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South Carolina House of Representatives

Legislative Update & Research Reports

Ramon Schwartz, Jr., Speaker of the House

Volume 3

February 4, 1986

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OFFICE OF RESEARCH

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Legislative Update

Legislative Aides: Who to See, What to Do

Funds have been set aside for Members of the House to hire Legislative Aides to assist them in their duties. These Aides can be used in a variety of ways—office work, clerical duties, constituent services—to help members.

In charge of the administrative portion of the program will be Sophia Floyd, Executive Secretary to the Operations and Management Committee of the House. Ms. Floyd's office will be 534 of the Blatt Building, and her telephone number is 758-2191.

Ms. Floyd will be able to assist Representatives with the Legislative Aide program, and answer any questions you may have.

In order to hire a Legislative Aide, members will have to complete a certain amount of paperwork. (Actually, the Aide can do the paperwork and members merely sign it. Helping with paperwork is one of the things they are supposed to do.) There are four documents which must be completed:

An Employment Form for Legislative Aides—this must be signed by both the Aide and the House Member.

An Employee's Withholding Deductions form—for tax purposes. This is signed by the Aide only.

A Retirement System Form—Aides can elect to participate or not participate in the S.C. Retirement System. In either event, they must complete and sign a form.

A Payment Authorization Form—Actually, a time sheet, telling when and for how long the Aide work. This must be signed by both the Aide and the Representative.

House members who have more than administrative concerns relative to the Legislative Aides, or who wish more in-depth information, should contact Sam Carter, Executive Director of the House Research and Personnel Office, 324 Blatt Building, 758-5096.

Legislation Introduced

Government Operations

State Operated Lotteries, Pari-Mutuel Betting (H.3348, H.3382, H.3383). This series of bills would permit the state to operate either lotteries or pari-mutuel betting. The first measure, H.3348, would authorize a statewide advisory referendum on lotteries during the 1986 general election. Voters would be asked to declare if they were in favor of "the operation of lotteries by the State."

The second measure, H.3382, proposes a Constitutional amendment to allow operation of pari-mutuel betting by the state. Of the net income from this betting, 50% would have to go to property tax relief; the other 50% would have to go back to counties on a pro rata basis to make up for money lost because of the phase-out of revenue sharing.

Finally, H.3383 would amend the Constitution to permit the state to conduct lotteries. Income would be distributed in the same fashion and for the same purposes as in H.3382.

Minimum Sheriff's Salary (H.3350). Under provisions of this bill, sheriff salaries in South Carolina would have a minimum depending upon the population of the particular county. The amounts proposed are:

<u>County Population</u>	<u>Minimum Salary</u>
up to 10,000	\$28,339
up to 20,000	31,939
up to 40,000	34,922
up to 70,000	37,914
up to 100,000	39,360
up to 250,000	45,659
over 250,000	50,000

These amounts would have to be increased by 6% annually, provided that the sheriff met educational requirements of 12 hours of training approved by the Criminal Justice Academy.

Public Parking Lots Under Police Jurisdiction (H.3351). Public parking lots would be placed under the jurisdiction of the police department, who could then write tickets, etc. for illegal parking and other violations. Signs would have to be posted informing the public that the lot is under police jurisdiction.

Tax Commission Investigations (H.3352). This measure would prohibit the S.C. Tax Commission from having or using a "Criminal Intelligence Division" regarding tax matters. The Commission would be allowed to conduct investigations relating only to civil actions. Criminal action investigations would have to be conducted by the Attorney General's office.

Consolidation of Political Subdivisions (H.3384). Consolidation of county and municipal governments is sometimes suggested as a way of eliminating duplication of services, providing more responsive government, and reducing tax burdens. It is an idea which has been put into practice in some parts of the country—Dade County in Florida, for example, which is a consolidated subdivision including Miami.

A bill has been proposed to provide procedures for consolidating political subdivisions in South Carolina. The procedures would allow municipalities and counties to abolish their present governing bodies, and create a new, single entity with the powers and responsibilities of the former governments.

First, the governing body of the county would be authorized to create a consolidation commission of twelve persons. Four members would have to live outside the largest municipality in the county. Each municipality would have proportional representation on the commission, determined by the latest census figures. If a city elected not to name a commission member, the county governing body could appoint someone. Vacancies would be filled in the same fashion.

The commission would meet, organize itself and start work. It would study all matters relating to establishing a single countywide government. It would draft a proposed consolidated government charter which provides for the following:

- abolishing existing governments and creating a new one;
- making the new government eligible for all assistance, grants credits, funds and etc. available to the old governments;
- specifically abolishing or maintaining any public authorities and special purpose districts in the county;

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- abolishing any public offices or public employment, and creating new ones in the single government (with the exception of constitutional officers, members of the judiciary, and schools);
- allowing the new government to assume debts from the old, to levy taxes and create and alter taxing districts;
- providing a method to dissolve the new consolidated government (but not until at least four years have passed);
- providing methods to include areas and municipalities not brought into the single government at the beginning.

The commission must prepare this draft charter within a year. The charter is filed with the clerks of the county and all municipalities, and an election must be held for voters to decide on the plan. To be approved, the charter must be approved by a majority of voters in the county, and in the county seat or largest municipality. If voters in any other municipality refuse the plan, that town or city is outside the consolidated government, but the rest of the county joins.

Two groups receive special protection in the legislation: schools and electrical suppliers. The consolidated government could not affect school employees, county boards of education or boards of trustees. The rights of electrical suppliers would also be preserved, and the charter would have to be specific reference to their rights under the new consolidated government.

Health

Medical Malpractice Statute of Limitations (H.3359). This bill proposes limits on the time in which medical malpractice suits can be brought, the amount of damages that can be awarded, and the attorney fees which can be collected.

First, actions for malpractice for personal injury for medical, surgical or dental treatment must be brought within three years from the treatment or cause of injury, or three years from when the injury "reasonably ought to have been discovered." At any rate, the action must be brought within six years. Should the cause of action be a foreign body—say a sponge—inadvertantly left in a patient's body, then the patient has two years to bring suit.

If liability is established in a malpractice case, a separate, non-jury hearing must be held to determine if the plaintiff is receiving payment from another source for his or her injury—for example, an insurance policy. If so, this payment must be taken into account. This is the "collateral source" provision, which is an often debated point in the medical malpractice issue.

Noneconomic damages awarded cannot be over \$100,000. "Noneconomic damages" include such items as pain and suffering, loss of companionship, loss of comfort, mental shock and suffering, grief and sorrow.

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Finally, attorney fees based on "contingency of prevailing" in a medical liability case are limited. The limits imposed would be:

<u>Attorney Fee Limit</u>	<u>Amount of Award</u>
40%	first \$50,000
30%	next \$50,000
20%	next \$100,000
10%	any amount over \$200,000

Labor, Commerce and Industry

Workers' Compensation: Discharge or Demotion (S.210). This bill would make it illegal for an employer to fire or demote an employee who files a claim with the Workers' Compensation system. Legitimate reasons for discharge or demotion are specifically spelled out—such as habitual absence or tardiness, and so forth. The burden of proof would be on the employee who brings the civil action. If the plaintiff prevails, the employer is liable for any lost wages.

Crime & Law Enforcement

"Guilty" Plea to Murder: No Review (H.3385). This legislation would provide that a person who pleads "guilty" to a murder charge would have no right to review of the case by any court in the future.

Education

State Aid for Guidance Counselors (H.3389). School districts would receive state aid to provide guidance counselors for every 1,000 students. Within five years, the figures would be one counselor for every 750 students. Grants would be provided by the Education Department to pay counselors; pay would be the same as school teachers with comparable experience and education.

Lotteries & Bank Robbers

Lottery legislation is once again filed in the S.C. House: H.3348, H.3383—see page 3 of this issue of the *Update*. Once again debate will rage over the pros and cons of having the State conduct—or allow—gambling operations. The issue is not limited to South Carolina. The latest would-be entrant into legalized gambling—Louisiana.

The state's colorful governor, Edwin W. Edwards, has announced plans for casino gambling and a state-run lottery. Governor Edwards will call the legislature back into special session on February 2 to consider the proposals.

The legislation would allow casino gambling in the three parishes of the New Orleans area (Orleans, Jefferson and St. Bernard), and aboard cruise ships in the Port of New Orleans. Proceeds would go into the state's general fund, which is now running at a deficit. Local governing bodies of the parishes could nix the operations.

Also in the package: a constitutional amendment allowing a state lottery. Income from this source would go to education and aid to the elderly.

According to Edwards, casino gambling would bring in \$350 million annually to Louisiana, create 100,000 jobs and add \$2 billion a year to the New Orleans economy. A lottery could haul in \$150 million the first year, and up to \$250 million per year thereafter.

One reason for Edward's urgency: Florida voters go to the polls in November to decide on casino gambling for that state.

* * *

"Bank" Robbers—Literally. "Bank robbers" are generally thought to be people like Jesse James or Willie Sutton—criminals who break into banks to steal the money. In Minnesota, however, it was a bank that did the breaking and entering.

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Officials of the First National Bank of Elk River, Minnesota, broke into Marty's Auto Service, because Marty was behind in his loan payments. Marty's Auto had taken out a \$15,000 loan in 1982, and by 1984 was more than \$3,000 behind in paying it off. Tired of waiting, First National sent its vice president, its lawyer, an off-duty highway patrolman and his son to Marty's. They climbed in through a window and took away tools later auctioned off for \$4,850.

A court case followed, in which Marty's Auto Service was ordered to pay the bank \$10,866 plus interest and attorney's fees. This decision reached the Minnesota Court of Appeals which reversed it. The Appeals court said it was "appalled" at the break-in, and chided the bank for not using the judicial process to enforce its claims.

* * *

Black History Month: Focus on South Carolina

February is Black History Month, a time to reflect on the struggles, accomplishments and contributions blacks have made to America and South Carolina. In a state with as much history as ours, it is not difficult to find mention of blacks who have played conspicuous roles during the centuries. To mark Black History Month, *Legislative Update* presents a selection of short notes about notable South Carolina blacks. These are representative figures from all stages of our State's history, showing the varied and various backgrounds of the black citizens of South Carolina.

Jehu Jones and Charleston's Grand Hotel

Not all blacks in South Carolina before the Civil War were slaves. Free black men and women did live in the South, although their numbers were few and the restrictions on them were many. Some were freed by their masters; others saved up enough money to purchase their own freedom; and some free blacks moved to this state from other places, most often the Caribbean.

The family of Jehu Jones seems to have come from that area. Jones was born during the latter part of the 1700's, but we are not sure exactly when. He started off as a tailor, but soon displayed considerable financial skills. His mother left him some money and he used it to start buying land in Charleston.

In 1809 he bought a lot on Broad Street, next to the prestigious St. Michael's Church. Jones continued to accumulate money and waited patiently; in 1815 he bought two more lots he wanted—they were also on Broad Street, adjacent to the property he already owned. The cost was \$13,000, a considerable sum for those days.

Now Jones had a lot large enough to build on. He first built Jones' Long Room, a restaurant and inn. Later this became Jones' Hotel, which was soon recognized as the premier hotel in one of America's most cultured cities. Bernard Powers in his book Black Charleston: A Social History tells of the fame that attended Jones' Hotel:

His house was unquestionably the best in the city and had a widespread reputation. Few persons of

note ever visited Charleston without putting up at Jones', where they found not only the comforts of a private house, but a table spread with every luxury the country afforded. The Governor always put up at Jones', and when you were travelling abroad, strangers would speak of the sumptuous fare at Jones' in Charleston and the elegance and correctness of his house.

A contemporary of Jones' was Thomas Hamilton, an English traveler. Hamilton had a reputation of being fastidious and extremely hard to please; he delighted in attacking poor service and bad hotels in his travel books. But this is what Hamilton wrote in his book, Men and Manners in America: "Every Englishman who visits Charleston, will, if he be wise, direct his baggage to be conveyed to Jones' Hotel."

During the 1830's then, Jones' Hotel was the place to stay in Charleston. Many travelers declared that it was the finest hotel between Baltimore and New Orleans. Jones also operated a resort hotel on Sullivan's Island.

Unfortunately, Jones' history does not end on so happy a note. During the middle part of the 19th century there was considerable interest among both blacks and whites in plans for American blacks to return to Africa. Liberia was the most successful results of this movement, but there were others. Jehu Jones was attracted to one of them, and left the hotel business to become editor of a newspaper which, the organizers promised, would be published in Liberia.

He left Charleston. It was a bold move, because the authorities made it clear that blacks who left the state to join the back to Africa movement would not be permitted to return.

Jones never got further than New York, where he was stranded by the organizers of the proposed return. Prohibited from returning to South Carolina, he was forced to sell his property there, including his hotel. He lived the rest of his life in "virtual exile," unable to return home.

At the least, however, he could look back upon accomplishments which would have won any person renown, and which were all the more exceptional for a black man in antebellum Charleston. At his death, Jones left an estate of \$40,000.

Macon B. Allen and the Law

Macon B. Allen was born sometime around 1816 in Indiana. Since the Indiana Territory did not have slavery, he was free from birth. Around 1840 he moved to Portland, Maine. There he became friends with a local lawyer and anti-slavery leader, General Samuel Fessenden. Allen read law in Fessenden's office, and in 1844 was admitted to the Maine Bar.

He soon moved. As Clarence Contee says in a study of Allen: "Almost immediately, Allen detected that Maine was not a good place for a black man to try to make a living at the bar. He was to discover what so many early black lawyers learned—that he had to practice where blacks lived and he had to have another occupation as well."

Allen moved to Boston in 1845 and was soon practicing law there. He was associated with William Lloyd Garrison and other leading abolitionists. In 1848 he was appointed Justice of the Peace in Middlesex County.

After the Civil War, Allen decided to move again, this time to the South. Although the records are a bit sketchy, he was in Charleston by 1868, and he became a law partner with William J. Whipper and Robert Brown Elliott, two black men well-known for their political activities during Reconstruction. Allen soon joined them in the political arena, when he was nominated for Secretary of State on a splinter Republican ticket. Allen was defeated in the election.

He was more successful, however, in judicial elections. In 1873 the State Senate chose him to be Judge of the Inferior Court in Charleston. This Court was "inferior" only in the sense that it could not hear capital cases; it was actually a very important and busy position. In 1876 Allen was elected Judge of Probate Court for Charleston County, a position he held until at least 1878.

He continued his legal practice, and was widely acknowledged to be one of the leading attorneys of the day. He died in 1894 in Washington, D.C., but was buried in Charleston.

The Fighting 371st

When the United States entered the First World War in April, 1917, black men across South Carolina flocked to the draft boards to register. State authorities, however, were reluctant to accept them, and gave a number of spurious reasons to keep them out of the service. The federal government, however, soon ordered all states to register black men for the draft.

And register they did. Over 300,000 men in South Carolina had registered by the end of the war, and more than half of them were black. Enough blacks entered the army that the South Carolina blacks had their own regiment, the 371st. The 371st was organized on August 31, 1917 at what was then Camp Jackson. The regiment was assigned to the 93rd Division and went into battle in France.

By 1918 the war in Europe had dragged on for four long and bloody years. After the initial battles it had quickly turned into the slaughter of trench warfare, with both sides deeply dug in and movement impossible. American troops such as the 371st soon learned that the German soldiers were tough, battle-hardened veterans who knew all the tricks of warfare.

The 371st went into action around Champagne, and it was there that two Sumter natives won decorations for their heroism in battle. Corporal Sandy Jones and Corporal Sandey E. Moses were in the same company of the 371st. On September 28, 1918, the Germans launched a surprise attack on the American lines, and they struck hard. In the opening moments the Germans killed all the officers in Jones' company and scattered the men.

Acting quickly, Jones—who was the company clerk—rallied the troops and reorganized them, directing a stand against the attacking Germans. While Jones held the Germans at bay, Moses went out into the battlefield and rescued wounded soldiers; he made repeated trips, despite the heated battle raging around him.

The two soldiers were later decorated for their actions. All in all, the 371st was a much honored unit. The French Government awarded it a special citation for bravery, as well as presenting it with the *Croix de Guerre*. The regiment received 89 Crosses of War, and 21 Distinguished Service Awards. The awards were earned at a considerable price. At the one battle of Campagne alone, the 371st suffered high casualties: 1,003 enlisted men and 50 officers were killed or wounded.

The 371st fought in campaigns of the Meuse-Argonne, Lorraine, and Alsace. All of these were fierce encounters in which the American troops were pitted against veteran German units. Following the end of the war, the 371st returned home, and was demobilized on February 28, 1919.

Mary McLeod Bethune: Educator

Mary McLeod Bethune, who became one of the outstanding educators of her times, did not begin her own schooling until she was eleven years old. She was born in 1875 in Mayesville, South Carolina, the youngest of seventeen children born to former slaves. She spent her early years with the other children, working in the fields with her family. From an early age, however, she cherished an ambition to learn to read and write.

When she was eleven, the Mission Board of the Presbyterian Church opened a school for black children in Mayesville. The school was only open four months out of the year, so that its students could still help their families with the crops. It was at this school that Mary McLeod learned to read and write. For the rest of her life she would gladly learn and gladly teach.

At 14 she went north to further training and education at the Scotia Seminary, in Concord, North Carolina. She remained at Scotia for seven years, and then received a scholarship to attend the Moody Bible Institute in Chicago. She graduated in 1895. Following her graduation she had hoped to be sent as a missionary to Africa; ironically, the openings for blacks as African missionaries had been filled. Mary McLeod went to Atlanta instead.

In Atlanta she taught at the Haines Normal Institute, and it was there that she met her husband, Albert L. Bethune. After their marriage she taught school for a time in Savannah, Georgia. Then she and her husband moved to Florida.

There, in 1904 she opened a school for black children: the Daytona Educational and Industrial Training School. She was the "teacher, fund raiser, and construction foreman for the school." Under the inspired leadership of Mary Bethune, the school grew and prospered, gaining in respect and reputation.

In 1923 the school merged with the all-male Cookman Institute to form Bethune-Cookman, one of the South's most noted institutions today. Bethune-Cookman currently has an enrollment of over 1,700, with more than 120 instructors on its staff. Mary Bethune was its first president, a position she held until 1942.

Her accomplishments continued. In 1935 she founded the National Council of Negro Women. Today, this organization is a coalition of 27 Black and other minority women's groups which works to ensure participation by all groups in the social, economic and political aspects of American life. Membership of the Council includes most major Black sororities, the National Association of Negro Business and Professional Women's Clubs and Trade Union Women of African Heritage. Total membership is over four million women.

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During the administrations of Presidents Coolidge and Hoover, Mary Bethune served on the National Child Welfare Commission. In 1935 she came to Washington, D.C., as a Special Advisor on Minority Affairs to President Franklin D. Roosevelt. The next year she was appointed Director of Negro Affairs for the National Youth Administration.

In 1942 she received the Thomas Jefferson Award for her achievements. She served as a vice-president for the National Association for the Advancement of Colored People. She was an active writer, with newspaper columns and magazine articles appearing frequently in the national press.

Internationally known and respected, Mary Bethune was a consultant at the conference that drafted the Charter of the United Nations in 1945. After long years of service to her state, her nation, and her fellow human beings, Mary McLeod Bethune died in 1955. On the 99th anniversary of her birth, a statue was unveiled in Washington, D.C. It was the first statue honoring a black American in our nation's capital. A portrait of Mrs. Bethune also hangs in the State House in Columbia, South Carolina.