

# Exhibit A

Report of S. Jonathan Bass, Ph.D.

I am an Associate Professor of History and Chair of the Department of History at Samford University in Birmingham. I have a B.A. in History and Communication Studies from the University of Alabama at Birmingham, a M.A. in History from the University of Alabama at Birmingham, and a Ph.D. in History from the University of Tennessee (Knoxville). My doctoral studies at the University of Tennessee included an outside research and teaching field in Mass Communications and Journalism History. While at the University of Tennessee, I studied under Dr. James C. Cobb (currently the B. Phinizy Spaulding Distinguished Professor of History at the University of Georgia) and Dr. Cynthia G. Fleming (currently Professor of Africana Studies and History at UT). Before coming to Samford in 1998, I taught courses in the department of African and African-American Studies and in the College of Communications at the University of Tennessee.

I am a civil rights historian with an emphasis in Alabama history. I am the author of *Blessed are the Peacemakers: Martin Luther King Jr., Eight White Religious Leaders, and the Letter from Birmingham Jail*. Published by Louisiana State University Press in 2001, the book is an examination of how clergymen from differing religious communities responded to the racial crisis in the South. The book was nominated for a Pulitzer Prize and the National Book Award. I am currently completing two book-length manuscripts: one on the history of the Balch & Bingham law firm and another entitled *He Calls Me By Lightning: The Search for Justice in Southern Courtrooms, Prison Cells, and Death Chambers*, which examines the outlawing of race-based jury exclusion, the integration of southern jails, and the death penalty. I also teach courses in Race and Poverty, Alabama History, Civil Rights, African-American History, America Since 1945, Southern Politics, and Political Reform.

In preparing this report, I examined several primary sources including periodicals (*Alabama News Magazine, Alabama School Journal, Black Belt Journal, Birmingham News, Birmingham Post Harold, Birmingham World, and the Montgomery Advertiser*) and archival holdings, manuscript collections, and government records at the state records repository housed at the Alabama Department of Archives and History (ADAH) in Montgomery. My review at the ADAH included the following records: Alabama Governor: 1963-1967 (Wallace); Alabama Governor: 1967-1968 (Wallace); Alabama Governor: 1968-1971 (Brewer); Alabama Governor: 1971-1979 (Wallace); and Alabama Governor: 1979-1983 (James). Within these collections, I looked at the various governors' "Administrative Files," "Legal Advisors Files," "House Bill Register (1971-1979)," and "Speeches." Also at the ADAH, I examined the Secretary of State files, which included the following House Bills: From the 1971 Third Special Session, Amendment 325, Act 71-116, HB 56 (located in SG 1387/SG 2159); from the 1978 Second Special Session, Amendment 373, Act 78-6, HB 171 (located in SG 1514/SG 2297) and from the 1982 Session, Act 82-302, HB 161 (located in SG 1703 and SG 2357). I also examined several secondary sources, including the following: Rogers, Ward et al., *Alabama: History of a Deep South State*; Jeff Frederick, *Stand Up For Alabama: Governor George Wallace*; Permaloff and Grafton, *Political Power in Alabama*; Rubert Bayless Vance, *The Urban South*. Finally, I conducted oral history interviews with former Alabama legislator Ben Erdreich and former Alabama senator George McMillan.

This report examines the issue of whether race was a motivating factor in the adoption of Amendments 325 and 373 to the Alabama Constitution and the subsequent current use legislation. I am paid \$175 per hour for my work. As of the date of this report (September 8, 2009), I have spent 149.5 hours conducting research for and drafting this report. Other than this

matter, I have not testified as an expert or served as a consultant to litigation. A more complete description of my qualifications and a list of all of my publications within the last 10 years are provided in my CV attached to this report.

#### I. Background

Conflicts in Alabama politics have long existed. There are certain patterns regarding political divisions in the state (beyond just race) upon which most scholars agree. For instance, as Wayne Flynt has noted in *Alabama: The History of a Deep South State*, an “age-old pattern consisted of sectionalism between north and south Alabama,” where politically discontent hill-country farmers in the north battled against the wealthy planters of the southern Black Belt. (412-413). However, the most prevalent conflict in more recent Alabama history has been the clash between rural and urban political forces in the state.

This urban/rural clash is not unique to Alabama but has been a significant issue in other areas of the United States as well. These rural versus urban divisions are one element of what V. O. Key referred to in the late 1940s as the “robustness of Alabama political life” which defied the “conventional stereotype of the South as a region of hidebound reaction.” V. O. Key, *Southern Politics in State and Nation* (37) (noting that Alabama had produced Hugo Black, Lister Hill, and John Sparkman). Unlike other southern states, Key argued, “Alabama presents a more complex, and more unusual situation.” (53). In 1963, historian Dewey Grantham noted that southern politics was much like a “crazy quilt,” extending beyond and deeper than the single dimension of race. “The rich hues and contrasting colors remind one of the conflict and diversity that run strongly through southern history,” he wrote. (Grantham 97).

By the late 1960s, federal court rulings were dramatically changing Alabama. “With all these legal actions,” Daniel Savage Gray has written, “it became obvious that Martin Luther

King's 'new Alabama' was being achieved. . . ." (Daniel Savage Gray: *Alabama: A Place, A People, A Point of View*, 265). Evidence suggests, and such was the widespread view at the time, that Alabama politics by the 1970s had moved into a new era. Reformers had gained the advantage over the purveyors of the status quo. In 1970, African Americans Thomas Reed and Fred Gray were elected to the state legislature. A supporter said at the time, "We are through with plantation politics. From now on we will create alternatives and let the power structure react." (Gray 270).

At this same time Alabama also created its first state-wide elected school board. The AEA Journal noted that "[v]irtually without exception states which have tried the elected state board and appointed superintendent found this a great improvement over the plan of letting the governor appoint the board and electing the superintendent." (*Alabama School Journal*, March 1971). In addition, by the 1970s, the Alabama Education Association had integrated, and the early 1970s saw Paul Hubbert come into his own as a state-wide legislative power.

It is with the backdrop of these political developments that Alabama's property tax changes in the 1970s must be viewed. It must also be understood at the outset that Amendments 325 and 373 greatly enhanced the power of voting majorities, whether white or black, in rural Alabama counties, municipalities, and other taxing authorities to increase ad valorem taxes by increasing millage rates.

## II. Amendment 325

Lynne Brannen, writing in the *Alabama School Journal* (the publication of the Alabama Education Association) in February 1971, made special note of a "restyled" governor and a "new look" of the Alabama Legislature as they moved towards the special session. The greatest fear, Brannen conceded, was continued feuding between "rural-urban forces," because of the

governor's "apparent favoritism to representatives of smaller counties with strong agrarian interests." (*Alabama School Journal*, February 1971).

Wallace's posturing on the property tax issue, as reported in the press, reflected the age-old political stance of "no new taxes." At the opening of the third special session of the state legislature on November 30, 1971, Governor George Wallace threatened to veto any attempt to impose a "substantial increase" in property taxes. He warned that equalization of assessments throughout the State should not be a "backdoor method of increasing taxes." (*Montgomery Advertiser*, December 1, 1971).

The *Montgomery Advertiser* reported that Wallace addressed the joint session, which convened at noon on November 30, for "what shapes up as a hectic battle over property taxes." According to the *Advertiser*, Wallace described the joint session as the most significant meeting of the legislature that he had "spoken to in my years in politics." As reported by the newspaper, he hoped taxes would remain low and that the "legislature will not increase the total take from the people." The *Advertiser* reported that Wallace "favored a classification system whereby property is assessed according to its use, but said he favored no particular plan." According to the paper, the Alabama Farm Bureau and other rural organizations (like the Alabama Cattlemen's Association) were "pushing a classification system that would range from 15 per cent for farm property to 30 per cent for utilities." The paper reported that this proposal was opposed by urban interests, including the League of Municipalities. (*Montgomery Advertiser*, December 1, 1971).

An analysis of the editorial content of the *Birmingham News* during December 1971 and January 1972 reveals this urban frustration with the Farm Bureau's property tax proposals.

"Why should residential property be subject to a considerable higher ad valorem rate than farm

land?” the *News* asked. “It’s true that residential property produces no income tax-producing revenue, as such, but it does sustain the daily lives of people who produce tax revenue from scores of sources.” (*Birmingham News*, January 3, 1972). A few weeks later, an editorial writer for the *News* described the “high aroma” of the proposed tax law. “It is a dish spoiled by too many cooks.” (*Birmingham News*, January 11, 1972). The paper pointed a finger at the Alabama Farm Bureau. The paper’s venerable cartoonist, Charles G. Brooks, drew an editorial cartoon, which depicted the farm bureau lobby as an overgrown money bag overlooking the Alabama Legislature. A giant, stinking, overflowing garbage can (entitled “Alabama’s Property Tax Situation”) rests on the floor of the legislative body—a large “LEGALIZED” sticker has been stuck on the side of the can by the rural interests in the legislature. “Didn’t I tell you,” the moneybag says, “that sticker would make it smell good?” (*Ibid.*).

Three differing property tax plans were under consideration by both the Alabama House and Senate during the 1971 special session. The first, described as the “majority report,” was the “rural plan” sponsored by the Alabama Farm Bureau and introduced in the house by representatives Joe McCorquodale (Clarke) and Roland Cooper (Wilcox) in the senate. Urban politicians, including Representative Ben Cherner (Jefferson County) and Senator George Lewis Bailes (Birmingham) called alternatively “for an across-the-board 30 per cent assessment of property, plus certain exemptions and an increase in the homestead exemption.” (*Montgomery Advertiser*, December 1, 1971). The *Advertiser* reported that the “Bailes-Cherner package represents the position of the Alabama League of Municipalities, the Alabama Education Association, organized labor, and most urban-area legislators.” Senator L. W. Noonan of Mobile offered a third proposal, a compromise of the two previous bills. (*Montgomery Advertiser*, December 1, 1971).

In addition, Tom Gloor, a state representative for Jefferson County (and Speaker Pro Tem) attempted to delay consideration of the plans to give “members a chance to study the different proposals before they come back on the floor for a vote.” Gloor, the *Advertiser* reported, “ripped into the classification system on several points, and said he found it impossible to believe that this plan was designed to protect the small homeowner against the ‘selfish interest groups.’” Gloor also claimed that Governor Wallace, Lt. Governor Beasley, and others were favoring the rural areas over the urban. Gloor said:

For generations, the residents of our cities have borne the great bulk of the tax burden in Alabama. I do not refer merely to municipal taxes—city residents also pay most of the state and county taxes that provide roads, the schools, the hospitals, and virtually every other governmental service available to the rural citizen. And while the urban tax burden continued to mount, our rural neighbors have continued to enjoy the free rides provided through federal subsidies, state tax exemptions, unequal and totally discriminatory assessment of rural property for ad valorem tax purposes. It’s time to balance the books. The urban citizens of Alabama today are calling for equal and uniform administration of the property tax laws of the state. (*Montgomery Advertiser*, December 1, 1971).

Gloor was highly critical of the advertising campaign in support of the rural plan. “We have seen the governor and lieutenant governor of this state appear repeatedly on paid television commercials to huckster the classification system like a cake of soap,” Gloor said at the time. “In true Madison Avenue fashion, they are telling us that we need to equalize property assessments but that this can be accomplished without changing anyone’s status. You don’t equalize without change.” (*Montgomery Advertiser*, December 1, 1971).

Predictably, this third special session of the legislature in November/December 1971 was contentious. Tempers flared among legislators along rural-urban lines. Available source materials reveal fiery debate between rural and urban politicians. Significantly, though, despite all this fiery debate, political posturing and detailed press coverage, there is a total absence of

evidence that the issue of race was ever raised as a point of contention or was even relevant to the debate at all.

Ben Erdreich served in the Alabama State Legislature (and later served a decade as a Democrat United States Congressman from Jefferson County) during consideration of HB 56 (which became Amendment 325). Congressman Erdreich recounted to me during an August 2009 interview that he believes the passage of the amendment should be understood in the context of this rural vs. urban conflict. There was “no racial dimension to this legislation,” he said. The disagreement over the amendment, Erdreich remembered, was because of the “typical” rural vs. urban conflict in Alabama politics. “A small group of us, were mostly urban legislators who saw this as another grab [to] help the rural areas of the state at the injury of the urban ones. That was what the issue was all about.”

And the urban legislators had good reason to oppose the rural areas “grab.” With regard to education funding, Professors Permaloff and Grafton report as follows:

[E]ducation funding conflicts rested on an urban-rural pivot. Urban interests were irritated because they paid far more in school taxes to the state than they received from it. Montgomery county in 1965–66 received only \$38 from the state for each \$100 of state school taxes collected in the County. Madison County received only \$51, Mobile \$58, and Jefferson \$41. At the opposite extreme, Wilcox received \$252 for each \$100 collected and Lowndes \$259.

Anne Permaloff and Carl Grafton, *Political Power in Alabama* (2008) p. 283.

That the urban/rural power clash, and not race, was in the focal point of the legislature’s debate over H.B. 56 is particularly evident when you look at the rise of black political empowerment in the early 1970s. Fred Gray, one of two black legislators in 1971, hailed from predominately black Macon County. Gray, a well-known civil rights activist, voted in favor of Amendment 325. (The other black legislator, Thomas Reed, also from Macon County, did not

cast a vote.) In contrast, the Birmingham-based, black Jefferson County Progressive Democratic Council opposed the measure (*Birmingham World*, June 5, 1972).

The May 30, 1972 state-wide vote for Amendment 325 further highlights the rural/urban power struggle over the legislation. In rural Macon County, with a 81.10 percent African-American population in 1970 (the highest concentration in the state), 88.66 percent of the votes were cast in favor of Amendment 325. In rural Winston County, with a 99.64 percent white population in 1970 (the highest concentration in the state), 94.95 percent of the voters who cast votes did so in favor of Amendment 325. (Alabama Official and Statistical Register, 1975, 235-237; 1970 U.S. Census). In fact, as demonstrated in the chart below, Amendment 325 received substantial majorities of the popular vote in rural counties, regardless of whether the rural counties were majority black or majority white:

**Comparison of rural majority-black and majority-white counties in Alabama**

		Amendment 325 % For	1970 Census % Black
5 rural counties with highest black population	<b>Macon</b>	88.66%	81.10%
	<b>Lowndes</b>	87.72%	76.89%
	<b>Greene</b>	63.22%	75.37%
	<b>Wilcox</b>	85.76%	68.45%
	<b>Bullock</b>	53.81%	71.90%
5 rural counties with smallest black population	<b>Franklin</b>	92.78%	5.01%
	<b>Marion</b>	92.51%	2.78%
	<b>Marshall</b>	87.53%	2.02%
	<b>DeKalb</b>	95.05%	1.96%
	<b>Winston</b>	94.95%	0.31%

Additional evidence of the non-racial context of this tax debate can be seen in George Wallace’s political maneuvering. As the legislature considered Amendment 325 during a special session in 1971, George Wallace remained vocal in his opposition to any tax increases. Wallace stated that he would veto “any legislation reaching his desk which imposes a ‘direct tax on the people’ without submitting it to a vote of the people. In taking this position, Wallace was

emphasizing the old populist notion of “people power.” (13). This is evident in Wallace’s populist crusade against the big utility companies, especially Alabama Power. As George McMillan later recalled in his interview with the author, the utility companies replaced race as Wallace’s issue for demagoguery. This is the same conclusion drawn by Jeff Frederick, *Stand Up For Alabama: Governor George Wallace and Leah Rawls Atkins, Developed for the Service of Alabama: The Centennial History of the Alabama Power Company, 1906-2006*. Frederick concludes that Wallace pledged in 1970 to “wage war” against the utilities in Alabama, including Alabama Power, Alagasco and South Central Bell. “Supposedly led by nameless and faceless bureaucrats,” Frederick writes, “the major utilities, to many Alabamians, were coldly indicative of money-grubbing, corporate abusers.” (Frederick, 341). Atkins writes, “The governor’s campaign [against the utilities in the 1970s] played well in small towns and rural areas.” (Atkins, 357).

As Michael Kazin has noted in his book, *The Populist Persuasion: An American History*, Wallace had “turned down the emotional volume and began to sound more like a conventional politician. . . .” He accepted the “enfranchisement of African-Americans,” had his photograph made with a black homecoming queen, and proclaimed before a group of black political leaders: “We’re all God’s children. All God’s children are equal.” (254). What Wallace did, as Kazin points out, was to broaden his appeal as a legitimate, anti-tax, post-racial, *common-man populist*. He placed himself into the rich *populist* traditions of American political history. As Kazin notes, what made this particularly compelling to independent voters was the tax issue.

To assist with understanding the mindset and motivations of Alabamians and the Alabama legislature during this time, it is helpful to view them within the context of similar efforts to control or restrict the property taxes which were occurring simultaneously all over the

country during this time. During the 1970s, as Kazin writes, “middle-class home owners in several states . . . mounted and won initiative campaigns to sharply cut local property taxes that had risen along with the inflationary surge of the decade.” (254). In 1971, an anti-tax property tax revolt was developing together with growing dissatisfaction with the federal government for its mounting tax burden. That same year, the federal court handed down the *Weissinger v. Boswell* decision, which, on non-racial grounds, held Alabama’s property tax system inequitable and ordered the reassessment of property values. Alabama legislators faced the choice of adopting a system of uniform property tax assessments statewide or a court-ordered return to an earlier statutory assessment rate of 60%. This occurred at the same time as other states were reevaluating their property tax systems. In one instance, in April 1971, Michigan’s governor proposed ending the property tax as the revenue source for public schools in the state, and in turn proposed a higher personal income tax and a value-added tax on manufactured goods to end disparities in the distribution of school money. (*New York Times*, April 13, 1971).

In another example, in 1971, Tennessee held a convention to change the property tax structure. The *Birmingham News* reported on August 3, 1971:

Tennessee is holding a constitutional convention limited to considering changes in the property tax structure provided in the state’s basic law. Provisions now in effect set real estate assessments at 50 percent for all real property. A federal court ruling in recent years is holding the state to this provision, with orders for all assessments to be equalized at 40 percent by 1973. The convention may change the tax structure by sorting property into classifications—residential, commercial, utility, and farm—with a different level of assessment or each. This is about the same pattern the state had drifted into—without the blessing of the law—before the ruling by the federal court.

Schools across the country faced similar property tax controversies. In Independence, Missouri in 1971, a proposal for a tax increase of 95 cents per \$100 assessed valuation failed to pass. A two-thirds majority of voters was needed to pass the tax increase, but as the *New York*

*Times* reported, “not even a bare majority was attained.” The tax increase had been defeated seven times, and despite the fact that schools had been closed since November 1 [1971] for lack of funds the measure failed to pass again. After the failure of the property tax increase, the state reopened the schools and pledged to pay teachers out of funds from state aid. The *Times*, which was sensitive to racial issues, did not report on this as a black versus white issue. (*New York Times*, November 11, 1971).

In December 1971, a special panel of three federal judges declared the Texas public school funding system unconstitutional based on its discrimination against children in the state’s poor communities. The Texas case was “just the vanguard of a number of similar suits that ha[d] been filed in at least 20 states. This broad legal assault on a system of local school control deeply rooted in American history evoked considerable hope among social reformers, hard-pressed educators and overburdened taxpayers.” *The New York Times* reported, “Texas Ruling: Old System on Trial,” (December 25, 1971). The federal court ruling in Texas “was essentially the same as one made [in] August by the California State Supreme Court, and [in] October by a United States District Court in Minnesota.” In similar suits in Illinois and Virginia, federal courts “declined to rule the local property tax unconstitutional.” (*New York Times* December 25, 1971).

In January of 1972, the *New York Times* reported that “[i]n promising new solutions to the critical problem of public school financing, President Nixon has lashed out against the rising property tax as ‘one of the most oppressive and discriminatory of all taxes.’ His pledge to bring relief from this levy and, at the same time, provide new ways of paying for elementary and secondary education comes in the wake of several court rulings . . . all holding that the present approach to school financing is discriminatory and thus violates the Constitution’s guarantee of

‘equal protection.’” (*New York Times*, January 29, 1972). The discrimination referred to in this paragraph was wealth discrimination, not race discrimination.

In March of 1972, Neil H. McElroy, chairman of President Nixon’s Commission on School Finance, reported the growing financial problem facing the nation’s public schools, and also noted that “there has been an avalanche of complaints from the middle class about rising property taxes on the local level.” The article reporting the commission’s study went on to state that “[s]chools and the taxes needed to finance them have become such a heated political issue that the White House a few weeks ago disclosed that it was seriously considering a value added tax, a form of national sales tax, that would raise as much as \$13 billion a year. This would be distributed back to the local level to equalize educational inequities and alleviate some of the property tax burden.” In addition, the McElroy commission discussed whether funds should be distributed to states to equalize the wide discrepancies in per pupil expenditures from one state to another (the example given was the wide discrepancy between student spending in New York versus Mississippi). (*New York Times*, March 7, 1972).

In November of 1972, the states of California, Colorado, Michigan, and Oregon, included constitutional amendments on their ballots that would either end or “sharply limit” property tax as the source of funds for public education. This was part of the growing national trend. In 1978, 65 percent of California voters passed Proposition 13, the most famous of these “tax revolt” amendments,

In short, my analysis of primary source materials reveals that the debate over the passage of Amendment 325 reflected the ongoing rural/urban power struggle that was focused on which constituency, rural or urban, would bear the property tax burden going forward and was in a national context in which anger toward property taxes was widely manifest. There is simply no

evidence that any racial issues were motivating factors in the passage or adoption of the Amendment.

### III. Amendment 373

In February 1978, the *Birmingham News* reported that for the “fourth and climactic year, the Alabama Farm Bureau is heading up the offensive in support of a ‘lid’ bill.” Once again, rural elements, like the Alabama Farm Bureau, spearheaded the “lid” legislation, while urban interests, including the Alabama League of Municipalities, opposed the efforts. (*Birmingham News*, February 2, 1978). On March 21, 1978, an editorial headline in the *News* called the “lid bill a fraud.” The writer emphasized that “if supporters of the lid bill were not so determined to protect large landowners at the expense of homeowners, a bill would be written which would protect the individual homeowner and yet meet the requirements of the federal district court to establish a property tax system which is equitable to owners of all classes of property.” (*Birmingham News*, March 21, 1978).

The mood of this editorial reflects the continuing and growing national revolt against high taxes. In 1978, the *New York Times* reported that property taxes, from 1966 to 1976, increased nationally from \$24.7 billion to \$57 billion (131 percent), only “slightly smaller” than the 136 percent increase in personal income during the same years. “Opinion polls,” the *Times* reported, “have shown [property taxes] to be the least popular taxes.” The article also emphasized that from 1976 to 1978 the “prime factors in the property tax revolt” were “rapidly rising property values” leading to tax increases. (*New York Times*, June 11, 1978). It was with the backdrop of this national tax “revolt” that the Alabama Legislature considered the passage of Amendment 373.

With regard to Amendment 373, in a speech prepared to be delivered at the opening of the special session for consideration of the Amendment, Governor George Wallace employed his populist rhetoric:

If there was any one thing the Legislature did to upset the people of Alabama more than anything else, it was failure to pass legislation to prevent property taxes from rocketing sky high.

. . . When the last session ended and you failed to pass a tax relief bill, I got together some of the best Constitutional lawyers in the State of Alabama. I told them to work with my staff, check with other states, research the Constitutional law and come up with the best possible tax relief bill:

A bill that would give no undue benefit to special interests, and yet be fair. A bill that would provide maximum relief for homeowners, farmers and small business operators, who already have enough problems without being taxed to death by the State under a Federally-ordered reappraisal program.

....

I am proud that Alabama is the only State in the Union—except Texas—that has not put any taxes on the backs of the consumers in the last eight years.

My administration has worked hard to make this possible by controlling State spending, increasing the efficiency of State Government, and bringing in new revenue by providing more and better jobs for our people. . . .

I am proud that as your governor, I have kept that promise of no new taxes on our consumers, because people throughout our nation are being taxed to death by the Federal Government.

There is no reason why this progress cannot continue. Our people want to excel. They have the work ethic to continue to achieve. But we must see to it that they have the opportunity to improve their status in life and provide for their families by giving them the chance . . . . without taxing them to death every time they turn around.

Three of the greatest problems facing the middle class of this country are inflation, soaring taxes and high utility rates.

This legislature has had the opportunity to help the people of Alabama with at least two of these major problems, high utility rates and increasing ad valorem taxes . . . .

And so far, you have not passed legislation to keep down high ad valorem taxes in this state at a time when people throughout the Nation are revolting against high taxes.

Until now, we in Alabama have been spared the tax problem such as we have seen in California because we have had Proposition 13 all the time. We don't believe in taxing people to death because they own a home . . . or live on the farm . . . or operate a small business to make a living.

So now, you have another chance to help the middle-class citizens of this state. Because if the middle-class citizens of this state and this nation, who are

being gored to death with inflation, high taxes and high utility bills, do not survive, then our nation shall perish. . . .

Ladies and gentlemen, I lay these matters in your hands. The people of Alabama are looking over your shoulder. It is now up to you to give the hard-working, tax-paying, God-fearing citizens of our state the opportunity they need to keep Alabama great.

(Prepared Remarks by Governor George C. Wallace, 2<sup>nd</sup> Extraordinary Session, Alabama Legislature, July 31, 1978, Wallace Papers, ADAH, Montgomery, Alabama).

As noted, the Governor's proposed 1978 property tax package was originated and championed by the rural interests and opposed by urban interests. The Democratic mayor of Birmingham, David Vann, criticized the legislation. So too did Tom Gloor, who in 1978 was the President of the Jefferson County Commission. Gloor said property tax collections for Jefferson County would face a 32 percent cut. "Where we're the 50<sup>th</sup> state in the Union on ad valorem taxation, there's no sense in trying for 51," he said. (*Montgomery Advertiser*, August 4, 1978).

George McMillan, who served in the state senate during the 1978 special session and later as Lieutenant Governor during the current use legislation of 1982, recalled during a August 2009 interview that in "neither incidence" did either of these issues have "anything to do about race. . . ." McMillan saw the legislative debate as simply a battle between ALFA (Farm Bureau) and the AEA (Alabama Education Association). "In no instance were either of these measures placed in a context of black vs. white," McMillan added. McMillan commented that if the issue had in any respect been racial, he would have sided with the "African-Americans as opposed to the Caucasians." This is because McMillan, at the time, was very much in tune with the African-American legislative caucus. During his term as Lieutenant Governor (1979-1983), McMillan noted that among his allies were African-Americans J. Richmond Pearson and U. W. Clemon.

In addition, McMillan emphasized that state politics had dramatically changed by the 1970s: "You can't take from a earlier era and transpose to a later era the same feelings and same

dynamics.” Governor Wallace, McMillan added, was focused on the utility companies. In the 1970s, “The utility companies had replaced race as his whipping boy,” he added. . . . “That was George’s Wallace demagogue issue during that time period, it was not race.”

Voting along the same rural versus urban lines as in 1972, the citizens of Alabama approved Amendment 373, and, as expected, it remained unpopular in urban areas of the state. Later, in 1982, an editorialist writing for the progressive-minded *Anniston Star* argued that the lid bill was “so complex that it still defies interpretation. What it did, however, was cancel out most of the benefits of reappraisal.” (*Anniston Star*, January 19, 1982).

Perhaps the nature of the urban vs. rural power struggle relating to the property-tax amendments is best demonstrated through examination of the voting record. I have examined the voting patterns within the Alabama legislature and the popular vote for Amendments 325 and 373. State Senator Michael T. Figures, an African-American from Mobile, opposed the bill, because, as Figures wrote in a black newspaper in 1978, “It would have benefited large commercial timber growers, who pay little tax now, more than anyone else.” Figures added that he worked with other opponents in successfully “limiting the bill’s application.” Figures hoped, however, that during the reconciliation process between the Alabama House and Senate, of the “possibility of the bill’s being killed altogether which some of us may yet like to see.” Significantly, Figures did not mention race as a factor in opposing this legislation. (*Black Belt Journal*, May 21, 1978). In contrast, Amendment 373 was supported by African-American representative Thomas Reed, who represented a rural district of Macon County. (Representative Gray had retired from the legislature prior to the passage of 373).

Moreover, as demonstrated in the chart below, like Amendment 325, Amendment 373 received substantial majorities of the popular vote in rural counties, regardless of whether the rural counties were majority black or majority white:

**Comparison of rural majority-black and majority-white counties in Alabama**

		<b>Amendment 373 % For</b>	<b>Census 1970 % Black</b>
5 rural counties with highest black population	<b>Macon</b>	93.19%	81.10%
	<b>Lowndes</b>	93.39%	76.89%
	<b>Greene</b>	70.77%	75.37%
	<b>Wilcox</b>	91.57%	68.45%
	<b>Bullock</b>	82.92%	67.36%
5 rural counties with smallest black population	<b>Franklin</b>	77.66%	5.01%
	<b>Marion</b>	64.87%	2.78%
	<b>Marshall</b>	76.89%	2.02%
	<b>DeKalb</b>	84.37%	1.96%
	<b>Winston</b>	65.59%	0.31%

Thus, the urban/rural power struggle demonstrated in voting patterns for 373 is consistent with the urban/rural power struggle depicted in contemporaneous media coverage and with the recollection of Senator McMillan.

Other persuasive evidence on this point is the fact that, during the 1970s, the Alabama legislature raised education spending for elementary and secondary education, for both black and white school children, more than 160% from \$241,987,512 to \$637,889,798. In many instances, these increases in the education budget were passed in the face of direct opposition from Governor Wallace. In 1971, as Jeff Frederick discusses in *Stand Up For Alabama*, an “independent legislature was flexing its muscles” as it “killed the governor’s general fund budget and education budget—the first time in state history that a regular session of the legislature failed to produce the appropriations. . . .” (285). An editorial writer for the *Birmingham News*, as Frederick writes, believed that Wallace was “sensing, as he must, that he has lost his powers of

intimidation and lost the ability to crush those who oppose him.” (285). Wallace was forced to call the legislature into special sessions in 1971 to deal with education. The governor, Frederick shows, lost before he “fired the first shot” in the debate. “The house killed the administration package on the third day of the session,” Frederick writes, “and quickly passed its own education budget” which was at \$828 million. (293).

This continual legislative increase in funding for elementary and secondary education and teacher salaries during the 1970s directly contradicts any supposed intent of the legislature during this period to deny educational opportunities to black school children. As might be expected, Wallace began to adapt to the new political reality. In 1973, Wallace’s educational funding proposals “closely paralleled those of the AEA [Alabama Education Association],” which reflected the growing power and influence of the teacher’s union in the state (Ira Harvey, *A History of Educational Finance in Alabama*, 261).

Moreover, as stated earlier, general opposition to increased property taxation was spreading in Alabama and throughout the country. There were property tax restrictions enacted all over the United States during the 1970s, and there is no evidence that these restrictions were racially motivated. *The New York Times* reported in November 1978 that “15 States’ Ballots Reflect A National Antitax Mood:”

Impetus for the tax cuts was the action of California voters last June 6 in overwhelmingly approving a constitutional amendment, Proposition 13, that limited the property tax to one percent of the property’s cash value. One of the major causes of public sentiment against taxes is believed to be concern that tax revenue is wasted at all levels. A *New York Times*-CBS News Poll last June showed that 78 percent of those in a national telephone sample felt that Government wasted a lot of money. Other polls have shown roughly the same finding, and some officials are predicting that Government officials would search for more efficiency in spending as a means of holding back the tide of tax cuts.

The article lists the proposals in each of the states (Alabama, Arizona, Arkansas, Colorado, Hawaii, Idaho, Michigan, Missouri, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Texas, and Washington) and further points out that the “15 states’ tax-cut and spending proposals do not indicate the extent of the tax-cut movement.” (*New York Times*, November 6, 1978).

In a separate article three days later the *Times* stated as follows:

The restrictions on taxing and spending that were voted in 13 states seemed sufficient to continue on the national level the protest that was seen in California with the approval of Proposition 13, a constitutional amendment that drastically cut property taxes in that state. Propositions that were almost duplicates of Proposition 13 were approved in Nevada and Idaho. They limit property taxes to 1 percent of market value. The proposal in Nevada must be approved again in 1980 to become law. Restrictions on taxing or spending also were approved in Alabama, Arizona, Hawaii, Illinois, Massachusetts, Missouri, North Dakota, South Dakota, Texas, Michigan, and in one large county in Maryland.

(*New York Times*, November 9, 1978).

Again, as with Amendment 325, the primary sources reveal clearly that the political debate over the passage of Amendment 373 was simply which Alabamians, rural or urban, were going to shoulder the burden of the property tax going forward. The rural political interests continued to prevail. Regardless, however, no evidence emerges from the primary sources that race was a motivating factor in the passage of this Amendment.

#### IV. Current Use

As regards the current use legislation, I have reviewed primary and secondary sources and have found no evidence that race was a motivating factor in 1982. Democratic Lieutenant Governor George McMillan, a strong supporter of public education for both blacks and whites, favored current use as a basis for appraising farm lands. “I favor a uniform system of appraisal,” McMillan wrote an Alabama citizen in 1982. “I do not think that one should get a break because

he or she happens to live in a particular county.” McMillan scolded politicians for engaging “gross over-simplification” and pitting the farmer against the educator. He continued:

I do not find my belief in the desirability of appraising agricultural land based on its actual use to be in any way inconsistent with my strong support for our public system of education and my belief in the necessity of expanding the revenue base by which it is funded in Alabama. In my judgment, anyone who contends that the only way we can provide the revenue base to permit Alabama to have a quality public system of education is to have a property tax system which requires that land actually in agricultural production be taxed not on the profit earned from the commodity produced, but on the profit that could be earned if the land were put to its best use is one who has limited mental ingenuity.

Moreover, at no time in McMillan’s lengthy correspondence was race mentioned as a factor in the consideration of the current use provisions. (George McMillan to Allen Jones, March 18, 1982).

As with past property tax debates, venerable Alabama journalist Ted Bryant of the *Birmingham Post-Herald* noted that most opposition to the current use bill came from urban legislators in Mobile and Jefferson Counties. The current use tax, Bryant argued, was a “double strike against urban areas.” First, city dwellers would continue to pay more taxes than their “country cousins.” Second, all counties in the state would pay less property and all schools would suffer—especially in urban areas where education was maintained at a “higher level.” In the article, Ted Bryan never mentioned race as a motivating factor in this legislation. The current use bill, Bryant argued, revealed “the same old question of whether rural counties, especially those in the Black Belt, will pay their share of taxes.” (*Birmingham Post-Herald*, April 1, 1982).

The *Post-Herald* also reported that State Representative George Stewart of Mobile “gave the legislation a more accurate title” when he called it the “current abuse bill.” An editorialist at the paper believed that the tax measure would “perpetuate to the greatest extent possible tax

inequities existing between urban and rural property owners.” The writer, who called the rural-urban gap in the rates the “biggest crime” in the debate, stated:

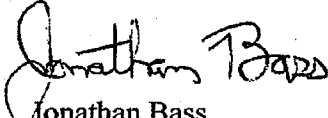
Local tax rates will, as a rule, be higher in urban areas. They have to be because of the greater level of services. But the assessed value upon which local and state property taxes are based should be identical for properties with the same market value and use, regardless of location.

*(Birmingham Post-Herald, April 2, 1982).*

Thus, like the debates regarding Amendments 325 and 373, the political issues and motivations for current use centered on “who” was going to pay the bulk of the property tax. Race was simply not a consideration in the debate.

#### V. Conclusion

The property tax amendments passed in Alabama in 1971 and 1978, and the current use legislation in 1982, were not products of racial discrimination, but instead, were, in general, motivated by the national mood to restrict property tax increases of all stripes and, in specific, were motivated by the economic self-interest of rural tax payers state wide to prevent tax increases on their property. That race was not a motivating factor in the amendments of 1971 or 1978 or the legislation of 1982 is not surprising considering that, in 1971, the Black Belt did not control the legislature and whites in majority white counties—57 of 67 counties in 1970—had absolutely no reason to fear black empowerment at the county level. Simply stated, there is no evidence to support the assertion that race was a motivating factor behind the property tax measures of 1971, 1978, or 1982.



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September 8, 2009

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