Wouldn't the best provision to put in here be disqualification to vote will be felonies as prescribed by the General Assembly?

MISS LEVERETTE: What's wrong with the Alaska provision, a felony involving moral turpitude?

MR. WEST: I like that.

MR. STOUDEMIRE: Let me read two other modern expressions of the same thing. I think it might be helpful. In the proposed Maryland draft now, "the General Assembly shall by law establish disqualifications for voting by reasons of mental incompetence or conviction of serious crimes and may provide for the removal of such disqualifications".

MR. RILEY: That's good.

MR. STOUDEMIRE: Now, Michigan in '61, "the legislature may by law exclude persons from voting because of mental incompetence or commitment to a jail or penal institution". Now, they don't say how he gets out of those.

MR. LINDSAY: I like that other one.

MR. RILEY: I do, too.

MR. STOUDEMIRE: The General Assembly by law establish disqualifications for mental incompetence--without defining it--conviction of serious crime--and I think the interpretation you'd give there would be, could be larger than a felony, could it not. I mean more serious.

MR. WEST: A felony is the most serious category.

MR. STOUDEMIRE: Well, that would be a court interpretation then, if you went too far, as to what is a serious crime--and may provide for the removal of such disqualifications.

MR. WORKMAN: What document is that from?

MR. STOUDEMIRE: This is from the Maryland proposed constitution.

MR. RILEY: How about for serious crimes, say a felony involving moral turpitude.

MR. WORKMAN: What is a felony if it doesn't involve moral turpitude?

MR. HARVEY: Yes. All felonies are moral.

MR. LINDSAY: Involuntary manslaughter.

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Discussion as to whether or not manslaughter is a felony.

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MR. WEST: All right, do you want to say a serious crime involving moral turpitude?

MR. WORKMAN: No, a serious crime. Let's forget the moral turpitude. Again you flounder in a thicket of definitions.

MISS LEVERETTE: Well, I think you can't always say what a felony is. That's a question in every state and always will be, but you have a closer legal terminology there; you've got it pinned down a little more that way than if you say serious crime.

MR. WEST: But you are not trying to catalog or categorize. You are saying what the General Assembly may do. The General Assembly may say "all felonies except" or "all crimes involving moral turpitude which shall include".

MR. LINDSAY: Or the General Assembly may find that certain crimes that aren't felonies are serious.

MR. WEST: That's right. Any crime against the election laws, I think, should be included.

MISS LEVERETTE: Why leave it to the General Assembly?

MR. WORKMAN: Well, if you start bogging yourself down with details of enumerating crimes, and we've got this admittedly incomplete, an excess in some, and deficiency in another listing, and then the serious crimes

will vary over a period of years. I mean that's something that I think would fit more in a statutory definition than a Constitutional definition.

MISS LEVERETTE: Well, now, a felony involving moral turpitude seems to me to hit right at what you are trying to disqualify.

MR. STOUDEMIRE: May I read you a short section? The Maryland people in reasoning about their terminology, they recommend---"this draft section which leaves to the legislature the power to designate and define the crimes, conviction of which carry the consequence of loss of the right to vote. This draft section, however, does not leave the matter completely to legislative discretion. Disenfranchisement may only be imposed on those convicted of serious crime. The commission believes that serious crime prevents the legislature from disenfranchising those convicted of acts, which, although criminal, are nevertheless not regarded of such enormity as to justify loss of elective franchise. Moreover, substitution of the adjective serious in lieu of the adjective infamous frees the provision of the common law restrictions, and connotations that have been attached to the word 'infamous crime'." Which had been the way Maryland had done it before. A number of other states do use the term conviction of an infamous crime.

MR. RILEY: I think after the discussion, I could certainly go along with serious crime.

MR. WEST: All right. Those in favor of the provision giving the legislature the right to enact disqualifications of persons convicted of serious crimes with the provision that the legislature may provide for restoration of the rights.

MR. LINDSAY: More or less the provision in the Maryland thing?

MR. STOUDEMIRE: Right, and that would also include mental incompetence.

MR. WEST: Right. How many in favor?

MR. STOUDEMIRE: That's Maryland Section 2.04, Maryland Draft.

MR. WORKMAN: For legislative reference, I would seriously challenge the constitutionality of the election laws addition of murder and rape as disqualifications.

MR. HARVEY: I don't think it's constitutional.

MR. LINDSAY: I don't see how the legislature has got the right to do it.

MR. WORKMAN: Because the thing says a person who has the qualifications as to age and residence and so on and citizenship is qualified to vote. He can be disqualified for these things, murder and rape not among these things and the legislature can't put them in except by constitutional amendment.

MR. WALSH: I think you are absolutely right.

MR. HARVEY: I do, too.

MR. STOUDEMIRE: Well, now, gentlemen, in this section I think you have handled it all, but I want to be sure. There's another thing-- paupers supported at public expense. Now, I assume that will be stricken. All right, now, persons confined in any public prison is also in our existing Constitution.

MR. McLENDON: Didn't the Judge of Probate from Chesterfield run for office while he was in the State Pen?

MR. RILEY: Oh, yes.

MR. WALSH: That's right.

MR. LINDSAY: It says disqualified from being registered or voting. That would indicate, by gosh, that you'd have to purge him from the registration books if he went to jail for anything.

MR. HARVEY: No, we are talking about another section.

MR. LINDSAY: You are talking about persons disqualified from voting. Persons are disqualified from being registered or voting.

MR. HARVEY: I'm sorry, you're right.

MR. STOUDEMIRE: Persons confined in any prison. Well, he couldn't register while he was there.

MR. WORKMAN: Well, it is a little puzzling because I don't know of any wardens that let the cons get out to go register to vote.

MR. HARVEY: The question is if we remove this, then he could. A prisoner could demand, if he was in only for a misdemeanor, he could demand that he be allowed to go vote. So I think some statement is necessary.

MR. LINDSAY: Well, don't you think this disqualification is worded improperly here? The way it's written, if a man goes to jail they have got to purge the books. From a practical standpoint they wouldn't, I'm sure. But under the technical wording of this, in a challenge--in other words, if he went to jail, that doesn't disqualify him from re-registering, but every time a man goes to jail under this provision of the Constitution, I swear I believe they are supposed to strike his name off the registration book.

MR. HARVEY: I think that's the intent of it.

MR. RILEY: Right.

MR. HARVEY: Because you see, again, jurors come out of the registration books. You would want them off.

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MR. STOUDEMIRE: Driving under the influence is not one of the crimes in here, right.

MR. RILEY: Right.

MR. STOUDEMIRE: Now, I believe, if I had to go to jail for driving under the influence, the way I interpret this thing, then by some mystic means my registration certificate would be held in abeyance so I could not vote while I was in the jail.

MR. LINDSAY: That's right. That's the mystic means you're talking about, but that ain't what the words say.

MR. HARVEY: Well, Jack, wouldn't it overcome your objection--instead of saying the following persons are disqualified from being registered or voting, just persons incarcerated or in prison shall not be entitled to vote in that election.

MR. STOUDEMIRE: Now, gentlemen, that leaves us then what we adopted a while ago. The General Assembly shall by law establish disqualifications for voting by reason of mental incompetence, or conviction of serious crime, and may provide for the removal of such disqualifications. Now, number two, persons confined in any public prison shall not be allowed to vote.

MR. LINDSAY: That takes care of it.

MR. HARVEY: That's the intent.

MR. RILEY: Do you reckon we ought to say while confined?

MR. WORKMAN: No, it says "in".

MR. RILEY: "Shall not be entitled to vote", that could mean right on after they get out.

MR. LINDSAY: While confined in.

MR. STOUDEMIRE: Persons while confined in any penal institution shall not be permitted or allowed--which?

MR. LINDSAY: I wouldn't be surprised if at the time this thing was drafted but what it wasn't intended to mean that if you went to jail for any reason, the registration authorities would strike your name off.

MR. McLENDON: That's right.

MR. LINDSAY: You could go and re-register unless it was for one of those crimes that prevented you from re-registering.

MR. STOUDEMIRE: Persons while confined in any penal institution shall

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not be entitled to vote. All right, now Section 7, Residence gained or lost. "For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of the --"and so on.

MR. HARVEY: Didn't we omit it from the Bill of Rights?

MR. WORKMAN: No, how it came up, there is in the Bill of Rights a statement which says "temporary absence from the state shall not forfeit a residence once obtained". I, in some earlier study, suggested that in addition to that to spell these things out, but most of that addition is incorporated in this Section 7.

MR. STOUDEMIRE: We say in the Bill of Rights, consider under Article II, Section 7--sorry.

MR. HARVEY: Well, that's the only thing. We took it out of the Bill of Rights.

MR. STOUDEMIRE: Yes.

MR. WORKMAN: Did we remove it?

MR. HARVEY: Yes.

MR. STOUDEMIRE: No, we say consider with this one.

MR. WORKMAN: Oh.

MR. McLENDON: We didn't do anything, we're just going to consider it now.

MR. STOUDEMIRE: We moved to delay consideration, so we have that one from back there. Does this do any good? I don't think it does any harm necessarily.

MR. LINDSAY: Well, it just merely sets forth that a man who is in the service and is temporarily away, if he can get back here to vote, of course, we've got an absentee ballot now for service men.

MR. McLENDON: Service men and students.

MR. WORKMAN: Well, now I raise this for discussion only. Not while a student of any institution of learning or a patient in any institution of treatment or custodial care -- this is for people who are in hospitals or T.B. sanitariums or whatever outside the state for prolonged period.

MR. LINDSAY: Well, what about those in the same situation inside the state?

MR. WORKMAN: Well, that's another thing. We're talking about residence now.

MR. RILEY: Gained or lost.

MR. STOUDEMIRE: I'm wondering, gentlemen, do we need it?

MR. McLENDON: You are going to have to name, in addition to people while engaged in the navigation of the waters, you are going to have to include all airplane people, all bus people.

MR. HARVEY: Well, of course the point you're making is good. I've never read it with that in mind, but gained while presence in service of the United States, I think that my friends in Beaufort who buy a house and live there for two years, and yet they are there because of their service in the United States, they are entitled to vote.

MR. WEST: But they probably aren't.

MR. HARVEY: Probably aren't under this Section.

MR. STOUDEMIRE: Gentlemen, I wonder really if maybe we should not leave a statement of thought back under the Bill of Rights which says temporary absence from the state shall not forfeit a residence once obtained. Now, I think that is really just stating the old common law, but now, would not that embrace some of these other things. In other words, if I do not move---

MR. RILEY: Let's leave it under the Bill of Rights and strike it here.

MR. STOUDEMIRE: I automatically can claim all these other things under the Bill of Rights statement, can't I?

MR. WORKMAN: Under your interpretation of temporary. If you were a student at William and Mary for four years, this is temporary, and you are still a South Carolinian.

MR. STOUDEMIRE: Uh huh, and therefore not losing my residence and I have the right to participate in all things a resident of the State can participate in.

MISS LEVERETTE: Does that mean for all purposes, because residence varies.

MR. STOUDEMIRE: Yes. That's my thinking on it. Just strike it here and leave it in the Bill of Rights.

MR. McLENDON: Where is it in the Bill of Rights?

MR. STOUDEMIRE: Section 12. Is that agreed to, gentlemen?

MR. WEST: Is there any objection to that?

MR. STOUDEMIRE: Let stand in Bill of Rights and delete Section 7.

MISS LEVERETTE: Now, this is residence for all purposes now.

MR. STOUDEMIRE: Leave statement in Bill of Rights to cover.

MR. WORKMAN: Here, now, this gets to the absentee ballot proposition. Let me bring something up that Brantley had, this is important in a number of areas of South Carolina, notably Beaufort, Charleston, perhaps Greenville and Sumter and all. Section 7 of Article II for the purpose of voting, I'm excerpting, "no person shall be deemed to have gained a residence by reason of his presence while employed in the service of the United States". Now, that means that when people are here, army officers or naval officers who come in on extended assignments and live here for one year, two years or three years and goes and registers as a resident, under strict interpretation of this, he can't vote.

MR. STOUDEMIRE: This is our University students also. As for me, I'm willing to let the registration board determine if he be a resident, and then he can appeal from this, can he not.

MR. WEST: Residence is a question of intent, and if he intends to become a resident. We have a few in Camden, Sumter and all who say I'm going to retire here.

MR. LINDSAY: This Constitutional Provision here, if challenged, would keep them from voting.

MR. WEST: That's right and I don't think that's right.

MR. STOUDEMIRE: As I told the Charleston Kiwanis Club, if people started challenging everything in this Constitution, the court system of the State would break down.

MR. WORKMAN: There's a very critical item in here. Now that we are recommending the lowering of the voting residential requirement to six months and we've got either during the remainder of the Viet Nam War or if we had mobilization or something, we're going to have thousands of temporary people coming through South Carolina for as long as six months. Under our present situation, we would allow them to become voting citizens of South Carolina. Is that right?

MR. LINDSAY: If they elected to become residents. Now, of course, they can't claim their former residence if they are --

MR. STOUDEMIRE: Gentlemen, I really think what we are doing here today goes along with States' Rights. If we don't, if states do not reduce these things and states do not recognize citizens of the United States, we're going to have more federal --

MR. WALSH: On the other hand, in line with what you say, Bill, I think

the setting up of a system of registration, one of the things that might be asked, have you voted by absentee ballot and do you intend to vote by absentee ballot in any other state, and of course if they intend to do that they can't be residents of two places and are not entitled to registration under the six months provision.

MR. WEST: I think you've got to have some formula to determine intent.

MR. WALSH: It may be that the General Assembly will have to pay closer attention to this, but I rather question whether we ought to have it in the Constitution.

MR. WORKMAN: Well, perhaps the wording--no person shall be deemed to have gained residence for voting, but I think --- he is not assumed to have it, but if he goes through the machinery of becoming registered, then he can be interpreted as being properly registered.

MR. LINDSAY: That word "deemed" is the saving word in that Section.

MR. STOUDEMIRE: All right, do you all still stick with the deletion?

MR. RILEY: Yes.

MR. WORKMAN: Yes.

MR. STOUDEMIRE: All right, Section 9. We have already handled 8. Section 9 on page 16, "the General Assembly shall provide for the establishment of polling precincts in the several counties --- those now existing shall so continue until abolished or changed. Each elector shall be required to vote at his own precinct, but provision shall be made for his transfer"and so on.

MR. McLENDON: Didn't we take care of that in the general statement?

MR. STOUDEMIRE: I think so.

MR. WEST: All right. Any objections to striking?

MR. WORKMAN: Well, except that I raise the question as to whether or not we have or should have the requirement that voters -- in the Constitution -- vote in their own precinct.

MR. WEST: We provide for the precinct residence. So that would answer that.

MR. WORKMAN: Yes. We left that in there.

MR. STOUDEMIRE: Section 12. Section 11 we have handled. Now, down to 12. "Electors in municipal elections shall possess the qualifications and be subject to the disqualifications ---" now, you know, we do have a conflict in this section where it says four, you see where the Constitution has been changed to three and so on. Now, frankly, I don't know whether there's any reason to even mention municipal electors in

a Constitution as a special category. I mean if you do this, why not public service district electors who also vote on bond issues.

MR. WEST: The trend is going to be towards consolidation of city and county government and so and I think it is sort of archaic.

MR. STOUDEMIRE: I DON'T SEE ANY DISTINCTION. An elector is an elector. No matter what election he chooses to participate in.

MR. RILEY: That's right.

MR. STOUDEMIRE: The law would clearly say that unless he was a resident of a municipality, he couldn't vote, wouldn't it?

MR. WEST: Do we agree to strike Section 12?

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Short discussion  
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MR. STOUDEMIRE: Gentlemen, now, some Constitutions do say now which would apply to Section 12 and Section 13, which we are coming to. Some Constitutions do say that the General Assembly may provide by law for additional qualifications in municipal elections.

MR. WORKMAN: O.K., now, that's got to be in there.

MR. STOUDEMIRE: The Maryland draft --- Alaska has --- apparently some other people thought that something had to be given to that.

MR. RILEY: What was that last sentence, what does that mean, in Section 12 --- "the General Assembly may provide for such additional registration for voters"--- does that mean laws pertaining to registration of voters?

MR. STOUDEMIRE: I don't know.

MR. McLENDON: Probably means because under the regulations they weren't open but one day a week, one day a month ---

MR. STOUDEMIRE: See, what we have done, we have set up a special municipal registration, which is useless in many places. Also, --- I think you have to interpret that way back yonder in 1920.

MR. WORKMAN: Well, let's ask Emmet whether or not, in his judgment, we ought to have a savings sentence in there which allows the municipalities to manipulate the requirements a little, because if we don't put it in they can't and they can't do anything other than the thirty days.

MR. WALSH: I rather think that perhaps you ought to.

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MR. WEST: Do you want to give that some thought and report back?

MR. McLENDON: Well, while we've got it on our mind, let's put it in here tentatively according to whatever language it is we agreed on.

MR. STOUDEMIRE: That the General Assembly may provide for additional qualifications for municipal elections.

MR. WEST: May authorize additional requirements ---

MR. LINDSAY: Why not just say "shall provide for municipal elections"?

MR. WORKMAN: The question is, if a municipality were to determine for some presumably valid reason that they wanted persons to be residents within the city for sixty days or ninety days, under what we've just done, they can't do that. We have set residential requirements by the Constitution and nobody can come in and narrow those.

MR. STOUDEMIRE: Maryland says voting qualifications for local elections shall be provided as for the general --- State of Maryland --- a municipal corporation may establish a period of minimum residence not exceeding one year.

MR. WORKMAN: Well, that's getting at it, but we're not ---

MR. STOUDEMIRE: If you want to restrict it to residence --- that a general regulation shall apply except that somebody can establish a different residence period.

MISS LEVERETTE: Didn't we put an "except" in that other section-- "except that the General Assembly may"?

MR. WALSH: My thinking is that would be the only thing ---

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Discussion  
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MR. LINDSAY: Why don't we just say residence for a --- residence requirements shall be four months for a municipal election.

MR. RILEY: Just a general statement, the General Assembly may provide for such conditions for voting in a municipal election as it deems desirable.

MR. STOUDEMIRE: Gentlemen, the four months thing here is an error. This goes back to when our precinct thing was four months and we amended the Constitution and we did not amend enough, and this has been a source of irritation to municipalities because of the conflict.

Now, you see, when you change your municipal residence from the state residence, then you get into the whole question of your one certificate, when is it good and a whole bunch of complications. That was just error.

MR. WEST: We are almost on schedule and I want to stay on schedule without forcing anything. Are we agreed that there should be some provision authorizing a special residence requirement for municipalities?

MR. WORKMAN: I'd say no, in the light of what Bob has said.

MR. HARVEY: I'd say no.

MR. WEST: All right, then, are we agreed to strike?

MR. STOUDEMIRE: All right, strike 12, but may be reconsidered.

MR. WEST: We'll consider that Emmet voted on the prevailing side and may bring it up again.

MR. HARVEY: Let me just read here, just backing up. When we said about confinement disqualifying a person --- I was just looking under Kentucky where it says confinement under judgment of a court. You had better put that in there, because you can be confined under an arrest warrant.

MR. McLENDON: That's right. You can be confined by the Judge of Probate and all.

MR. STOUDEMIRE: Confined under the judgment of a court. O.K. Now, gentlemen, if my recollection is correct, on Section 13, concerns freeholders in a town signing a petition before you have a bond election. I think that under the small committee's decision earlier, we had already voted to strike this section completely.

MR. WEST: Certainly it should be considered in conjunction with the taxation section, if at all.

MR. STOUDEMIRE: Yes, and you will note that I naturally didn't Xerox all that section, but all of the major towns are exempt in some way anyway.

MR. WEST: Do we agree that Section 13, without objection, will be eliminated? All right, 14.

MR. STOUDEMIRE: Now, this is arrests of electors, it sounds good. I don't know if it does anything, but if you will read the cases on legislative immunity and the old common law, which I did one time to satisfy curiosity, breach of the peace generally is interpreted so broad until, really, about all it has is civil protection, but I don't know whether you want to leave it or not.

MR. LINDSAY: Boy, that's something else. I didn't know that was in there.

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MR. WORKMAN: It's in there and a lot of people, fortunately, don't know it's in there.

MR. STOUDEMIRE: If you follow the national rule, breach of the peace is interpreted to cover almost anything criminal. See, go back to when this principle developed in England, we have changed the language a little bit. My thinking is, when I read the cases, that really what they were getting at was to say exemption only from civil cases, I don't know why they didn't use such a simple expression, you see.

MR. WORKMAN: Well, I would think that the thrust of this is to try to keep people from being arrested on a trumped up charge, to keep people from voting.

MR. LINDSAY: I think it's all right like it is.

MR. WALSH: I have a feeling that without being of any great effectiveness it could be a deterrent in an area where you have a close race.

MR. HARVEY: This would allow Adam Clayton Powell to come back and vote for himself, wouldn't it?

MR. STOUDEMIRE: That's right. Gentlemen, it sounds good, now, and we have taken out a lot of stuff.

MR. WALSH: I kinda' like to see us just leave it in there.

MR. WEST: I think Section 15 probably falls in that category, too. What do you think?

MR. STOUDEMIRE: We have already covered it, but if you want to leave it in there.

MR. WEST: All right. Does that cover us?

MR. STOUDEMIRE: Not quite. Look on page twenty --- except for one thing, now, look at sub-section one, this isn't necessarily that way it would be drafted, but most Constitutions now, by giving the General Assembly the mandate to cover such things --- that the General Assembly by law shall provide for ballots, however that might be described, create public concepts, prevention of fraud, election procedures, voting absentee and so on. See, we have no where in the Constitution recognized or mandated in any way such things as how people are nominated, political parties, election contests, appeals and so on, and it is my feeling that really there ought to be a section which sort of directs the General Assembly in this way.

MR. RILEY: I think that's a good idea. Why don't you draw up a proposed section, and we can consider it? I think that's a good idea.

MR. STOUDEMIRE: All right. Now, then, you also see here, I have outlined for you that when all this is boiled down that the thing would cover more or less what we got into this outline. Now,

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presidential elections ---

MR. McLENDON: Excuse me, Mr. Chairman, I've got to go ---

MR. STOUDEMIRE: I've got one more inquiry. Is the Committee interested in the referendum and initiative as a Constitutional position?

MR. WEST: No.

MR. RILEY: What was that, Bob?

MR. STOUDEMIRE: Is the Committee interested in the referendum and initiative process as a Constitutional position. Now, a lot of states do. This would mean constitutionally that the legislature could submit a referendum to the people and they would be bound by the vote, or in most states a number of us could sign a petition and therefore make the law that you passed last year be submitted. By initiative it simply means that we get up a petition of a certain number of electors, we draft our law, put it on the ballot, like they do in California, and if it is O.K., then it becomes law.

MR. LINDSAY: I don't like it.

MR. STOUDEMIRE: The big thing here is, on the initiative especially, quite often they vote for the things, but they don't provide the money. I don't like it either.

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Discussion  
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MR. WEST: All right, ladies and gentlemen, I congratulate you all on keeping our schedule. We are right on time. The next meeting will be October 6th and 7th. Mack, I will not be here so it will be left in your good hands. The agenda looks good. We don't have too much carry over. Does anybody have anything ---? We decided yesterday that we wanted to continue meeting here. I again want to say that it is real heartening to be making such obvious progress. Bob, thank you again.

MR. STOUDEMIRE: Now, the procedure generally suits you.

MR. WEST: Yes.

MISS LEVERETTE: Mr. Chairman, I want to thank this blue ribbon group for their kind reception of me.

MR. WEST: We are glad to have such an able worker.

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MR. STOUDEMIRE: You will note that on the agenda next time we have indebtedness. Now, it's my thinking that I would pick up where we left. Remember that left two basic questions to be decided. One was shall school districts be allowed --- be required to vote and the other one was --- remember I think Mr. Sinkler wanted the wording of the section to be much longer than what some other people seemed to want the wording.

MR. WALSH: Well, I'll say this. I'm not at all satisfied with this whole debt provision.

MR. HARVEY: I'm not either.

MR. WALSH: I think it needs examination from one end to the other.

MR. STOUDEMIRE: Well, the whole trend is that you give to the governing body almost the right to issue.

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Discussion

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The meeting was adjourned at 12:10 p.m.

Memo. No. 4

To: Committee on Constitutional Revision

From: Robert H. Stoudemire, Staff Consultant.

1. The next meeting will be held October 6 and 7, beginning at 10:00 a.m. in the Wallace Room, South Carolina State Board of Health, Bull Street Extension, Columbia, South Carolina.
2. Enclosed are four studies prepared by me on the general topic of State Services. For identification purposes, this paper is referred to as Working Paper Number 4. (Declaration of Rights - Working Paper Number 1; Suffrage - Working Paper Number 2; and Eminent Domain - Working Paper Number 3)
3. The paper on Finance and Taxation will be mailed Monday and the one on Debt on Tuesday.
4. The Minutes of the last meeting are very long but will be ready soon.