

APPENDIX C – NEWSPAPERS

In all places and at all times, taxes are of interest and concern to the citizens who pay them. Amendments 325, 373, and the current use bill were no exceptions, particularly since they affected every owner of a home or property across the state. Widespread coverage of the property tax provisions put forth a variety of perspectives on these pieces of legislation. One fact, however, is clear. No one saw these bills as representing a discriminatory threat to African Americans in Alabama. No discussion of a discriminatory impact or intent was ever noted by an editor, reader, or reporter.⁷

A. Contemporary newspapers

⁷ Plaintiffs can try to claim one exception, an article purportedly written by Bill Sellers in the *Mobile Press Register*, December 12, 1971. We have not verified the existence of the article, but will acknowledge that it exists for the purposes of this Motion. The article read:

Various technical, legal or constitutional reasons were voiced for the opposition to local option, but some observers felt that the main objection stems from the fact that in a growing number of Alabama counties, blacks are gaining control of county governments. Senators representing some of these counties are considered fearful that the black political leaders, who also enjoy voting majorities, will exercise local options and set property taxes at the highest rates possible in order to raise additional funds for their governmental operations. These taxes will be paid by the property owners, considered by the senators to be white owners of large farms and corporate interests with large timberland holdings.

The multiple layers of hearsay and the failure to identify any observers or legislators make the article inadmissible. But even assuming it to be true, it merely demonstrates that if Black Belt legislators feared a local option which empowered black majorities, they were unable to keep it out of Amendment 325 and Amendment 373. Assuming for the purpose of this Motion that Plaintiffs are correct that the local option provision had a racial aspect, the fact that the local option stayed in Amendment 325 proves an intent *not* to discriminate against African-Americans.

Rick Manley was in the Legislature in 1971, 1978, and 1982, during which time he regularly read the *Tuscaloosa News*, *Montgomery Advertiser*, and *Birmingham News*. He did not recall any article or editorial that suggested that the 1972, 1978, or 1982 property tax bills would affect blacks differently from whites. Manley Dep. at 25. Similarly, Joe Fine did not recall any newspaper reporting on any racial concern or consideration in the bill that became Amendment 325. Fine Dep. at 10. Dr. Paul Hubbert also stated that he did not recall race ever being discussed in relation to Amendment 325 in newspapers or other writings. Hubbert Dep. at 16.

The Plaintiffs' expert witnesses have discussed the practicality and necessity of reviewing contemporary newspapers and documents as a way of uncovering the opinions and motives of historical actors. For example, Dr. Flynt said he believes that newspaper review was "absolutely" relevant to discovering whether there was racial bias in the 1971 and 1978 property tax bills. *See* Flynt Dep. at 317. Similarly, Dr. McKiven said that his preferred approach to assessing the motivations behind a piece of legislation "is to start with the newspaper coverage of the issue because that helps me to see how this is being addressed publically, what the emphases may be about a particular issue and then to go to personal documents, if they are available." McKiven Dep. at 21. However, these historians have been unable to uncover anything in these types of documents to support the

Plaintiffs' assertions about the motivation of the Legislature in implementing changes to the property tax in Alabama. Dr. McKiven said that he could not point to any "single document" that shows that House Bill 56 or Amendment 325 was adopted to adversely impact African-Americans. McKiven Dep. at 106; with "form" objection from Mr. Blacksher.

Dr. Frederick stated that he believed that the empirical evidence a historian should seek to prove the opinions and intent of historical actors should include Governors' administrative records, correspondence, letters to the editor, and newspapers. Frederick Dep. at 185. Yet when asked about any such evidence that would indicate an intent to harm African Americans, Frederick said, "I don't know of any and I don't recall any that I've specifically seen". *Id.* at 187. Frederick said he could name "no certain document" in which anyone stated that Amendment 325 would have negative effects on African Americans. *Id.* at 90. Frederick did not recall ever reading the work of a historian who suggested that Amendment 325 was enacted to adversely affect African-Americans, nor did he not have "any specific document" that suggests that Amendment 373 was enacted to adversely affect African Americans. *Id.* at 132, 153-154. In fact, Frederick did not recall any historian who has ever written that property tax provisions of 1971 or 1978 were enacted to adversely affect African Americans. *Id.* at 156-157.

B. *Birmingham News* Editorials, 1990

Between August 26 and September 2, 1990, Ron Casey, Harold Murphy, and Joey Kennedy published editorials in a series they called “What they won’t tell you about your taxes.” These editorials went on to win the 1991 Pulitzer Prize in Editorial Writing “for their editorial campaign analyzing inequities in Alabama’s tax system and proposing needed reforms.”⁸ This group of *Birmingham News* editors and reporters writing an exposé on the failings of the Alabama tax system with a hindsight perspective on these property tax provisions failed to see race as a factor. Casey, Murphy, and Kennedy find much that is wrong with Alabama’s property tax system, but they never suggest that there was an awareness that the Property tax provisions would or could have a racially discriminatory effect.

⁸ “1991 Winners and Finalists,” The Pulitzer Prizes; available online at <http://www.pulitzer.org/awards/1991>.