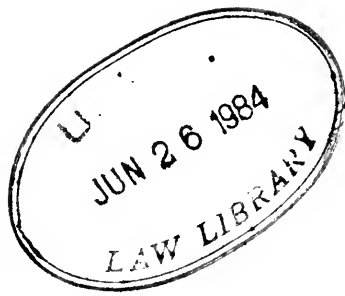


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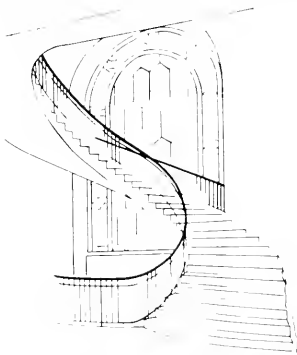
1936
SUPPLEMENT
TO THE
CODE OF LAWS
OF
SOUTH CAROLINA
1932

CONTAINING ALL
GENERAL LAWS OF 1935 AND 1936
WITH FULL ANNOTATIONS



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1936 SUPPLEMENT
TO THE
CODE OF LAWS
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CONTAINING ALL
GENERAL LAWS OF 1935 AND 1936
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By

The Code Commissioner and the Committee on
Statutory Laws of the General Assembly of the
State of South Carolina



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This supplement is not official in the sense that the code is, for its purpose is to serve as an advance sheet for the 1942 Code. Please report any errors, omissions, inconsistencies, etc., herein to Furman R. Gressette, Code Commissioner, St. Matthews, S. C.

NOTICE

This supplement to the Code of Laws of South Carolina, 1932, is compiled and published as required by section 2118 of the said code.

All 1935 and 1936 acts of a general and permanent nature are codified in this supplement. 1932, 1933, and 1934 acts of a general and permanent nature were codified in the 1934 Supplement. For economical reasons some acts are not stated in detail; however, proper references to such acts are made under sections which such acts affect. As a general rule all statewide acts are stated in detail.

To use this supplement we suggest that the general index, volume IV, 1932 Code, should be the first examined and when the required section has been located in the 1932 Code, turn to the same section number in the 1934 Supplement and in this supplement. If there has been a change in the laws affecting the said section, the investigator is at once made aware of it. As a rule we should say that every time one uses the 1932 Code he should check it by turning to the same section number in the 1934 Supplement and this supplement. If the investigator finds nothing in the 1932 Code on the subject in hand he should then use the indices of the 1934 Supplement and of this supplement to discover if the point in question has been touched on by new legislation. The statutes in the supplements are covered exhaustively by the indices thereof, but all of the notes are not indexed. The searcher in using the indices should first consult the particular counties before looking under general titles, if he is interested in one or several counties.

Proposed constitutional amendments are printed in italics.

This supplement and the 1934 Supplement should not be destroyed as they will be used until the 1942 Code is adopted.

The 1934 Supplement superseded the 1932 Supplement.

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Committee on Statutory Laws.

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1936 Supplement

to the

Code of Laws of South Carolina

1932

§ 2. Definition of an action.

Publish summons and complaint.—Summons and complaint, filed in office of clerk of court, become public documents in public office, and filing is public and official act in course of "judicial proceedings," which are generally defined as proceedings before

court or judge, so publication thereof is privileged, if fair and impartial report of such proceedings and without malice. *Lybrand v. The State Co.*, 179 S. C., 208; 184 E. E., 580.

§ 19. Salary of justices.—The Chief Justice and Associate Justices, who are elected after the 14th day of March, 1935, shall each receive an annual salary of six thousand seven hundred and fifty (\$6,750.00) dollars a year and shall not be allowed any fees or perquisites of office, nor shall they hold any other office of trust or profit under the state, the United States or any other power. 1935 (39) 88.

By 1935/88 the salary of the chief justice and each associate justice was reduced to six thousand seven hundred fifty (\$6,750.-

00) dollars. Justices elected prior to March 14, 1935, entitled to draw salary of \$7,500.00 a year. See § 19, 1932 Code.

§ 24. Distribution of reports of Supreme Court.

By 1936/1350 Library of Congress to be sent eight copies of the reports of the Su-

preme Court. See Section 2135-1.

§ 26. Jurisdiction of supreme court.

Review of order granting new trial after final judgment in second trial.—Order granting new trial cannot be reviewed on appeal from final judgment ob-

tained in second trial of case if notice of intention to appeal therefrom is not given as required by law. *DePass v. Broad River Power Co.*, 176 S. E., 325; 173 S. C., 387.

§ 29. Printing of testimony upon appeals to supreme court.

Applied.—*Kiriakides v. Equitable Life Assur. Soc. of the United States*, 174 S. C., 140; 177 S. E., 40.

not in any wise dependent for solution on the evidence; it is unnecessary to print any of the testimony. *Garrison v. Coca-Cola Bottling Co.*, 174 S. C., 396; 177 S. E., 656.

§ 34. May grant new trials.

Amend verdict.—See § 605 hereof.

§ 37. Powers of circuit and special judges at chambers.

See this section in 1934 Supplement. Resident judge of circuit had jurisdiction give default judgment when record

showed action was triable in another county in same circuit. *McInnis v. Caulk*, 176 S. C., 399; 180 S. E., 340.

§ 41. Salary of circuit court judges.—All circuit judges, who are elected after the 14th day of March, 1935, shall receive an annual salary of six thousand seven hundred fifty (\$6,750.00) dollars a year. 1935 (39) 88.

The salary of each court judge was reduced to six thousand seven hundred fifty (\$6,750.00) dollars by 1935/88. Judges elected prior to March 14, 1935, entitled to draw salary of \$7,500.00 a year. See § 41,

1932 Code.

Payment of salaries of circuit court judges.—See notes under article 5, section 9, and article 10, section 9, state constitution.

§ 44. Special judges—appointment—powers—crowded dockets.—* * *

Whenever the time fixed for holding any of the courts of general sessions or common pleas of this state shall be found not sufficient for the trial of all cases before said court, a like assignment of a disengaged circuit judge, or commission of a special judge, may be had to hold the court to which the judge then holding such over crowded court may have been in due course assigned, and the term of such overcrowded court shall proceed until the cases before it are disposed of. 1935 (39) 55.

The above paragraph was added to this section by 1935/55. The section otherwise remains unchanged.

§ 51. Courts in first circuit.—The courts of the first judicial circuit shall be held as follows:

(2) **DORCHESTER COUNTY.**—The court of general sessions for the county of Dorchester shall be held at St. George on the first Monday in April and the third Monday in October. The court of common pleas for the said county shall be held at St. George on the third Monday in April, the third Monday in May and the second Monday in November, the duration of said courts shall be for one week each; and also a court of common pleas at the said place on the second Monday in July, without a jury. 1934 (38) 1260.

§ 52. Courts in second circuit.—(1) **TERMS.**—The courts of the second judicial circuit of South Carolina shall be held as follows:

(a) **Aiken County**—The court of general sessions for the county of Aiken shall be held at Aiken on the fourth Monday in January, two weeks; the first Monday in May, two weeks; the first Monday in October, two weeks. The court of common pleas for said county of Aiken shall be held at Aiken on the fourth Monday in March, three weeks; on the first Monday in June, two weeks; on the second Monday in November, three weeks.

(b) **Bamberg County**—The court of general sessions for Bamberg County shall be held at Bamberg on the third Monday of February, one week; on the second Monday in September, one week. The court of common pleas for said county shall be held at Bamberg on the third Monday in April, two weeks; on the second Monday in July, one week; and on the fourth Monday in October, two weeks.

(c) **Barnwell County**—The court of general sessions for Barnwell County shall be held at Barnwell on the fourth Monday in February one week; the fourth Monday in May, one week; the third Monday in September, one week. The court of common pleas for said county shall be held at Barnwell the second Monday in March, two weeks; the third Monday in June, two weeks; the first Monday in December, two weeks.

(2) **TRANSACT CERTAIN CIVIL MATTERS DURING TERMS OF GENERAL SESSIONS.**—At any term of the court of general sessions for either of said counties, as provided for in this section, the court of common pleas shall be open for the transaction of any equity business, taking of judgment by default, or the hearing of any other matters of a civil nature by consent. 1933 (38) 320; 1935 (39) 308.

§ 53. Courts in third circuit.—The courts of the third circuit shall be held as follows:

(1) **CLARENDON COUNTY.**—The court of general sessions at Manning, for the county of Clarendon, on the fourth Monday in January, one week, the third Monday in June, one week, and the second Monday in September, one week. The court of common pleas at the same place on the first Monday in

March, two weeks, the fourth Monday in June one week, and the third Monday in October, two weeks.

(2) LEE COUNTY.—The court of general sessions at Bishopville, for the county of Lee, the first Monday in February, one week, on the second Monday in June, one week, and on the first Monday in September, one week. The court of common pleas at the same place, on the fourth Monday in March, two weeks, and the fourth Monday in November, two weeks.

(3) SUMTER COUNTY.—The court of general sessions at Sumter, for the county of Sumter, on the second Monday in February, two weeks, on the first Monday in July, one week, and on the first Monday in November, two weeks. The court of common pleas at the same place on the second Monday in January, two weeks, on the second Monday in April, three weeks, on the second Monday in July, one week, on the fourth Monday in September, three weeks, and on the second Monday in December, two weeks: *Provided*, That no jury trial of civil cases shall be had at the summer term of common pleas court in Sumter County except by agreement of a majority of the bar of said county.

(4) WILLIAMSBURG COUNTY.—The court of general sessions at Kingstree, for the county of Williamsburg, on the fourth Monday in February, one week, on the first Monday in June, one week, and on the third Monday in September, one week. The court of common pleas at the same place on the third Monday in March, one week, on Wednesday first succeeding the first Monday in June, and on the third Monday in November one week: *Provided*, That no jury trial of civil cases shall be had at the summer term except by consent. The petit jurors for the first and third terms of the court of general sessions shall not be required to attend the first and third terms of the court of common pleas, but separate juries shall be drawn and summoned for said courts.

(5) DRAW SEPARATE JURIES FOR CERTAIN TERMS, LEE, SUMTER AND WILLIAMSBURG COUNTIES.—Separate juries are drawn for the court of general sessions and the courts of common pleas for all terms for Sumter County and for the first and third terms for Lee and Williamsburg Counties.

(6) OPEN GENERAL SESSIONS COURT DURING TERMS OF COMMON PLEAS COURT—CASES.—The presiding judge may open the court of general sessions during any term herein fixed for the court of common pleas and the grand jury of the county in which said court may be sitting, may be summoned and may pass upon any bills of indictment handed out by the solicitor of the said circuit, and pleas of guilty may be taken at such term of court.

(7) OPEN COMMON PLEAS COURT DURING TERMS OF GENERAL SESSIONS—CAUSES.—Should the business of the court of general sessions for any of said counties, at any term, be completed or suspended before the time fixed by law for the opening of the court of common pleas, the presiding judge shall open the court of common pleas for said county, for the trial of all cases and the transaction of all business pending therein, except the trial of jury cases, which may be tried at such time only by the consent of the parties or their attorneys. The courts of common pleas in said counties shall be open at all terms of the courts of general sessions for the purpose of rendering judgments by default and by the consent of the parties, or their attorneys, for the trial of such equity cases as may be ready for hearing, for granting orders of reference, and other orders of course, and for the purpose of transacting all other business of a regular term of the court of common pleas, except trial by jury. 1934 (38) 1466; 1936 (39) 1481.

§ 54. **Courts in fourth circuit.**—The regular term of the courts of the fourth judicial circuit shall be as follows:

(a) **COURTS OF GENERAL SESSIONS.**—At Chesterfield for Chesterfield County on the first Monday in February, the first Monday in June, and the third Monday in September; at Bennettsville for Marlboro County on the second Monday in February, on the second Monday in June, and the fourth Monday in September; at Darlington for Darlington County, on the fourth Monday in February, on the third Monday in June, and the first Monday in November; at Dillon for Dillon County, on the second Monday in March, the second Monday in July, and the fourth Monday in October.

(b) **COURTS OF COMMON PLEAS.**—At Chesterfield for Chesterfield County, the third Monday in February, the third Monday in April, the third Monday in July, the first Monday in September, and the first Monday in October; at Bennettsville for Marlboro County, the first Monday in March, the fourth Monday in April, the fourth Monday in June, the second Monday in September, and the first Monday in December; at Darlington for Darlington County on the last Monday in January, the third Monday in March, the fourth Monday in July, and the second Monday in October; at Dillon for Dillon County, the first Monday in April, the first Monday in July, and the second Monday in November.

(c) **TIME PLEADINGS, ETC., RETURNABLE.**—All recognizances, pleadings, notices and papers, whether dated heretofore or hereafter, shall be returnable and applicable to the terms of the court as fixed by this section, and the clerk of the court for each county in the fourth judicial circuit shall give two weeks' notice of each and every term of the court in some newspaper published in the county, stating the day of the month on which the next court will open for the county. 1932 (37) 1213; 1934 (38) 1400. 1935 (39) 440.

§ 55. **Courts in fifth circuit.**—The Courts of the fifth judicial circuit shall be held as follows:

(1) **KERSHAW COUNTY.**—The court of general sessions for Kershaw County shall be held in Camden on the second Monday in February, the first Monday in July, the fourth Monday in October; and the court of common pleas for said county on the second Monday in March, the third Monday in June, and the first Monday in November.

(2) **RICHLAND COUNTY.**—The courts of general sessions for Richland County shall be held in Columbia on the second Monday in January, the third Monday in April, and the first Monday in June, and the first Tuesday in September; and the courts of common pleas for said county in the same place on the third Monday in February, the fourth Monday in March, the second Monday in May, the fourth Monday in September, and the third Monday in November, which term of court shall run for three weeks, two weeks of which shall be for the disposal of jury matters and the other week, which includes Thanksgiving Day, shall be for the disposal of motions, equity matters and any other matters not requiring the attendance of a jury. The first Monday in each common pleas term shall be for the disposal of matters not requiring the attendance of a jury, and the jury commissioners shall summons the jurors for the first week of each common pleas term for the opening of court on Tuesday morning. 1933 (38) 151; 1934 (38) 1223.

§ 56. **Courts in sixth circuit.**—The courts of the sixth judicial circuit shall be held as follows:

(2) **FAIRFIELD COUNTY.**—The court of general sessions at Winnsboro, for the county of Fairfield, on the third Monday in February, the second Monday in June and the first Monday in September; and the court of common pleas at the same place on the second Monday in March, the third Monday in July, and the second Monday in October.

(3) **CHESTER COUNTY.**—The court of general sessions at Chester, for the county of Chester, on the first Monday in January, on the first Monday in March, the first Monday in July and the first Monday in October; and the court of common pleas at the same place, commencing on the second Monday in January, the first Monday after the fourth Monday in March, the third Monday in May and on the second Monday after the fourth Monday in October, and each term of the court of common pleas shall continue for a term of two weeks if so much be necessary. *Provided*, That at the term of the court of general sessions to be held on the first Monday in January only jail cases shall be called for trial, but this shall not be construed to prevent the trial at such term of persons out on bond who consent thereto.

(4) **YORK COUNTY.**—The court of general sessions at York, for the county of York, on the second Monday after the fourth Monday in January, on the third Monday after the fourth Monday in March, on the second Monday in July, on the fourth Monday in September, third Monday in December: and the court of common pleas at the same place commencing fourth Monday in January and continuing for a term of two weeks, on the first Monday in May and continuing for a term of two weeks, on the fourth Monday after the fourth Monday in October and continuing until the court of general sessions begins. 1933 (38) 136; 1934 (38) 1199, 1254; 1935 (39) 237.

§ 57. Courts in the seventh circuit.—The courts of the seventh judicial circuit shall be held as follows:

(1) **CHEROKEE COUNTY.**—The court of common pleas for Cherokee County shall convene at Gaffney on the first Monday of March for two weeks, on the first Monday of July for one week, and on the first Monday of November for two weeks. The court of general sessions for Cherokee County shall convene at Gaffney on the third Monday of March for one week, on the second Monday of July for one week, and on the third Monday of November for two weeks.

(3) **UNION COUNTY.**—The court of common pleas for Union County shall convene at Union on the second Monday in February for two weeks; on the first Monday of May for two weeks; on the first Monday of September for two weeks and on the first Monday of December for two weeks. 1933 (38) 1289; 1934 (38) 1240; 1935 (39) 405.

§ 58. Courts in eighth circuit.—The courts of the eighth judicial circuit shall be held as follows:

(2) **GREENWOOD COUNTY.**—The court of general sessions at Greenwood, for the county of Greenwood the first Monday in January, the second Monday in April, the fourth Monday in June and the second Monday in September; and the court of common pleas at the same place on the first Monday in March, the third Monday in April, the first Monday after the fourth Monday in September and the third Monday in November.

(3) **LAURENS COUNTY.**—The court of general sessions at Laurens, for the county of Laurens, on the third Monday in February, the second Monday in June, the fourth Monday in September and the second Monday in November; and the court of common pleas, at the same place, on the second Monday in

March and the second Monday in May, to continue for three weeks, if so much be necessary, and on the fourth Monday in October for two weeks if necessary. 1932, (37) 1390; 1934 (38) 1446.

§ 61. Courts in eleventh circuit.—The courts of the eleventh circuit shall be held as follows:

(6) COMMON PLEAS COURT OPEN DURING TERMS OF GENERAL SESSIONS.—In each of the counties of the 11th circuit the court of common pleas shall be open during any term of the court of general sessions, in the discretion of the presiding judge, for the taking of any verdict of a jury by consent of the parties or for the taking of any judgment by default and for the transaction of any equity business not in conflict with the business of the court of general sessions. 1936 (39) 1332.

§ 62. Terms of court in twelfth circuit.—The courts of the twelfth circuit shall be held as follows:

(1) HORRY COUNTY.—The court of general sessions at Conway, for the county of Horry, on the first Monday in March, for two weeks; on the first Monday in June for one week, and on the second Monday in September, for two weeks; and the court of common pleas at the same place on the Wednesdays succeeding the Mondays herein fixed for the holding of the court of general sessions at said place.

(3) FLORENCE COUNTY.—The court of general sessions for Florence County shall be held as follows: On the first Monday in January, one week; on the third Monday after the first Monday in March, for two weeks; on the second Monday after the first Monday in June, for one week; and on the second Monday after the third Monday in September, for two weeks. 1932 (37) 1375; 1934 (38) 1242, 1232; 1936 (39) 1336.

§ 63. Courts in thirteenth circuit.—The courts of the thirteenth circuit shall be held as follows:

(2) PICKENS COUNTY.—The court of general sessions at Pickens, for the county of Pickens, the third Monday in February, one week; first Monday in June, one week; fourth Monday in September, one week. The court of common pleas at Pickens, for the county of Pickens, the fourth Monday in February, two weeks; the second Monday in June, one week; the first Monday in October, one week. 1932 (37) 1335.

§ 64. Courts in fourteenth circuit.—The courts in the fourteenth judicial circuit shall be held as follows:

(1) COLLETON COUNTY.—The courts of general session for the county of Colleton, at Walterboro, on the first Monday in April, for one week; on the second Monday in June, for one week and on the third Monday in September, for one week. The court of common pleas for said county of Colleton, at Walterboro, on the second Monday in April, for one week, on the fourth Monday in May, for one week, on the fourth Monday in October, for two (2) weeks.

(2) HAMPTON COUNTY.—The courts of general sessions for the county of Hampton, at Hampton, on the third Monday in February for not longer than one week; and on the first Monday in June for not longer than one week; and on the second Monday in October for not longer than one week; The courts of common pleas for said county of Hampton, at Hampton, on the first Monday in February for not longer than two weeks, on the Wednesday following the first Monday in June for not longer than the remainder of said week, and on the fourth Monday in September for not more than two weeks. 1934 (38) 1539; 1935 (39) 87.

§ 64-1. Call off terms of common pleas court fixed by statute.

See this section in 1934 Supplement.

§ 66-1. Take consent jury verdicts in civil actions in general sessions court.

See this section in 1934 Supplement.

§ 69. Special sessions of circuit court.

See this section in 1934 Supplement.

§ 94. Criminal jurisdiction and duties of magistrates in counties where county courts are established.

This section inapplicable to magistrates in Richland county. *Bros. & Quinn, 176 S. C., 404; 180 S. E., 348. Pickens v. Maxwell*

§ 95. Civil jurisdiction of magistrates in counties where county courts are established.

This section inapplicable to magistrates in Richland county. *Bros. & Quinn, 176 S. C., 404; 180 S. E., 348. Pickens v. Maxwell*

§ 101. Counties excepted from chapter.

See this section in 1934 Supplement.

§ 102. "Civil court of Florence"—territorial jurisdiction.

Jurisdiction of foreign corporations.—*Harvester Co., 175 S. E., 810; 173 S. C., 338. See generally McLaughlin v. International*

§ 103. Jurisdiction.

See this section in 1934 Supplement.

§ 106. Judge.

See this section in 1934 Supplement.

COUNTY COURT IN AND FOR GREENVILLE COUNTY

§ 118. Established.—A majority of the qualified electors of the county of Greenville having voted at the general election of 1920 in favor of the establishment of a county court in and for said county as provided by the act of the general assembly approved February 19, 1920, a county court is established in and for said county in pursuance of the said act of the General Assembly with such jurisdiction as is hereinafter provided. 1935 (39) 6.

Sections 118-140, 1932 Code, were repealed by 1934/1491; 1935/6. Present sections 118-139 come from 1935/6, 278.

§ 119. Jurisdiction—civil appeals from magistrate courts.—The said county court shall have concurrent jurisdiction with the court of common pleas in all civil cases and special proceedings, both at law and in equity, where the amount demanded in the complaint does not exceed five thousand (\$5,000.00) dollars or when the value of the property involved does not exceed five thousand (\$5,000.00) dollars; *Provided, however,* That in all mortgage foreclosures where the amount of the sum claimed in the complaint does not exceed the sum of five thousand (\$5,000.00) dollars, that the said county court shall have concurrent jurisdiction with the court of common pleas regardless of the value of the property involved; and *provided, however,* That all prior mortgage foreclosures in the said county court are hereby validated in regard to the jurisdiction of said county court where the amount of the sum claimed in the complaint did not exceed the jurisdictional amount regardless of the value of the property involved. Said court shall have concurrent jurisdiction to hear and determine all appeals in civil cases from judgment rendered by magistrate's courts; and the proceedings on such appeal shall be the same as is now provided for appeal from said last named courts to the courts of common pleas. 1935 (39) 6, 278.

§ 120. Criminal appeals from inferior courts.—The said county court shall have jurisdiction to hear and determine appeals in all criminal cases from the

magistrates' court and from municipal courts, or town councils of any of the cities and towns in Greenville County; proceedings on such appeal shall be the same as are now provided for appeal from said last named courts to courts of general sessions. 1935 (39) 6.

§ 121. **Court of record.**—The said county court shall be a court of record and have a seal inscribed with the words "County Court of Greenville", and the same presumption in favor of its jurisdiction and the validity of its judgments and decrees shall hold as in cases of judgments rendered by the circuit courts. 1935 (39) 6.

§ 122. **Transfer of causes.**—The said county judge shall have jurisdiction to remove to the court of common pleas of said county, any case where it may appear to his satisfaction that the case or any part thereof is not within the jurisdiction of the county court, or any case in which the judge has been of counsel, has any personal interest in, or is connected by blood or marriage to any of the parties to the suit. 1935 (39) 6.

§ 123. **Statutes applicable.**—All general laws and statutory provisions applicable generally to the circuit courts and courts of general sessions of this state and trial of cases therein shall apply to said county court and to the conduct and trial of cases therein where not inconsistent with this Article. 1935 (39) 6.

§ 124. **Procedure.**—The same form of pleadings and the same rules of procedure, practice and evidence shall obtain in the county court as is provided by law for the trial of civil and criminal cases in the circuit court where not inconsistent with the provisions of this section: *provided*, that the pleadings or copies thereof in cases for trial before the said court shall be filed in the clerk's office, as now provided by law for the circuit court, before six o'clock in the afternoon of the Monday preceding the first day of the next ensuing term of the said county court, and the clerk shall forthwith enter the case upon the appropriate calendar. 1935 (39) 6.

§ 125. **Grand jury—indictments.**—The grand jury, as drawn in accordance with law for service upon the court of general sessions, for Greenville county, shall constitute the grand jury for the said county court, and need not meet with the said county court, except when ordered to do so by the county judge. The solicitor of the thirteenth judicial circuit, or the county solicitor, if one is provided for by law, shall prepare all bills of indictment wherein a person is entitled to a presentment of a grand jury, and he shall present said indictments to the grand jury, of such cases as the county court has jurisdiction, at each session of the court of general sessions, and it shall be the duty of the clerk of court of general sessions to certify said bills of indictment to the county court for trial or disposition thereof where true bills are found by the said grand jury. The county judge shall have the authority to submit to the grand jury, when called into his court, such bills of indictment as he may desire to submit to them, when the offenses charged are within the jurisdiction of said county court. 1935 (39) 6.

§ 126. **Juries—jury trials.**—Where a jury is required by law in the trial of all civil and criminal cases in said court, said jury shall consist of six persons. In all actions either party may demand a jury trial in all cases in which a trial by jury is granted of right under the Constitution and laws of this state, but such demand must be made on or before the case is called for trial, and the failure to make such demand shall be a waiver of said right of trial by jury. The empaneling of juries in all criminal cases in said court shall be according to the practice now established in the courts of general sessions. That in the selection

of a jury for the trial of criminal cases in said county court, the accused, when charged with misdemeanor, shall be entitled to peremptory challenges not exceeding three, and the state two; and in the trial of cases of felony, the accused shall be entitled to peremptory challenges not exceeding five, and the state three. In cases where there are two or more persons jointly indicted and so tried, the accused shall be jointly entitled to four peremptory challenges in cases of misdemeanors and the state two, and in each case of felony, the defendants jointly shall be entitled to six peremptory challenges and the state four. The empaneling of juries in all civil cases in which the jury shall be charged with the trial of any issue shall be according to the practice now established in the court of common pleas, except the list of jurors now required by law to be furnished shall consist of ten, from which list each party shall alternately strike until there remains but six, which shall constitute the jury to try the case or issue. 1935 (39) 6.

§ 127. Judge—powers.—In all cases and special proceedings within the jurisdiction of the county court and pending therein, the judge of the county court shall have the same jurisdiction, both in open court and at chambers, as is possessed by the circuit judges over cases pending in the circuit courts over which they are presiding, or in the circuits in which they are residents: *Provided*, that said county judge shall have the power to issue writs of *habeas corpus* in all cases; and to grant bail in all cases triable in the county court. The county court shall be open at all times, at the convenience of the county judge, for the purpose of taking pleas of guilty and imposing sentences in all criminal cases within the jurisdiction of this court with the consent of the accused. 1935 (39) 6.

§ 128. Appeals.—In all criminal and civil actions and special proceedings of which said county court shall have jurisdiction, the right of appeal shall be to the supreme court of the state, in the same manner and pursuant to the same rules, practice and procedure as now govern appeals from circuit courts. 1935 (39) 6.

§ 129. Terms.—The terms of the county court of Greenville county shall be as follows: Civil court on the first Monday in January for two weeks, on the first Monday in March for two weeks, on the first Monday in June for two weeks, on the fourth Monday in July for two weeks, on the first Monday in September for one week, on the first Monday in October for one week, on the first Monday in November for one week, and on the second Monday in December for two weeks; criminal court on the third Monday in February for two weeks, on the third Monday in April for two weeks, on the second Monday in July for two weeks, on the fourth Monday in September for two weeks: *provided*, that in addition to the terms aforesaid the judge of the county court shall have authority and power to call special or extra sessions of either civil or criminal court in said county at such other times as the judge or court shall order, and continue for such time as is necessary to dispose of the business of the Court, *provided*, the notice as provided by law in the court of common pleas has been given. *And, provided further*, in addition to the aforesaid terms, the Greenville county court shall be in session at all times and open for the transaction of such business as can be disposed of without a jury. *And provided further*, the county judge may in his discretion adjourn or suspend any term before or after the day fixed by law for the opening of the term. 1935 (39) 6.

§ 130. Jury commissioners—drawing, summoning and attendance of jurors.—The board of jury commissioners, as constituted by law in said county for the drawing of jurors for the circuit court, shall constitute the board of jury commissioners for the drawing of jurors to attend upon the sessions of the

county court, and such commissioners shall, upon the order of said court, at such time as shall be fixed, from the jury box (whether the same has been previously drawn or not) draw a panel of petit jurors, and the clerk of said court shall immediately issue to the sheriff a venire containing the names of the persons thus drawn as petit jurors, which venire shall be returnable at such time as may be named by the said court, and the persons so served shall be the jurors for said court, and the law relating to the qualifications, drawing and summoning of jurors of the circuit court shall apply, except as is herein otherwise provided: *Provided*, that not more than eighteen persons shall be drawn and summoned to attend the same time at any session of the county court, unless the court shall otherwise order. Jurors drawn and summoned shall appear and attend upon the sessions of the county court for which summoned until excused or discharged by the judge thereof: *provided*, that services as jurors in the county court shall not be held to exempt a juror from services as such in the circuit court in the same year. The board of jury commissioners as constituted by law in said county, for the drawing of grand and petit jurors for the circuit court shall constitute the board of jury commissioners for the drawing of grand and petit jurors to attend upon the sessions of the county court and that the provisions of law applicable to drawing grand and petit jurors in the courts of general sessions shall obtain and apply in criminal cases in the county court. 1935 (39) 6.

§ 131. **Clerk—records—cost in civil cases.**—The clerk of the circuit court shall be *ex officio* of the county court, and shall keep such calendars, minutes and records of the said county court, and the cases pending therein, and attend and perform the duties as the clerk thereof, as is required of him by law as clerk of the circuit court (and courts of general sessions). The costs of the clerk in civil cases in the county court shall be the same as those allowed in similar cases in the court of common pleas. The county commissioners of said county shall provide all books necessary for keeping records of said court, for which the clerk shall receive no additional compensation. 1935 (39) 6, 46.

§ 132. **Sheriff—cost in civil cases.**—The sheriff of the county shall attend upon all sessions of the said county court and shall be subject to the orders thereof, and shall execute the orders, writs and mandates of the said county court as required by law of him in reference to the circuit court. The costs and fees of the sheriff in civil cases in the county court shall be the same as those allowed in similar cases in the court of common pleas. 1935 (39) 6.

§ 133. **Pay of jurors and witnesses.**—Jurors in attendance upon the sessions of the county court shall receive as compensation for their services the same per diem and mileage as is allowed said jurors in the circuit court. Witnesses in attendance upon said county court shall receive the same compensation as witnesses in attendance upon the circuit court. 1935 (39) 6.

§ 134. **Judge—further powers—term—appointment—oath—salary—vacancy—special judge—law practice.**—The presiding judge of the county court shall possess all the powers in respect to preserving order or punishing for contempt of court as now possessed by circuit judges. The term of office for the county judge shall be four years from the date of the expiration of his predecessor's term. Said appointment shall be made by the governor in the following manner: On the first Tuesday in December, 1934, and every four (4) years thereafter, the Greenville bar association shall assemble in the court house at an hour to be fixed by the president of the association (*Provided*, that if unable to assemble on that day, a meeting shall be held thereafter as quickly as possible, due notice

being given by the president of the association) and shall select from the lawyers of Greenville bar association one of their number who shall receive a majority vote of the lawyers present. His name shall be immediately transmitted to the chairman of the Greenville county delegation for approval or disapproval by the delegation. The chairman of said delegation shall forthwith call the delegation to meet on the question of approval or disapproval of the nominee of said bar association. If said delegation approves the selection from said association, the chairman shall immediately transmit his name to the governor for appointment and the governor shall thereupon appoint him, his term of office commencing on the termination of the office of the present Greenville County judge. If said delegation shall disapprove of a nominee from said bar association, the chairman of the delegation shall immediately notify the president of the bar association to this effect and said association shall be called together, at a notice of not less than two days, to select another name and transmit to the delegation, and the said delegation shall act on said name as in the first instance and so on, until a judge has been selected by a majority of the bar association and approved by the Greenville County delegation. The expression "Greenville County bar association" as used herein shall mean every lawyer in Greenville County admitted to practice in the supreme court of this state who has an office in Greenville County for the practice of law, but shall not include attorneys who have been admitted to practice who are in other lines of business. That the said county judge, before entering upon the duties of his office, shall take the same oath of office as required by law for circuit judges, and shall be commissioned in the same manner as circuit judges. The salary of the county judge shall be three thousand and five hundred (\$3,500.00) dollars per annum, to be paid by the county in monthly installments; said judge shall not charge on the facts, but declare the law only. All vacancies in the office of county judge shall be filled by appointment by the governor in the same manner as provided herein for the original appointment. In case of absence or inability of the county judge, at the time fixed for holding any term of said court, the governor may appoint some other suitable person, being an attorney at law, to hold said term of court as special county judge. The county judge, as provided for in this section, shall not be allowed to practice law in any court in Greenville county, but may practice in the probate court, U. S. district court and supreme court: *Provided*, that no judge of the county court shall appear as counsel for anyone in any case transferred from the said county court to the court of common pleas, where he has been of counsel or where he is interested in the case, however remote. 1935 (39) 6.

§ 135. County solicitor—election—term—salary.—There shall be selected by the legislative delegation a county solicitor from the members of the Greenville bar to prosecute all criminal cases before the county court, to serve until the next general election at which time his successor shall be elected in the same manner as provided for the county officers. The term of office shall be for four (4) years and until his successor shall have been elected and qualified, and his salary shall be eighteen hundred (\$1,800.00) dollars a year payable monthly by the county treasurer upon the warrant of such county solicitor. 1935 (39) 6.

§ 136. Court crier—bailiffs.—The clerk of court of Greenville County, South Carolina, is hereby authorized and empowered to employ a court crier and two bailiffs for the county court of Greenville County at an expense of not exceeding two (\$2.00) dollars per day, each, for each day's service actually rendered in said court while the said court is in session. 1935 (39) 6.

§ 137. **Stenographer.**—The said county judge shall appoint for the said county court an official stenographer, who shall attend upon the sessions of said court and perform the same duties in connection therewith as are performed by the circuit stenographer in the circuit court. The said stenographer shall receive from the said county the salary of nine hundred (\$900.00) dollars per annum, to be paid by the county in monthly installments, and in addition such fees as provided by law for stenographers in the circuit court and courts of general sessions. 1935 (39) 6.

§ 138. **Costs.**—All costs and disbursements allowing the prevailing party, and all costs and fees allowed officers of court in actions in the court of common pleas shall be allowed in actions in this court. 1935 (39) 6.

§ 139. **Saving clause.**—If any part of §§ 118–139 shall be declared unconstitutional by the supreme court of South Carolina, it shall not affect the remaining portions of said sections. 1935 (39) 6.

§ 140. **Duty of county commissioners.**—*Repealed by 1934 Acts, page 1491, and 1935 Acts, page 6.*

§ 141. **County court in Orangeburg County.**

See this section in 1934 Supplement.

§ 142. **Judge and solicitor.**

See this section in 1934 Supplement.

§ 145. **General laws applicable unless inconsistent—entry of judgments—procedure in minor criminal cases.**

See this section in 1934 Supplement.

§ 148. **Jurisdiction of county judge.**

See this section in 1934 Supplement.

§ 152. **Clerk—costs—records—entry of judgments on abstract—indexing.**

See this section in 1934 Supplement.

§ 156. **Solicitor—duties—inability to serve.**

See this section in 1934 Supplement.

§ 157. **Preparation of criminal cases for county court.**

See this section in 1934 Supplement.

§ 158. **Grand jury.**

See this section in 1934 Supplement.

§ 159. **Trial of equity cases.**

See this section in 1934 Supplement.

§ 160. **Stenographer.**

See this section in 1934 Supplement.

§ 165. **Jurisdiction.**

§§ 75-161 reducing magistrates' jurisdiction in civil cases to amount not exceeding \$25 inapplicable to magistrate in Richland

county. *Pickens v. Maxwell Bros. & Quinn*, 176 S. C., 404; 180 S. E., 348.

§ 173. **Juries.**

Attorney for plaintiff by failure to make objections to juror which attorney could by due diligence have discovered before jury was selected waived such objections

and could not later make them. *Altman v. Eiford Bros. Co.*, _____, S. C., _____; 185 S. E., 543.

§ 191. **Terms.**

See this section in 1934 Supplement.

§ 192. **Jury commissioners—duties—jurors—tales box.**

See this section in 1934 Supplement.

§ 193. **Clerk of court—duties—fees—judgments.**

See this section in 1934 Supplement.

§ 206. Court of record—clerk.

See this section in 1934 Supplement.

§ 212. Certain probate notices or citations not required to be published.

See this section in 1934 Supplement.

§ 215. Judges not to act when interested.

Where judge presiding in proceeding by ward to require former guardian to make final accounting had not yet made his final accounting or been discharged as present guardian of such ward, judgment

rendered binding only upon ward and guardian, who waived judge's disqualification because of interest in proceeding. *Lide v. Fidelity & Deposit Co. of Maryland*, 179 S. C., 161; 183 S. E., 771.

CHAPTER 4-A.—COURTS OF DOMESTIC RELATIONS

§ 256-1. Courts of domestic relations in counties with city over 60,000.—

(1) **SHORT TITLE—APPLICABLE TO COUNTIES WITH CITY OVER 60,000.**—This section shall be known as the "Domestic Relations Court Law" and may be so cited and shall apply to all counties in this state containing a city having a population of over 60,000, according to the 1930 United States census.

(2) **DEFINITIONS.**—Certain words as used in this section have the following meaning for the purposes thereof:

(1) Court means the "domestic relations court of the county of"

(2) Judge means the judge of the domestic relations court of the county.

(3) The words part, division, clerk, probation officer, employee, officer, shall be construed as if followed by the words "of the domestic relations court of the county."

(4) Surety means a person or corporation executing an undertaking or depositing cash in lieu thereof.

(5) The person for whom support is asked shall be known as the petitioner.

(6) The person legally chargeable with the support of a wife or child shall be known as the respondent.

(7) Child means a person actually or apparently under sixteen years of age.

(8) Adult means a person sixteen years of age or older.

(9) Delinquent child means a child over seven and under sixteen years of age (a) who violates any law of the United States or of this state or any municipal ordinance, or who commits any act which if committed by an adult would be an offense punishable otherwise than by death or life imprisonment; (b) who is incorrigible, ungovernable or habitually disobedient and beyond the control of his parents, guardian, custodian or other lawful authority; (c) who is habitually truant; (d) who, without just cause and without the consent of his parent, guardian or other custodian, deserts his home or place of abode; (e) who engages in any occupation which is in violation of law; (f) who begs or who solicits alms or money in public places; (g) who associates with immoral or vicious persons; (h) who frequents any place the maintenance of which is in violation of law; (i) who habitually uses obscene or profane language; or (j) who so deports himself as wilfully to injure or endanger the morals or health of himself or others.

(10) Juvenile delinquency is the commission by a child over seven and under the age of sixteen years of any of the offenses enumerated in the foregoing definition of a delinquent child.

(11) Neglected child means a child under sixteen years of age (a) who is without proper guardianship; (b) who has been abandoned or deserted by either or both of its parents or by any other person or persons lawfully charged with its care and custody; (c) whose parent, guardian or person with whom the child lives, by reason of cruelty, mental incapacity, immorality or depravity is unfit properly to care for such child; (d) whose parent or guardian has been

sentenced to imprisonment for crime; (e) who is under unlawful or improper supervision, care, custody or restraint by any person; (f) who wanders about without lawful occupation or restraint, or who is unlawfully kept out of school; (g) whose parent, guardian or custodian neglects or refuses, when able to do so, to provide necessary medical, surgical, institutional or hospital care for such child; (h) who is found in any place the maintenance of which is in violation of law; (i) who is in such condition of want or suffering or is under such improper guardianship or control as to injure or endanger the morals or health of himself or others.

(12) Destitute child means a child who through no neglect on the part of his parent, guardian, or custodian is destitute or homeless, or in a state of want or suffering due to lack of food, clothing, shelter, or medical or surgical care.

(13) Physically handicapped child means a person under twenty-one years of age who, by reason of a physical defect or infirmity, whether congenital or acquired by accident, injury or disease, is or may be expected to be totally or partly incapacitated for education or for remunerative occupation, but shall not include the deaf and blind.

(14) The words place, placed, commitment, and committed include replace, replaced, recommitment and recommitted respectively.

(3) ESTABLISHED—INFERIOR TO CIRCUIT COURT—POWERS—JURISDICTION.—There is hereby established in and for all counties in the state containing a city of over 60,000 population according to the 1930 United States census, a court of domestic relations to be known as the “domestic relations court of the county of” which shall be a court inferior to the circuit court, and shall have the powers and jurisdiction herein provided.

(4) DIVISIONS OF THE COURT.—The court shall comprise two divisions to be known as the “children’s court” and the “family court”, respectively.

(5) JUDGE.—The judge of such court shall be appointed by the concurrence of four of the following five officials, to wit: the resident judge of the circuit in which such county lies, the circuit solicitor of said circuit, probate judge of the county, the recorder or judge of the police court of the city containing more than 60,000 population and the judge of the county court or other court in said county inferior to the circuit court. The appointment shall be in writing and signed by the appointing officials and such written appointment so signed shall be and constitute the warrant of the judge of the domestic relations court of said county, and the Governor shall forthwith issue a commission to him upon receipt of notice of said appointment. No person shall be eligible to appointment as judge unless such person shall have been admitted to practice as an attorney and counselor at law of the Supreme Court of the state of South Carolina at least ten years prior to the date of such appointment, and shall have resided in said county at least ten years. In making such appointments the said officials shall select persons who because of their character, personality, tact, patience and common sense are especially qualified for the work of the court. During his term of office he shall not engage directly or indirectly in any other business or profession but shall devote his entire time and capacity, so far as the public interest demands, to the duties of his office. During his term of office he shall not practice in any other court of the state, nor shall he hold any other public office, nor shall he act as referee or receiver. No judge, officer, or employee of the court shall demand nor receive for his own use any fees or perquisites of office. The salary of the judge shall be \$3,000.00 per annum, payable monthly as county officers are paid.

(6) JUDGE—TERM—REMOVABLE—VACANCY.—The judge shall hold office for a term of seven years, and until his successor has been appointed and qualified, and he shall be removable for cause by the concurrence of four of the five appointing officials after a full hearing at which he shall be fully informed as to any charge against him and shall be entitled to be present and have counsel, and to offer evidence. When a vacancy occurs in the office of judge it shall be filled by appointment in the manner of the original appointment, as provided in sub-section 5, for a term of seven years.

(7) JUDGE MAKE CERTAIN RULES AND REGULATIONS.—It shall be the duty of the judge to make rules and regulations governing the following subjects:

1. Regarding practice and procedure in the court of his county;
2. Regarding probation;
3. Regarding the receipt and payment of funds for the support of wives or children.

4. Regarding the conduct and control of officers and employees. Such rules shall be printed within a reasonable time after their adoption and copies shall be available for the public and, insofar as the same are not in conflict with existing provisions of law, and of this section, shall have the force of law.

(8) ATTENDANCE OF CLERK AND PROBATION OFFICER—COURT RECORDS—INVESTIGATIONS—SUBPOENAS.—The judge shall prescribe the hours for the attendance of the clerk and probation officer. He shall cause to be established and supervised a system for keeping the records of the court and its various divisions. The judge shall on his own initiative or on complaint, cause to be investigated all matters pertaining to the court or to the officers or employees thereof, and shall take such steps as may be necessary or proper in respect thereto. He may take testimony under oath with regard to any matter concerning the court, and may issue or cause to be issued a subpoena requiring witnesses to appear and testify and to produce books and papers in regard to all matters relevant to such inquiry.

(9) CLERK—PROBATION OFFICER—APPOINTMENT—TERM—VACANCY—SALARY—BOND.—The judge shall have control over the officers of the court which shall be a clerk and a probation officer. Both officers shall be appointed by the judge for a term of two years but may be reappointed at the expiration of that term. Any vacancy shall be filled by the judge. Any officer may be removed by the judge for cause, provided that written charges must be first submitted. The salary of the clerk shall be fixed by the judge at a figure not exceeding \$1,200.00 per annum and shall be paid by the county treasurer in monthly installments. Before taking office the clerk shall give a bond of \$5,000.00 conditioned on the faithful performance of his duties. The salary of the probation officer shall likewise be fixed by the judge at a figure not exceeding \$1,500.00 per annum and shall be paid by the county treasurer in monthly installments. Before taking office the probation officer shall give a bond of \$5,000.00 conditioned on the faithful performance of his duties.

(10) DUTIES OF CLERK OF CHILDREN'S COURT.—The clerk of the children's court shall have the following duties, among others:

1. Records. He shall cause to be kept a complete and accurate record of all the proceedings in the various divisions of the court and of all money received and disbursed.

2. Reports. He shall report in writing to the judge each month the number, character and disposition of the cases coming before the court in its various divisions and handled, the amounts of money received and disbursed by the court for support, and such other information as the judge may require. He

shall keep or cause to be kept such records of children as shall be prescribed or approved by the judge, and shall make to the judge such statistical and other reports concerning children as he shall deem to be necessary or as the judge shall require.

3. Annual report; budget. It shall be his duty to prepare and submit to the judge prior to January tenth of each year the annual report of the court for the preceding calendar year. It shall also be his duty on or before the tenth day of January to prepare and submit to the judge the tentative budget for the expenses of the court for the ensuing calendar year.

4. Expenditure of funds. He shall be responsible for seeing that no funds appropriated for the court are illegally or improperly expended.

5. Seal. He shall be the custodian of the court's records and official papers and of the official seal of the court, and shall affix it to certificates of the court's records and to such other papers as the judge may require.

6. Act as clerk of court. He shall have all the powers of a clerk of court and shall act as such in the work of the court.

7. Bonds. He shall cause to be kept an accurate record of all bonds furnished, both for bail and for support, which shall include the names of sureties, of the person on whose behalf given, the date and the amount, and such other information as may be required by the director of administration.

8. Bureau of information. He shall maintain a bureau of information for the public and shall promptly report to the judge the nature and circumstances of all complaints made relative to the court or its officers or employees.

(11) CLERK OF COURT—PREPARE PAPERS—HANDLE FUNDS—REPORT.—Petitions for support and complaints for non-support and petitions relating to a child and all legal process shall be prepared by the clerk of court and shall be filed by him. He shall have custody of all bonds and cash deposited, and when such funds are to be applied for the benefit of a petitioner he shall turn them over to the support bureau for that purpose. He shall report in writing to the judge at least once in each month the fines imposed and received. The clerk shall pay over the amount of all fines received by him to the county treasurer on or before the fifth day of each month.

(12) PROBATION OFFICER.—The judge shall appoint a probation officer who shall report to him at frequent intervals on the conduct of probation in the various divisions of the court. Subject to the direction of the judge, he shall have charge of the probation work of the court. He shall formulate uniform methods for the probation work of the court and develop processes in the technique of casework, including investigation, interviewing, use of records, analysis of information, diagnosis, plan of treatment, correlation of effort by individuals and agencies, and methods of influencing human behavior.

(13) DUTIES OF PROBATION OFFICER.—It shall be the duty of the probation officer, unless the court otherwise directs, to make a prompt and thorough investigation, before, during or after hearing, concerning the history, character and circumstances of any case assigned to him. His reports shall be submitted to the court and they shall include such facts as may aid the court in correcting conditions responsible for the appearance of the case in court and in planning for the future welfare of the parties involved. Every probation officer shall keep himself informed as to the conduct and condition of all probationers under his supervision and shall visit them as often as may be necessary, and shall report thereon to the court in such manner and at such times as the court shall require. He shall visit the petitioner and the home at such times as the rules of the court shall prescribe. It shall be the duty of each probation officer assigned

to the work of supervision in the family court to secure the prompt payment by the persons under his supervision of such sums as have been ordered by the court to be paid for support, and to report promptly to the court any failure by the probationer to make such payments, or to comply in any important respect with the conditions of his probation. The probation officer shall keep accurate accounts of all moneys and other articles collected or taken from the persons under his supervision and shall make a report of the same to the court. He shall keep an accurate record of all money received by him from his probationers in the family court, or on their behalf, and shall report this in detail each week to the court. He shall report promptly to the court any conduct of the probationer or other circumstances that in his judgment is in violation of the conditions of probation or that would lead the court to modify those conditions or revoke the probation. The probation officer shall be vested with the power and authority conferred by law upon constables.

(14) OATHS—ACKNOWLEDGMENTS.—The judge and clerk shall have power to administer oaths and take acknowledgments.

(15) RECEIPTS AND DISBURSEMENTS.—Each day at the close of the day the clerk shall deposit in a bank approved by the court all funds then on hand. He shall keep a careful and accurate record of all money received and paid out in accordance with the rules of the court. He shall cause to be given or sent to each person making payments to such bureau a receipt upon a printed form to be signed in the name of the court with his name signed thereto, with a statement of the amount of money received and from whom and on whose behalf. Each such receipt shall carry a serial number, which shall also appear upon a carbon copy on an identical form, on which the information filled in on the original shall appear. He shall cause to be promptly transmitted to the probation officer in charge of each case information with regard to all payments made relative thereto and shall report specifically to such officer all instances where required payments have not been made within a two weeks' period. No such carbon copy shall for any reason be destroyed. It shall be the duty of the judge at least once a month to carefully examine and check over these carbon copies and the records of all money received and paid out in said part.

(16) PROBATION OFFICER MAKE INVESTIGATIONS—SUPERVISE PROBATIONERS.—It shall be the duty of the probation officer to interview petitioners for support, to obtain from them and from others, as far as possible, all information necessary to a constructive plan of treatment and the proper handling of their cases by the court, to obtain from the appropriate departments of government and from private agencies such information with regard to the previous records of such persons and their families as may be appropriate, and to visit such petitioners and their homes, as well as such members of their families as may be necessary. He shall promptly report to the court in writing the results of its investigations and without attempt to color the facts or influence the court's decision. He shall supervise persons placed on probation by the court and to see that the conditions of probation are carried out by the probationer, and to aid by counsel and advice, and in other ways, in maintaining the families under their care as social units, and to bring about harmonious relations in the home.

(17) TERMS OF COURT—HOURS.—The court shall be open and sessions of court shall be held every day in the year except Sundays and legal holidays. The court shall be open and ready for the transaction of business on all such days at ten o'clock in the morning, and shall not close before two o'clock in the after-

noon on week days nor before noon on Saturdays. The judge shall be in actual attendance thereon during such hours, except for a reasonable recess.

(18) COURT QUARTERS, FURNITURE, SUPPLIES, ETC.—The court established by this section shall occupy and use such quarters as shall be assigned by the clerk of the court of common pleas and general sessions of the county in the court house for the court established by this section. All furniture, equipment, supplies and other property or service in the custody or use of or allotted to said courts shall be provided by the county supervisor. Until quarters shall have been assigned in the court house, as aforesaid, the judge, with the written approval of the senator and a majority of the members of the house of the county, shall arrange to secure temporary quarters for the court as convenient to the court house as may be practicable, the expense to be defrayed from the contingent fund provided for the court. The stationery and printing of the court shall also be defrayed from such contingent fund.

(19) ATTENDANCE OF CHILDREN AT COURT.—So far as possible a waiting room shall be provided for the care of children brought to court by petitioners. Unless directed by the court, children shall not be permitted in the court room, except where the proceedings are in relation to the child.

(20) INSPECTION OF COURT RECORDS.—The records of any case in the children's court, by order of the court, may be withheld from indiscriminate public inspection in the discretion of the judge, but such records shall be open to inspection by the parent, guardian, next friend or attorney of the child. Any duly authorized agency, association, society or institution to which a child is committed may cause an inspection of the record of investigation to be had, and may in the discretion of the court obtain a copy of the whole or a part of such record.

(21) COURT SEAL.—The court shall have an official seal in such form as may be prescribed by the judge.

(22) COUNTY AND MUNICIPAL AUTHORITIES COOPERATE—INSTITUTIONS REPORT ON CHILDREN—REQUEST OTHER AGENCIES COOPERATE.—It is hereby made the duty of every county and municipal officer and employee to render such assistance and cooperation as shall be within his jurisdictional power, to further the objects of this section. All institutions or other agencies to which any child shall be committed are hereby required to give to the court or its representative such information concerning such child as the court or a justice thereof may require. The court is authorized to seek the cooperation of all societies or organizations, public or private, having for their object the protection or aid of children, to the end that the court may be assisted in every reasonable way to give the children within its jurisdiction such care, protection and assistance as will best enhance their welfare.

(23) ENFORCE COURT ORDERS AND DECREES.—All of the provisions of the state law relating to civil and criminal contempts shall apply to this court, and the court and the judge thereof shall have all the power and authority of the circuit court, or a judge thereof, to enforce its orders and decrees by punishment for contempt, as in the equitable jurisdiction of the circuit courts of South Carolina.

(24) APPEALS.—An appeal may be taken to the court of common pleas of the county by any party to the proceeding from any final order or judgment of the court, by the service within five (5) days after the entry of said order or judgment, of written notice of appeal, containing the grounds of alleged error. All notices of or in connection with appeals shall be served upon the judge and up-

on the attorney for the county board of commissioners as well as upon the appellee or his attorney. In all proceedings in which the county is participating the attorney for the county board of commissioners shall conduct the appeal to final termination, but the consent or approval of the attorney for the county board of commissioners to other appeals shall not be necessary.

When notice of appeal is served as herein provided, the judge shall within ten (10) days make return to the court of common pleas of the county upon the appeal concisely setting forth the pertinent and material facts, the grounds of the decision appealed from, copies of all papers filed in the record, and a copy of such testimony as may have been taken, or a memorandum of evidence, if testimony was not taken in the matter. The return shall be verified on oath by the judge.

In family court cases the appeal shall not operate as a stay of proceedings in respect to the order and no stay shall be granted, unless the appellant deposits with the clerk of court from which the appeal is taken the sum of \$100.00 in cash, which may be applied to the support of the petitioner during said appeal, or unless he gives sufficient surety by a written undertaking approved by the judge of the court, that during the pendency of such appeal he will pay the amount directed to be paid to the family court for the support of the petitioner. Failure to make such payments automatically vacates such stay.

The court of common pleas may reverse or affirm wholly or partly, or may modify the decisions brought up for review. If a new trial is ordered it shall be had in the domestic relations court. All appeals under this section shall have preference in the court of common pleas over all other civil actions and proceedings.

(25) COUNSEL FOR COURT.—The attorney for the county board of commissioners shall act as counsel for the court, and, at the direction of the court, shall represent either party to a controversy who has no counsel, in cases where the opposing party is represented by counsel, and shall take charge of all legal proceedings on behalf of the court where the court's action is under review.

(26) JURISDICTION OF CHILDREN'S COURT.—(1) Children. The children's court in each county shall have exclusive original jurisdiction within such county to hear and determine all cases or proceedings involving the hearing, trial, parole, probation, remand or commitment of children actually or apparently under the age of sixteen years, or who were under the age of sixteen years when the act or offense is alleged to have been committed, or the right of action in such case or proceeding accrued, who are, or who are alleged to be (a) delinquent, (b) physically handicapped, (c) material witnesses, (d) mental defectives, (e) neglected, and shall also have jurisdiction to appoint guardians of the person of such children and to grant orders for the adoption of such children. Such court shall also have jurisdiction in such proceedings to determine the question of the rightful custody of such children if their custody is subject to controversy and insofar as such custody or controversy relates to their immediate care. The court may refer to any magistrate having jurisdiction any delinquent child who it may conclude should be tried in the criminal courts.

(2) Adults; liability for support of children. The children's court shall also have jurisdiction whenever the issues involving a delinquent or neglected child are before the court, to inquire into and determine the liability of any parent or other person who is charged with failure to provide for the maintenance of any such child, when such person is required by law to provide for its care and maintenance; and to inquire into and determine the liability of the parent of any child

committed by the court, pursuant to any provision of law to a duly authorized association, agency, society, or institution, and the liability of any other person required by law to support or maintain any such child; and if judgment be rendered affirming the liability of any such parent or other person to pay for the maintenance, in whole or in part, of such child, and the court is satisfied, after proper investigation and hearing that such parent or other person is able to contribute towards its support, the court may by order require of such parent or other person the weekly or monthly payment toward the maintenance or support of any such child such sum of money as the court shall deem fair and equitable, and may specify in the order the place where and the person, officer or agency to whom such payments shall be made; and if the sum paid shall be for the maintenance of a child committed by the court it shall be credited to the agency, association, society or institution having custody of the child, or to the city, or county having the burden of its care and maintenance. Proceedings under this subdivision may be instituted by a duly authorized agency, association, society or institution or by an interested party or on the court's own motion. The court may issue a summons or in a proper case a warrant or other process to secure or compel the attendance of any necessary person, and such order, when made, shall be enforceable and subject to execution as are orders and injunctions of courts of equity in this state.

(3) The children's court shall, except as herein otherwise provided, have exclusive original jurisdiction in all cases against persons charged with a failure to obey any order of the court made pursuant to the provisions of this subsection, and any violation of an order made pursuant to the provisions of this subsection shall be punishable as a contempt of court.

(27) INSTITUTE PROCEEDINGS WITH PETITION—PETITIONERS—TITLE.—The parent or custodian of any child, an official of a child welfare board, any public official charged by law with the care of the poor, the recognized agents of any duly authorized agency, association, society or institution, or any person having knowledge or information of a nature which convinces such person that a child is neglected or delinquent, or that any child, by reason of its condition, environment or of its own acts is, in accordance with the provisions of this section, subject to the jurisdiction of the children's court, or any person who has suffered injury through the delinquency of such child or is concerned in its guardianship or adoption, may institute a proceeding respecting such child by filing with the court a petition, verified by affidavit, which petition shall state such facts as will bring the child within the jurisdiction of the court. The petition shall include the name and street address of the child and of its parents or other person or persons having the guardianship, custody, control or supervision of such child, or the person with whom it is domiciled, if the same be known to the petitioner, or shall set forth that they are unknown if that be the fact; and the petition shall conclude with a prayer to the court for such action or relief as the law provides. The title of the proceeding shall be "Domestic relations court of the county ofchildren's court, In the matter of.....a child under the age of sixteen years."

(28) JUDGE DIRECT SUMMONS—WITNESSES.—Upon the filing of a petition the judge may, either forthwith or after an investigation which he may direct to be made, cause a summons to be issued, which shall be signed by him or by the clerk of the court, requiring the child and its parent, guardian, custodian or other person or persons having control of such child, or with whom it is domiciled, to appear at the court at a time and place named to show cause why such

child should not be dealt with according to law. The court may also issue a subpoena or in a proper case a warrant or other process to secure or compel the attendance of any person whose testimony or presence at a hearing or proceeding is deemed by the court to be necessary; and any person who willfully fails or refuses to obey any process of the court shall be guilty of a contempt of court, and, may be punished therefor as in the courts of equity in this State.

(29) SERVICE OF SUMMONS, WARRANTS AND OTHER PROCESS.—Service of a summons shall be made by delivery of a true copy thereof to the person summoned. If after reasonable effort personal service shall not have been made the court or a justice thereof at any stage of the proceedings may make an order providing for substituted service of the summons in the manner provided for substituted service in civil process in courts of record. The service of a summons must be made at least twenty-four hours before the time stated therein for such appearance; but if so requested by a parent, guardian, or other person having the custody or control of the child, the Judge shall not proceed with the hearing or proceeding earlier than three days after such service. In case the summons cannot be served, or the person or persons served fail to obey the same, and in any case when it shall be made to appear to the court that a summons will be ineffectual, or that the welfare of a child requires that such child or its parent, guardian or other person having its custody or control, shall be brought forthwith into the custody of the court, a warrant may be issued by the court either against the child, the parent, guardian or other person having its custody or control. All papers, warrants or other process shall be served by any peace officer of the county in which the court is located, when such officer is directed so to do by the court or a justice thereof.

(30) ARREST OF CHILDREN—DUTY OF OFFICERS—DUTY OF MAGISTRATES AS TO CERTAIN CHILDREN—CONFINEMENT.—(1) Whenever any child is arrested, with or without a warrant, it shall be the duty of the officer having such child in charge immediately to notify the parent, guardian or other person responsible for its custody or control, or the person with whom such child is domiciled, that such child has been taken into custody; and forthwith and with all convenient speed the officer shall directly and without his being first taken to the police station house take such child to the children's court located in the county in which the offense, if any, was committed, if the court is in session, and if not in session then to the police station or county jail and the officer making arrest shall immediately make and file a petition as hereinbefore provided. But nothing herein contained shall be held to prohibit the acceptance of bail or recognizance as provided by law.

(2) When a child alleged to be delinquent or neglected is brought before any magistrate or other court for hearing or trial, and it is found that such child is actually or apparently under the age of sixteen years, such magistrate or court shall immediately, by order transfer the case or proceeding to the children's court located in the county having jurisdiction of the case, and shall direct that the child shall forthwith be delivered to this court, if it be in session, and if it is not in session, then to the police station or county jail.

(3) Where a child is taken to the police station or the county jail, such child shall be kept separate and apart from adults confined therein.

(31) PROCEDURE WHEN NOT PRESCRIBED.—Where the method of procedure in a case, action or proceeding in which the court has jurisdiction is not prescribed by this section, such procedure shall be the same as provided by law for other courts exercising like jurisdiction, or by the rules adopted by the court, and

the court shall have such jurisdiction as may be necessary to enable it to carry out and enforce the provisions of this section.

(32) CHILDREN TESTIFY WITHOUT BEING UNDER OATH.—In taking the testimony of children the court may, in its discretion, dispense with the formality of placing them under oath.

(33) HEARINGS.—All cases in which children are directly involved shall be heard separately and apart from the trial or hearing of cases against adults, except where adults and children are involved in the same case, which cases shall be heard as may be provided by the rules of the court. The court shall have power upon the hearing of any case involving any child, to exclude the general public from the room wherein the said hearing is held, admitting thereto only such persons as may have a direct interest in the case.

(34) ARRESTS—DISCHARGE—RELEASE.—If it appears from the petition that the interests of justice require the immediate apprehension of a child the judge may endorse or cause to be endorsed upon the summons an order that the officer serving the same shall at once take such child into custody, or he may issue a warrant as provided by law. Any child in custody may be discharged by the court, or pending the final disposition of any case the child affected may be released on bail or paroled in the custody of a parent, guardian, probation officer or other person and the judge may direct that such child shall be brought before the court at a time specified.

(35) ADJOURN HEARINGS—GUARDIAN AD LITEM—JUDGMENT.—Upon the return of the summons or other process or after any child has been taken into custody, and at the time set for the hearing, the court shall proceed to hear and determine the case. The court from time to time may adjourn the hearing and inquire into the habits, surroundings, conditions and tendencies of the child so as to enable the court to render such order or judgment as shall best conserve the welfare of the child and carry out the objects of this section. During such adjournments the child may be placed in the custody of a parent, guardian, relative or other fit person and under the supervision of a probation officer, if the court so directs. At any stage of a proceeding the judge may, in his discretion, appoint any suitable person to be the guardian *ad litem* of the child for the purposes of the proceeding.

The court, if satisfied by competent evidence, may adjudicate the child to be delinquent or neglected, and in such case shall render judgment as follows:

- (a) Suspend sentence during good behavior.
- (b) Place the child, if delinquent, on probation or, if neglected, under supervision to remain in his own home or in the custody of a relative or other fit person, subject, however, to the supervision of the probation officer and to the further orders of the court;
- (c) Commit the child to the care and custody of a suitable institution maintained by the state or any subdivision thereof, including the reformatories of South Carolina, or to the care and custody of a duly authorized association, agency, society or institution.
- (d) Impose a fine in a sum not to exceed two hundred dollars, or in the alternative to remand, commit or place on probation as herein provided;
- (e) Continue the proceeding and place the child in its own home or in the custody of a relative or other suitable person, or a duly authorized association, agency, society or institution, for a certain designated period subject to the orders of the court;

(f) Discharge the child, if a neglected child, to the custody of such officer, board or department as may be authorized to receive children as public charges, who shall provide for such child as in the case of a destitute child or as otherwise authorized by law; or

(g) Render such other and further judgment or make such other order or commitment as the court may be authorized by law to make.

A child may be placed and continued on probation for such time as the court or justice may deem proper, but such period shall not be longer than five years, nor shall it continue in any case beyond the twenty-first birthday of any child. Such probationary period, however, may extend beyond the time such child attains the age of sixteen years. In case of a violation of the probationary condition, or of the condition of a suspended sentence, the court may impose on the probationer any penalty or penalties which it might have imposed before placing him on probation, and in any case where the court shall have adjudged a child to be delinquent, or neglected, and shall have placed him on probation subject to the supervision of a probation officer, the court in the manner aforesaid may commit such child for a violation of the conditions of his probation at any time during such probationary period irrespective of his age at the time of such violation.

(36) EFFECT OF JUDGMENT, CONFESSION, ETC.—No adjudication under the provisions of this section shall operate as a disqualification of any child subsequently to hold office or as a forfeiture of any right or privilege or to receive any license granted by public authority; and no child shall be denominated a criminal by reason of such adjudication, nor shall such adjudication be denominated a conviction. Neither the fact that a child has been before the children's court for hearing nor any confession, admission or statement made by him to the court or to any officer thereof while he is under the age of sixteen years shall ever be admissible as evidence against him or his interest in any other court. Nothing in this subsection contained, however, shall be construed to prevent any court, in imposing sentence upon an adult after conviction, from receiving and considering the records and information on file in the children's court with reference to such adult when he was a child.

(37) EXAMINE CHILDREN—MEDICAL AND SURGICAL CARE.—The court in its discretion, either before, during or after a hearing, may cause any child within its jurisdiction to be examined by a physician duly licensed as such by the state of South Carolina or by a psychologist or psychiatrist, appointed or designated for the purpose by the court. If it shall appear to the court that any child within its jurisdiction is mentally defective, the court may cause such child to be examined and if such child shall be found to be mentally defective, the court may commit such child. In the case of a physically handicapped child the court may issue an order for his (a) maintenance, (b) surgical, (c) medical or therapeutic treatment, (d) hospital care, (e) appliances and devices, (f) home teaching, (g) transportation, (h) education, (i) tuition, or (j) scholarships. Whenever a child within the jurisdiction of the court and under the provisions of this section appear to the court to be in need of medical or surgical care a suitable order may be made for the treatment of such child in its home, in a hospital or other suitable institution, and the court may, after a proper hearing, issue an order that the person or persons charged with the liability under the law to support such child, shall pay the expenses of such treatment in the manner provided elsewhere in this section for the support or partial support of children committed by the court.

(38) MODIFY AND VACATE ORDERS AND JUDGMENTS—GRANT NEW TRIAL.—

(1) Any order or judgment made by the court in the case of any child committed by virtue of any proceeding, may be vacated and set aside or modified, as provided by law. But no petition for revocation or modification affecting a juvenile delinquent shall be entertained by the court within thirty days after the date of his commitment.

(2) In any juvenile delinquency proceeding the court may stay execution, set aside or arrest judgment, or grant a new trial or hearing on any of the grounds, authorizing any court of criminal jurisdiction so to do. The court also may, in the exercise of its powers of protection over a neglected child, make such an order regardless of whether a motion therefor was made before or after final judgment or commitment. The court may entertain an application to that effect by a duly authorized agency, association, society, or institution, or by any interested person acting on behalf of the child, or may act on its own motion on giving proper notice to interested parties or to any agency, association, society or institution having custody of the child.

(39) JUDGE VISIT INSTITUTIONS WHERE DELINQUENT CHILDREN COMMITTED.—

At least once each year it shall be the duty of the judge to visit each institution to which a delinquent child shall have been committed by the court during the year.

(40) CONCURRENT JURISDICTION WITH PROBATE JUDGE.—The court shall have all the duties, power, authority and jurisdiction now vested by law in the probate judge of the county, in respect of delinquent or neglected children, which shall be concurrent with that of the probate judge, who is hereby authorized to refer any case brought before him to the said court. Such jurisdiction shall include the power to commit to the reformatories of the state in proper cases.

(41) CONSTRUCTION.—This section shall be construed to the end that the care, custody and discipline of the children brought before the court shall approximate as nearly as possible that which they should receive from their parents, and that as far as practicable they shall be treated not as criminals but as children in need of aid, encouragement and guidance.

(42) FAMILY COURT—JURISDICTION.—The family court shall have

(1) Jurisdiction within the county to hear and determine all proceedings to compel the support of a wife, or child, or step-child; and

(2) In proceedings properly brought before the court for the support of a wife, or child, or step-child it shall have

Jurisdiction for the protection and disposition of neglected or dependent minors.

(3) Jurisdiction within the county in all cases or, proceedings against persons charged with failure to obey an order of the court made pursuant to authority conferred by law.

(43) POWERS.—In the exercise of its jurisdiction the court shall have power

(1) To order support of a wife or child or step-child or both, irrespective of whether they are likely to become a public charge.

(2) To include in the requirements of an order for support the providing of necessary shelter, food, clothing, care, medical attention, expenses of confinement, the expense of educating his child, the payment of funeral expenses, and other proper and reasonable expenses.

(3) To require of persons legally chargeable with the support of a wife, or child, or step-child and who are possessed of sufficient means or who are able to

earn such means, the payment weekly, or at other fixed periods, of a fair and reasonable sum for such support, or as a contribution towards such support, according to the means of the persons so chargeable; provided, however, that the amount that the court may require a respondent to pay for the support of the petitioner shall not exceed \$25.00 a week.

(4) To make all orders for support run until further order of the court, except that orders for support of a child shall run until the child is twenty-one years of age; or, where there are physical or mental disabilities of the child or other exceptional circumstances that warrant it, in the discretion of the court during any period and beyond the child's minority as such physical or mental disabilities may continue.

(5) To require the support of a wife who needs support where there are no children, even though there is no physical or mental disability.

(6) To make an order for support of a wife by the husband, even though she may have left the home, in cases where the husband's conduct or condition or his cruel or inhuman behavior made it unsafe, improper or undesirable for her to continue to live with him.

(7) In case where a child is involved to make an "order of protection", in assistance or as a condition of an order for support, setting forth conditions of behavior to be observed for a specified time which shall be binding upon husbands or wives, or both, as circumstances may require, and which must be reasonable.

Such orders may require either spouse

(a) To stay away from the home or from the other spouse or children;

(b) To permit the other to visit the children at stated periods;

(c) To abstain from offensive conduct against the other or against the children;

(d) To give proper attention to the care of the home;

(e) To refrain from acts of commission or omission that tend to make the home not a proper place for the other spouse or the children.

(8) To award the custody of the children, during the term of such order of protection, to either spouse, or to an appropriate relative within the second degree. But nothing in this section contained shall vest in the family court the power to place out or board out any child or to commit a child to an institution or agency, except as provided in subdivisions eighteen and nineteen of this subsection.

(9) To determine the manner in which sums order paid for support shall be paid and applied.

(10) To require a person ordered to support another to give security by a written undertaking that he will pay the sums ordered by the court for such support, and when appropriate to discharge any such undertaking.

(11) In lieu of requiring an undertaking, to suspend sentence and place on probation a person who has failed to support another as required by law, and to determine the conditions of such probation and require them to be observed; to revoke such suspension of sentence and probation, where circumstances warrant it, and to discharge a respondent from probation.

(12) To commit to jail as for contempt of court for a term not to exceed twelve months a person who fails to obey the lawful orders of the court. Such commitment shall not prevent the court from subsequently committing him for failure to thereafter comply with such orders.

(13) To release on probation prior to the expiration of the full term a person committed to jail for failure to obey an order of the court or upon conviction for non-support, where the court is satisfied that the best interests of the family and the community will be served thereby.

(14) To modify or vacate any order issued by the court.

(15) To order either before, during or after a hearing, a mental, physical and psychiatric examination of the petitioner or respondent.

(16) To commit for purposes of observation, in the manner provided by law for a probate judge, or as provided in section 6239 of the Code of Laws of 1932, a person before the court who the court has reason to believe may be insane.

(17) To exclude the public from the court room in a proper case.

(18) To punish any person guilty of a contempt of the court as provided by law.

(19) To send process or other mandates in any matter in which it has jurisdiction into any county of the state for service or execution in like manner and with the same force and effect as similar process or mandates of the circuit courts as provided by law.

(20) To compel the attendance of witnesses.

(21) To make any order necessary to carry out and enforce the provisions of this section.

(44) CONCURRENT JURISDICTION WITH CIRCUIT COURT IN SEPARATIONS, DIVORCES AND CUSTODY OF CHILDREN—PROCEDURE.—The court shall have all of the power, authority and jurisdiction now by law vested in the circuit courts of the state in actions for separation, divorce from bed and board, and custody of children. Such jurisdiction shall be concurrent with that of the circuit courts. The proceedings shall follow those of the circuit courts, except that appeals shall be in the first instance to the court of common pleas of the county.

(45) PETITION FOR SUPPORT OF WIFE OR CHILD.—Notwithstanding the provisions of any other law, a wife or child or step-child may file with the court a petition that the court order the persons legally chargeable with their support to support said petitioner as required by law. Such petition shall be under oath and may be made on information and belief and may be filed on behalf of such wife or child or step-child by the parent or guardian of the child, or other person in *loco parentis*, or by any public official having a duty or responsibility relative thereto, or by the representative of an incorporated charitable or philanthropic society having a legitimate interest in the petitioner. It shall not be necessary as a condition precedent to the filing of such a petition for the petitioner to make a demand upon the respondent for support.

(46) PETITION.—The petition shall be in the name of the person for whom support is asked, and shall be in such form as may be prescribed by the court. The person for whom support is asked shall be known as the petitioner and the person legally chargeable with such support shall be known as the respondent. The terms complainant and defendant shall not be used.

(47) PUBLIC OFFICIALS COOPERATE—BANKS GIVE INFORMATION.—It shall be the duty of all public officials and employees, when so requested, to render such assistance and cooperation to the court as shall be within their power, to further the purposes of this section. Banks and other fiduciary institutions are hereby authorized and required to report to the court, when so requested, full information relative to any funds therein deposited by the petitioner or respondent.

(48) INTERVIEW RESPONDENT.—Upon the receipt of an application for support the clerk of the court shall mail or deliver to the respondent a written notice informing him of the fact that such application has been made and asking him to call at the court or arrange for an interview so that his side of the case may be fairly presented. His statements and other information with regard to him shall be recorded on a form to be known as the “respondent’s statement” which shall become part of the case history. Such statements shall be inquired into by the probation officer. Care shall be taken not to disturb the respondent’s relations with his employers.

(49) COMPROMISE ISSUES—JUDGE APPROVE.—Except where the circumstances indicate it to be undesirable, in all cases where an application for support has been made, an effort shall be made by the judge to restore harmonious relations between the petitioner and the respondent and to adjust the issues raised by the application through conciliation and agreement. Where an agreement for the support of the petitioner is brought about it must be reduced to writing and submitted to the court for approval. The court where possible shall see both parties, and shall inquire of each whether the agreement, which he must state to them, is what they have agreed to. If it is, and the court shall approve it, the court without further hearing may thereupon enter an order for the support of the petitioner by the respondent in accordance with such agreement, which shall be binding upon the respondent, and shall in all respects be a valid order as though it had been made after process had been issued out of the court. The court record shall show that such order was made upon agreement.

(50) ISSUE SUMMONS WHEN PARTIES CANNOT AGREE—REFUSE.—The court after receiving the petition, in cases where no agreement has been reached by the respondent and petitioner, shall in a proper case cause a summons to be issued, which shall be signed by the court or by the clerk of the court, requiring the respondent to appear at the court at a time and place named to show cause why the order for support prayed for by the petition shall not be made. Summons shall be in such form as may be prescribed by the court. A summons shall not be refused without giving the petitioner an opportunity to be heard by and present witnesses to the court.

(51) ISSUANCE AND SERVICE OF WARRANTS.—When a petition is presented to the court and it shall appear

- (a) that the summons cannot be served; or
- (b) that the respondent has failed to obey the summons; or
- (c) that the respondent is likely to leave the jurisdiction; or
- (d) that in the opinion of the court a summons would be ineffectual; or
- (e) that the safety of the petitioner is endangered; or
- (f) that a respondent on bail or on parole has failed to appear, the court may

issue a warrant, in the form prescribed in the next subsection, directing that the respondent be arrested and brought before the court. Warrants and other process may be served by any peace officer, or by the probation officer. The court shall make rules relative to the service of warrants. Warrants issued by the court shall be valid throughout the state.

(52) FORM OF WARRANT.—A warrant of arrest may be substantially in the following form, the blanks being filled in:

State of South Carolina,)
 County of.....) ss:

To any peace officer in the state of South Carolina:

A petition under oath having this day been laid before me showing that

..... is legally chargeable with the support of.....
and has failed to provide such support and praying this court to exercise its powers to compel such support.

You are, therefore, commanded forthwith to arrest the above named.....
..... and bring him before this court at

Dated at....., the..... day of..... 19.....

.....
Judge of domestic relations court of the
County of

(53) SERVICE OF SUMMONS AND PROCESS.—Summons and process other than warrants may be served through the mails, but a default order shall not be entered or a warrant issued thereon for failure to obey a summons or process thus served except on proof that it was received by the respondent. Personal service of summons or other process shall be made by the delivery of a true copy thereof to the person summoned, or by leaving the same at his residence with a person of discretion. In all cases service of summons must be made within a reasonable time before the time stated therein for such appearance, as may be provided by the rules of the court.

(54) HEAR AND DETERMINE ISSUES.—Upon the return of the summons, the court shall proceed to hear and determine the case. The respondent shall be informed of the contents of the petition and shall be given opportunity to be heard and to subpoena and present witnesses. If the court finds that the respondent is chargeable with the support of the petitioner and should be compelled to provide such support, the court shall make an order requiring such respondent to pay weekly, or at other fixed periods, a fair and reasonable sum for, or towards, the support of the petitioner, and to observe such conditions of behavior as the court may determine.

(55) RULES OF COURT—ADJOURNMENT—TEMPORARY SUPPORT.—Hearings shall be conducted in accordance with such rules as the court may adopt. The court may adjourn the hearing from time to time for proper cause. Where the petitioner's needs are so urgent as to require it, the court may make a temporary order for support pending a final determination.

(56) ARRESTS.—When a respondent is brought before the court upon an arrest the court shall proceed as upon the return of the summons as provided in subsections fifty-four and fifty-five, and he may be admitted to bail, or released on parole, in the court's discretion, to such time or times as the court may fix for the hearing or hearings in the proceeding.

(57) COUNSEL—WITNESSES—PRESUMPTIONS.—At the commencement of a hearing under the provisions of subsections fifty-four and fifty-five, the court shall inform the respondent of his right to the aid of counsel at every stage of the proceeding and before any further proceedings are had; and in the case of a trial shall also inform him of the charge against him. In any such hearing or trial wives and husbands shall be competent witnesses against each other; a husband or father shall, *prima facie*, be presumed to have sufficient means to support his wife and children; a dependent adult without means to maintain herself shall be presumed to be likely to become a public charge.

(58) FAILURE TO SUPPORT.—Where a respondent shall neglect or refuse to obey an order for support made under the provisions of subsection fifty-four and the court is satisfied thereof by competent proof, it may with, or without notice, issue a warrant to commit the respondent to jail until the order is obeyed or

until the respondent is discharged according to law, but in no event for a period exceeding twelve months.

(59) PLACE ON PROBATION.—In the case of a respondent who shall have neglected or refused to obey an order for support as provided in subsections fifty-four and fifty-eight the court may suspend sentence or the execution of the warrant, as the case may be, and place him on probation under such conditions as the court may determine. No person, however, shall be placed on probation unless an order to that effect is made by the court.

(60) REVOKE PROBATION—EFFECT.—The court may at any time, where circumstances warrant it, revoke the probation of a respondent. Upon such revocation the respondent shall be brought to court and shall be dealt with by the court as if there had been no probation, and to that end with, or without a further hearing, the court may make any order that might have been made at the time of such probation.

(61) ADMIT TO BAIL—BOND.—If the respondent be admitted to bail, the condition of the undertaking shall be for his future appearance according to the terms thereof, or in default of such appearance, that the surety will pay to the clerk of the court a specified sum as therein set forth. Instead of entering into such an undertaking a respondent may deposit money in an amount to be fixed by the court. If the respondent fails to appear in accordance with the terms of the undertaking, the court shall enter the fact of such non-appearance upon the record, and the undertaking for his appearance, or the money deposited in lieu thereof, shall be forfeited and upon order of the court the sum recovered shall be applied by the clerk of the court for the benefit of the petitioner. The court may, however, in its discretion remit such forfeiture.

(62) ARRESTS WHEN COURT NOT IN SESSION.—If a respondent is arrested under a warrant of the family court at a time when the family court is not in session, he shall be taken to the most accessible magistrate and arraigned before him. The production of the warrant shall be evidence of the filing of a proper information, and the magistrate shall thereupon hold the respondent, admit to, fix or accept bail, or parole him for trial before the family court. All subsequent proceedings shall be had in the family court.

(63) DUTY OF MAGISTRATES AS TO CERTAIN PERSONS.—Whenever a person is brought before a magistrate and, in the opinion of such magistrate, the person should properly be brought to the family court, the magistrate shall thereupon transfer such case to the family court and direct that the persons involved be taken thereto.

(64) PROBATION OFFICER VISIT PERSONS IN JAIL—REPORT.—Where a respondent has been committed to jail he shall be visited shortly after such commitment by the probation officer assigned for duty for the purpose of seeing whether he is then likely to obey the order of the court if released. A report in writing shall be made to the court by the probation officer, setting forth the nature of the interview thus had. The time of making the initial visit and subsequent visits to respondents in jail, which shall be made at reasonably frequent intervals, shall be at such times as the rules of the court may prescribe. Written reports shall be made of all such interviews. These shall be part of the case history.

(65) GIVE BOND PROVIDE SUPPORT.—The court may require the respondent to give to the clerk a written undertaking with sufficient surety approved by the court that the respondent will abide by the order for support. The required amount of the principal of such undertaking shall not exceed the total payments for support required for three years and shall be stated in the order for support.

The respondent may deposit such sum in cash with the clerk. The form of the undertaking and the form and manner of justification of the surety shall conform to the rules of the court.

(66) **NEW BOND.**—The court may at any time thereafter, before or after there has been a default, if all arrears have been paid in case there shall have been a default on such undertaking, accept a new undertaking in lieu of the original undertaking, and the court shall enter an order discharging such undertaking.

(67) **DEFAULT.**—A default in the terms of the order shall constitute a breach of the undertaking. When there has been a default the court shall cause an affidavit to be drawn, verified and filed by any person familiar with the facts. The surety shall thereupon be personally served with notice of such default and shall be required to attend at the court on a day certain and show cause why judgment should not be entered on the undertaking and the amount thereof applied to the relief of the petitioner for the amount in default. If the surety appears and pays the amount in arrears the court may remit the forfeiture. Inability to serve the surety shall not be prejudicial to the renewal of proceedings against the respondent.

(68) **COURT DECIDE IF DEFAULT EXISTS—EFFECT OF JUDGMENT.**—If the surety contests the default the court shall hear and determine the issue. In the event that the court finds that a default has been suffered, it shall make an order specifying the amount in default and forfeiting the undertaking or cash deposit to the extent of such default. A certified copy of such order shall be filed in the office of the clerk of the court of common pleas of the county with a certified copy of the undertaking and thereupon the said clerk shall docket the same in the book kept by him for the docketing of judgments, as if the same was a transcript of a judgment for the amount of such sum in default. The certified copy of the undertaking and of the order shall be the judgment record. Such judgment shall be in lien on all of the real estate, as in the case of other judgments entered therein, and collectible out of the real and personal property of the surety. An execution may be issued to collect the amount thereof in the same manner as upon a judgment recovered in any court of record. It shall be the duty of the attorney for the county board of commissioners to take the necessary proceedings to collect such judgment.

(69) **USE OF FUNDS FORFEITED OR DEFAULTED—DEATH OF RESPONDENT.**—(1) All sums collected from the surety by judgment as well as forfeited cash deposits shall be applied by the clerk of court to the support of the petitioners for whose benefit the order for support was made. Subsequent defaults shall be proceeded upon in the same manner until the amount of the principal of the undertaking or the cash deposited has been recovered in full.

(2) Where the respondent, or any one in his behalf, shall have deposited with the court monies as surety for compliance with the terms of the order of support and the respondent shall have died, the court may make an order directing the payment to the petitioner of all monies still in possession of the court in conformance with the other of support.

(70) **RELIEVE SURETY OF LIABILITY.**—A surety may at any time surrender a respondent to the court. The respondent shall thereupon be dealt with as provided in the order for support. If the arrears on the order for support with interest thereon are paid in full, the court may make an order discharging the surety of any further liability and directing the return of the balance of the cash on deposit to the person entitled thereto.

(71) **ORDER OF LIABILITY CEASED.**—Whenever the liability on an undertaking has ceased, the court shall make an order to that effect.

(72) **REQUIRE NEW OR ADDITIONAL SECURITY.**—After an undertaking has been given or cash has been deposited and it shall appear upon proof of affidavit either

(a) that a judgment entered upon default can not be collected; or

(b) that the liability of the surety has ceased; or

(c) that the money deposited has been applied in full; or

(d) that personal service cannot be effected upon the surety or the person depositing the cash; or

(e) if for any reason the court shall find that there is not sufficient security; the court may issue a warrant for the arrest of the respondent, and require him to give new or additional security. In default thereof the court may commit him under the original order in the manner hereinabove provided.

(73) **EFFECT OF OTHER LAWS.**—All laws and parts of laws, whether general, local or special, which are inconsistent with or in conflict with or repugnant to any provision of this section shall be deemed not to apply.

(74) **JURISDICTION OF OTHER COURTS NOT AFFECTED.**—Nothing in this section contained shall be deemed to limit, abridge, or impair the jurisdiction of the circuit court, probate court or of any court of record.

(75) **SAVING CLAUSE.**—If any provision of this section is held by the courts to be invalid, such decision shall not affect the validity of the rest of the section. 1936 (39) 1499.

This section added by 1936/1499.

§ 247. **Revoke and send to orphan asylum or reformatory.**

See this section in 1934 Supplement.

§ 255. **Jurisdiction of probate court in counties between 85,000 and 100,000 as to certain minors.**

See this section in 1934 Supplement.

§ 276. **Court established.**

See this section in 1934 Supplement.

§ 277. **Jurisdiction.**

See this section in 1934 Supplement.

§ 278. **Presiding judge—compensation.**

See this section in 1934 Supplement.

§ 279. **Pleadings and practice—duties and powers of magistrates.**

See this section in 1934 Supplement.

§ 281. **Jury commissioners—drawing—summoning and impanelling of juries.**—The county auditor, the county treasurer, and the judge of the said civil and criminal court shall constitute the jury commissioners of said court, to serve without compensation: *Provided*, That in case one of said commissioners shall be unable to act at any time by reason of absence, sickness or other disability, the superintendent of education of Charleston County shall act as such jury commissioner in his place and stead. They shall during the month of January next succeeding every general election for state officers prepare a list of not less than three thousand of the qualified electors residing within the jurisdiction of the court, now or hereafter qualified by law to act as jurors, and shall cause the said names of each one to be written on a separate piece of paper or ballot, and shall fold up such pieces of paper or ballots so as to resemble each other as much as possible, so that the names thereon shall not be visible from the outside, and shall place them in a jury box to be furnished by the county commissioners for that purpose, and all names for jurors for said court

shall thereafter be drawn from said box in the manner herein provided. It shall be the duty of the clerk of the said court to keep said jury box in his custody; and such jury box shall be provided with three locks, each different; the keys to said locks shall be kept by the jury commissioners of said court, respectively, so that neither of said parties shall hold keys to the same lock. And it shall be the duty of the county supervisor for the county of Charleston to furnish to the said jury commissioner above mentioned a jury box of sufficient size and without any compartments therein, so that, when all the separate pieces of paper or ballots aforesaid shall be folded and enclosed therein, they may be capable of being readily shaken out and intermixed in such box. Not less than ten (10) days nor more than twenty (20) days before the first day of each week in which jury trials are to be held and only after five days advertisement by placing notice in two public places in the jurisdiction of the court, one of which places must be the county court house, the jury commissioners of said court shall proceed to draw indiscriminately from the said jury box, not less than twenty (20) persons to serve for such week only, and the clerk of said court shall issue his writ of *venire facias* for such jurors requiring their attendance on the first day of the week for which they have been drawn; and the said writ of *venire facias* shall be forthwith delivered to the sheriff of Charleston County for execution by him and he shall make his returns thereon at least two (2) days before the day when the jurors are required to attend: *Provided*, that whenever it shall be necessary to supply any deficiencies in the number of jurors duly drawn, the jury commissioners of said court shall draw from the jury box such number of jurors as shall be necessary, in which case *venire* shall be served and returned, and jurors required to attend on such days as the court shall direct, and, *provided, further*, that in cases in which jury trials may be held in said civil and criminal court during the period in which the courts of common pleas and general sessions for Charleston County are in session, as provided in section 288, as amended, jury panels for such trials may be drawn not less than three (3) days before such trial, and without advertisement thereof, where one day's notice of the time of drawing is given to the parties or their counsel. 1935 (39) 284.

§ 284. Clerk—duties and powers.

See this section in 1934 Supplement.

§ 285. Pay of jurors and sheriff—docket fee.

See this section in 1934 Supplement.

§ 286. Appeals.

See this section in 1934 Supplement.

§ 288. Procedure—terms.

See this section in 1934 Supplement.

§ 288-1. Transfer of causes.

See this section in 1934 Supplement.

§ 290. Appointment of recorder.

See section 931-1 (1936/1435), which magistrate and recorder court be taken in writing provides that testimony of witnesses in

§ 299. Jurisdiction of court.

See this section in 1934 Supplement.

§ 311-1. Civil and criminal court for portion of Oconee County.

See this section in 1934 Supplement.

§ 350. Courts order payment of money to minors, etc.

See this section in 1934 Supplement.

§ 385. After forty years, no action whatever allowed.

See generally.—McQuage et al. v. Calhoun et al., 178 S. C., 341; 183 S. E., 164.

§ 387. Twenty years.

See generally.—McQuage et al. v. Calhoun et al., 178 S. C., 341; 183 S. E., 164.

§ 388. Six years.

Debtor may direct application of payment to any of his debts, but should no direction be given creditor, then creditor may apply payment in such manner as

best pleases him, as regards running of statute of limitations. Johnson v. Broome, 175 S. C., 385; 179 S. E., 315.

§ 404. Who may be defendants.

Person who canceled mortgage upon execution of deeds to his wife in belief no other liens existed against property was properly made party defendant in fore-

closure action instituted by holder of another mortgage. Maxwell v. Epton, 177 S. C., 184; 181 S. E., 16.

§ 409. Court to decide controversy, etc.

Bringing in or retaining of parties in suits in equity is left very much to the discretion of trial judge. Bennett v. Hindman, 176 S. C., 151; 179 S. E., 794.

In foreclosure action by assignee, mort-

gagor not entitled to have mortgagee and others who had no interest in note, mortgage or property, made parties thereto. Bennett v. Hindman, 176 S. C., 151; 179 S. E., 794.

§ 412. Beneficiaries of action for wrongful death.

Settlement of claim for wrongful death by administratrix, who had herself fraudulently appointed as such, with consent of probate court, set aside when lawful wife

of deceased applied to probate court. Ellenberg v. Arthur, 178 S. C., 490; 183 S. E., 306.

§ 422. Actions to be tried in county where defendant resides.

Service of summons and complaint on defendant by leaving copy of same with defendant's wife in county other than defendant's residence valid. Such defendant

could have the cause transferred to county of his residence for trial. American Agricultural Chemical Co. v. Smith, 175 S. E., 275; 173 S. C., 158.

§ 423. Suits against insurance companies may be brought in county where loss occurs.

Venue in actions against insurance company.—See notes to § 7997.

§ 427. Actions.

Original actions against Governor as officer of state to set aside Governor's orders suspending state highway commissioners from office were properly before Supreme

Court, notwithstanding only rules to show cause and not summons or other process had been served on Governor. Dacus v. Johnston, 180 S. C., 329; 185 S. E., 491.

§ 434. Summons—how served.

Jurisdiction can be obtained only by service of process in manner prescribed by law of forum, and there must be certainty person served is such party as meets requirements of statute. Dyar v. Georgia Power Co., 173 S. C., 527; 176 S. E., 711.

this state when court not in session engaged in making investigation for purpose of bringing information into court to testify as an expert witness, etc., may be served. Dyar v. Georgia Power Co., 173 S. C., 527; 176 S. E., 711.

In action by wife against husband, service of summons and complaint on person in charge of husband's office, who was out of state securing divorce from his wife, valid. St. Clair v. St. Clair, 175 S. C., 83; 178 S. E., 493.

Service on person in this state, who was salesman for foreign corporation, who was designated on its stationery as its salesman, who canvassed the trade in auto with such corporation's name on it; although goods were shipped to consumers with draft, order notify bill of lading attached in many instances, valid. Forbes v. Kingan & Co., 174 S. C., 24; 176 S. E., 880. Dyar v. Georgia Power Co., 173 S. C., 527; 176 S. E., 711.

Service of process on a person who has ceased to represent a foreign corporation as its agent prior to bringing suit is entirely nugatory. This applied to attorneys, who, except by express authority, have power to accept service of a process which institutes a suit. Dyar v. Georgia Power Co., 173 S. C., 527; 176 S. E., 711.

Any agent.—Where the cause of action arises in the state, any person acting for the corporation in any representative capacity is an agent to make service upon. Forbes v. Kingan & Co., 174 S. C., 24; 176 S. E., 880.

A citizen of another state within the borders of this state for the purpose of attending court as an attorney, or witness, is immune from suit or service of process while here. Dyar v. Georgia Power Co., 173 S. C., 527; 176 S. E., 711.

"Doing business in this state" construed—"Agent of foreign corporation" construed.—Dyar v. Georgia Power Co., 173 S. C., 527; 176 S. E., 711.

However agent of foreign corporation in

A corporation organized and existing under the laws of another state cannot be bound by service of summons and complaint on agent of a corporation organized and existing under laws of this state and having no legal affiliation whatever with the corporation organized under the laws of such other state. *Harrell v. Sears, Roe-*

buck & Co., 178 S. C., 482; 183 S. E., 303.

Proof of service should show requirements of law in making service were complied with, otherwise order of arrest for imprisonment should not be issued. *Cannon v. Haverly Furniture Co., 179 S. C., 1; 183 S. E., 469.*

See notes to § 7765, 1934 Supplement.

§ 436. Publication of summons.

See this section in 1934 Supplement.

§ 437. **Service on non-residents in actions arising out of accidents or collisions of motor vehicles.**—(1) DIRECTOR OF MOTOR VEHICLE DIVISION LAWFUL ATTORNEY.—The acceptance by non-resident of the rights and privileges conferred by the laws now or hereafter in force in this state permitting the operation of motor vehicles, as evidenced by the operation of a motor vehicle by such non-resident on the public highways, *streets of any incorporated or unincorporated municipality and public roads* of this state, or the operation by such non-resident of a motor vehicle on the public highways, *streets of any incorporated or unincorporated municipality and public roads* of the state other than as so permitted or regulated, shall be deemed equivalent to the appointment by such non-resident of the director of motor vehicle division of the state highway department, or of his successor in office, to be his true and lawful attorney upon whom may be served all summons or other lawful process in any action or proceeding against him, growing out of, any accident or collision in which said non-resident may be involved by reason of the operation by him, for him, or under his control or direction, express or implied, of a motor vehicle on such public highway of this state, and said acceptance or operation shall be a signification of his agreement that any such process against him shall be of the same legal force and validity as if served on him personally. Service of such process shall be made by leaving a copy thereof, with a fee of one dollar, in the hands of said director of motor vehicle division of the state highway department, or in his office, and such service shall be sufficient service upon the said non-resident: *Provided*, that notice of such service and a copy of the process are forthwith sent by registered mail by the plaintiff or the director of motor vehicle division of the state highway department to the defendant and the defendant's return receipt and the plaintiff's affidavit of compliance herewith are appended to the summons or other process and filed with said summons, complaint and other papers in the cause. The court in which the action is pending shall order such continuance as may be necessary to afford the defendant reasonable opportunity to defend the action. 1935 (39) 249.

The italics in sub-section 1 added by 1935/249. The section otherwise remains unchanged.

For service on common carriers operating motor vehicles section 8511 should be consulted herewith.

§ 441. When jurisdiction of action acquired.

Service of original summons and complaint valid court had jurisdiction of sub-

sequent proceedings. *St. Clair v. St. Clair, 175 S. C., 83; 178 S. E., 493.*

§ 456. Complaint—what to contain.

Cited—*Waldrop v. M. & J. Finance Corporation, 176 S. C., 490; 180 S. E., 555.*

§ 458. When the defendant may demur.

In action against foreign corporation for conversion of automobile on which plaintiff had lien, complaint held demurrable as against codefendants who were allegedly indebted to corporation where there was no allegation that codefendants were under obligation to plaintiff, or had done him any wrong. *Waldrop v. M. & J. Finance Cor-*

poration, 176 S. E., 490; 180 S. E., 555.

That another action covering same matters was pending between same parties in same court held not to render complaint which did not on its face disclose such fact demurrable, and objection was required to be raised by answer. *Setzler v. Foil, 179 S. C., 232; 183 S. E., 907.*

§ 470. Sham and irrevelant defenses to be stricken out.

This section constitutes full authority for striking, for irrelevancy, either (1) an entire answer or (2) an entire separately pleaded defense. *Burkhalter v. Townsend*, 139 S. C., 324, 138 S. E., 34, 37. *Harman v.*

Harman, 54 S. C., 100, 31 S. E., 881. *Virginia-Carolina Chemical Corporation v. Tweed-Lumber Co.*, 174 S. C., 497; 178 S. E., 131.

§ 478. Striking out irrevelant or redundant matter and making indefinite matter more definite.

In an action under section 660 for the construction of a will, complaint alleges and the answer admits the will was duly probated in common form, and more than four years elapsed without probate in solemn form being required as provided in section 8932, and where the disability of infancy is not alleged, the striking from the answer allegations that the will was not properly executed, and that application

will be made to probate court for probate in solemn form despite expiration of four-year period prescribed in section 8932 held proper. Infancy is the only disability made an exception to the four-year period by section 8932. *Wilkinson v. Wilkinson*, 178 S. C., 194; 182 S. E., 640.

Cited—*Waldrop v. M. & J. Finance Corporation*, 176 S. C., 490; 180 S. E., 555.

§ 487. What causes of action may join.—* * * (8) PRINCIPAL AND SURETY JOINTLY AND CONCURRENTLY LIABLE ON BONDS OR INSURANCE REQUIRED BY LAW—JOIN IN SAME ACTION.—In all cases where it is now or hereafter provided by law that an indemnity bond or insurance must be given by a principal for the performance of contract or as insurance against personal injury founded upon tort, the principal and his surety, whether on bond or insurance, may be joined in the same action and their liability shall be joint and concurrent. 1935 (39) 406.

This sub-section added by 1935/406.

Consolidation of two actions for recovery of benefits alleged to be due under two separate policies of insurance, policies in question being identical as to dates, amounts, and provisions, proper. *Ford v. New York Life Ins. Co.*, 176 S. C., 186; 180 S. E., 37.

Consolidation of actions at law unites and merges them into single action, as if different causes of action were originally joined in single action, and consolidation order by court of competent jurisdiction is binding on all parties to actions until vacated or set aside. *Ford v. New York Life Ins. Co.*, S. C.,; 185 S. E., 914.

After consolidation of actions at law,

§ 490. Material variances.

Alleged material variance between plaintiff's pleadings and proof does not require withdrawal of issues from jury, where defendant failed to show to court that he

§ 492. What not to be deemed a variance.

See notes to § 490 hereof.

§ 493. Amendments of course, and after demurrer.

When motion for leave to amend is made under § 494 any right to amend as of course

§ 494. Amendments by the court.

Allowance of amendment under this section is within sound discretion of the trial judge. *Dunbar v. Fant*, 174 S. C., 49; 176 S. E., 866.

An amendment is proper hereunder only to cure a defectively stated case, and not to substitute a new cause of action, *supra*.

This section intended to be used only to perfect a proceeding in which amending party has been successful and not to obtain

there can be no further proceedings in separate actions, which are discontinued and superseded by single action, and all subsequent proceedings therein should be conducted and parties rights adjudicated as in single action. *Ford v. New York Life Ins. Co.*, S. C.,; 185 S. E., 914.

The legal effect of a consolidation is to merge two or more actions into one, and chief ground for the union is plaintiff should have brought but one action; and main object of consolidation is to save costs and prevent a multiplicity of suits. *Ford v. New York Life Ins. Co.*, S. C.,; 185 S. E., 914.

was actually misled to his prejudice within statute. *Langston v. Fiske-Carter Const. Co.*, S. C.,; 185 S. E., 62.

under this section is waived. *Dunbar v. Fant*, 174 S. C., 49; 176 S. E., 866.

a new trial on new cause of action after cause has been lost on original cause of action, *supra*.

In action on bond and for foreclosure of mortgage securing bond, where case had been to Supreme Court after one amendment of defendants' answers had been allowed, defendants not precluded from again amending answers before the trial, so as to include defense of usury not previously

pleaded. *Elliott v. Carroll*, 179 S. C., 329; 184 S. E., 92.

Where a pleading shows intention to state facts without which it is demurrable, demurrer may be sustained and amendment allowed; test of proposed amendment

§ 495. Court may give relief in case of mistake.

Decree set aside giving claim of undertaker and physician against estate of mortgagor priority over mortgagee in proceeds derived from sale of mortgaged premises, the mortgagee not being notified of such error over 12 months before she instituted

being whether it is different matter, constituting another subject of controversy, or same matter more fully or differently stated. *Barr v. Witsell*, 173 S. C., 199; 175 S. E., 436.

action to correct decree; although her attorney had notice of decree over 12 months from time of her action. *McGee et al. v. F. W. Poe Mfg. Co.*, 176 S. C., 235; 180 S. E., 43.

§ 500. Arrest in civil actions in what cases.

Constitutionality.—Paragraph 6 hereof held constitutional in *Blackmon v. Kirven*, 175 S. E., 814; 173 S. C., 322.

Issuance of Order of Arrest.—See notes to § 741.

§ 501. Order for arrest.

Before an order should be issued for the arrest and imprisonment of a citizen regarding a debt, the record should clearly

show that the law of service has been complied with. *Cannon v. Haverty Furniture Co.*, 179 S. C., 1; 183 S. E., 469.

§ 503. Security by plaintiff before obtaining order for arrest.

Judgment for arrest and imprisonment of debtor being void, court having not acquired jurisdiction, debtor can maintain action for illegal arrest and imprisonment without first instituting suit to set such judgment aside. *Cannon v. Haverty Furniture Co.*, 179 S. C., 1; 183 S. E., 469.

Party causing one to be arrested and put in prison for debt, should strictly follow the law, otherwise such party is liable to respond in damages. *Cannon v. Haverty Furniture Co.*, 179 S. C., 1; 183 S. E., 469.

§ 527-1. Attachment in action for libel and slander against non-residents or foreign corporations.

See this section in 1934 Supplement.

§ 534. Sell attached personal property likely to deteriorate, or keeping thereof expensive, before judgment when not replevied.

See this section in 1934 Supplement.

§ 540. Judgment—how satisfied.—* * *. (4) Until the judgment against the defendant shall be paid, the sheriff or constable may proceed to collect the notes and other evidences of debt, and the debts that may have been seized or attached under the warrant of attachment, and to prosecute any bond he may have taken in the course of such proceedings, and to apply the proceeds thereof to the payment of the judgment. At the expiration of six months from the docketing of the judgment, *or forthwith upon the docketing of the judgment in cases in which an automobile has been attached under section 8785*, the court shall have power, upon the petition of plaintiff accompanied by an affidavit setting forth fully all the proceedings which have been had by the sheriff or constable since the service of the attachment, the property attached, and the disposition thereof, and also the affidavit of the sheriff or constable that he has used diligence and endeavored to collect the evidences of debt in his hands so attached, and that there remains uncollected of the same any part or portion thereof, to order the sheriff or constable to sell the same, upon such terms and in such manner as shall be deemed proper. Notice of such application shall be given to the defendant, or his attorney, if the defendant shall have appeared in the action. In the case the summons has not been personally served on the defendant, the court shall make such rule or order, as to the service of notice and the time of service, as shall be deemed just. When the judgment and all costs of the proceedings shall have been paid, the sheriff or constable, upon reasonable demand, shall deliver over to the defendant the residue of the attached property, or the proceeds thereof. 1935 (39) 151.

The italics in sub-section 4 added by 1935/151. The section otherwise is unchanged.

Cancellation of judgments, Chester County, 1935/477.

§ 546. Attachment in action for purchase money.

Applied.—Twin City Motor Co. v. Fallaw, 175 S. E., 809; 173 S. C., 353.

§ 552. Claim and delivery of personal property.

Unsevered crops are regarded in this state as realty, except in such cases that fall within sections 1172, 8996 and 8717, and claim and delivery will not lie for such crops. Claim and delivery is especially to obtain possession of personal property which is unlawfully withheld from person

entitled thereto. Hence it is not proper remedy for landlord to get from share-cropper unsevered crops jointly of landlord and sharecropper in their lawful possession. Norwood v. Carter, 176 S. C., 472; 180 S. E., 453.

§ 555. Security by plaintiff.

Undertaking of sureties breached when judgment is rendered against principal, by which judgment sureties are bound. Whisenhunt v. Sandel, 177 S. C., 207; 181 S. E., 61.

Principal and sureties on bond liable for payment of judgment for actual damages rendered against plaintiff for unlawful seizure and sale of property after execution of undertaking. Whisenhunt v. Sandel,

177 S. C., 207; 181 S. E., 61.

Sureties not liable for payment of judgment rendered against principal for either actual or punitive damages for fraudulent or wrongful acts committed by principal prior to institution of action and before execution of undertaking. Whisenhunt v. Sandel, 177 S. C., 207; 181 S. E., 61.

Liability for punitive damages.—See § 601 hereof.

§ 584. Powers of courts as to receivers.

Receiver in proceedings supplementary to execution may take charge of property conveyed by debtor to defraud creditor after commencement of action, Gardner v. Kirven, 175 S. E., 637; 173 S. C., 302.

Powers of receiver in proceeding supplementary to execution.—The following in 27 C. J., 478, § 126, quoted with approval:

"Under statutes providing for the appointment of a receiver in proceedings supplementary to execution, the general rule is that such receiver is not the mere agent or representative of the debtor, but occupies the relation of a trustee for the creditors, and may institute actions in his own name to set aside fraudulent convey-

ances made by the debtor with a view to defeating his creditors." Gardner v. Kirven, 175 S. E., 637; 173 S. C., 302.

Appointment of receiver take over qualification bond of casualty company.—Boyn-ton v. Consolidated Indemnity & Ins. Co., S. C.,; 185 S. E., 731.

A court of equity may order receivership when a corporation is insolvent, or in imminent danger of insolvency, when such receivership is for purpose of *bona fide* liquidation of affairs of corporation, and protection of rights of creditors, according to their respective priorities. Montgomery & Crawford v. Arcadia Mills, 176 S. E., 589; 173 S. C., 464.

§ 584-1. Creditors' rights in action marshaling assets, partitioning property, accounting, dissolving partnership, appointing receiver, or settling an estate.—This section in 1934 Supplement (Act 808, 1934 Acts) repealed by 1935 Acts, page 259.

§ 585. Judgment defined.

When enter judgment for costs.—See § 786 hereof.

§ 605. Entry of verdict—motion for new trial.

Trial court may amend verdict, but amendment must be accompanied with option of new trial *nisi* to party against whom amendment militates. Anderson v. Aetna Casualty & Surety Co., 175 S. C., 254; 178 S. E., 819.

Amend verdict, must lay proper foundation therefor by motion for new trial. Anderson v. Aetna Casualty & Surety Co., 175 S. C., 254; 178 S. E., 819.

Hear motion for new trial after sine die

§ 607. Jury commissioners.

Order directing jury panel be made up from box filled before plaintiff commenced his action sustained, although clerk of

adjournment mark such motion "heard".—Although plaintiff's attorney in absence of defendant's attorney notified court of intention to move for new trial before court adjourned *sine die* and court noted motion but did not mark it "heard." court had no jurisdiction after it adjourned *sine die* to hear motion for new trial, notwithstanding defendants' attorney was called on and resisted motion. Altman v. Efrid Bros. Co., S. C.,; 185 S. E., 543.

court was related to plaintiff. Turner v. Southern Ry. Co., 179 S. C., 38; 183 S. E., 579.

§ 608. Preparation of jury list—electors to be placed on—when prepared.

See this section in 1934 Supplement.

§ 622. Vacancy in jury commissioners—how filled.—* * * *Provided, further,* that in Charleston County the assistant county superintendent of education may act in the place and stead of the county superintendent of education. 1936 (39) 1340.

The above proviso added to this section changed. by 1936/1340. The section otherwise is un-

§ 626-1. Alternate jurors for original grand or petit jurors drawn for year's first term of criminal court.—There shall be drawn and summoned annually in the same manner and at the same time as the original twelve (12) grand jurors are drawn and summoned, three (3) additional jurors to act, first in the place and stead of any of the original eighteen (18) grand jurors who may be incapacitated, disqualified or excused; and who, when not needed for grand jury service, may likewise serve as petit jurors during the first term of criminal court for the year. The names of such three (3) alternate, or substitute, jurors shall be kept separate, and numbered in the order drawn; and in such order, unless excused by the presiding judge, shall be held to serve when found necessary. Should the provisions of this section not be complied with, additional jurors shall be drawn as now provided by law, and all existing laws are declared complementary hereto. 1936 (39) 1458.

§ 626-2. Jury commissioners disqualified.—(1) GIVE NOTICE OF MOTION TO QUASH PANEL OF PETIT JURORS BECAUSE OF DISQUALIFICATION OF JURY COMMISSIONERS.—No motion to quash any panel of petit jurors shall be made because of any relationship, connection or other disqualification on the part of the jury commissioners, or any of them, who made up the jury box, unless notice of such motion in writing be given at least ten days before the convening of any court to the adverse party, or his attorney, which notice shall set forth the ground or grounds for the making of the motion. Failure to give such notice shall be deemed a waiver of any and all rights in reference thereto.

(2) PROCEDURE TO OBTAIN JURORS WHEN DISQUALIFICATION EXISTS.—In case said notice be given and the party upon whom it is served shall concede or it shall be determined by the court that such relationship, connection or disqualification exists, then the moving party shall apply to the resident circuit judge, or the presiding judge of the circuit, either at chambers or in term time, setting out by way of affidavits the said facts, whereupon the said judge shall order the jury commissioners who are not related, connected or disqualified, to make up a special jury box composed of the names of two hundred and forty persons, who are qualified to serve as jurors, from which said special box there shall be drawn the names of thirty-six jurors, who shall be summoned and required to attend as extra jurors and from said extra panel a jury shall be obtained to try the case in which the regular panel is disqualified. In case all of the said jury commissioners are disqualified, then the judge shall designate three others who shall perform the said duty.

(3) TERM OF EXTRA PANEL.—The said extra or special panel shall be discharged as soon as the need for it ceases.

(4) APPLICATION.—This section shall apply to all cases now pending or which shall hereafter be brought. 1936 (39) 1431.

§ 630-1. Persons who may draw jurors.

See this section in 1934 Supplement.

§ 632. Compensation—per diem and mileage.—Jurors serving in the circuit courts of this state shall, in addition to mileage at the rate of five cents per

mile, going to and returning from court, receive a per diem in the several counties of this state, as follows:

(a) In the counties of Abbeville, Bamberg, Chesterfield, Hampton and McCormick, one dollar and fifty cents;

(b) In the counties of Anderson, Barnwell, Berkeley, Calhoun, Cherokee, Clarendon, Colleton, Dillon, Lancaster, Edgefield, Georgetown, Greenville, Greenwood, Horry, Kershaw, Laurens, Lee, Marion, Marlboro, Newberry, Oconee, Orangeburg, Pickens, Richland, Saluda, Spartanburg, Sumter, Williamsburg and York, two dollars.

Provided, that in the county of Marlboro petit jurors shall receive, in addition to the per diem, two dollars for each night when detained on jury duty after ten o'clock p. m.

Provided, further, that in the county of Calhoun compensation of constables and court criers shall be the same as that fixed by jurors. *Provided, further*, that in Calhoun County not more than two constables shall be engaged for attendance upon the court of common pleas and not more than three shall be engaged for attendance upon the court of general sessions, except that the presiding judge may provide by order for additional constables upon the necessity therefor being made to appear to his satisfaction.

(c) In the county of Union, two dollars and fifty cents. *Provided*, that petit jurors shall receive, in addition to the per diem, two dollars and fifty cents for each night, when detained on jury duty after ten o'clock p. m.

(d) In the counties of Aiken, Allendale, Beaufort, Chester, Dorchester, Darlington, Fairfield, Florence, Jasper, Lexington, three dollars.

Provided, in the event any juror in Chester County is kept on duty after eleven o'clock at night he shall be paid for an additional day: *Provided*, that in the county of Darlington the foreman of the grand jury shall receive five dollars per day.

(e) In Charleston County, five dollars. *Provided*, that when in said county any juror serving upon any case is detained by said jury service after twelve o'clock midnight, it shall be considered that the said juror shall have entered into a new day of jury service: *Provided*, that when a juror in said county is discharged from jury service before one o'clock p. m. on any day, he shall only be paid one-half of the per diem herein set forth, to wit: The sum of two dollars and fifty cents.

(f) Jurors in magistrates' court shall receive fifty cents for each civil case tried and mileage as allowed other jurors.

(g) Whenever provision is made by law for the payment of mileage of jurors, witnesses and other persons required to attend court, or to travel to perform any legal duty, said mileage shall be computed and paid for by the shortest practical route to be traveled over any regular established highway. 1933 (38) 8, 14, 76, 111; 1934 (38) 1598; 1935 (39) 220; 1936 (39) 1304, 1315, 1321.

§ 633. Compensation of jurors, court constables and court crier in circuit court of Calhoun County.—*Repealed by 1933 Acts, page 111.*

§ 639. When objections to jurors must be made.

Objection to juror should be taken before trial commenced. *Smith v. Oliver Motor Co.*, 174 S. C., 464; 177 S. E., 791. Failure to object to jurors.—See notes to § 173.

§ 640. Irregularity in venire, drawing, etc., not to affect verdict, except in certain cases.

Failure to object to jurors.—See notes to § 173.

§ 653. When reference may be compulsorily ordered.

Applied.—*La Count v. General Asbestos & Rubber Co.*, 175 S. C., 110; 178 S. E., 500.

§ 656. Referees in Saluda and York Counties.—The same power and authority now given, or that may hereafter be given, to masters in equity, is hereby conferred upon special referees in Saluda and York Counties: Provided, that the court appointing said special referees may limit their power and authority by a written order. 1935 (39) 349.

“And York” added to this section by 1935/349.

§ 660. Declaratory judgments.

Strike out irrelevant matter.—In action hereunder where complaint and answer agree will duly probated in common form and more than four years elapsed without probate in solemn form, no disability of infancy alleged, allegation in answer held

properly stricken alleging will not properly executed and application be made to probate it in solemn form despite expiration of four-year period prescribed in § 8932. *Wilkinson v. Wilkinson*, 178 S. C., 194; 182 S. E., 640.

§ 661. Judgment in action for recovery of personal property.

Sureties on undertaking in claim and delivery not liable for payment of judgment against principal for punitive dam-

ages for acts done by such principal after execution of bond. *Whisenhunt v. Sandel*, 177 S. C., 207; 181 S. E., 61.

§ 664-1. Discharge of bankrupts from judgments.

See this section in 1934 Supplement.

§ 676. Examination of adversary before trial.

Plaintiff suing for injuries sustained when train in which he was riding crashed into unlighted freight cars entitled to examine railroad's agents before trial to determine who placed such freight cars upon

main line, and to determine railroad's rules in force at time of collision, dealing with storage in nighttime of box cars on main line. *Mahaffey v. Southern Ry. Co.*, 175 S. C., 198; 178 S. E., 838.

§ 692. Parties to actions and special proceedings competent witnesses except in certain cases.

The inhibitions of this section limited to testimony against executor. It was enacted to protect an estate under certain circumstances after death has closed mouth of decedent. It was never intended to prevent an adverse claimant from telling the truth in favor of decedent's representatives. *Shell v. Boyd*, 32 S. C., 359; 11 S. E., 205.

Devereux v. McCrady, 46 S. C., 133; 24 S. E., 77, 81. *Ex parte Cleveland et al. Patterson v. Cleveland et al.* 177 S. C., 514; 181 S. E., 890.

Applied.—*Maxwell v. Epton*, 177 S. C., 184; 181 S. E., 16. *Johnson v. Broome*, 175 S. C., 385; 179 S. E., 315.

§ 706. When testimony may be taken by deposition de bene esse and by whom.

Cited: *White v. Harby*, 176 S. C., 36; 179 S. E., 671.

§ 741. Execution against the person.

Constitutionality.—This statute held constitutional in *Blackmon v. Kirven*, 175 S. E., 814; 173 S. C., 322.

Execution against the person of defend-

ant may be ordered while proceedings in execution against his property are pending. *Blackmon v. Kirven*, 175 S. E., 814; 173 S. C., 322.

§ 744. When issue executions—limitations.

See this section in 1934 Supplement.

§ 751. Judge may appoint receiver and prohibit transfer of property.

Powers of receiver in proceedings supplementary to execution.—See notes to § 584.

§ 756. Cost follow event of action, except in chancery cases when otherwise ordered.

See this section in 1934 Supplement.

See generally—*Setzer v. Odom*, 174 S. C.,

56; 176 S. E., 869.

§ 775-1. May appeal from verdicts.

See this section in 1934 Supplement.

§ 777. Review of intermediate orders affecting judgment.

Applied in receivership proceedings.—*Montgomery & Crawford v. Arcadia Mills*,

176 S. E., 589; 173 S. C., 464.

Review of order granting new trial after

final judgment in second trial.—See this heading under § 26. *DePass v. Broad River*

Power Co., 176 S. E., 325; 173 S. C., 387.

§ 781. Notice of intention to appeal.

Appeal would not be dismissed for failure to perfect appeal where plaintiff did not intend to abandon appeal but merely intended to delay perfection of appeal pending negotiation for settlement of de-

fendant's proposed amendment to plaintiff's proposed case for appeal. *Salley v. Western Mut. Fire Ins. Co.*, 177 S. C., 281; 181 S. E., 72.

§ 786. Judgments for delivery of documents or personalty require its deposit or security.

Plaintiff who prevailed on appeals, although case is in circuit court for trial on the merits, may enter judgment for costs of appeals before final judgment although

enforcement of judgment cannot be had until final judgment is entered. *Heath v. Town of Darlington*, 176 S. C., 252; 180 S. E., 52.

§ 804. Judgment on appeal.

Conclusion of circuit judge on appeal from magistrate's court should be given more weight in supreme court than almost anything else in consideration of appeals

in cases originally heard in courts of magistrates. *Westbrook v. Jefferies*, 175 S. E., 433, 173 S. C., 178.

§ 820. Enlarging time for proceeding in an action.

Applied.—*White v. Harby*, 176 S. C., 36; 179 S. E., 671.

§ 826. Where and by whom action brought.

When cause of action did not arise in this state, nor is the subject of the action situated within this state, then court is without jurisdiction. *Salway v. Maryland Casualty Co.*, 176 S. C., 215; 179 S. E., 787.

Nonresident allegedly ejected by bus driver within the state where she had

boarded bus for trip, cause of action against bus company, a foreign corporation, arose at place where nonresident ejected, and circuit court of county where ejection took place had jurisdiction. *Cornelius v. Atlantic Greyhound*, 177 S. C., 93; 180 S. E., 791.

§ 878. Who may bring action to determine adverse claim, and quiet titles to real estate.

To rely on adverse possession the evidence must show such open, notorious, exclusive, hostile, continuous, and unbroken possession for the whole period as is required by law to defeat the legal title.

Weston v. Morgan, 162 S. C., 177; 160 S. E., 436. *Forshur Timber Co. v. Santee River Cypress Lumber Co.*, S. C.,; 178 S. E., 329.

§ 911. Authority of county police in Aiken.

See this section in 1934 Supplement.

§ 930. All proceedings to be by information.

Commence proceedings in recorder's court with information under oath.—See § 7246 hereof.

§ 931-1. Take testimony of witnesses in magistrates' and recorders' courts in writing.—That in the trial of any case before any magistrate or recorder in this state, the testimony of all witnesses shall be taken down in writing and signed by the witness, with the exception of such cases as the defendant shall waive the taking and signing of such testimony.

In any case before any magistrate or recorder, where a stenographer shall take down such testimony, the same need not be read over and signed by the witnesses. 1936 (39) 1435.

§ 932. Pay for jurors serving in magistrates' courts in criminal cases.

Pay of jurors in criminal cases in Magistrates' Court, Chester County, see 1936/1472.

§ 936. Magistrates must hold preliminary examination upon demand of defendant.

This section does not infringe upon the jurisdiction of the court of general sessions. The discharge of a defendant by a magistrate in a felony case will not be a bar to his further prosecution. Such defendant so discharged cannot plead former jeopardy.

State v. Flintroy, 178 S. C., 89; 182 S. E., 311.

Constitutionality.—This section does not contravene Art. V, §§ 18, 21, State constitution. *State v. Flintroy*, 178 S. C., 89; 182 S. E., 311.

§ 952. Jurisdiction of municipal courts.

See section 931-1 (1936/1435), which provides the testimony of witnesses in magistrate and recorder court be taken in writing.

§ 960. Jurisdiction in such courts (cities of twenty to fifty thousand inhabitants).

Commence proceedings in recorder's court with information under oath.—See § 7246 hereof.

§ 962. Recorder—election, term and salary—(municipal courts in cities between 20,000 and 50,000).

See this section in 1934 Supplement.

§ 965. Jury trials.

See section 931-1 (1936/1435), which provides the testimony of witnesses in magistrate and recorder court be taken in writing.

§ 966. Municipal court in city of Spartanburg.

See this section in 1934 Supplement.

§ 972-1. Recorders in cities over 60,000 suspend sentences.

See this section in 1934 Supplement. See Section 1039-1 for time suspended sentence run.

§ 972-2. Recorders of municipalities of 5,000 to 5,075 suspend sentences.—

Recorders of the incorporated towns in South Carolina having a population according to the 1930 United States census in excess of five thousand (5,000) and less than five thousand and seventy-five (5,075) shall have the power and authority, in their discretion, to suspend sentences imposed by them in such cases as come within their jurisdiction, upon such terms as in their discretion may seem fit and proper. 1935 (39) 19.

See section 1039-1 for time suspended sentence run.

§ 972-3. Recorders of municipalities of 5,550 to 5,600 suspend sentences.—

Recorders of the incorporated, towns in South Carolina having a population according to the 1930 United States census in excess of five thousand five hundred and fifty (5,550) and less than five thousand six hundred (5,600) shall have the power and authority, in their discretion, to suspend sentences imposed by them in such cases as come within their jurisdiction, upon such terms as in their discretion may seem fit and proper. 1935 (39) 20.

See section 1039-1 for time suspended sentence run.

§ 977. Foreman of grand jury swear witnesses.—The foreman of the grand jury or acting foreman in the circuit courts of any county of the state shall have the authority and power to swear witnesses, whose names shall appear on the bill of indictment, in the grand jury room: *Provided*, that the provisions of this section shall not apply to Berkeley, Sumter, Newberry, Pickens, Colleton, Anderson, Lee, Hampton, Lexington, Richland, Greenwood, Kershaw, Georgetown, Marion, Saluda and Abbeville Counties: *Provided, however*, that no witnesses shall be sworn except those who have been bound over or subpoenaed in the manner now provided by law. 1933 (38) 565; 1935 (39) 193; 1936 (39) 1749.

Aiken, Bamberg and Barnwell counties were eliminated from the first proviso in this section by 1936/1749. This section was also amended by 1933/565, 1935/193 (eliminating Anderson, Georgetown and Marion Counties from first proviso); however the 1936 Act made no reference to these amendments; hence present section 977 comes from the 1936 Act.

§ 1002. Right to challenge.

See this section in 1934 Supplement.

§ 1012-1. Person convicted and sentenced for crime may testify.

See this section in 1934 Supplement.

§ 1023. Costs in criminal cases where venue is changed.

See this section in 1934 Supplement.

§ 1039. Circuit judges empowered to suspend sentence in certain cases.

See section 1039-1 for time suspended power of recorders in certain cities to suspend sentences.

See sections 972-1, 972-2 and 972-3 for

§ 1039-1. Sentence suspended run for time prescribed in sentence or order of suspension.—When the sentence of any person, who has been sentenced by a court of competent jurisdiction of this state, shall be suspended by a judge of such court or by the Governor of the state, such suspension shall run for the period of time prescribed by such judge or Governor in the sentence or order of suspension, and no person who has had a sentence so suspended shall be called back and required to do service under such sentence beyond and after the expiration of such period. 1935 (39) 431.

See sections 972-1, 972-2 and 973-3 for power of recorders in certain cities to suspend sentences.

§ 1046. Execution of death sentence upon dismissal of appeal—notice to superintendent of penitentiary.—(1) CLERK OF SUPREME COURT NOTIFY SUPERINTENDENT OF STATE PENITENTIARY DISPOSITION OF APPEAL FROM SENTENCE OF DEATH—TIME FOR EXECUTION.—In all criminal cases where the sentence of death is imposed, and which are appealed to the supreme court *or in which notice of intention to appeal is given*, when the judgment below has been affirmed, or the appeal dismissed or abandoned, it shall be the duty of the clerk of the supreme court, when the remittitur is sent down, or the appeal is dismissed, or abandoned, to notify the superintendent of the state penitentiary or his duly appointed officer in charge thereof, of the final disposition of such appeal, and, on the fourth Friday after the receipt of the said notice, the sentence appealed from shall be duly carried out as provided by law in such cases, unless stayed by order of the supreme court or respite or commutation of the Governor. 1936 (39) 1306.

The italics in paragraph one were added changed.
by 1936/1306. The section is otherwise un-

§ 1070. Jurors — number — oath — compensation.—Of the jurors summoned and appearing, the coroner shall swear six and administer to the foreman, appointed by him, an oath in the form following: 'You shall inquire, and true presentment make on behalf of the state of South Carolina, in what manner A B, here lying dead, came to his death, and you shall deliver a true verdict thereon, according to such evidence as shall be given, and according to your knowledge. So help you, God;' and to the others he shall administer an oath in this form: 'The oath which your foreman has taken on his part, you shall well and truly observe and keep on your part. So help you, God.' For such services each juror sworn shall be allowed mileage, as all jurors in the circuit courts, and a *per diem* of fifty cents, to be paid on certificate of the coroner or magistrate holding the inquest, to be paid as are jurors in the circuit courts: *Provided*, the provisions of this section as to *per diem* and mileage shall not apply to the counties of Abbeville, Anderson, Bamberg, Berkeley, Clarendon, Dorchester, Darlington, Greenwood, Hampton, Jasper, Kershaw, Lancaster, Oconee, Orangeburg, Pickens, Saluda, Spartanburg, Union, Horry and York. 1936 (39) 1297.

Fairfield County eliminated from proviso in this section by 1936/1297.

§ 1096. Inquests regulated.

See this section in 1934 Supplement.

§ 1107. Manslaughter.

See this section in 1934 Supplement.

§ 1122. Planning or attempting the abduction, terrorizing and/or detention of any person for ransom a felony—penalty.

See this section in 1934 Supplement.

§ 1122-1. Threatening to kidnap or commit a felony.

See this section in 1934 Supplement.

§ 1123. Misdemeanor for husband to fail to support wife and children.

Admission of wife's testimony, in husband's trial for desertion and nonsupport of wife and children. State v. Haynes, 174 S. C., 460; 177 S. E., 785.

§ 1154-1. Break, or attempt break into any motor vehicle or compartment thereof or any vessel where kerosene, gasoline or lubricating oil is kept, with intent to steal or perpetrate crime misdemeanor.—Whoever shall break or attempt to break into any motor vehicle, or any compartment thereof, in the day time or in the night time, with intent to steal the same or any thing of value therefrom, or attached or annexed thereto or used in connection therewith, or in the perpetration of any criminal offense, or whoever shall break or attempt to break any tank, pump or other vessel where kerosene, gasoline or lubricating oil is stored or kept with intent to steal any such product therein contained shall be deemed guilty of a misdemeanor, and upon conviction, punishable by imprisonment on the public works of the county in which the offense is committed, or in the state penitentiary at hard labor for a term of not more than five years or by a fine of not more than one thousand (\$1,000.00) dollars, either or both, in the discretion of the court. 1935 (39) 478; 1936 (39) 1342.

This section added by 1935/478 and 1936/1342.

§ 1159. Renting of electric storage batteries and penalties for misuse.

See this section in 1934 Supplement.

§ 1159-1. Sale of rebuilt electric storage batteries.

See this section in 1934 Supplement.

§ 1172. Stealing grain or cotton from the field.

Cited.—Norwood v. Carter, 176 S. C., 472; 180 S. E., 453.

§ 1177-1. Placing or throwing stink bombs, etc., in certain buildings or public places prohibited.

See this section in 1934 Supplement.

§ 1177-2. Use and possession of machine guns.

See this section in 1934 Supplement.

§ 1184. Malicious injury to real property.—Whoever shall wilfully, unlawfully, and maliciously cut, mutilate, deface, or otherwise injure any tree, house, outside fence, or fixture of another, or commit any other trespass upon real property in the possession of another, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined or imprisoned, at the discretion of the judge before whom the case shall be tried: *Provided*, that when the damage of such property does not exceed twenty dollars, the punishment shall be a fine of not more than one hundred dollars, or imprisonment for a period of not more than thirty days. For the purpose of determining whether or not any school property has been maliciously injured as the offense of malicious mischief as above defined and as to whether or not there has been a trespass upon such property as this offense is defined in section 1190 of this code and for all prosecutions under these penal statutes, and other statutes of a like nature, now, or hereafter to be enacted, the trustees of the respective school districts in this state in their official capacity shall be deemed to be the owners and possessors of all school property. 1935 (39) 262.

The last line in present section added by with § 1184, 1932 Code, for other changes. 1935/262. This section should be compared

§ 1217. Exemptions.

See this section in 1934 Supplement.

§ 1242. Only members wear emblems of The American Legion, The American Legion Auxiliary, The Sons of The American Legion, La Societe des 40

Hombres et 8 Cheveaux (Forty and Eight).—It shall be unlawful for any person other than a member of The American Legion, *The American Legion Auxiliary, The Sons of The American Legion, or La Societe des 40 Hommes et 8 Cheveaux (Forty and Eight) and disabled American Veterans of the World War* in good standing wilfully to wear the button, which is the official insignia or emblem of any of the said organizations. Any wilful violation of the provisions of this section, shall subject the offender to a fine of not exceeding one hundred (\$100.00) dollars or imprisonment not exceeding thirty (30) days. 1936 (39) 1480.

Words in italics added by 1936/1480.

§ 1249. Sale and use of a trademark advertising contents of food products, etc.

See this section in 1934 Supplement.

§ 1279-1. Fraudulent watering of salt pork meats.—It shall be unlawful for any packer or wholesale or retail merchant, or any other person, firm or corporation, to increase the weight fraudulently of any salt pork meats by putting water thereon, soaking, sprinkling or otherwise and any person, firm or corporation violating the provisions hereof shall be guilty of a misdemeanor and upon conviction shall be fined not less than two hundred (\$200.00) dollars or more than one thousand (\$1,000.00) dollars, or imprisoned for not less than sixty (60) days, nor more than one (1) year or both, in the discretion of the court. 1936 (39) 1346.

This section added by 1936/1346.

§ 1315. Acquisition of trade checks—punishment for violations—post this statute.—* * * *Provided*, that the punishment upon conviction of violating the provisions of this section, in cases other than when the conviction is for a first offense, shall be by a fine not exceeding five hundred (\$500.00) dollars, or by imprisonment not exceeding ninety days. Any person, firm or corporation issuing any such trade check shall post, and keep posted, in two or more conspicuous places, at the place or places where such trade checks are issued, and at all places where such checks are redeemed by any such person, firm or corporation in money or merchandise, a printed or typewritten copy of this section as amended. Any person, firm or corporation violating the provision of the last portion of this section shall be guilty of a misdemeanor, and shall, upon conviction, be punished in like manner as the person, firm or corporation violating the provisions of this section regarding the acquisition of such trade check at less than par value, above provided. 1935 (39) 66.

The above proviso added to this section by 1935/66.

§ 1318-1. Charges for house rent, water services and electric light services, charged laborers by textile and related corporations, during periods of "close downs" prohibited.

See this section in 1934 Supplement.

§ 1318-2. Locking of employees in buildings.

See this section in 1934 Supplement.

§ 1322-1. Deception in storage, selling or offering for sale liquid fuels, lubricating oils, greases, etc.

See this section in 1934 Supplement.

§ 1324. Operating filling stations within 100 feet of school or church in Union County.

See this section in 1934 Supplement.

§ 1355-1. Discharge of petroleum, fuel oil or coal products which drain in harbor of county containing city over 60,000 unlawful.

See this section in 1934 Supplement.

§ 1390. When Governor may call out militia.

Governor calling out militia and suspending writ of habeas corpus, in effect, declared martial law. *Hearn v. Calus*, 178 S. C., 381; 183 S. E., 13.

Governor has no power or right in law to use the militia to discharge the duties of a civil office. *Hearon v. Calus*, 178 S. C., 381; 183 S. E., 13.

Action of the Governor in declaring a state of insurrection exists may not be enjoined by supreme court, nor reviewed by it. *Hearon v. Calus*, 178 S. C., 381; 183 S.

E. 13.

After proclamation which declares existence of a state of insurrection, acts of the Governor, lawfully done in suppression of insurrection, are immune from interference with by supreme court; but when his acts exceed authority given him by constitution and statutes and are injurious to personal liberty and property rights of the citizens of the state, they are open to the inquiry and control of the courts. *Hearon v. Calus*, 178 S. C., 381; 183 S. E., 13.

§ 1391. Proclamation to disperse.

Governor declaring state of insurrection and calling out militia.—See § 1390 and

notes thereto.

§ 1448. Water companies have analysis of water made and published—fee.

See this section in 1934 Supplement.

§ 1450. Manufacture, sale, possession, transportation, and use of narcotic drugs.

See this section in 1934 Supplement.

§ 1452-1. Arsenate of lead, calcium arsenate, or poisonous agricultural insecticide or fungicide of a white color to be discolored.

See this section in 1934 Supplement.

§ 1464. Sale and purchase of eggs and baby chicks.

See this section in 1934 Supplement.

§ 1466-1. Hours per day an employee work in cotton, rayon, silk, or woolen textile mills.—(1) DEFINITIONS.—For the purposes of this section “employer” includes every person, firm, corporation, partnership, stock association, agent, manager, representative or foreman, or other persons having control or custody of any employment or of any employee in any cotton, rayon, silk, or woolen mill in this state. “Employee” includes both males and females.

(2) HOURS WORK EMPLOYEES.—No employer shall employ or suffer or permit an employee to work for more than forty (40) hours in any one week or for more than eight (8) hours in any one day of twenty-four (24) consecutive hours, or on more than five days in any period of seven consecutive days. If the work during any one day is not continuous but is divided into two or more periods, the employer shall provide that all such periods fall within twelve (12) consecutive hours. *Provided*, the provisions of this section shall apply to all employees working inside or outside of any cotton or woolen mill in this state.

(4) POST THIS STATUTE ON PREMISES.—Every employer shall post and keep conspicuously posted in or about the premises wherein any employee is employed a printed copy of this section, to be furnished by the commissioner of agriculture, commerce and industries.

(5) SCHEDULE OF HOURS OF EMPLOYMENT.—Every employer shall post and keep conspicuously posted in every room wherein any employee is employed a schedule of hours of employment which shall contain the maximum number of hours each employee shall be employed during each day of the week, with the total hours per week, the hours of commencing and stopping, and the time allotted for the daily meal period. An employer may permit employees to begin work after the time for beginning and to cease work before the time for ending stated in such schedule, but he shall not otherwise employ them except as stated in such schedule. Said schedule of hours, except in case of emergency, shall not be changed after the beginning of work on the first day of the week without the authority of the commissioner of agriculture, commerce and industries. An

emergency shall be any unusual condition beyond the control of the management suddenly arising, and, in order to be met, requires a change in schedule of hours. Said schedule shall be on a form provided by the commissioner of agriculture, commerce and industries and shall remain the property of said commissioner.

(6) **EMPLOYER KEEP TIME BOOK.**—Every employer shall keep a time book or record, which shall state the name, address, and occupation of each employee, the number of hours worked by him on each day of the week and the amount of wages paid to him each pay period. Such time book or record shall be kept on file for at least one year after the entry of the record and shall be open to the inspection of the commissioner of agriculture, commerce and industries and his duly authorized representatives. Any employer who fails to keep such a time book or record, or knowingly makes any false statement therein, or refuses to exhibit such time book or record upon the request of the commissioner of his representatives in accordance with the requirements of this section, shall be deemed to have violated this section.

(7) **ENFORCEMENT.**—It shall be the duty of the commissioner of agriculture, commerce and industries to enforce all the provisions of this section. The commissioner of agriculture, commerce and industries, and his authorized representatives may enter and inspect as often as practicable all establishments or places of employment covered by this section, and for the purpose of enforcing compliance with the provisions of this section, shall have free access to any cotton, rayon, silk, or woolen mill in this state.

(8) **EMPLOYER NOT HINDER OR DELAY ENFORCEMENT.**—No employer shall hinder or delay the commissioner of agriculture, commerce and industries or any of his authorized representatives in the performance of their duties in the enforcement of this section, or refuse to admit, or lock out, any inspector from any place which he is authorized by the provisions of this section to enter and inspect, or refuse to give any inspectors information required for the proper enforcement of this section.

(9) **PENALTY.**—Any employer violating any of the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than twenty-five (\$25.00) dollars nor more than one hundred (\$100.00) dollars, or imprisonment not to exceed thirty (30) days, for each and every offense.

(10) **SAVING CLAUSE.**—If any provisions of this section, or of the application of such provisions to any person or circumstance, shall be held invalid, the remainder of this section, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

(11) **REPEAL.**—All Acts or parts of Acts inconsistent with this section are hereby repealed.

(12) **TIME EFFECTIVE.**—This section shall take effect immediately upon its approval by the Governor. *Provided*, that the provisions of this section shall become effective when and after the state of Georgia and state of North Carolina shall have adopted similar bills providing the same requirements as to number of hours an operative may work. 1936 (39) 1568.

This section added by 1936/1568.

§ 1478-1. Employment of children or women in mercantile or manufacturing establishments on Sunday prohibited.

See this section in 1934 Supplement.

§ 1504-1. Promote, conduct, advertise or participate in marathon dance, walkathon or similar physical endurance contests unlawful.—It shall be unlawful for any person, firm, association or corporation to promote, advertise or conduct any marathon dance contests, walkathon contests and/or similar endurance contests by whatever name called of walking, dancing or running, and it shall be unlawful for any person to participate in any marathon dance contest, walkathon contest and/or similar physical endurance contest by walking, dancing or running, continuing, or intended to continue, for a period of more than eight consecutive hours, whether or not an admission is charged and/or a prize awarded, and it shall be unlawful for any person to participate in more than one such contest or performance within any period of forty-eight hours.

Any person violating this section shall be guilty of a misdemeanor and punishable in the discretion of the court: *Provided*, That each day's continuance of any such contest and/or each day's participation in any such contest or advertisement of the same shall constitute a separate offense. 1935 (39) 149.

§ 1504-2. Provide adequate sewerage, running water, streets and roads before selling lots in real estate developments in counties with city over 60,000.—(1) **PROVIDE SEWERAGE AND RUNNING WATER.**—In all counties containing a city of over 60,000 population according to the 1930 United States census, it shall be unlawful for any person, firm or corporation to sell, offer for sale, agree to sell, or otherwise dispose of any lots or other portions of any real estate development in any such county, unless and until such person, firm or corporation shall have secured from the county health officer of the county in which the property lies, and has filed with the clerk of court of said county, the certificate of such health officer to the effect that adequate sewerage has been provided in and for such real estate development, and that adequate arrangements have been made for the purpose of furnishing running water to the property in such real estate development to insure reasonable and adequate health and sanitary conditions therein.

(2) **PROVIDE ADEQUATE STREETS AND ROADS.**—In all counties containing a city of over 60,000 population according to the 1930 United States census, it shall be unlawful for any person, firm or corporation to sell, offer for sale, agree to sell, or otherwise dispose of any lots or other portions of any real estate development in any such county, unless and until such person, firm or corporation shall have secured from the sanitary and drainage commission or the county board of commissioners of the county in which the property lies, a certificate to the effect that adequate roads and streets have been provided in such real estate development to afford access to properties therein, in accordance with the representations made in or included in the prospectus or proposed contract or deed upon the basis of which the lot or lots in such development are offered for sale.

(3) **PENALTY.**—Each violation of any of the provisions of this section shall be a misdemeanor, and upon conviction the person, firm or corporation so convicted shall be fined not less than twenty-five (\$25.00) dollars nor more than one hundred (\$100.00) dollars nor imprisoned not less than ten (10) days nor more than thirty (30) days.

(4) **INTENT—EFFECT ON SALES.**—It is the intent of this section to require the vendors of the type of real estate herein referred to comply with the restriction of this section but the validity of a sale of such real estate shall not be impaired by the vendor's failure to so comply, and the provisions of this section

shall not attach to any person, firm or corporation other than the person, firm or corporation who shall first lay out the sub-division. 1936 (39) 1482.

This section added by 1936/1482.

§ 1510. Embezzlement of public funds a felony.

See this section in 1934 Supplement.

Treasurer of commissioners of public works of city who misappropriated city's funds and altered records to conceal misappropriation guilty of embezzlement, notwithstanding treasurer formed intention of misappropriating funds prior to time he secured money he converted. *State v. Bikle*, S. C.; 185 S. E., 753.

Provisions herein that fine and imprisonment of party convicted of embezzlement

of public funds should be proportioned to amount of embezzlement means substantial sentence for substantial embezzlement should be imposed, and not that there should be mathematical relation between amount embezzled and the sentence. *State v. Bikle*, S. C.,; 185 S. E., 753.

This section as amended by act Feb. 5, 1934, is constitutional. *State v. Brown*, 178 S. C., 294; 182 S. E., 838.

§ 1518-1. Peace officers receive no portion of fines imposed for violating motor vehicle laws.

See this section in 1934 Supplement.

§ 1518-2. Game wardens and others not to receive portion of fine imposed for violation of game and fish laws.

See this section in 1934 Supplement.

§ 1549. Magistrates not to receive fees in criminal cases; exception in case of violations of worthless check law.

See this section in 1934 Supplement.

§ 1578. Give convicts credit on terms for good behavior.—Any person, now or hereafter serving a sentence imposed by a court of competent jurisdiction for six months or more, life sentence excepted, either in the state penitentiary or any county jail, or upon the public works of any county, shall be entitled to have one-fifth of such sentence deducted at the end thereof for good behavior. Any officer having charge of such convict, who shall refuse to allow such deduction in time of serving sentence, shall be guilty of a misdemeanor and shall, upon conviction, suffer imprisonment for not less than thirty days, or pay a fine of not less than one hundred dollars: *Provided, further*, that the provisions of this section shall also apply to persons whose sentences have been commuted, and in computing the time to be credited on the sentence as commuted, the basis shall be on the record of the prisoner from the date of commutation.

This law (1935/467) shall be retroactive in computing credit to be given for good behavior or conduct. 1935 (39) 467.

"One-fifth" substituted for "one-tenth" on added; and last paragraph also added, line 5; the proviso in first paragraph 1935/467.

§ 1592. Unlawful for disbursing officers to exceed or transfer appropriations.

"Funds appropriated by Legislature" mean "public or trust funds" within constitutional provision relating to suspension of officers having custody of public or trust funds. *Dacus v. Johnston*, S. C.,; 185 S. E., 491.

This section does not give Governor power of indefinitely suspending officers

without hearing. *Dacus v. Johnston*, S. C.,; 185 S. E., 491.

State highway commissioners not "officers" within this statute, since funds of highway commission appropriated by Legislature could be disbursed only by state treasurer on comptroller general's warrant. *Supra*.

§ 1603-1. Not operate upon tails of horses, asses or mules, except for life or health.—Any person, firm or corporation who cuts the tissue, tissues, muscle or muscles of the tail of any horse, ass or mule, mare or gelding, or otherwise operates upon it in any manner for the purpose or with the effect of altering the natural carriage of the tail, except where such cutting or operation is necessary for the health or life of said animal, as certified to in writing by a licensed veterinarian; and any person, firm or corporation who causes, procures

or knowingly permits, such cutting or operation to be done, and any person who assists in or is voluntarily present at such cutting or operation, shall be guilty of a misdemeanor. Any person, firm or corporation convicted of violating any of the provisions of this section shall be fined not less than fifty nor more than one hundred dollars, or imprisoned not less than fifteen nor more than thirty days. 1936 (39) 1649.

This section added by 1936/1649.

§ 1613. Posting and numbering of highways by county commissioners.—
Repealed by 1936 Acts, page 1571.

§ 1614. All traveling to be on the right of the center.

Violation of this statute constitutes negligence *per se*, and proof thereof constitutes *prima facie* case in favor of one injured by such negligence. *Wells v. Steinek*, 176 S. E., 42.

§ 1616. Speed limits—display of municipal regulations—log carts—tractors.

See this section in 1934 Supplement.

See generally.—*Wells v. Steinek*, 176 S. E., 42.

§ 1617. Weight, size and loads of vehicles.

1933/341 and 1934/1311 should be consulted for use of public highways by motor trucks, semi-trailer motor trucks, semi-trailers and trailers. Said acts were codified as section 1617, 1934 Supplement; however the section number for the said acts has been changed to section 1624-1. See section 1624-1, this supplement. The said acts do not repeal all or any of the provisions of sections 1617-1624, 1932 Code, in so far as certain other vehicles are concerned; and the said sections are still in effect to regulate such other vehicles. The provisions of §§ 1617-1624, 1932 Code, inconsistent with 1933/341 and 1934/1311 (§ 1624-1 this

supplement) are not effective to regulate the vehicles provided for under such acts (§ 1624-1 this supplement). Of course there are provisions of §§ 1617-1624, 1932 Code, which were not repealed by the said acts (§ 1624-1 this supplement), that still regulate trucks, semi-trailer motor trucks, etc.—particularly §§ 1619, 1621, 1622, 1624.

Section 1624-2, this supplement, should be consulted for the width of motor vehicles designed and constructed to transport passengers.

This section is constitutional. *State v. John P. Nutt Co.*, S. C.,; 185 S. E., 25.

§ 1618. Single vehicles and train of vehicles—limit of load.

See note under section 1617, this supplement, and section 1624-1 this supplement.

§ 1619. Weight—limit—distribution—hauling of cotton.

See note under section 1617, this supplement, and section 1624-1 this supplement.

§ 1620. Certain authorities authorized to issue special permits.

See note under section 1617, this supplement, and section 1624-1 this supplement.

§ 1622. Exemptions—farm vehicles loaded and farm machinery.

See note under section 1617, this supplement, and section 1624-1 this supplement.

§ 1623. State highway department to issue rules and regulations.

See note under section 1617, this supplement, and section 1624-1 this supplement.

§ 1624. Violations of §§ 1617-1620, 1622-1624.

See note under section 1617, this supplement, and section 1624-1 this supplement.

§ 1624-1. Use of public highways by motor trucks, semi-trailer motor trucks, semi-trailers, and trailers.—(1) PUBLIC POLICY.—It is hereby declared to be the public policy of this state that heavy motor trucks, alone or in combination with other trucks, increase the cost of highway construction and maintenance, interfere with and limit the use of the highways for normal traffic thereon, and endanger the safety and lives of the traveling public, and that the regulations embodied in this section are necessary to achieve economy in highway costs, and to permit the highways to be used freely and safely by the traveling public.

(2) DEFINITIONS.—When used in this section: "Motor trucks" means any motor-propelled vehicle designed or used for carrying freight or merchandise and not operated or driven on fixed rails or tracks; but it shall not include self-pro-

pelled trucks designed primarily for passenger transportation, though equipped with frames, racks or bodies having a load capacity not exceeding 1,500 pounds.

“Semi-trailer motor trucks” means any motor-propelled truck, not operated or driven on fixed rails or tracks, designed to draw, and to support the front end of a semi-trailer. The tractor (or motor-propelled truck), together with the semi-trailer shall be considered one unit, and the words, “semi-trailer motor truck” as used in this section, shall mean and embrace such entire unit. *Provided*, that nothing contained herein shall alter or be construed to alter existing law in respect to the licensing of semi-trailer trucks, whereby the motor unit and the trailer unit are considered independent units and a license is issued to each separately.

“Semi-trailer” means a vehicle designed to be attached to, and having its front end supported by, a motor truck or motor truck tractor, and intended for the carrying of freight or merchandise and with a load capacity of over 1,500 pounds, except farm wagons used as trailers.

“Trailer” means any vehicle designed to be drawn by a motor truck, but supported wholly upon its own wheels, and intended for the carriage of freight or merchandise.

“Persons” shall include individuals, partnerships, associations, trusts and corporations, and the receivers, assignees or agents of any of them.

“Highways” shall include any public road, street, avenue, alley or boulevard, bridge, viaduct or trestle and the approaches thereto, within the limits of the state of South Carolina.

“Departments” shall mean the state highway department of South Carolina.

“Local authorities” shall mean every county, municipal and local board or body having jurisdiction over, and responsibility for the maintenance of, any highway other than state highways.

(3) OPERATION ON HIGHWAYS.—Any person operating a motor truck, semi-trailer or other motor truck combination on or along any state highway shall, at all times, operate such vehicle to right of the center of said highway, so that the entire vehicle, including its load, shall be, at all times, to the right of the center of said highway, except while overtaking or passing other vehicles traveling in the same direction. Any person operating a motor truck, semi-trailer or other motor truck combination shall not overtake or pass a vehicle traveling in the same direction when the view of the overtaking vehicle is any way obscured, or when the vehicle to be overtaken is approaching the crest of a hill or rounding a curve.

(4) TRAILERS.—No person shall use or operate any trailer, as defined by this section, on any highway.

(5) WEIGHT.—No person shall operate on any highway any motor truck or semi-trailer truck whose gross weight, including load, shall exceed 20,000 pounds.

(6) HEIGHT.—No person shall operate on any highway any motor truck or semi-trailer motor truck whose height, including any part of body or load, shall exceed 12 feet 6 inches, but nothing herein contained shall be construed to require the public authorities to provide sufficient vertical clearances to permit the operations of trucks with a height of 12 feet 6 inches.

(7) WIDTH.—No person shall operate on any highway any motor truck or semi-trailer motor truck whose total outside width, including any part of body or load, shall exceed 90 inches.

(8) LENGTH.—No person shall operate on any highway any motor truck or semi-trailer truck, the overall length of which, including load, is in excess of 35 feet. This subsection shall not apply to trucks or semi-trailer trucks engaged in the transportation of lumber, poles, piles, and logs from the mill or forest to shipping points, or from forest to mill or consumer.

(9) CERTAIN AUTHORITIES MAY ISSUE SPECIAL PERMITS.—(a) The state highway department and local authorities may, upon proper showing, issue special permits, which shall apply to roads or highways under their separate jurisdiction and supervision, for the operation of trucks, the operation of which would otherwise be prohibited under the provisions of this section, subject to the following conditions:

(1) Any permit under the authority of this subsection shall be in writing, which shall at all times be carried in the vehicle operating under the authority thereof, and shall contain such other and further restrictions as deemed necessary in the discretion of the issuing authority.

(2) Permits issued under the authority of this subsection by the state highway department shall include authority for the operation of such through any municipality on or along the street generally used on such highway route.

(b) County road authorities and municipal road authorities, in respect to roads under their sole supervision, may prohibit or limit the use of such roads by reducing the limitations fixed by this section, if, in their discretion, such additional restrictions are proper and necessary: *Provided, however*, that on any road or street upon which such limitations shall apply there shall be conveniently and conspicuously posted such further restrictions showing the permitted maximum limits (weight, length and height) permitted over such thoroughfares. *Provided, further*, that no limitations shall be established by any county, municipal or other local authorities pursuant to the provisions of this subsection that would interfere with or interrupt traffic as authorized hereunder over state highways, including officially established detours for such highways, including where such traffic passes over roads, streets or thoroughfares within the sole jurisdiction of such county, municipal or other local authorities, unless such limitations and further restrictions shall have first been approved by the state highway department.

(10) EXEMPTIONS.—(a) The provisions of this section shall not apply to motor trucks, semi-trailer motor trucks or trailers, owned by any agency of, the United States, the state of South Carolina, or any county or city or incorporated town therein, nor the equipment used only in husbandry, such as harvesting machines, threshers, and binders constructed so that they can be moved or propelled on the public highways.

(b) The state highway department, county highway authorities, and municipal authorities may each issue special permits applying respectively to state highways, county highways and streets of municipalities, for the transportation of such over-size, over-weight, or over-length commodities as cannot reasonably be dismantled, and for the operation of such over-weight or over-size trucks, whose gross weight, including load, height, width or length, may exceed the limits prescribed in this section, as may reasonably be necessary for the transportation of such commodities, but such permits shall be issued subject to the following condition:

(1) Any permit issued by the state highway department, or county road authorities, for the operation of a truck failing to come within the limits established by this section or other limits already fixed by law, shall be in writing and shall

be limited to one trip of the truck authorized to be moved or operated, as well as to the roads which are to be traversed by the said truck. Any such permit shall contain such further restrictions as in the discretion of the issuing authorities may seem appropriate.

(3) In the case of any truck operated under the terms of any permit contemplated by this subsection, whether the same be issued by the state highway department, county road authorities or by municipal authorities, the operator shall carry in the said truck the permit for such operation so that it may be available at any time for public inspection.

(4) The operation of any motor vehicle, semi-trailer, or trailer in violation of the terms of any such permit, shall constitute a violation of this section.

(5) *Provided*, that any permit issued by the state highway department shall give the holder thereof the right of passage over any part of the state highway system, and all officially established detours thereof, including streets, roads and thoroughfares within the limits of any county, municipality or other local authority that are customarily used as a part of the state highway system.

(d) The provisions of this section shall not apply to telephone, telegraph or electric power companies, hauling by means of their own vehicles, their own materials and equipment for construction or maintenance of their own property.

(11) **PENALTIES.**—The operation of any motor truck, semi-trailer motor truck or trailer, in violation of any sub-section of this section, or of the terms of any special permit issued hereunder shall constitute a misdemeanor, and the owner thereof, if such violation was with his knowledge or consent and the operator thereof shall on conviction be fined not more than fifty (\$50.00) dollars, or imprisoned for not more than thirty (30) days.

(12) **ENFORCEMENT.**—Any officer hereinafter in subsection 13 enumerated, having reason to believe that the height, length, width or weight of any motor truck, semi-trailer motor truck or trailer, is in excess of the maximum limits prescribed by this section permitted by any special permit issued under the terms hereof, is authorized to measure or weigh the same, either by means of portable or stationary scales, in the event such scales are on the route of said vehicle. Said officer shall require the operator of said motor truck, semi-trailer motor truck or trailer, to unload immediately such portion of load as may be necessary to decrease the gross weight of such vehicle to the maximum gross weight permitted by this section or by the terms of any special permit in the possession of such operator and issued under the provisions of subsection 10 (b) hereof (which excess load, when unloaded, shall be at the sole risk of the owner.) The refusal of any such operator to permit his motor truck, semi-trailer motor truck or trailer to be measured or weighed or to proceed to a stationary scale, or to unload the excess load, shall constitute a violation of this section.

(13) **ENFORCEMENT—OFFICERS—POWERS AND DUTIES—RIGHTS OF ACCUSED.**—Any peace officer, including sheriffs and their deputies, constables, police officers and marshals of cities or incorporated towns, county police or patrols, state or county license inspectors and their deputies, and special officers appointed by any agency of the state of South Carolina for the enforcement of its law relating to motor trucks, now existing or hereafter enacted, shall be authorized, and it is hereby made the duty of each of them to enforce the provisions of this section and to make arrests for any violation or violations thereof, and for violations of any other law relating to motor trucks, without warrant if the offense be committed in his presence, and with warrant if he does not observe the commission of the offense. When in pursuit of any offender for any offense committed within his

jurisdiction, any such officer may follow and effect an arrest beyond the limits of his jurisdiction. If the arrest be made without warrant, the accused may elect to be immediately taken before the nearest court having jurisdiction, whereupon it shall be the duty of the officer so to take him. If the accused elect not to be so taken, then it shall be the duty of the officer to require of the accused a cash bond in a sum of not less than \$25.00 for which the officers shall give a receipt stating the time and place where and when the accused is required to appear; conditioned that the accused binds himself to appear in the nearest court having jurisdiction at the time fixed in the bond. In case the arrested person fails to appear on the day fixed, the bond shall be forfeited in the manner as is provided for the forfeiture of bonds in other cases.

(14) SEVERABILITY.—If any provision of this section is declared unconstitutional or void for any reason or the applicability thereof of any person or circumstances is held invalid, the validity of the remainder of the section and the applicability of such provisions to other persons and circumstances shall not be affected thereby. It is the intention of the General Assembly that, if this section cannot take effect in its entirety because of the judgment of any court of competent jurisdiction holding unconstitutional or void for any reason any provision or provisions thereof, the remaining provisions shall be given full force and effect as completely as though the provision or provisions held unconstitutional or void had not been included in this section. 1933 (38) 341; 1934 (38) 1311.

§ 1624-2. **Width of motor vehicles use transport passengers.**—No person shall operate on or upon or along any public highway any motor vehicle designed and used for passenger transportation the total outside width of which, including any part of the body, shall exceed ninety-six (96) inches. The operation of any passenger motor vehicle upon any public highway of a greater width than provided in section 1 hereof shall constitute a misdemeanor, and any person found guilty of violating the provisions of this section shall upon conviction be fined not less than ten (\$10.00) dollars and not more than one hundred (\$100.00) dollars, or imprisoned for not more than fifteen days in the discretion of the court. 1936 (39) 1635.

§ 1626-1. **Motor vehicles stop before passing school bus taking on or discharging school children.**

See this section in 1934 Supplement.

§ 1626-2. **School bus operators be of same race as children they transport—liability of contractors for violation.**—It shall be unlawful for any person to operate a school bus, while engaged in the transportation of pupils to or from the public schools in this state, unless he be of the same race as the pupils transported by him. Any violation of the provisions of this section is declared to be a misdemeanor and shall be punishable by a fine of not exceeding one hundred (\$100.00) dollars, or by imprisonment of not exceeding thirty (30) days, in the discretion of the court. Any person who holds a contract for the operation of any school bus and permits the violation of the provisions of this section, in respect to the bus that he is under contract to operate, shall forfeit all rights under his contract and the same shall be declared at an end. 1935 (39) 251.

§ 1631-1. **Operate motor vehicles manufactured or assembled on or after January 1, 1937, without safety glass unlawful.**—On and after January 1, 1937, and except as hereinafter otherwise provided, it shall be unlawful to operate on any public highway or street in this state, any motor vehicle which

is registered in the State of South Carolina and which shall have been manufactured or assembled on or after January 1, 1937, unless such motor vehicle be equipped with safety glass wherever glass is used in partitions, doors, windows or windshields. The term "safety glass" as used herein shall be construed as meaning glass so treated or combined with other materials as to reduce, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from external sources or by glass when the glass is cracked or broken. The division of motor vehicles shall approve and maintain a list of the approved types of glass, conforming to the specifications and requirements for safety glass as set forth in this section and in accordance with the standards recognized by the United States bureau of standards, and shall not issue a license for any motor vehicle subject to the provisions of this section, unless such motor vehicle be equipped as herein provided with such approved types of glass. The division of motor vehicles shall require dealers to certify in bills of sale and owners in certificate of title the type of glass used in partitions, doors, windows and windshields of each car sold and whether it was manufactured or assembled after April 6, 1936. The operator, owner or custodian of any motor vehicle which is operating in violation of the provisions of this section shall be deemed guilty of a misdemeanor and shall be punished by a fine of ten (\$10.00) dollars or ten (10) days in jail or both. 1936 (39) 1399.

This section added by 1936/1399.

§ 1632-1. Motor vehicle designed transport property have outside driver's mirror.—It shall be unlawful to operate upon any of the highways of this state any motor vehicle designed particularly for transportation of property, unless the same be provided with a mirror so fixed in front of and to the left of the seat of the operator as to enable him to observe the road and traffic in the immediate rear of his vehicle. Any violation of the provisions of this section is declared to be a misdemeanor and upon conviction therefor the offender shall be subject to a fine of not less than five (\$5.00) dollars nor more than fifty (\$50.00) dollars, or to a term of imprisonment of no less than five (5) days nor more than fifteen (15) days. 1936 (39) 1712.

This section added by 1936/1712.

§ 1636. Persons under influence of intoxicants or narcotics not drive motor vehicles.—It shall be unlawful for any person or persons while under the influence of intoxicating liquors or narcotics to drive or operate upon any public highway or county road of this state any automobile, motorcycle or other motor vehicle. Any person or persons violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof by a court of competent jurisdiction shall be imprisoned for a period of not less than twenty (20) or more than thirty (30) days in the county jail or upon the county chaingang in the county in which the violation occurred, or by a fine of not less than twenty-five (\$25.00) dollars nor more than one hundred (\$100.00) dollars: *Provided*, that for a second or subsequent offense the sentence shall be imprisonment for not less than three months nor more than two years upon the county chaingang in the county in which the violation occurred, or in the state penitentiary. 1935 (39) 480.

Minimum fine of twenty-five (\$25.00) dollars fixed by 1935/480.

§ 1637. Unlawful to allow minor under fourteen years of age to operate motor vehicle on highways.

See this section in 1934 Supplement.

§ 1639-1. Designation of taxis, Anderson County.— *This section (acts 764 and 853, 1934 acts) in 1934 supplement repealed by 1935 acts, page 51.*

§ 1667. Hauling timber, etc., over highways of Barnwell and Orangeburg Counties regulated.

See this section in 1934 Supplement.

§ 1688-1. Not operate motor vehicles on front beach at Pawley's Island.—It shall be unlawful for any person to operate a motor vehicle on the front beach at Pawley's Island between low and high water mark at any season of the year. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not exceeding twenty-five (\$25.00) dollars or imprisonment not exceeding ten (10) days for each and every offense. 1936 (39) 1682.

This section added by 1936/1682.

§ 1693. All steam railroads equip coaches with cinder deflectors.—* * * *Provided*, that it shall not be necessary to equip any air-conditioned railroad passenger coaches, pullman cars and dining cars with cinder deflectors, or wire screens. 1936 (39) 1713.

The above proviso added by 1936/1713.

§ 1707. Penalty for fraudulently evading toll or fare.

See this section in 1934 Supplement.

§ 1729. Issue for jury on denial by reputed father—security, etc., on conviction.—Should such person be unable to comply with the requisitions hereinbefore mentioned, or should he deny that he is the father of the said child or children, a jury shall be charged, in the court of sessions, to try the question whether the accused is or is not the father of such child or children; and on his acquittal he shall be discharged; or, if convicted, he shall be required to give the security or recognizance hereinbefore required; and on default thereof, shall be liable to execution, as are defendants convicted of misdemeanors; *Provided*, that on the annual payment of *such sum of money as the court may direct, not to exceed the maximum amount provided for in section 1726 of the 1932 Code*, the execution, except as to costs, shall be stayed until another installment falls due. 1936 (39) 1336.

By 1936/1336 the words in italics in the sum of twenty-five dollars." last proviso were inserted instead of "the

§ 1751. Classification of birds, animals and fish—open and closed seasons—fishing regulations.—For the purpose of this section the following classifications shall be recognized.

(a) Domestic Game Birds.—Blackbirds, pheasants, doves, partridge (quail), and wild turkeys.

(b) Destructive Birds.—Eagles, buzzards, crows, Cooper's hawk, duck hawk, English sparrows, great horned owl, jaybirds, loggerheads and sharp-shinned hawk.

(c) Game Animals.—Deer, fox, mink, muskrats, opossums, otter, rabbits, raccoons, skunk and squirrels.

(d) Game Fish.—Jackfish or pickerel, pike, black bass or pond trout, striped bass or rockfish, warmouth, red belly bream, cooperfaced or ball faced bream, yellow-belly perch, sun perch, redbfin trout, flyer, crappie, rock bass, goggle eye and white perch.

(e) The open season for hunting domestic game, birds and animals in South Carolina shall be from Thanksgiving Day to March 1st, inclusive, except that deer (bucks only) may be hunted from August 15th to January 1st, inclusive; and raccoon and opossums may be hunted from September 1st, to March 1st; *provided*, between September 1st and Thanksgiving day rabbits may be hunted without firearms, and squirrels may be hunted without dogs. The trapping or

snaring of quail or wild turkeys is absolutely prohibited, except as provided for scientific or propagating purposes: *Provided*, that the bag limit for quail and partridge shall be fifteen per day to the hunter; (1) *provided*, that the bag limit for wild turkeys shall be two per day and a total of twenty per season to the hunter, but no wild turkey shall at any time be shot from any natural or artificial blind or hiding place when lured by bait.

And *provided, further*, that the open season for shooting squirrels in York County shall be opened Thanksgiving day and closed February 1st of each year. The bag limit for squirrels shall be fifteen (15) per day.

Provided, that the open season for shooting quail or partridges in York, Greenville, Chester and Fairfield Counties shall open on Thanksgiving day, in each year, and close on the first day of February of each succeeding year.

Provided, further, that there shall be no trapping of quail in Edgefield County for any purpose.

Provided, that the open season for shooting quail and partridges in Chesterfield County shall be from Thanksgiving day to the 15th day of February, both inclusive, of each year.

(f) Destructive Animals.—Foxes and wild cats may be killed by owners and officers of the law upon their holdings and without license at any time. *Provided*, raccoons and squirrels may be killed by owners of crops from July 15th, if such animals are destroying said crops.

(g) All domestic birds not named above are non-game birds, and shall not be destroyed in any way at any time.

(h) The catching of game fish shall be with hook and line only in all clear-water streams and waters of the state.

(i) Gill nets (not to extend more than halfway across a stream, lake, or pond), traps, seines, trotlines or other device which does not block the passage of fish in streams may be used in the muddy streams of the State: *Provided, further*, they be not used within one hundred yards of the mouth of clear water streams emptying into the same: And *provided, further*, that a seine or net may be used in fishing between the first day of September and the first day of May. No traps, nets or other devices shall be used at the mouth or inside of any rice fields ditches.

(j) The tickling, pegging or catching of game fish by any means except rod and line, or hand line, or single set line, outside of beds, is strictly forbidden. 1934 (38) 1249; 1935 (39) 35, 463.

See Sections 1751-1 and 1751-2 for additional laws relating to fish and game.

For additional provisions relating to foxes see Section 1768.

See Section 1518-2. 1934 Supplement, which makes it unlawful for one to receive portion of fine imposed for violation of fish or game law.

§ 1751-1. Additional fish laws.—(1) CATCHING FISH FOR BAIT, NEWBERRY COUNTY.—It shall be unlawful for any person or persons to catch or remove any minnows or other fish from the streams of Newberry County for the purpose of using same as fish bait; that nothing herein shall prevent anyone from catching fish from his own premises for such purposes: *Provided, however*, that if anyone have the consent of such landowner such fish may be caught for said purposes. Any violations of the provisions of this subsection shall be a misdemeanor and punished in the manner now provided by law. 1933 (38) 387.

(2) FISHING IN CERTAIN CLEAR WATER STREAMS, DILLON, FLORENCE, GEORGETOWN, HORRY AND MARION COUNTIES.—There shall be a closed season against fishing in Dillon, Florence, Georgetown, Horry and Marion Counties, in the waters of Little Pee Dee River, Lumber River, Waccamaw River, and Black

River, or any of their tributaries, from the 15th day of May until the 1st day of July of each year. During the closed season established hereinabove, if any person is caught on the waters of the rivers named hereinabove, or any of their tributaries, having in his possession any fishing tackle, or wares of any kind whatever, used for the purpose of taking fish from said waters, it shall be *prima facie* evidence that he is fishing and catching fish, and shall be punished according to the provisions of this subsection. In the counties of Florence, Georgetown, Horry and Marion fishing with hook and line and rod and reel shall be permitted during the closed season. This exemption from the provisions of this subsection shall not extend the fishing season with set hooks, nets, fish traps or any devices for the catching of fish except one pole and hook and line or rod and reel with one line for each person so fishing. Any person convicted of violating any provisions of this subsection shall be fined not less than ten (\$10.00) dollars nor more than thirty (\$30.00) dollars, or be required to work upon the public works of the respective counties not less than ten (10) days nor more than thirty (30) days, or both, in the discretion of the court. 1935 (39) 420; 1936 (39) 1665.

(3) SEINING FOR FISH, GREENVILLE, ANDERSON, PICKENS AND OCONEE COUNTIES.—It shall be unlawful for any person to use within Greenville, Anderson, Pickens and Oconee Counties, or any of the waters thereof, or any of the waters contiguous thereto, any net of any description commonly called a seine for the purpose of gathering, hemming, or driving fish in any of said waters. And the word "net" shall be deemed and interpreted to include any and every device in the nature of a net whether made of cotton, hemp, rayon, silk, or wire. But the provisions of this subsection shall not prevent the use of a circular net commonly called a "landing net" to be used in landing a fish, provided it not be over fourteen inches (14 in.) in diameter and eighteen inches (18 in.) deep. The said fish shall be caught only with rod and reel, or rod and line, or pole and line, with single bait or lure in the hands of the operator, or by throwing when not more than one lure and line is used by the person throwing; *provided*, that when the pole and line is used, the fisherman may use not exceeding three poles provided the same be used in his view, and he is not required to have the same in his hands all of the time: *Provided, further*, that it shall not be unlawful for a person fishing with pole and line to have in his possession and to use at intervals a rod and reel or rod and line. *Provided, further*, that fishing with rods and reels or rods and lines or poles and lines or lines or what is commonly known as fish baskets, with single or multiple bait or lure, in Pickens and Anderson Counties shall in no wise be limited, restricted or prohibited by this subsection. The possession of any device of the nature described hereinabove upon or in the waters of the counties aforesaid shall be deemed to be an infraction of this subsection. Any of the violations of the provisions of this subsection shall be deemed a misdemeanor and punishable by a fine of not more than one hundred (\$100.00) dollars or not more than thirty (30) days imprisonment in the discretion of the court. 1933 (38) 333; 1936 (39) 1571.

(4) CLEAR WATER STREAMS—(a) LYNCHES RIVER.—All of Lynch River located within the borders of the state of South Carolina shall be designated as and be declared to be a clear water stream. 1933 (38) 1166.

(b) SUMTER COUNTY.—All streams in Sumter County are hereby declared to be clear water streams except the main stream of the Wateree River. 1936 (39) 1596.

(5) OPERATION FISH HATCHERIES—(a) LEXINGTON, NEWBERRY, RICHLAND AND SALUDA COUNTIES.—After the development of a fish hatchery, or hatcheries,

within the counties of Lexington, Newberry, Richland and Saluda by the works progress administration, or any other agency of the United States government not more than twenty-five (25%) per cent annually of the funds collected and accruing to the said counties, in any one year, from the sale of hunting licenses and from the fur tax referred to in sub-section 3 of section 1790, may be used for the maintenance and operation of a fish hatchery, or hatcheries, and the distribution of fish from said hatcheries to the streams and lakes in the counties of Lexington, Newberry, Richland and Saluda. 1936 (39) 1632.

(b) YORK COUNTY.—After the development of a fish hatchery, or hatcheries, within the county of York by the works progress administration, or any other agency of the United States government, twenty-five (25%) per cent. of the funds collected and accruing to the said county, in any one year, from the sale of hunting licenses and from the fur tax referred to in subsection 3 of Section 1790, may be used for the maintenance and operation of a fish hatchery, or hatcheries, and the distribution of fish from said hatcheries to the streams and lakes in the county of York. 1936 (39) 1772.

(6) OWNERS OF PRIVATE PONDS CATCH FISH THEREIN FOR PROPAGATION PURPOSES—PERMIT NECESSARY.—Persons owning private ponds in this state are allowed to catch fish therein for propagation purposes only after the issuance of a permit from the chief game warden. The chief game warden is authorized and empowered to issue such rules and regulations as in his judgment is proper concerning the issuance of such permit, the length of time that each permit will be of force, and the conditions on which issued; and he shall have full power and authority to revoke such permits in his discretion. No permit shall be issued except it be endorsed in writing by the game warden of the county in which it is to be used. All violations of law shall be enforced, and with penalties as now provided, except as hereby expressly changed. 1936 (39) 1545.

(7) NOT TAKE SHAD FROM ASHEPOO RIVER IN COLLETON COUNTY FOR TEN YEARS.—The taking of shad from the Ashepoo river and its tributaries in Colleton County for a period of ten (10) years from May 8, 1936, is hereby prohibited. Any person, firm or corporation violating the provisions of this subsection shall be deemed guilty of a misdemeanor and punished by a fine of one hundred (\$100.00) dollars or imprisonment for a period of thirty (30) days or both fine and imprisonment at the discretion of the court: *Provided*, that the provisions of this subsection shall not apply to the state board of fisheries taking shad to be used in hatcheries. 1936 (39) 1535.

(8) LENGTH OF SEINES USE CATCH FISH, ETC., ON AND NEAR BEACHES, CHARLESTON COUNTY.—It shall be unlawful to use on any of the beaches of Charleston County in this state or within the distance of three hundred yards from any such beach any seine or other net, for the capturing of fish or other forms of marine life, exceeding two hundred (200) feet in length. Any person or persons violating the provisions of this subsection shall be fined not less than twenty-five (\$25.00) dollars, and not more than one hundred (\$100.00) dollars or be imprisoned for not less than five (5) nor more than thirty (30) days for the first offense; and shall be fined not less than one hundred and ten (\$110.00) dollars nor more than two hundred and fifty (\$250.00) dollars or be imprisoned not less than thirty (30) nor more than sixty (60) days for the second and each subsequent offense. 1936 (39) 1369.

(9) NOT DESTROY OR OFFER FOR SALE SEA TURTLE OR SEA TURTLE EGGS.—It shall be unlawful for any person, firm or corporation to kill or offer for sale any sea turtle. It shall be unlawful for any person, firm or corporation to offer for sale, sell or destroy any sea turtle eggs. Any person, persons, firm or corporation

found guilty of violating any of the provisions hereof shall be punished by a fine of not less than one hundred (\$100.00) dollars, or imprisoned not less than thirty (30) days, or both. 1935 (39) 251.

(10) REMOVE SHAD AND STURGEON NETS FROM BANKS OF STREAMS 3 DAYS AFTER CLOSE OF SEASON.—It shall be unlawful for any person, persons, firm or corporation to leave his, their or its shad or sturgeon net on the banks of streams of this state more than three (3) days after the closed season for the catching of shad or sturgeon. Any person, persons, firm or corporation found guilty of the violation hereof shall be punished by a fine of not more than twenty-five (\$25.00) dollars, or imprisoned for not more than fifteen (15) days. 1935 (39) 283.

§ 1751-2. Additional game laws.—(1) HUNTING SEASON EXTEND THROUGH MONDAY WHEN SEASON EXPIRES ON SUNDAY.—In all instances when the open season for the hunting of game expires on Sunday, such period shall be extended to include the following Monday. 1936 (39) 1303.

(2) BALD EAGLES.—It shall be unlawful to take, catch, hunt or kill Bald Eagles in this state. The penalty for each and every violation of this subsection shall be a fine of not less than twenty-five (\$25.00) dollars, nor more than one hundred (\$100.00) dollars, or imprisonment for not more than thirty (30) days. 1932 (37) 1386.

(3) CARRIER PIGEONS—NOT TO SHOOT, MAIM OR ENTRAP.—The shooting, killing or maiming of an Antwerp or Homing Pigeon, commonly known as a carrier pigeon, is hereby prohibited. It shall also be unlawful for any person or persons to entrap or detain any carrier pigeon that has the name of its owner stamped on its wing or tail feathers or has upon its leg a band bearing the owner's name, initials or a number on said band. Any person or persons violating the provisions of this subsection shall be guilty of a misdemeanor and punishable by a fine not exceeding ten (\$10.00) dollars or imprisonment not exceeding ten (10) days. 1935 (39) 421.

(4) DEER—(a) SEASON HUNT, HORRY COUNTY.—The open season for hunting deer (bucks only) in Horry County shall be from the first day of September to January first, inclusive. 1935 (36) 286.

(5) MARSH HENS AND RAILS—(a) OPEN SEASON AND BAG LIMIT, CHARLESTON COUNTY.—The season for hunting marsh hens and rails in Charleston County shall open on October 1 of each year and shall close on October 31 of each year. The bagging limit shall be 10 of each per day. Any person violating the provisions of this subsection shall be guilty of a misdemeanor and upon conviction subject to a fine of not more than one hundred (\$100.00) dollars or thirty days (30) imprisonment. 1934 (38) 1404.

(6) QUAIL—(a) SEASON HUNT, OCONEE COUNTY.—The season for hunting quail in Oconee County shall open on Thanksgiving day, and close on the first day of February of each year. 1934 (38) 1450.

(b) SEASON HUNT, UNION COUNTY.—The open season for quail in Union County shall be as now provided by law, and shall close on February 15, of each year. 1936 (39) 1587.

(c) BAG LIMIT, CLARENDON, FLORENCE, HORRY, SALUDA, AND WILLIAMSBURG COUNTIES.—The bag limit for quail in the counties of Williamsburg, Clarendon, Florence and Horry shall be twelve (12) for one day's hunt. And the season bag for Saluda County shall be 100 birds. 1936 (39) 1636.

(7) SQUIRRELS, RACCOONS, OPOSSUMS—(a) SEASON HUNT, MARION COUNTY.—In Marion County the open season for hunting squirrels, raccoons and opossums

shall extend from Thanksgiving day to March 1st of the year next thereafter. 1935 (39) 225.

§ 1752. Violation of § 1751 a misdemeanor—penalty.—Any violation of the provisions of section 1751 shall be a misdemeanor, and upon conviction thereof the offender shall suffer penalty of fine of not less than ten (\$10.00) dollars nor more than one hundred (\$100.00) dollars, or imprisonment of not less than ten or more than thirty days. 1933 (38) 438.

By 1933/438 the minimum fine was reduced from \$25.00 to \$10.00.

§ 1755. Penalty for violation of game or fish law, when not otherwise specified.—When not otherwise specified, the penalty for violation of any part of the game, bird or fish laws of this state shall be a misdemeanor, and, upon conviction thereof, the offender shall suffer penalty of fine of not less than ten dollars or more than one hundred dollars, or imprisonment of not less than ten or more than thirty days. 1933 (38) 437.

By 1933/438 the minimum fine was reduced from \$25.00 to \$10.00.

§ 1758. Hunter's license required.

Expenditure of game funds: Cherokee County, 1935/382.

§ 1759. Hunting licenses.—* * * (7) HUNTER POSSESS AND DISPLAY ON DEMAND.—Every licensee shall carry upon his person, while hunting, and shall show upon demand of any officer, his hunting license certificate, corresponding to serial number of his hunting license button. Any one violating the provisions hereof shall, upon conviction, be sentenced to pay fine of not less than ten (\$10.00) dollars, nor more than one hundred (\$100.00) dollars, or serve a term of not less than ten days, nor more than thirty days.

(8) GAME WARDENS ISSUE CERTIFICATE WITH EACH HUNTING LICENSE BUTTON —NOT TO POSTDATE.—All game wardens and their respective agents in this state are hereby prohibited from issuing a hunting license button without giving a certificate therefor with number corresponding to the license button, said record to be made and dated on the date of issuance. They are further prohibited from postdating any hunting license certificate. Any game warden or his agent violating the provisions of this subsection shall be guilty of a misdemeanor and punished by a fine of not less than twenty-five (\$25.00) dollars or more than one hundred (\$100.00) dollars or thirty (30) days imprisonment within the discretion of the court. 1935 (39) 242; 1936 (39) 1317.

Subsection 7 added by 1936/1317. Subsection 8 added by 1935/242.

§ 1761-A. Regulations for trapping, shipping or transporting furs, pelts, skins and hides.—* * * (2) TAG SKINS OF GAME ANIMALS BOUGHT, STORED OR TRANSPORTED.—All persons or corporations buying, storing, shipping or transporting furs, or pelts, or skins, shall make application to the game warden or his authorized deputy for a tag, which said tag or label shall be securely attached to the fur, pelt, skin or hide so bought, stored, shipped, or transported. Said tags or labels to be of such design and in such form as the chief game warden may prescribe, and the cost of said tags or labels to the person, buying, storing, shipping or transporting said furs, pelts, skins or hides shall be according to the following schedule: For each tag or label for buying, storing, shipping or transporting otter hide or skin, one (\$1.00) dollar; for each tag or label for buying, storing, shipping or transporting a red fox hide or skin, one (\$1.00) dollar; for each tag or label for buying, storing, shipping or transporting a raccoon, grey fox or mink hide or skin fifteen (15c) cents; for each tag or label for buying, storing, shipping or transporting a skunk hide or skin ten (10c) cents; for each tag or label for buying, storing, shipping or transporting an

opossum or muskrat hide or skin five (5c) cents each; *Provided*, that the tag shall be purchased in the county where the furs, pelts or skins are bought, stored, shipped or transported. The penalty for violation of this subsection shall be punishment by a fine of not less than one hundred (\$100.00) dollars, nor more than five hundred (\$500.00) dollars, or imprisonment for not less than thirty (30) days, nor more than six (6) months for each and every offense. 1935 (39) 372.

By 1935/373 skins of game animals the same as if they were to be transported, bought or stored were required to be tagged

§ 1768. **Foxes—hunting of—when may kill.**—It shall be unlawful to hunt, shoot, trap or kill any fox in this state, or to dig out of the ground or to push or drag out of a tree or log any fox or foxes in this state, except as hereinafter provided: *Provided*, that fox or foxes may be hunted or run in with dogs in this state from September the 15th until the 15th day of February each year: *Provided*, that in Chester County fox or foxes may be hunted or run with dogs from September 15th until March 1st of each year: And *provided, further*, that any person or persons may shoot, chase or kill any fox or foxes at any time that they are doing any damage upon the property of such person or persons or property under their control; and *provided, further*, it shall be unlawful to sell and ship live fox within the state; and *provided, further*, that no person or persons shall chase any fox or foxes as herein provided except on his or their own land or lands under his or their control. Any person or persons violating the provisions of this section shall be punished by a fine of not more than twenty-five dollars or by imprisonment, for not more than thirty days; *provided*, that the provisions of this section shall not apply to hunting, shooting, trapping and killing of foxes in Colleton, Spartanburg and Oconee Counties, or digging out of the ground, or pushing or dragging out of a tree or log of foxes in said counties. *Provided, further*, that in Chesterfield County fox or foxes may be hunted or run with dogs from 1st day of September until the 15th day of February of each year. *Provided, further*, that in Anderson County there shall be a closed season for hunting of foxes, which shall be from June 1st until the 15th day of September each year. *Provided*, in that portion of Oconee County lying to the east and south of a line coinciding with highway 183 from Pickens County line through Walhalla to Westminster and the Westminster-Atlanta highway to Tuglo River, it shall be unlawful to hunt, trap, shoot or in any manner take or kill any fox between the 1st day of April and the 1st day of October of each year: *Provided, further*, that in Newberry County there shall be a closed season for the hunting of foxes from the 15th day of February until September 15th of each year. 1935 (39) 140; 1936 (39) 1700, 1752.

For further provisions relating to foxes see Sections 1768-1 and 1751, this Supplement.

§ 1768-1. **Declare open season on foxes and coyotes.**—Whenever it shall appear that foxes or coyotes are destroying birds, poultry, pigs, lambs or other property in any county in this state the chief game warden, upon the written request of a majority of the legislative delegation of any such county, shall declare an open season on foxes or coyotes in the county or counties suffering from such destruction and for such period of time as said delegations may deem desirable. 1932 (37) 1312.

§ 1769. **Unlawful catch, kill, possess or transport, or attempt to catch, kill, possess or transport, any bird or animal in violation of chapter 84, 1932 Code.**—It shall be unlawful for any one to catch, kill, possess or transport, or to attempt to catch, kill, possess or transport any bird or animal in violation of any of the provisions of chapter 84, vol. I, Code of Laws of South Carolina, 1932, and the

unlawful transportation or possession of any part of any bird or animal shall be equally unlawful. Any and all such birds or animals, and any and all parts thereof, found in the possession of any person, firm or corporation shall be confiscated, sold to the highest bidder, and the proceeds thereof turned over to the state treasurer for the credit of the game protection fund. In addition to such confiscation, any violation thereof shall be a misdemeanor and the offender, upon conviction, fined not less than twenty-five (\$25.00) dollars, nor more than one hundred (\$100.00) dollars, or imprisoned for not less than ten (10) days nor more than thirty (30) days. 1935 (39) 170.

Section 1769, 1932 Code, repealed by 1935/170. The above provisions come from said Act.

§ 1771. Keeping of birds or animals forbidden to be sold in cold storage.—

It shall be unlawful to keep any of the birds or animals forbidden to be sold by the terms of this chapter in cold storage or refrigerating plants, except in a private dwelling, *unless the bird or animal in cold storage, or the package containing same, shall bear the name and address and the serial number and the class of the hunting license of the owner of such bird or birds, animal or animals.* Any person violating this section shall be fined not less than fifty dollars nor more than one hundred dollars, or imprisoned one day for each dollar fined or unpaid, either or both, in the discretion of the court trying the case. 1935 (39) 235.

Words in italics added by 1935/235. The "case," last line of this section in 1932 Code, said Act also eliminated all after the word

§ 1773. Unlawful keep in cold storage partridge, wild turkey or woodcock.—

See § 1771, this Supplement.

§ 1786. License to enter public lands hunt wild duck.—*Repealed by 1934 Acts, page 1310.*

§ 1790. Chief game warden close season on domestic game during abnormal conditions.

Game sanctuaries, Kershaw County, See Section 1758 for expenditure of game § 4529-3 hereof; Sumter County, 1933/79. funds.

§ 1800. Closed season for sale of game fish.—It shall be unlawful for anyone to sell game fish during the months of April, May and June of each year: *Provided*, nothing contained in this section shall be construed to apply to any game fish shipped into this state from a point without the state. Any person or persons violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than one hundred (\$100.00) dollars nor less than twenty-five (\$25.00) dollars or imprisonment for not less than ten (10) nor more than thirty (30) days, for each and every violation hereof: *Provided*, that the provisions of this section shall not apply to persons taking fish from private ponds. 1928 (25) 1179; 1932 (37) 1480.

The provisions relating to the shipment of game fish were repealed by 1932/1480. See Section 1800-1.

§ 1800-1. Shipping or carrying game fish out of state.—(1) "PERSON" DEFINED.—When used in this section the word "person" includes company, partnership, corporation, association, and common carrier.

(2) SHIPPING, TRANSPORTING OR CARRYING OF GAME FISH OUT OF THE STATE PROHIBITED—EXCEPTIONS.—It shall be unlawful for any person to deliver or knowingly receive for transportation, or knowingly to transport, by any means whatsoever, beyond the limits of the state of South Carolina, any large-mouth black bass (*micropterus salmoides*), or any small-mouth bass (*micropterus dolomieu*), or any jackfish or pickerel, pike, pond trout, striped bass or rockfish,

warmouth, red-belly bream, copperface or ball-faced bream, yellow-belly perch, sun perch, redbfin trout, flyer, crappie, rock bass, goggle eye, white perch, or other game fish caught in this state: *Provided, however*, a non-resident of this state who is a bona-fide holder of a non-resident fishing license, or a citizen of this state, is hereby permitted to take or carry with him from the state not over fifty game fish during any one calendar week when said fish have been caught or taken in accordance with the laws of this state.

(3) **POWERS OF GAME WARDENS.**—It shall be lawful for any game warden or other officer of the law to search, upon reasonable information, any package or container containing fish, and to seize and hold said fish as evidence and to declare said fish forfeited, upon conviction of the offender, sell said fish to the highest bidder.

(4) **PENALTY FOR VIOLATION.**—Any person who shall violate any of the provisions of this section shall, upon conviction, be punished by fine of not less than twenty-five (\$25.00) dollars nor more than one hundred (\$100.00) dollars, or imprisonment for not less than ten (10) nor more than thirty (30) days for each and every offense.

(5) **NO EFFECT ON SHIPMENTS ORIGINATING AND TERMINATING OUTSIDE OF THE STATE.**—Nothing in this section shall be construed to prevent the shipment in interstate commerce of live fish and fish eggs for breeding or stocking purposes when said shipment shall originate outside of the state of South Carolina and terminate outside of the state of South Carolina.

(6) **DISPOSITION OF FINES OR PROCEEDS FROM SALE OF FISH.**—That all fines or proceeds from sale of fish under this section shall be immediately transmitted to the chief game warden for credit of the game protection fund. 1932 (37) 1480.

Subs. 5A and 5B of original act repealed by 1934/1249.

§ 1817. Obstructions in streams.

Seining of fish prohibited in Anderson, see § 1751-1 (3) hereof.
Greenville, Oconee and Pickens Counties,

§ 1828-1. Fishing in Lake Murray. (1) **Trowling—Bass or Trout—Number—Size.**—Fishing in Lake Murray shall be regulated as follows, to-wit: the use of a hook pulled behind a boat, commonly known as trowling, shall be limited to one line per boat, except when there is more than one person in a boat, in which case such boat shall be limited to two lines; and that the number of bass and/or trout which any one person may be permitted to catch or have in his or her possession taken from the waters of Lake Murray in any one day shall not be over ten (10), and that the size of any bass or trout caught or taken from said Lake Murray, or which any person may have in his or her possession as taken or caught from said Lake Murray, shall not be less than six (6) inches in length. It shall be lawful to use round wood split baskets in Lake Murray at all times for the purpose of catching nongame fish only, but the use of any other kind of basket or trap shall be unlawful, and any violation thereof, shall be punished by a fine of not less than ten (\$10.00) dollars, or more than one hundred (\$100.00) dollars, or a sentence of not exceeding thirty (30) days.

(2) **Enforcement—Use of Fines Collected—Extra Wardens During September and October.**—The provisions of this section shall be enforced by the game wardens of the counties of Lexington, Newberry, Saluda and Richland. The penalties growing out of violation hereof shall be paid over to the chief game warden and he shall use so much of the said fines as is necessary to supplant the salaries received by the game warden from the four counties mentioned until each of their salaries amounts to the sum of one hundred and fifty (\$150.00) dollars per month: *Provided, further*, that the chief game warden may, during

the months of September and October appoint an extra game warden from each of said counties.

(3) Jurisdiction.—Subsections 1 and 2 hereof shall apply to the waters of Lake Murray from Blacks Bridge down to the Saluda Dam and from the Old Cherokee Road on Little Saluda River down to the Saluda Dam.

(4) Catching of Non-Game Fish in Waters Above Blacks Bridge—Permit Necessary to Trap Fish—Penalty for Trapping Game Fish.—Hereafter in the waters above Blacks Bridge on Lake Murray traps, or nets of not less than one and one-quarter inch mesh may be used at any time in the catching of non-game fish, only: *Provided*, that no one be allowed to trap fish in Lake Murray without first procuring a permit from the chief game warden or one of the several county game wardens to set such traps for the purpose of taking non-game fish, only. This permit to be furnished free upon application. Upon conviction for taking game fish in traps said permit to be revoked for six (6) months for the first offense; upon conviction for a second offense, the person so convicted shall be subject to a fine of twenty-five (\$25.00) dollars, or not more than thirty days imprisonment and permit revoked. 1932 (37) 1370; 1933 (38) 507; 1936 (39) 1767.

§ 1829. **Manufacture, sale, possession, transportation and use of alcoholic liquors.**—(1) DEFINITIONS.—For the purposes of this section and unless otherwise required by the context:

(a) The words “alcoholic liquors” mean any spirituous malt, vinous, fermented, brewed (whether lager or rice beer), or other liquors any compound or mixture thereof by whatever name called or known which contains alcohol and is used as a beverage: *Provided*, that the foregoing definition shall not extend to wine when manufactured or made for home consumption and which is not sold by the maker thereof or by any other person: *Provided, further*, that the provisions of this section shall not apply to any beverage heretofore or hereafter declared by statute to be non-alcoholic or non-intoxicating.

(b) The word “person” means and includes natural persons, associations, co-partnerships and corporations.

(c) The word “manufacturer” means any person operating a plant or place of business within this state for distilling, rectifying, brewing, fermenting, blending or bottling any alcoholic liquors.

(d) The word “wholesaler” means any person who shall from without the state purchase, acquire, or import, or who shall purchase or acquire from a manufacturer within the state any alcoholic liquor for resale.

(e) The words “retail dealer” shall mean any holder of a license issued under the provisions of this section, other than a manufacturer or wholesaler.

(f) The words “tax commission” shall mean the South Carolina tax commission.

(2) LICENSE REQUIRED MANUFACTURE, WHOLESALE OR RETAIL—APPLICATION—QUALIFICATIONS OF LICENSEES—ALCOHOL USED IN MANUFACTURE AND SALE OF CERTAIN PRODUCTS EXEMPTED.—Every person before engaging in the business as a manufacturer, wholesaler, or retailer of alcoholic liquors shall first apply to and procure from the tax commission an annual license for the privilege of engaging in such business, and for the privilege of carrying on such business shall be subject to the payment of licenses and taxes in the amounts hereinafter provided. The said application shall be under oath, and shall set forth the name of the party or parties, or corporation, and, if a corporation, the name of the president and secretary and the name of the party who shall have actual control

and management, and shall give the address of each of said parties named in said application, the name and address of the firm or corporation; and it shall describe the place where said business is to be conducted or operated, the age and nationality of the applicant. No person shall be permitted to operate such business unless the applicant, if the same be a copartnership or individual, or the person who is to have actual control or management of such contemplated business shall be a citizen of the United States, and shall be a person at least twenty-one years of age, and such application shall state facts sufficient to comply with said provisions and each and all applications made shall state that the applicant or applicants are all of good repute and have due regard for law, and will operate the said business in a lawful manner, as that term is here defined, and that neither he nor any person, firm or corporation for whose benefit such business is to be operated has had his or its license cancelled within the five years preceding the filing of such application: *Provided*, that no provision in this section shall apply to alcohol intended for use in the manufacture or sale of any of the following when they are unfit for beverage purposes, namely:

(a) Denatured alcohol produced and used pursuant to acts of Congress and regulations promulgated thereunder;

(b) Patent, proprietary, medicinal, pharmaceutical, antiseptic and disinfectant preparations;

(c) Flavoring extracts, syrups and food products;

(d) Scientific, chemical, mechanical, and industrial products. Any person who shall knowingly sell any of the products enumerated in paragraphs (a), (b), (c), and (d), for beverage purposes shall be subject to the penalties provided for in subsection 13 of this section. No provision of this section shall apply to ethyl alcohol intended for use by hospitals, colleges, governmental agencies, and other permittees entitled to obtain such alcohol tax-free, as provided by Congress and regulations promulgated thereunder.

(3) LICENSE—ISSUANCE—FORM—DISPLAY—FORFEIT ON VIOLATING SECTION 13.—TAX COMMISSION REVOKE FOR CAUSE.—Upon presentation to the tax commission of the application under oath, provided for in subsection 2, if the tax commission is convinced that the facts stated in the application are true and that the applicant is a fit person to engage in or operate said business, and that the license is a proper one, then upon compliance by the applicant with the further requirements of this section, the said tax commission shall issue a license to the applicant, or applicants, who shall then be permitted to engage in said business at the place mentioned in the application during the term of said license, and said license is forfeited for violation of the terms of this section. The tax commission shall prescribe the form of license to be issued under the provisions of this section, and said license when so issued shall be conspicuously and continuously displayed in said place of business. Any licensed dealer who violates the terms of this section shall forfeit his license, and shall not, within a period of five years, be again licensed. The tax commission is hereby vested with authority to revoke for cause any license granted under the provisions of this section, and in the event of resort to any court from such revocation in whatsoever form proceedings may be brought, it shall in no wise act as a supersedeas of the effect of revocation. The license so revoked shall stand as suspended, pending the termination of the proceedings.

(4) APPLICANT FOR LICENSE FILE BOND OR DEPOSIT SECURITIES—TAX COMMISSION SUBJECT TO FORFEITURE—PROCEDURE.—No license shall be issued unless the applicant shall first file with the tax commission a surety bond approved by

on, and sold and countersigned by some duly authorized insurance
n the county where the licensee is to do business; the amount of said
ond shall be in the penal sum of two thousand (\$2,000.00) dollars, and
ditional amount that the tax commission shall deem wise, conditioned
e lawful operation of said business and the prompt payment of all
and taxes provided in this section: *Provided*, that in lieu of a surety
e applicant for license may deposit with the state treasurer cash or
in like amount, satisfactory to the state treasurer. Upon any violation
ection by said licensee, the said security or securities shall be subject
iture upon a rule to show cause, directed to the licensee by the tax
ion, requiring the said licensee to show cause, upon notice of not less
(10) days, why the said security or securities should not be forfeited
er. Upon the return to the said rule, in the event of a finding by the tax
ion that sufficient cause has not been shown by the said licensee, the
commission is hereby authorized to issue its order declaring the said
s forfeited, whereupon the licensee shall have the right to appeal upon
notice from such order to the court of common pleas of the county in
e place of business is located, within ten (10) days after notice of the
of the tax commission. A judge of the said court of common pleas or any
f the supreme court, after four days' notice to the tax commission of
ication therefor, shall have the power to issue an order superseding the
the said tax commission hereinbefore provided for upon such terms,
ns, and surety as to the court may seem proper, pending final determina-
he said appeal. In the event of such appeal, the tax commission shall
ts findings upon the rule to show cause to the court of common pleas of
ty in which the place of business is located, and a trial *de novo* shall be
he said court of common pleas, which trial shall have the right of way
other civil jury cases at the next succeeding term of the court of common
the said county, or in any subsequent term at which said trial may be
on final determination of the forfeiture of said securities, the state
r, after fifteen days' advertisement, shall sell the same at public auction
funds derived therefrom shall be turned into the state treasury to be
of as other licenses and taxes under this section. In addition to the
ent hereinafter referred to for the violation of any of the provisions of
the subsections of this section, every violation by a licensee shall con-
breach of the condition of the bond, and the full amount thereof shall
by the licensee or his surety. On failure to pay the same, the tax com-
is hereby authorized and directed to recover same in a suit brought in
against the licensee and his surety in the county in which the licensee
rating.

LICENSES—ISSUE ANNUALLY—FEES—DEATH OF LICENSEE.—The licenses
issued annually upon compliance with the provisions of this section and
ment to the tax commission of the following fees, which shall be in ad-
to the license taxes hereinafter provided, to wit: (a) manufacturer's
two thousand (\$2,000.00) dollars; (b) wholesaler's license, two thousand
00) dollars; (c) retailer's license, two hundred fifty (\$250.00) dollars.
ases shall expire on June 30 of each year; *provided, however*, that
issued before June 30, 1935, shall remain in full force and effect until
, 1936: *Provided, further*, that persons obtaining licenses on or after
1, and before June 30 of any year may obtain the same for the re-
of the license year upon the payment of one-half of the license fees
provided: *Provided, further*, that in the event of the death of any person

who may have acquired a license as a retail or wholesale dealer in alcoholic liquors during the term for which said license is issued that the personal representative of such deceased person, with the consent of the probate court as required by law and subject to approval by the tax commission as a proper party to conduct such business upon the same basis as an original applicant, may continue to operate such business for and during the life of said license, or may elect to discontinue such business upon the death of the licensee and in such event the unearned license tax shall be returned or refunded to the estate or personal representative of the deceased licensee. The amount of such refund shall be based upon the cost of the license per month for the period for which it has been issued.

EXECUTOR OR ADMINISTRATOR OF ESTATE OF DECEASED LICENSEE SELL STOCK OWNED BY DECEASED.—In case of the death of a person holding a retail or wholesale license under the provisions of this section, during the license period, the executor or administrator of said licensee's estate is hereby authorized to sell to a licensed wholesale or retail dealer, alcoholic liquors in bulk which were owned by said deceased licensee. Said sale shall be made at the place of business of the deceased licensee and a report thereof immediately made to South Carolina tax commission.

(6) LICENSE TAX—CHAMPAGNE—AFFIXATION OF STAMPS ON CONTAINERS—LICENSEES REPORT RECEIPT OF SHIPMENTS—STAMP WHOLESALE SHIPMENTS FOR OTHER STATES—WHOLESALESALE REPORT SALES.—Every person doing business within the state of South Carolina and engaging in the business of selling alcoholic liquors, except distillers thereof, for the privilege of carrying on such business, shall be subject to the further payment of a license tax which shall be measured and graduated in accordance with the volume of sales of such business. There shall be levied, assessed, collected and paid in respect to the alcoholic liquors referred to in this section, the following amounts: Upon each eight (8) ounces or a fractional quantity thereof, five (5¢) cents: *Provided, further,* that champagne may also be sold in licensed liquor stores and shall be taxed at the rate provided in subsection 2557-1 (2) and the following proviso any provisions of law to the contrary notwithstanding. *Provided, further,* that the rate of tax upon alcoholic liquors containing alcohol in excess of fourteen (14%) per cent by weight and not in excess of twenty-one (21%) per cent by volume shall be two cents (2¢) upon each eight (8) ounces, or fractional quantity thereof.

The tax herein levied shall be paid by affixing stamps on each bottle or container of alcoholic beverages. The said stamps shall be cancelled by writing or printing thereon the name of the person, firm or corporation first having possession of same in South Carolina for resale within the state, and such other data as required by the tax commission. In case a bottle is enclosed in a sealed metal container, the tax commission, in its discretion, may allow the affixing of the required stamps to the metal container instead of to the bottle. The stamps shall be affixed to the bottle or container immediately upon receipt of the alcoholic liquor contained therein, or immediately upon the alcoholic liquors being bottled: *Provided,* that when stamps have been once affixed as provided in this section, no other or further stamps shall be required, regardless of how often such alcoholic liquors may be sold or resold within the state: *Provided, further,* that the stamps shall be affixed in such manner that their removal will require continued application of steam or water. Every licensee, upon receipt of a shipment of alcoholic liquors for sale within the state of South Carolina, under

the provisions of this section, shall, within twenty-four hours after receiving the same, and before it is offered for sale, furnish to the tax commission a true invoice of the alcoholic beverages so received. Wholesale dealers having in possession any alcoholic liquors intended for shipment to any place without the state shall keep such alcoholic liquors in a separate compartment from that of liquors intended for sale within the state, so that the same may be easily inspected, and shall attach to each package of alcoholic liquors so intended for shipment without the state a stamp denoting that the same is not intended for sale within the state. When such alcoholic liquors are so kept and so stamped with a special stamp no tax on account thereof shall be charged. For defraying the expenses thereof the tax commission shall charge for every such stamp the sum of twenty-five (25) cents. All wholesalers shall furnish to the tax commission duplicate copies of all invoices for the sale of alcoholic beverages within twenty-four (24) hours after such alcoholic beverages have been removed from the wholesaler's place of business.

(7) STAMPS—SALE.—The tax commission is hereby authorized and directed to have prepared and distributed stamps suitable for denoting the tax on alcoholic liquors enumerated herein and said stamps and other stamps required under this section shall be sold only to such persons as hold a valid wholesale license under the provisions of this section. The tax commission may promulgate rules and regulations for the enforcement of the provisions of this subsection.

(8) LICENSE AND TAXES HEREIN IN LIEU OF OTHER LICENSES AND TAXES EXCEPT PROPERTY, INCOME, AND CORPORATION LICENSE TAXES.—The licenses and excise taxes herein provided, for the privilege of engaging in the business of manufacturing and selling alcoholic liquors, shall be in lieu of all other taxes and licenses—state, county, and municipal—except property, state income, and corporation license taxes.

(9) MANUFACTURERS AND WHOLESALERS—PLACES OF BUSINESS—SALES—DRINKING ON PREMISES PROHIBITED—STAMP ALCOHOLIC LIQUORS WHEN BOTTLED IN THIS STATE.—It shall be unlawful for any manufacturer to own or operate more than one plant, establishment, or place of business for the manufacture of alcoholic liquors in any one county of this state, nor shall he sell, barter, exchange, give, transfer, or deliver any alcoholic liquors to persons within this state other than the holders of wholesale licenses; nor shall the alcoholic liquors be transported or delivered to any one within this state not holding a license hereunder. It shall be unlawful for any manufacturer to permit alcoholic liquors to be drunk on the premises, and likewise it shall be unlawful for persons to drink alcoholic liquors on the premises of any manufacturer. In the event any alcoholic liquors are bottled within the state of South Carolina, such alcoholic liquors shall be stamped when bottled. It shall be unlawful for the wholesaler to sell, barter, exchange, give, transfer, or deliver for consumption any alcoholic liquors within this state to any person not holding a license hereunder, nor shall a wholesaler permit any alcoholic liquor to be drunk on the premises. Every wholesaler hereunder shall maintain a separate store or warehouse for the purpose of conducting the business of a wholesaler, and no other goods, wares, or merchandise shall be kept or stored therein, and no place of amusement shall be maintained within said place or building, or in connection therewith, and no sales shall be made between the hours of sundown and sunrise; nor shall any wholesale business or sales be conducted or made outside of the boundaries of any incorporated municipality within this state.

(10) WORKING OF MINORS—MINIMUM CONTAINERS—HOURS OF SALE—DRINKING ON PREMISES—SALE TO MINORS, INSANE AND DRUNK PERSONS—STOREROOM—SALE ON INTERSTATE TRAINS—DEALERS IN COUNTRY COMMUNITIES—PENALTY.—It shall be unlawful for any person under the age of twenty-one (21) years to work as an employee or otherwise in a retail, wholesale, or manufacturing liquor business, and any person under twenty-one (21) years of age working in such and the person knowingly employing him shall be guilty of a misdemeanor and punishable as hereinafter provided. It shall be unlawful for any retail dealer to sell, offer for sale, barter, or exchange, or permit to be sold, bartered or exchanged any alcoholic liquor in less quantities than one-half ($\frac{1}{2}$) pint, or to own or keep in his possession any alcoholic liquor in separate packages containing less than one-half ($\frac{1}{2}$) pint; nor shall he sell, barter, exchange or offer for sale, barter, or exchange, or permit such alcoholic liquor to be sold, bartered, or exchanged between the hours of sundown and sunrise, and he shall securely close and lock every means of entrance to his place of business at sundown and not open the same for business before sunrise; nor shall he permit any alcoholic liquor to be drunk on the premises; nor shall he sell, barter, or exchange, or offer for sale, barter, or exchange, or permit to be sold, bartered, or exchanged any alcoholic liquors to minors. If any person is found drinking alcoholic liquor on said premises, it shall be *prima facie* evidence of the violation of this section, and the person so found drinking on said premises shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than five (\$5.00) dollars, nor more than one hundred (\$100.00) dollars, or imprisoned for not more than thirty (30) days. No retail dealer shall knowingly sell, offer for sale, barter, or exchange any alcoholic liquors to any person when drunk or intoxicated, nor to a minor, nor to any insane person, and upon violation of any of these provisions, upon conviction, shall suffer the penalties hereinafter provided. Every retailer hereunder shall maintain a separate store, of a single room, with no means of ingress or egress save from the front, and no other goods, wares or merchandise shall be kept or stored therein, nor sold therefrom, and no place of amusement shall be maintained within said place, or in connection therewith, and no sale shall be made between the hours of sundown and sunrise: *Provided*, that any municipality may, by ordinance, require liquor stores located therein to be closed from 3:00 p. m. Saturday to sunrise Monday. *Provided, further*, that the restrictive provisions of this section shall not apply to sales of alcoholic beverages by railroad or pullman companies or interstate trains to passengers for consumption thereon, such sales being hereby authorized and permitted. *Provided, further*, that the tax commission may, in its discretion, after due investigation, license retail dealers in unincorporated towns and in country communities when, in the opinion of the tax commission, it would be to the interest of such unincorporated town or community to have a licensed retailer therein: *Provided, further, however*, that the tax commission shall not license a retail dealer in any locality unless and until the tax commission is assured that such locality is under proper police protection.

(11) PURCHASE FROM LICENSED DEALERS ONLY—POSSESSION OF UNSTAMPED CONTAINERS CONTAINING ALCOHOLIC LIQUOR—PENALTY.—It shall be unlawful for any person to purchase, or otherwise procure, within this state any alcoholic liquor other than that purchased from licensed dealers within the state as provided for in this section, and any persons found in possession of any bottle or other package containing alcoholic liquor without having affixed the revenue stamps thereto, as required by this section, either or both, shall be guilty of a

misdemeanor and, upon conviction, for the first offense shall be fined not less than fifty (\$50.00) dollars, nor more than two hundred (\$200.00) dollars, or imprisoned not less than fifteen (15) days nor more than thirty (30) days; and, upon conviction for a second offense as provided in this subsection, shall be punished by imprisonment for not less than thirty (30) days.

(12) TAX COMMISSION ADMINISTER AND ENFORCE SECTION.—The tax commission shall administer and enforce the provisions of this section, that the licenses and taxes shall be paid to the tax commission, and the tax commission, any of its agents or representatives or any and all peace officers shall have the power to enter upon the premises of any taxpayer hereunder and to examine, or cause to be examined, all books, papers, records, memoranda, or commodities bearing upon the amount of the license tax payable, and to secure other information directly or indirectly concerned in the enforcement of this section; that all licenses and license taxes herein provided shall be held as a debt payable to the state by the taxpayer against whom same shall be charged, and all such licenses and license taxes shall be a first lien in all cases whatsoever upon all property of the taxpayer charged therewith.

(13) TAX COMMISSION ISSUE RULES AND REGULATIONS—LICENSEES COOPERATE—PENALTY FOR VIOLATION.—Any person subject to this license tax engaging in or permitting such practices as are prohibited by the rules and regulations of the tax commission, or any other practice which makes it difficult to enforce the provisions of this section by inspection, or if any person who shall, upon demand of any officer or agent of the tax commission, or of any peace officer, refuse to allow full inspection of the premises, or any part thereof, or who shall hinder, or in anywise delay or prevent such inspection when demand is made therefor, shall be deemed guilty of a misdemeanor and, upon conviction, be fined not more than two hundred (\$200.00) dollars for each offense, or imprisoned for a period not exceeding sixty (60) days, or both, in the discretion of the court: *Provided*, that the tax commission is hereby authorized, empowered and directed to promulgate rules and regulations, not inconsistent with the provisions of this section, for the payment and collection of the licenses and taxes herein levied and such rules and regulations shall have the force and effect of law. *Provided, further*, that the tax commission is further authorized, empowered and directed to promulgate rules and regulations for the disposition and sale to licensed retailers or wholesalers of such alcoholic liquors as may be lawfully in the hands of said common carriers by reason of the rejection or refusal of shipments and the restrictive provisions of this section shall not apply to such sales when made in accordance with the said rules and regulations.

(14) COLLECTION AND DISTRIBUTION OF FUNDS RECEIVED FROM LICENSES, TAXES AND PENALTIES FROM BONDS.—The licenses, taxes, and any sum derived from the violation of any bond herein required shall be paid to the South Carolina tax commission and the said commission shall pay same into the state treasury, as now provided by law for the payment into the state treasury of other taxes. The South Carolina tax commission shall distribute such funds as follows: Sixty (60%) per cent shall be paid to the state treasurer for credit to the special school account; twenty-five (25%) per cent shall be paid to the county in which the licensee is conducting business, which percentage shall be based upon the actual retail sales and the fees collected in said county, regardless of where the stamps may be affixed to the containers; and fifteen (15%) per cent shall be paid to the municipality in which the licensee is conducting business, which percentage shall be based upon the actual retail sales and the fees collected in

said municipality, regardless of where the stamps may be affixed to the containers. All revenue derived under the provisions of this section from business conducted outside of incorporated towns or cities shall be distributed as follows: sixty (60%) per cent of such revenue shall be paid to the state treasurer and credited to the special school account, and forty (40%) per cent shall be paid to the county in which such business is conducted. In the event that the tax commission shall be unable to determine exactly the municipality or county which may be entitled to any particular revenue, then in such case the revenue shall be turned into the state treasury to be used for schools as herein provided. The distribution provided for in this subsection shall be made as of July 1, and on the first of every alternate month thereafter, upon warrant drawn by the tax commission upon the state treasurer, after the deductions as provided for in this section.

(15) MANUFACTURE, STORE, KEEP, RECEIVE, POSSESS, TRANSPORT, SHIP, BUY, SELL, BARTER OR EXCHANGE ALCOHOLIC LIQUORS EXCEPT AS HEREIN PROVIDED UNLAWFUL.—It shall be unlawful for any person, firm, or corporation to manufacture, store, keep, receive, have in possession, transport, ship, buy, sell, barter or exchange any alcoholic liquors, except according to the provisions of this section.

(16) COUNTERFEIT OR USE STAMPS SECOND OR MORE TIMES UNLAWFUL—PENALTY.—Whoever counterfeits, removes, or otherwise prepares any adhesive stamp with intent to use, or cause the same to be used after it has already been used, or knowingly or wilfully buys, sells, offers for sale, or gives away any such counterfeit, used, washed, or restored stamp to any person for use, or knowingly uses the same, or has in his possession any counterfeit stamp, or any washed, restored, or altered stamp which has been removed from the article to which it had been previously affixed, or whoever, for the purpose of indicating the payment of any tax hereunder, reuses any stamp which has heretofore been used for the purpose of paying any tax provided in this section, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than one thousand (\$1,000.00) dollars, or imprisoned for not more than five (5) years, or both, in the discretion of the court; that all stamps described in this section, whenever and wherever found, shall be seized, destroyed or retained as evidence. That if any stamp attached to a bottle or other container to denote the payment of a tax hereunder is found to be torn, or in any wise mutilated, or if such stamp is found to be soiled, dirty, or faded, or if any foreign matter be attached thereto other than the bottle, container or label on such bottle or container, the same shall be *prima facie* evidence that such stamp has been used a second time to denote payment of the tax.

(17) ALCOHOLIC LIQUORS IN CONTAINERS WITHOUT STAMPS AFFIXED THERETO CONTRABRAND—DISPOSITION—CHATTELS USED UNLAWFULLY IN TRANSPORTING ALCOHOLIC LIQUORS—DISPOSITION.—Any alcoholic liquors found in the possession of any one within this state not having affixed to the bottle or container the stamps required in this section, as hereinabove provided, are hereby declared to be contrabrand, and the same may be seized by the tax commission, or its agents or employees, or by any peace officer without warrant, and the sheriff of the county in which such seizure is made shall take possession of said alcoholic liquors so seized for sale at public auction to the highest bidder, after due advertisement, but no sale shall be made to any person other than licensed manufacturers, wholesalers, or retail dealers licensed under the provisions of this section, and the sheriff before delivery of any goods so seized to any purchaser shall

require the purchaser to affix the proper amount of stamps to the individual packages, as above defined. The proceeds of sale for any alcoholic liquors sold hereunder shall be immediately turned over to the tax commission to be thereafter turned over to the state treasury, as other funds collected by said commission: *Provided*, that the cost of confiscation and sale shall be paid out of the proceeds derived from such sale before making remittance to the tax commission: *Provided, further*, that any chattel used primarily and with knowledge of the owner in the transportation of alcoholic liquors in violation of the provisions of this section, shall be subject to confiscation and sale in the same manner as provided for unstamped alcoholic liquors, except that such chattel may be sold to any person, and excepting further, that when such chattel has been seized by municipal officers the proceeds of such sale shall be paid to such municipality for its use. For the purpose of confiscating said vehicle and alcoholic liquors above referred to, the sheriff shall proceed as nearly as may be practicable under the provisions of subdivision (9) section 2527. *Provided, further*, that no alcoholic liquors except such as may have been manufactured by a licensed manufacturer, either within or without the state, or alcoholic liquors of unquestioned purity and content, shall be sold at public auction as herein provided, and that any other liquors which may be confiscated shall be destroyed by the proper officers as now provided by law. *Provided, further*, that no liquors so sold shall be delivered within a period of five days after such sale, during which time the tax commission may, in its discretion, reject any bid and order the liquors resold until a satisfactory bid is had.

(18) PENALTIES, WHEN NOT OTHERWISE PROVIDED, FOR UNLAWFUL MANUFACTURE, SALE, BARTER, EXCHANGE, ETC., OF ALCOHOLIC LIQUORS.—The manufacture, sale, barter, or exchange, receipt or acceptance for unlawful use, delivery, storing and keeping in possession within this state of any alcoholic liquor as herein defined, except as is provided in this section, is hereby prohibited under penalty of not less than three (3) months nor more than two (2) years at hard labor in the state penitentiary, or pay a fine of not less than one hundred (\$100.00) dollars, nor more than five thousand (\$5,000.00) dollars, or both fine and imprisonment, in the discretion of the court, for each offense, except in cases where other punishment is provided in this section.

(19) EXPENSES DEDUCTIBLE BEFORE DISTRIBUTION OF RECEIPTS FROM TAXES.—The cost of stamps, supplies, etc., and the administration of this section shall be paid out of the proceeds derived from the collection of this tax, and before the allocation provided for in subsection 14, upon warrants drawn by the tax commission upon the state treasurer.

(20) SALE ON SUNDAYS AND ON ELECTION DAYS PROHIBITED—GOVERNOR PROHIBIT SALE ON OTHER DAYS.—No alcoholic beverages as herein defined shall be sold on Sundays nor on election days. The governor in addition to other powers in him now reposed, is hereby vested with authority to prevent the sale of alcoholic liquors on legal holidays or during periods of local or state emergency, as he may order by proclamation in the interest of law and order or public morals and decorum.

(21) APPROPRIATION FOR ENFORCEMENT BY STATE CONSTABULARY—APPOINTMENT, PAY, REMOVAL, ETC., OF CONSTABLES.—From the revenue collected under the terms of this section, and before the allocation provided for in subsection 14, the sum of sixty thousand (\$60,000.00) dollars, if so much be necessary, is hereby appropriated annually to be used by the Governor in enforcing this law, other than the provisions which are to be enforced by the tax commission, and

any and all other laws, by means of a state constabulary—the personnel, equipment and compensation of which shall be fixed by the governor—which said sum shall defray all expenses of said state constabulary. The said monies shall be deposited with the state treasurer as soon as available as the Governor's law enforcement fund, to be paid out on vouchers drawn by him. The Governor is hereby authorized and empowered to determine the number of men to be appointed as state constables, the compensation of the various constables, the qualifications for the position, and the equipment to be used by the constables, Said constables shall work under the direction of the Governor, shall hold office at his pleasure, and shall be subject to discharge by the Governor with or without cause, with full power in the Governor to fill all vacancies.

(22) VIOLATION A MISDEMEANOR—PENALTY.—Any violation of any of the provisions of this section shall be deemed a misdemeanor, and where no penalty has heretofore been imposed, upon conviction, the same shall be punishable by fine or imprisonment in the discretion of the court.

(23) DISTRIBUTION OF FINES.—In all prosecutions for violation of the provisions of this section, where municipal officers are solely responsible for discovering the violation or producing the witnesses or the evidence upon which a conviction is had, the fines collected in such cases shall be equally divided between the county and such municipality. The municipality's portion shall be paid upon voucher issued by the governing board of the county after approval of a claim duly filed, setting forth the case and the witnesses produced.

(24) ADDITIONAL COMPENSATION FOR CERTAIN OFFICIALS OF TAX COMMISSION.—In compensation for the additional duties placed upon officials of the tax commission for the administration of this section, the General Assembly shall make provisions in the general appropriation act for such increase in salary as it deems fit, and the same shall be paid as administrative cost from the revenues arising hereunder.

(25) ADVERTISE ALCOHOLIC LIQUORS ON BILLBOARDS ON PUBLIC HIGHWAYS AND STREETS UNLAWFUL.—It shall be unlawful for any person, firm, or corporation to advertise any alcoholic liquors by means of billboards along public highways and streets.

(26) COMPLEMENTARY TO BEER, WINE, ETC., LAWS.—This section is hereby declared to be complementary to and not in conflict with the laws providing for the legal sale of beers, wines, and other vinous, fermented, or malt liquors.

(27) POSSESS FIREARM DURING UNLAWFUL MANUFACTURE, TRANSPORTATION OR SALE A MISDEMEANOR.—If any person shall unlawfully manufacture, transport or sell any alcoholic beverages, as herein defined, and at the time of such unlawful manufacturing, transporting, or selling, or aiding or assisting in any manner in such act, shall carry on or about his person, or have on or in any vehicle which he may be using to aid him in any such purpose, or have in his possession—actual or constructive—any firearm or any weapon of like kind, he shall be guilty of a misdemeanor, and upon conviction, shall be confined in the penitentiary not less than one year nor more than three years.

(28) DEPARTMENT OF AGRICULTURE AND COMMERCE ACCEPT ALCOHOLIC LIQUORS FOR STORAGE WITHOUT STAMPS AFFIXED THERETO—PENALTY FOR REMOVAL WITHOUT AFFIXING STAMPS—ADMINISTRATIVE COSTS.—The state department of agriculture and commerce may accept for storage and warehousing any alcoholic liquors as defined in this section in the same manner as cotton or other agricultural products are stored, and in addition to all applicable laws relating to warehousing of cotton, the said state department of agriculture and com-

merce may make such rules and regulations, not inconsistent with this section nor with the statutes defining the duties of that office, that alcoholic liquors may be stored in such suitable warehouse as may be determined by said department, without having affixed thereto the revenue tax stamps provided for under this section, but when any alcoholic liquor is to be removed from a warehouse, the owner of said alcoholic liquor shall affix the revenue tax stamps provided for in this section before the removal thereof. Any person removing any alcoholic liquor from such warehouse without having first affixed thereto the tax stamps required under this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than one thousand (\$1,000.00) dollars or imprisoned for not less than one (1) year, either or both, in the discretion of the court. The commissioner of agriculture and commerce is hereby authorized and empowered to pay from the fees collected by him from the storage and warehousing of intoxicating liquors the administrative costs incurred by him in the performance of his official duties as to such storing and warehousing, and this being done the balance remaining in his hands shall be paid to the state treasurer.

(29) TAKE SAMPLE FROM RETAILER—LABEL—ANALYZE.—The state constabulary and all other peace officers are hereby empowered, when and as directed by the Governor, to take samples of all beers, ales, porters, wines, and similar malt and fermented beverages, from any and all retailers thereof, for the purpose of ascertaining by analysis the alcoholic content. The sample so taken shall be the smallest bottle or container of any particular brand of which a sample is taken. In case a sample is taken from bulk beverages, the sample shall not exceed one pint. The samples shall immediately upon being taken have affixed to them a label giving the date, place, and name of the retailer from whom taken, together with the name of the officer taking the same, and shall be forthwith transmitted with the original seal unbroken to the state chemist. The state chemist shall furnish a report of his analysis of all samples to the Governor, with a duplicate to the retailer from whom the sample was taken. In the event the alcoholic content is found in excess of that allowed by law in beverages of this kind the chemist shall transmit to the Governor with his report of the analysis the residue of the sample taken, to be preserved and used as evidence.

(30) PUTTING IN COMMERCE MISBRANDED DISTILLED SPIRITS UNLAWFUL.—It shall be unlawful for any person, firm, or corporation to sell or otherwise introduce into commerce any distilled spirits that are misbranded. Distilled spirits shall be deemed to be misbranded if they are misbranded within the meaning of the federal food and drugs act.

(31) SAVING CLAUSE—CAPTIONS.—If any clause, sentence, paragraph, or part of this section shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this section, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered. No caption of any subsection, or set of subsections, shall in any way affect the interpretation of this section or any part thereof.

(32) PAY STATE'S PORTION OF ALCOHOLIC LIQUOR AND BEER AND WINE REVENUE INTO SPECIAL SCHOOL ACCOUNT EACH MONTH.—The state's portion of all revenue derived from the sale of alcoholic liquors and of beer and wine as defined in the acts legalizing the manufacture and sale thereof shall be paid to the state treasurer for credit to the special school account on the last day of

each month. The South Carolina tax commission is hereby authorized and directed to transfer to the special school account from any unallocated funds on hand on the last day of each month the state's portion of such revenue. 1935 (39) 325, 1211; 1936 (39) 1624, 1308, 1351, 1456, 1780, 1556.

Section 1829, 1932 Code, repealed by 1935/325. The section number is retained for convenience.

Subsection 5 hereof amended by 1936/1556, 1308. Subsection 6 amended by 1936/1780. Subsection 13 amended by 1936/1351. Subsection 28 amended by 1936/1456. Subsection 32 added by 1936/1624.

For law providing for sale of beer, ale, malts, etc., see Section 2557-1.

Disposition of revenue received from beer, wine and alcoholic beverages: Charleston County, 1935/374; Cherokee County, 1933/439; Jasper County, 1933/426; Kershaw County, 1933/511; McCormick County, 1933/439; Williamsburg County, 1933/581; York County, 1933/439; city of Spartanburg, 1935/354.

This section repealed all sections of pre-existing prohibition law under which conviction for possession and transportation of liquor could be supported. State v. Spencer, 177 S. C., 346; 181 S. E., 217.

Ordinances imposing license fees for delivery by wholesalers of their whiskies in their own trucks void, since delivery part of business of selling whiskies which statute prohibited municipalities from taxing. Southern Liquor Distributors v. Daniel, 179 S. C., 219; 183 S. E., 765.

Municipalities are strictly bound by stat-

§ 1831. Sales by retail druggists.

Section 1829 in this Supplement should be consulted in construing this section,

ute prohibiting municipalities from imposing any tax except property with reference to the sale of whisky by a wholesaler or retailer. Southern Liquor Distributors v. Daniel, 179 S. C., 219; 183 S. E., 765.

When defendant violated provisions of this statute, by having in his possession contraband liquor, the offense was complete, regardless of motive or intent. State v. Manos, 179 S. C., 45; 183 S. E., 582.

Application for a liquor license or its issuance to one charged with unlawful possession of contraband liquors would have nothing to do with his admitted violation of the law, and was no defense to the charge made. State v. Manos, 179 S. C., 45; 183 S. E., 582.

Because the commission issued him a license to sell liquor after he was arrested, does not show that he was a fit person for the business and should be excused for having in his possession contraband liquor. State v. Manos, 179 S. C., 45; 183 S. E., 582.

Since stamps could not be furnished until the commission had had reasonable time to obtain them the state is not estopped to prosecute defendant because it failed to furnish him stamps on application therefor. State v. Manos, 179 S. C., 45; 183 S. E., 582.

1831, 1932 Code.

§ 1834. Sell alcohol for use in arts or scientific and mechanical purposes.—

Any retail druggist whose place of business is located in any of the incorporated towns or cities of the state may lawfully sell alcohol in quantities not greater than five (5) gallons to be used in the arts or for scientific or mechanical purposes, and such druggist may sell, in like quantities, to chemists and bacteriologists engaged in scientific work, and for such purposes only.

"And such druggists may sell in quantities, not greater than one-half gallon, wine used for sacramental or religious purposes

only" at end of this section eliminated by 1935/325.

§ 1836. Wine for sacramental purposes.—*Repealed by 1935 Acts, page 325.*

§ 1846. Violators of liquor laws to be imprisoned at hard labor.—*Repealed by 1935 Acts, page 325.*

§ 1847. Magistrates' courts have concurrent jurisdiction in certain prohibition cases where amount is not over one quart.—*Repealed by 1935 Acts, page 325.*

§ 1849. Not to affect punishment under former law.—*Repealed by 1935 Acts, page 325.*

§ 1850. Liquors on arrival in the state to be subject to its laws.—*Repealed by 1935 Acts, page 325.*

§ 1851. Unlawful soliciting of sales a misdemeanor.—*Repealed by 1935 Acts, page 325.*

- § 1852. **Soliciting orders for liquor a misdemeanor.**—*Repealed by 1935 Acts, page 325.*
- § 1857. **Penalty for handling liquor in the nighttime.**—*Repealed by 1935 Acts, page 325.*
- § 1858. **Transportation or possession of falsely branded packages.**—*Repealed by 1935 Acts, page 325.*
- § 1860. **Unlawful liquors may be seized.**—*Repealed by 1935 Acts, page 325.*
- § 1864. **Debt contracted for transporting or selling illicit liquors void.**—Any obligation, note of indebtedness, contracted in the sale or transportation of illicit liquors, is declared to be absolutely null and void, nor shall any action or suit for the recovery of the same be entertained in any court in this state. 1935 (39) 325.
The first portion of this section was eliminated by 1935/325.
- § 1872. **Receipt, delivery, storing, keeping, possession, shipment or transportation of alcoholic liquors in state unlawful except as herein provided.**—*Repealed by 1935 Acts, page 325.*
- § 1873. **Who may receive liquor.**—*Repealed by 1935 Acts, page 325.*
- § 1874. **Deliveries in nighttime unlawful.**—*Repealed by 1935 Acts, page 325.*
- § 1875. **Record of delivery to be kept.**—*Repealed by 1935 Acts, page 325.*
- § 1876. **Inspection of records.**—*Repealed by 1935 Acts, page 325.*
- § 1877. **Officers may inspect or seize shipments.**—*Repealed by 1935 Acts, page 325.*
- § 1878. **Packages to be marked.**—*Repealed by 1935 Acts, page 325.*
- § 1879. **Where offense committed.**—*Repealed by 1935 Acts, page 325.*
- § 1880. **Shipments to be received only at office of carrier.**—*Repealed by 1935 Acts, page 325.*
- § 1881. **Affidavit and application for importation.**—*Repealed by 1935 Acts, page 325.*
- § 1882. **No delivery without permit.**—*Repealed by 1935 Acts, page 325.*
- § 1883. **False permits constitute forgery.**—*Repealed by 1935 Acts, page 325.*
- § 1884. **Punishment for illegal transportation.**—*Repealed by 1935 Acts, page 325.*
- § 1886. **Storage of unusual amount evidence of violation.**—*Repealed by 1935 Acts, page 325.*
- § 1887. **Unlawful to deliver shipments to certain persons.**—*Repealed by 1935 Acts, page 325.*
- § 1888. **Where record of delivery to be kept.**—*Repealed by 1935 Acts, page 325.*
- § 1889. **Penalty for violation.**—*Repealed by 1935 Acts, page 325.*
- § 1890. **Sentence for violation of prohibition laws.**—*Repealed by 1935 Acts, page 325.*
- § 1891. **“Alcoholic Liquors” defined.**—*Repealed by 1935 Acts, page 325.*
- § 1892. **Sections not to alter existing law as to shipments for certain pharmaceutical, medical and scientific purposes.**—*Repealed by 1935 Acts, page 325.*
- § 1894. **Manufacture and sale of ethyl or methyl alcohol not affected.**—*Repealed by 1935 Acts, page 325.*
- § 1895. **Manufacture of wine regulated.**—*Repealed by 1935 Acts, page 325.*
- § 1896. **False statements a violation.**—*Repealed by 1935 Acts, page 325.*
- § 1897. **Punishment of common carriers for violation hereof.**—*Repealed by 1935 Acts, page 325.*

§ 1898. Forfeiture of vehicles used in illegal transportation of alcoholic liquors.—*Repealed by 1935 Acts, page 325.*

§ 1899. Disposition of articles seized by officers in enforcement of the prohibition law.—*Repealed by 1935 Acts, page 325.*

§ 1900. Destruction of liquor seized by sheriff's office in Chester County.—*Repealed by 1935 Acts, page 325.*

§ 1901. Sale, barter or exchange of any receipt, formula or distilling apparatus for making intoxicating beverages prohibited.—*Repealed by 1935 Acts, page 325.*

§ 1902. Unlawful to advertise alcoholic liquor or beverage or solicit orders therefor.—*Repealed by 1935 Acts, page 325.*

§ 1905. Smoke screen attachments in or on motor vehicles unlawful.

See this section in 1934 Supplement.

§ 1908-1. Beverages of not more than 5% alcohol by volume.

See § 2557-1 this supplement.

§ 1938. Sheriff have custody of jail, etc.

See this section in 1934 Supplement.

§ 1956. Physician for Charleston County jail.—A physician for the prisoners confined in the jail in Charleston County shall be appointed by the sheriff of Charleston County upon the recommendation in writing of the Senator and a majority of the House members for Charleston County, his attendance to commence on the date of his appointment and to continue for a period of one year, and until another appointment shall have been made in the manner aforesaid. He shall receive as his compensation such amount as shall be annually appropriated therefor in the appropriation act of said county, and the account of no other physician, surgeon or apothecary, for attendance, operations, or medicines, on the said prisoners, shall be allowed or paid. 1935 (39) 94.

1935/94 changed the method of appointment of the physician, and his compensation.

§ 1961. Who to be confined in penitentiary.—* * * *Provided*, that the superintendent of the state penitentiary is authorized and directed to admit and detain in the state penitentiary for safe-keeping any prisoners so tendered by any law enforcement officer in this state by commitment duly authorized by the governor. And no person or persons so committed and detained shall have a right or cause of action against the state or any of its officers or servants by reason of having been committed and detained in said penitentiary as aforesaid: *Provided, however*, A warrant in due form for the arrest of any person so committed shall be issued within forty-eight hours after such commitment and detention. 1935 (39) 476.

See Section 1039-1 for time suspended sentence to run. Above proviso added by 1935/476.

§ 1962. Directors of state penitentiary—powers.—* * * (10) OPERATE MANUFACTURING PLANTS OF STATE PENITENTIARY AS STATE ENTERPRISES.—In the event that any manufacturing and selling contract shall be abrogated by the manufacturer, or, in the event the board of directors of the South Carolina penitentiary may deem it more profitable to operate any such industry as a state owned and operated enterprise, the said board of directors of the South Carolina penitentiary are hereby authorized and empowered to conclude all agreements with any or all such manufacturers and to operate such plants and equipment as and for the state of South Carolina. In connection with the operation of such manufacturing plants, the board of directors of the South Carolina penitentiary are authorized to purchase materials entering into the manufacture of the products thereof, and to incur such other costs and expense as may be involved in the manufacture of such products. The board of directors is further

authorized and empowered to provide for the sale of such products in any manner that may be deemed advisable by the said board of directors, either through selling representatives or by contracts with selling agencies. The board of directors are hereby authorized to use a sufficient amount of the appropriation and other current revenue of the South Carolina penitentiary for the purpose of carrying out the provisions of this subsection and all revenue received from the operation of such manufacturing plant shall be deposited in the state treasury to the credit of the appropriation account of the South Carolina penitentiary. 1936 (39) 1528.

Subsection 10 added by 1936/1528.

§ 1978-1. State Penitentiary permit use of convicts upon state highways or other public projects.

See this section in 1934 Supplement.

§ 1985. Governor may suspend sentence or parole prisoner.

See Section 1039-1 for time suspended sentence to run.

§ 2026. Management.

See this section in 1934 Supplement.

§ 2052. Apportionment of representatives.

See this section in 1934 Supplement.

See section 3955-1 this Supplement, for duties and powers of remaining member

in event of vacancy in legislative delegation, Allendale County.

§ 2054. Compensation of members.

See notes under article 3, section 19, state constitution.

§ 2058. Officers and employees of each house.—There shall be appointed at the commencement of the first session of every term of the General Assembly for the Senate, by the clerk of the Senate, the following clerks and attaches: An assistant clerk, a second assistant clerk; a general desk clerk; a file clerk, a bill clerk and a journal clerk; by the presiding officer of the Senate, a clerk to the committee on judiciary; a clerk to the committee on finance; three doorkeepers; two laborers; one porter; a keeper of the president's room; two pages; one mail carrier; and no others. In the House, by the speaker of the House of Representatives: A clerk to committee on ways and means, a clerk to judiciary committee; three doorkeepers; four pages; three laborers; one keeper of speaker's room; two porters; one mail carrier; and no others. *The clerk of the House of Representatives shall appoint an assistant clerk, a journal clerk, one bill clerk and a general desk clerk, and no others.* 1935 (39) 461.

1935/461 added the last sentence to this section. Theretofore the speaker of the House appointed the assistant clerk, journal clerk, and bill clerk. The semi-colon after assistant clerk, line 4, changed to comma.

§ 2070-1. Lobbyists and lobbying.—(1) **REGISTRATION.**—Every person, corporation or association which employs any persons to act as counsel or agent to promote or oppose in any manner, the passage by the general assembly of any legislation affecting the pecuniary interest of any individual, association or corporation as distinct from those of the whole people of the state, or to act in any manner as legislative counsel or agent in connection with any such legislation, shall, within one week after the date of such employment, cause the name of the person so employed, to be entered upon a legislative docket as hereinafter provided. It shall also be the duty of the person so employed to enter or cause to be entered his name upon such docket. Upon the termination of such employment such fact may be entered opposite the name of any person so employed either by the employer or employee.

(2) **LEGISLATIVE DOCKET FOR.**—The secretary of state shall prepare and keep the legislative docket for the uses provided in this section. In such docket shall

be entered the name, occupation or business and business address of the employer, the name, residence and occupation of the person employed, the date of employment or agreement therefor, the length of time that the employment is to continue, if such time can be determined, and the subject or subjects of legislation to which the employment relates. Such docket shall be a public record and open to the inspection of any citizen at any time during the regular business hours of the office of the secretary of state.

(3) **NOT EMPLOY LOBBYISTS ON CONTINGENCY.**—No person shall be employed as a legislative counsel or agent for a compensation dependent in any manner, upon the passage or defeat of any proposed legislation or upon any other contingency connected with the action of the general assembly, or of either branch thereof, or any committee thereof.

(4) **FILE WRITTEN AUTHORIZATION OF EMPLOYMENT.**—Legislative counsel and agents required to have their names entered upon the legislative docket shall file with the secretary of state within ten days after the date of making such entry a written authorization to act as such, signed by the person or corporation employing them.

(5) **FILE LIST OF EXPENSES INCURRED.**—Within thirty days after the final adjournment of the general assembly every person, corporation or association, whose name appears upon the legislative docket of the session, shall file with the secretary of state a complete and detailed statement sworn to before a notary public or justice of the peace by the person making the same, or in the case of a corporation by its president or treasurer, of all the expenses paid or incurred by such person, corporation or association, in connection with promoting or opposing in any manner the passage by the general assembly of any legislation coming within the terms of this section. Such statements shall be in such form as shall be prescribed by the secretary of state and shall be open to public inspection.

(6) **PERSONS APPLICABLE.**—The provisions of this section shall not apply to the citizens or officials of any county or municipality, but shall apply to the executive officers and any member of their legal staff, whether of general or local counsel of all other corporations who undertake, in such capacity, to perform services as legislative counsel or agent for such corporation, regardless of whether they receive additional compensation for such services.

(7) **PENALTY.**—Any legislative counsel or agent, and any employer of such legislative counsel or agent, violating any provisions of this section, shall be guilty of a misdemeanor and upon conviction, shall be fined not less than twenty-five nor more than one hundred dollars, or imprisoned not exceeding thirty days, within the discretion of the court. 1935 (39) 3.

This section added by 1935/3.

§ 2081-1. Supply bill of county for preceding year effective if no supply bill enacted.

See this section 1934 Supplement.

When no supply bill enacted, supply bill of previous year effective, Darlington

County. 1936/1380.

1936 supply bill effective when no supply bill enacted, Jasper County. 1936/1478.

§ 2090. Public printing regulated.

See this section in 1934 Supplement.

1935/83 should be consulted in connection with this section as it provides for

joint committee on printing to approve all state printing.

§ 2096. Reports by departments and institutions to General Assembly.

See this section in 1934 Supplement.

§ 2099. Printing of acts and joint resolutions.

See this section in 1934 Supplement.

§ 2104. **Compilation of acts and joint resolutions.**—*Repealed by 1934 Acts, page 1329.*

§ 2109. **How distribute acts and resolutions.**—* * * (19) Library of Congress, eight Copies.

(37) The state librarian is hereby authorized and directed to include the College of Charleston among the institutions of the state to which copies of the acts and joint resolutions of the General Assembly legislative journals and reports of state officers are directed to be sent annually. 1936 (39) 1317.

(38) The state librarian is hereby authorized to furnish, upon request, copies of Acts and Joint Resolutions and the permanent journals of the General Assembly, to any recognized college or university in this state. 1936 (39) 1548.

Subdivision 37 added by 1936/1317. Sub- 1936/1350 Library of Congress received division 38 added by 1936/1548. By eight copies of acts instead of two copies.

§ 2111. **Code commissioner—election—term—vacancy.**

See this section in 1934 Supplement.

§ 2112. **Duties of code commissioner.**

See this section in 1934 Supplement.

§ 2114. **Printing and publication of statutes.**

See this section in 1934 Supplement.

§ 2118-1. **Supplements may be sold—use of proceeds.**

See this section in 1934 Supplement.

§ 2118-2. **Distribution of the 1932 code and supplements.**

See this section in 1934 Supplement.

§ 2118-3. **Duty of officers receiving code and supplements.**

See this section in 1934 Supplement.

§ 2123. **Abstract of corporations.**

See this section in 1934 Supplement.

§ 2135-1. **Transmit annually to Library of Congress certain publications.**—

The officials charged with the distribution shall annually forward by mail or otherwise, as they may deem expedient, the following number of such publications to the Library of Congress, Washington, D. C., to wit:

Eight copies of the reports of the Supreme Court.

Two copies of the journals and reports of the General Assembly.

Eight copies of the Acts and Joint Resolutions.

Eight sets of the 1932 Code of Laws.

These provisions are made in recognition of benefits received through receipt at depository libraries and elsewhere in the state of South Carolina of public documents of the United States under the provisions of federal laws. 1936 (39) 1350.

This section added by 1936/1350.

§ 2146-1. **Sinking fund commission cooperate in the handling of finances of sub-divisions of the state.**

See this section in 1934 Supplement.

§ 2167. **Personnel of forfeited land commission.**—* * * (1) *Provided, that in Florence County there shall be appointed one (1) person to be known as forfeited land commissioner, such appointment to be made by the Governor upon the recommendation of a majority of the legislative delegation, whose duty it shall be to take charge of forfeited lands, sell same, receive deed for such land and make deed for the purchaser, and when same is sold and deed received, shall receive five (\$5.00) dollars for each such deed, said commissioner to hold for a term of four (4) years unless sooner removed for cause.*

(2) *Provided, further*, that in Anderson county the board of finance of said county shall be the forfeited land commission of said county. That said commission is hereby authorized and empowered, in its discretion, to sell, rent or lease any of the property in its possession and upon such prices, terms and conditions deemed by it to be wise and expedient. The said commission is authorized and empowered, in its discretion, to employ some competent person to look after the selling and leasing of its lands and tenements and shall require such person to give such bond for the faithful performance of his duties as it deems advisable; that the person so employed shall be paid for his services such sum or sums of money as the commission deems advisable; *Provided, further*, that such sum shall not exceed five (5%) per cent. of the gross sale price of the real estate of which he may have consummated the sale and twenty-five (25%) per cent. on all amounts collected on leases and rentals. That said powers and duties of said commission herein in this proviso set out are cumulative to other powers and duties of said commission under the general laws of this state. 1936 (39) 1627.

(3) *Provided*, that all conveyances of land sold by the forfeited land commission of Marion County shall be approved in writing by the board of county commissioners of said county. 1936 (39) 1305.

Proviso above in italics relating to Florence County eliminated from this section by 1936/1334.

Subsection 2 hereof added by 1936/1627.

Subsection 3 added by 1936/1305.

See this section in 1934 Supplement for subsection providing for forfeited land commission in Darlington County.

Sale and rental of property acquired by forfeited land commission: Allendale County, 1935/41; Beaufort County, 1935/395; Colleton County, 1935/290; Darlington County, 1936/1543; McCormick County, 1936/1479; Sumter County, 1934/1313, 1936/1331. See section 2170 also.

Colleton County employ agent to sell its real estate, 1935/290.

Sale and conveyance of real estate by Florence County forfeited land commissioner, bond and removal of said commissioner, 1934/1580.

See 1932/1199, which provides for forfeited land commission of Calhoun County to borrow.

Repurchase real estate sold for taxes to forfeited land commission in Colleton County in installments, 1933/532.

Dorchester County forfeited land commission, see 1936/1545, 1755.

§ 2168. Duties.—* * * (a) *Provided*, That in Chester County the forfeited land commission is authorized and empowered in its discretion to employ some competent and suitable person, to keep the books and records of the said commission, look after the selling, leasing and renting of its property and collect the purchase price of sales, and rents, and account for same when and as required by the commission, and look after the repairs and improvement of its property that may be necessary; and for such services pay such commission as the commission may deem reasonable, but no commission shall be paid on the proceeds of sale of any property which may be sold for or less than the amount taxes due at the time when sale for taxes was made. 1934 (38) 1366.

Proviso added by 1934/1366. Forfeited and sale of lands forfeited for taxes, land commission pay expenses of purchase Chester County, 1936/1408.

§ 2170. Sales—proceeds—titles.—All lands deeded to the forfeited land commission of any county shall be held by them as assets of the county and state, and sold to the best interest of the county and state, the proceeds of such sales to be turned over by said forfeited land commission to the county treasurer of their respective counties. And the county treasurer shall, at the close of his fiscal year, divide such funds, after deducting the expense as warrants drawn on him by the forfeited land commission of his county, between the county and state in proportion to their respective interests, the county's part to be placed in the general county fund, and the state's part to be turned over to

the sinking fund commission to be applied to reduction of the state debt: *Provided*, That if any tract of land is sold for less than the taxes and penalties due thereon that in such case the proceeds of such sale shall be divided between the state and county in the proportion of the amount of taxes and penalties due each of them. All deeds for lands sold under the authority of this section shall be made by the forfeited land commission of the county holding title thereto, or by a majority of the members thereof, *Provided*, that all conveyances heretofore made to and by the several forfeited land commissions, or by a majority of the members thereof, are hereby declared valid and of full force and effect; and to have been made in accordance with the provisions of this amendment. *Provided, further*, that the forfeited land commission of any county, or a majority of the members thereof, may require the sheriff or other officer authorized by law to execute a deed to any land which may be bid in by the county auditor, to convey the said land to any purchaser to whom the same may be sold by such forfeited land commission, or a majority of the members thereof, after the said land has been bid in by the county auditor, and before the same has been conveyed to the said forfeited land commission. *Provided*, that all conveyances of real property heretofore made by the sheriff or other officer authorized by law to execute such conveyances pursuant to authority and direction of any forfeited land commission or of a majority of the members thereof, are hereby declared valid and effectual to convey title according to their respective terms, notwithstanding that the same may have been made by the sheriff or other officer pursuant to authority or direction of only a majority of the members of any such commission. *Provided*, that all conveyances of land sold by the forfeited land commission of Marion County shall be approved in writing by the board of county commissioners of said county. 1936 (39) 1575, 1349.

See notes to § 2167, 1934 Supplement.

§ 2170-1. Counties may sue to bar claims to property at tax sales.

See this section in 1934 Supplement.

§ 2170-2. Owner of land sold for taxes and bid in by forfeited land commission may sell portion thereof on consent of commission.

See this section in 1934 Supplement.

§ 2171. Fees of sheriff.

See this section in 1934 Supplement.

§ 2174. Forfeited land commission in Clarendon County.

See this section in 1934 Supplement.

§ 2175. Forfeited land commission of Greenwood County.

See this section in 1934 Supplement.

§ 2176. Forfeited land commission of Richland County.

See this section in 1934 Supplement.

§ 2177. Forfeited land commission, Sumter County.—(1) DUTIES.—

* * * *Provided, however*, That the said forfeited land commission may sell any lands owned by it at such price, and upon such terms, as to said forfeited land commission shall deem for the best interest of the county of Sumter. 1934 (38) 1313.

The above proviso added to this subsection and the last proviso to this subsection omitted by 1934/1333.

Disposition of proceeds from sale of land by Sumter County forfeited land commission, 1936/1331.

§ 2180. Sinking fund commission insure state public buildings and state supported institutions.—All insurance on public buildings and on the contents thereof of the state of South Carolina and of all institutions supported in whole, or in part, by the state of South Carolina, shall be carried by the sinking fund

commission: *Provided*, that no insurance shall be carried on the state house. 1936 (39) 1668.

Sections 2180-2195, 1932 Code, repealed come from said act. by 1936/1668. Present sections 2180-2195

§ 2181. Sinking fund commission insure public buildings of the counties.—All insurance on public buildings and the contents thereof of the several counties of the state of South Carolina shall be carried by the sinking fund commission 1936 (39) 1668.

§ 2182. Insurance of school buildings.—All insurance of public school buildings and on the contents thereof, whether such buildings are held and operated under the general school laws or law applicable to special school districts only, shall be carried by the sinking fund commission, and the sinking fund commission is hereby required to insure all public school houses and public school buildings against loss or damage by and from windstorms without additional charge for premium therefor, *provided*, that should any existing school building or any school building hereafter to be constructed be abandoned for use for school purposes, the sinking fund commission is hereby authorized and empowered to cancel or reduce all insurance carried by them on such abandoned school buildings and their contents, and the sinking fund commission shall not be required to renew existing insurance or write any insurance on any such building and its contents, the use of which for school purposes has been discontinued: *Provided*, that before the cancellation or reduction of any insurance the secretary of the sinking fund commission shall give notice to the proper authorities that such cancellation or reduction is to be made at least ten days prior to cancellation. The sinking fund commission is hereby authorized and empowered to cancel any policy of insurance on any public building when in their judgment, because of dilapidation and depreciation such public building is no longer an insurable risk; *provided*, that before cancellation the secretary of the sinking fund commission shall give notice to the proper authorities that such cancellation or reduction is to be made at least ten (10) days prior to cancellation. 1936 (39) 1668.

§ 2183. Officials in charge of such buildings insure.—The proper officer, official or officials, or trustees having by law the care and custody of state and county buildings and of public school buildings shall insure such buildings under the provisions herein set forth. 1936 (39) 1668.

§ 2184. Premium rate.—All insurance carried by the sinking fund commission as provided for in §§ 2180-2195 shall be carried at a premium rate to be determined by the sinking fund commission, not in excess of the rate which, in the opinion of said commission, would be charged by reliable old line insurance companies for carrying this insurance. 1936 (39) 1668.

§ 2185. Payment of premiums.—The premium on all policies of insurance issued by the sinking fund commission shall be paid by the officer, official or trustee having the property insured under their care and custody, upon demand of the sinking fund commission, and in the event that there be no funds on hand with which to make said payment when demand is made then payment shall be made out of the first funds available for such institution, county, or school district, and until paid the premium due the sinking fund commission shall be preferred claim: *Provided*, that the sinking fund commission may charge interest at the rate of five (5) per cent per annum on all amounts due and unpaid as premium on policies issued. 1936 (39) 1668.

§ 2186. **Reinsure.**—The sinking fund commission may reinsure upon terms which the commission may deem most advantageous in reliable insurance company or companies, such portion of their insurance liability as is commensurate with the principle of safe underwriting, and shall from time to time, prescribe such rules and regulations as may be necessary in placing and handling this reinsurance. 1936 (39) 1668.

§ 2187. **Use of funds—insurance sinking fund—reduce premiums.**—All funds paid over to the sinking fund commission as premiums on policies of insurance, and all money received from interest on loans and deposits, and from any other source connected with the insurance of public property, provided for herein, shall be held by the sinking fund commission as an insurance sinking fund, for the purpose of paying all fire and windstorm losses for which they are liable, and the expenses necessary to the proper conduct of said insurance of public property by the sinking fund commission, and shall be invested by them as are other funds in their hands. *Provided*, that when the insurance sinking fund, herein provided for, reaches the sum of five (5%) per cent of the total insurance in force, then annually thereafter the sinking fund commission shall proportionately decrease the premium of insurance to an amount which will be sufficient to maintain the insurance fund at five (5%) per cent of the total insurance in force: *Provided*, that if in their judgment the income from the investment of the insurance sinking fund is sufficient to maintain the insurance fund at five (5%) per cent of the total insurance in force, no premium shall be charged for the ensuing year. *Provided further*, that no building or property at present insured, or that shall be insured hereafter by the sinking fund commission shall cease to pay premiums until five (5) annual payments shall have been paid even though such payments increase the insurance sinking fund, herein provided for beyond the sum equal to five (5%) per cent of the total insurance in force. 1936 (39) 1668.

§ 2188. **How insurance effected.**—The sinking fund commission shall notify the officers, officials or trustees having the care and custody of the buildings insured under the provisions of §§ 2180-2195, in writing, in advance of the expiration of policies of insurance on such buildings, and the officer, official or trustee so served with written notice shall immediately make application to the sinking fund commission for the renewal of said insurance and shall forward, with their application, the amount of premium due the sinking fund commission, on the insurance applied for: *Provided*, that in the event no funds are available with which to pay the premium at the time application is made, the officer, official or trustee making application shall so state and the amount, with interest, shall be paid by them out of the first funds available, as provided in section 2185. 1936 (39) 1668.

§ 2189. **Certain officials furnish information.**—The state superintendent of education and the county superintendent of education of the several counties of the state shall furnish to the sinking fund commission, on request, a complete list, showing the location of each and every school building in their county, the number of the school district in which such buildings are located and the names and addresses of the trustees having the buildings in charge.

All officers, officials and trustees having the care and custody of the buildings insured under the terms of §§ 2180-2195 shall furnish to the sinking fund commission, on request, full information in regard to the character of construction, value, location, exposures, and any other information requested. 1936 (39) 1668.

§ 2190. **Penalty.**—Any officer, official or trustee, upon whom the duties provided in §§ 2180-2195 devolves, who fails or refuses to carry out the provisions of §§ 2180-2195, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in a sum not less than twenty-five (\$25.00) dollars, nor more than one hundred (\$100.00) dollars, or imprisonment not less than ten nor more than thirty (30) days. 1936 (39) 1668.

§ 2191. **Value of buildings.**—The value of all public buildings shall be based on the actual cost of such buildings. If the sinking fund commission and the officers, officials, or trustees having such buildings in their care and custody, cannot agree on a value the value shall be fixed by three appraisers, to be appointed and paid as provided in section 2193. 1936 (39) 1668.

§ 2192. **Amount of insurance.**—The amount of insurance to be carried on all buildings and on the contents thereof as provided herein, shall be fixed by the sinking fund commission after consultation with the officer, officials or trustees having such buildings in their care and custody: *Provided*, that the amount of insurance to be carried, as fixed by them shall in no event exceed the value of the building and contents to be insured after reasonable deduction for depreciation. 1936 (39) 1668.

§ 2193. **Losses—adjustment and payment.**—In the event of loss or damage by fire, lightning or windstorm, when an agreement as to the extent of such loss or damage cannot be arrived at between the sinking fund commission and the officials having charge of the said property, the amount of such loss or damage to be paid by the sinking fund commission shall be determined by three appraisers, one to be named by the sinking fund commission, one by the officer, official or trustee having the damaged or destroyed building in charge, and the two so appointed shall select a third. These appraisers shall file their written report with the sinking fund commission, and a duplicate copy with the insured. The cost of the appraisal shall be borne, one-half by the sinking fund commission and one-half by the insured: *Provided*, that the amount paid by the sinking fund commission, as fixed by the appraisers, shall, in the event the building so damaged or destroyed is a county building or a public school building, be paid over to the county treasurer of the county in which the building is located, to be by said county treasurer paid out as required by law, upon the proper warrant or order of the proper official or trustees, for the repair, restoration or rebuilding of the property damaged or destroyed; and in the event the property so damaged or destroyed; is state property, then the amount shall be paid over to the officer, official or officials having the property in their care and custody, to be expended by them for the repair, restoration or rebuilding of the property damaged or destroyed. 1936 (39) 1668.

§ 2194. **Cover roofs of public buildings with fireproof and incombustible material.**—Every public building hereafter erected, enlarged or re-roofed, whether owned by the state, county or school district, shall have the roof of such building, also the roof top and sides of all roof structures, including dormer windows, covered with fireproof and incombustible material. 1936 (39) 1668.

§ 2195. **Sprinkler system—losses.**—The sinking fund commission is hereby authorized and empowered to make contracts with responsible manufacturers of sprinkler systems for the installation of approved sprinkler systems in state institutions. In the event that such contracts are made, the sinking fund commission is authorized to make loans to the institutions involved for the payment

of such sprinkler systems, or to accept in said contracts any terms deemed advisable which may be agreed upon with the said manufacturers as to the payment therefor. Such contracts shall be made only when, in the judgment of the commission, the resultant reduction in the premium rate, together with any funds which may be made available from other sources, will be sufficient to repay loans made by the sinking fund commission or to pay for the said sprinkler systems according to contract terms within a period of time satisfactory to the sinking fund commission, and it is specifically provided that no reduction in the premium rate shall be allowed until such loans have been discharged, or until payment has been made in full for the installation of such sprinkler systems. The sinking fund commission is further authorized and empowered to employ an inspector, or inspectors, whose duty shall be to protect the property of the state from damage or defacement in connection with the installation of sprinkler systems, and to charge the cost thereof to the institution or institutions involved as a part of the cost of the installation of such sprinkler systems. The sinking fund commission is further authorized to make loans to owners (other than the state) or property insured by the sinking fund commission for the purpose of installing sprinkler systems when, in the judgment of the commission, the reduction in premium rate will be sufficient to retire such loan, or loans, within a period of time satisfactory to the commission, and it is specifically provided, and shall be embodied in such loan agreements, that there shall be no reduction in the premium rate until such loans have been liquidated.

It is further specifically provided, and shall be embodied in all loan agreements authorized herein that, in the event of total or partial loss of any building on which the sinking fund commission carries a loan for the installation of sprinkler systems, there shall be deducted from the amount of insurance payable, and credited on such loans, a proportion of said loan equal to the proportion which the amount of the loss payable bears to the total amount of insurance carried on said building, or in the case of institutions where insurance is carried on two or more buildings, the deduction and loan credit shall be a proportion of the loan equal to the proportion which the loss payable bears to the aggregate insurance carried on all such buildings. 1935 (39) 379; 1936 (39) 1668.

See § 3079-2, which permits state institutions purchase sprinkler systems.

§ 2206-1. State finance committee may borrow to pay operating expenses of the state.

See this section in 1934 Supplement.

§ 2207. Retirement of current indebtedness.—*Repealed by 1932 Acts, page 1228.*

§ 2207-1. Retirement of current indebtedness.

See this section in 1934 Supplement.

§ 2207-2. State may issue bonds, notes, etc., in small denominations.

See this section in 1934 Supplement.

§ 2214. Board grant licenses.—The board is authorized to grant to any person, firm, or corporation applying for the same, licenses granting a general right to dig, mine and remove phosphate rock and phosphate deposits from all the navigable streams and waters and marshes of the state, and also from such of the creeks, not navigable, lying therein, as may contain phosphatic rock and deposits, belonging to the state and not previously granted. Such licenses may be for a term not exceeding five (5) years, renewable at the pleasure of the board; and said board is empowered and authorized to make a firm contract for

the royalty to be paid the state of South Carolina which shall not be increased during the life of the license, any present statute to the contrary notwithstanding. 1936 (39) 1386.

By 1936/1386 the board was authorized licenses: term increased to five years; and to grant to any person, firm, or corporation words in italics in last line added.

§ 2244. Confederate home.—* * * (2) ADMISSION OF WIDOWS, WIVES, SISTERS AND DAUGHTERS OF CONFEDERATE VETERANS.—Said commission is hereby empowered to admit to the Confederate Home the indigent wives, widows, sisters and daughters of any Confederate soldier or sailor who were born prior to the year 1871, and who are residents of South Carolina, under the same rules and regulations and conditions as now exist with reference to the admission of Confederate soldiers and sailors. 1935 (39) 386; 1936 (39) 1770.

§ 2246. Right to build on Sullivan's Island.

Licenses of lots laid out on land formed by accretion to Sullivan's Island not void or beyond power of board of township commissioners on ground area of lots contained less than one-half acre. *Schroeder v. O'Neill*, 179 S. C., 310; 184 S. E., 679.

Since statute establishing township government for Sullivan's Island was ineffective.

board of township commissioners actually holding office and performing functions of office constituted *de facto* government, and their acts had force as government *de jure* and could not be collaterally attacked. *Schroeder v. O'Neill*, 179 S. C., 310; 184 S. E., 679.

§ 2249. Limitations as to building on Sullivan's Island.

See this section in 1934 Supplement.

§ 2249-1. Sullivan's Island, Charleston County.

For appointment, duties, powers, etc. of township commissioners for Sullivan's Island, see 1936/1604.

§ 2249-2. Folly Island, Charleston County.

See 1936/1694 which creates township of Folly Island, and provides for commissioners, etc.

§ 2255-1. Custody of Woodrow Wilson Memorial Home vested in American Legion and the American Legion Auxiliary.

See this section in 1934 Supplement.

§ 2269. Board of registration.

See this section in 1934 Supplement.

§ 2272. Opening and closing of books.—* * * *Provided*, that in Spartanburg County the supervisors of registration open the books of registration on July 15th, and remain open continuously every day except Sunday to, and including, August 15th. 1936 (39) 1384.

The above proviso added by 1936/1384.

§ 2288. Registration for municipal elections.—* * * *Provided, further*, that in all regular municipal elections, but not special elections, in towns with a population of less than three hundred persons, the books of registration shall be opened at least forty days before the date of such election and closed ten days before the date of such election. That such books of registration shall be in the custody of a discreet individual or individuals who shall have been designated as supervisor or supervisors of registration by the members of the town council of the town in which the election is being held, and said books shall be opened and closed at such hours at such places as may be determined by said town council. 1936 (39) 1343.

The above proviso added by 1936/1343.

§ 2296. Voting precincts.—* * * (2) AIKEN.—In the county of Aiken there shall be the following voting precincts: Aiken, New Holland, Belvedere, North Augusta, Chinquapin No. 1, Chinquapin No. 2, Warrentville, Wards No. 1, Wards No. 2, Perry, Windsor, White Pond, Shaws Fork, Mill Brook No. 1,

Mill Brook No. 2, Gloverville, Shiloh, Bath, Clearwater No. 1, Clearwater No. 2, Beach Island, Langley, McTier No. 1, McTier No. 2, Rocky Springs, Silverton No. 1, Silverton No. 2, Vaclause, Tabernaee, Salley, Wagner, Shaw, Seivern, Montmorenci, and Graniteville. 1936 (39) 1609.

(4) ANDERSON.—In the county of Anderson there shall be voting places as follows: Anderson Court House, Belton, Craytonville, Pendleton, Centerville, Sandy Springs, Five Forks, Hopewell Springs, Williamston, Honea Path, Milfords, Cedar Wreath, Moffettsville, Williford's Store, Smith's Mill, Starr, Tugaloo Academy, Iva, Piedmont Mills, Holland's Store, Pelzer, Flat Rock, Neals Creek Church, Cedar Grove, Townville, Mount Tabor, Orr Mills, Gluck Mills, Pelzer Mill No. 4, Piercetown, Toxaway Mill, Anderson Cotton Mills, Brogdon Mill, Concrete, Belton Mills, Williamston Mills, Old Friendship School House, Whitefield Church, Grove School House, White Plains, Toney Creek, Three and Twenty, Walter McElmoy, Campbell's Store and Wright's Store, Mountain View, North Anderson, Mountain Creek Church, Melton School House and Shurley's Store, High Point School House, Denver and La France. 1934, (38) 1341.

(10) CHARLESTON.—In the county of Charleston, outside the corporate limits of the city of Charleston, there shall be voting places as follows: At or near the intersection of King's Highway Road and Folly Beach Road on James Island, Moultrieville, McClellanville, at or near Awendaw Bridge, in the parish of St. James Santee; Mount Pleasant, in Christ Church Parish; Agricultural Hall on John's Island; Bogles on Wadmalaw Island; High School auditorium on Edisto Island; and on Meeting Street Road outside of the corporate limits of the city of Charleston, and at or near the school building near the Four Mile Post, on Meeting Street Road; in St. Andrews Parish, at or near the intersection of the road to Folly Island, with state highway No. 6; in Meggetts, at or near the school building; in Adams Run, at or near the school building; in Warren's Cross Road, at or near store lately occupied by Magistrate W. H. Lemacks; in Ravenel at or near the school building; in Ladson, at or near the intersection of the Ladson Road with state highway No. 2; an additional voting place, at or near North Charleston school building; an additional voting place at Midland Park: *Provided*, That nothing herein contained shall be construed to vary or affect the location of the voting precincts within the limits of the city of Charleston as now established by law. The registration and voting precincts in the county of Charleston within the limits of the city of Charleston shall hereafter conform to the wards in which the city of Charleston is now by law divided, and registration and voting precincts are hereby established therein, as follows: The first precinct of ward one shall embrace all that portion of said ward south of Broad Street, east of Church Street to Water Street, south of Water Street to Meeting Street, east of Meeting Street to south Bay Street. The poll shall be held at or near the corner of Church and Water Streets. The second precinct of ward one shall embrace all that portion of said ward south of Broad Street, east of King Street, west of Church Street or Water Street to Meeting Street, west of Meeting Street to south Bay Street. The poll shall be held at or near the corner of Meeting and Tradd Streets. The first precinct of ward two shall embrace all that portion of said ward south of Broad Street, west of King Street to South Street, including south side of said street to Ashley River, east of Legare Street to Tradd Street, north of Tradd to Logan Street, east of Logan to Broad Street. The poll shall be held at

or near the corner of King and Tradd Streets. The second precinct of ward two shall embrace all that portion of said ward south of Broad Street, west of Logan Street to Tradd Street, south of Tradd to Legare Street, west of Legare Street to Ashley River. The poll shall be held at or near the corner of New and Broad Streets. The first precinct of ward three shall embrace all that portion of said ward north of Broad Street, south of Hasel Street, east of Church Street and Maiden Lane. The poll shall be held at or near the corner of State and Cumberland Streets. The second precinct of ward three shall embrace all that portion of said ward north of Broad Street, south of Hasel Street, east of Church Street and Maiden Lane and east of King Street. The poll shall be held at Market Hall. The first precinct of ward four shall embrace all that portion of said ward north of Broad Street, south of Wentworth Street, west of King Street and east of Mazyck and Coming Streets. The poll shall be held at or near the corner of Archdale and Beaufain Streets. The second precinct of ward four shall embrace all that portion of said ward north of Broad Street, south of Wentworth Street, west of Mazyck and Coming Streets. The poll shall be held at or near the corner of Smith and Beaufain Streets. The first precinct of ward five shall embrace all that portion of said ward north of Hasel Street, south of Calhoun Street and east of Anson Street. The poll shall be held at or near the corner of Laurens and Middle Streets. The second precinct of ward five shall embrace all that portion of said ward north of Hasel Street, south of Calhoun Street, west of Anson and east of King Street. The poll shall be held at or near the corner of Meeting and Society Streets. The first precinct of ward six shall embrace all that portion of said ward north of Wentworth Street, south of Calhoun Street, west of King Street and east of Pitt Street. The poll shall be held at or near the corner of George and College Streets. The second precinct of ward six shall embrace all that portion of said ward north of Wentworth Street, south of Calhoun Street and west of Pitt Street. The poll shall be held at or near the corner of Bull and Rutledge Streets. The first precinct of ward seven shall embrace all that portion of said ward north of Calhoun Street, south of Mary Street and east of Elizabeth Street. The poll shall be held at or near the corner of Alexander and Charlotte Streets. The second precinct of ward seven shall embrace all that portion of said ward north of Calhoun Street, south of Mary Street, west of Elizabeth Street and east of King Street. The poll shall be held at or near the corner of Hutson and Meeting Streets. The first precinct of ward eight shall embrace all that portion of said ward north of Calhoun Street, south of Radcliffe Street, west of King Street and east of Pitt and Thomas Streets. The poll shall be held at or near the corner of Vanderhorst and Coming Streets. The second precinct of ward eight shall embrace all that portion of said ward north of Calhoun Street, south of Radcliffe and Bee Streets and west of Pitt and Thomas Streets. The poll shall be held at or near the corner of Rutledge and Vanderhorst Streets. The first precinct of ward nine shall embrace all that portion of said ward north of Mary Street, south of Columbus Street and east of Nassau and Hanover Streets. The poll shall be held at or near the corner of Amlhurst and America Streets. The second precinct of ward nine shall embrace all that portion of said ward north of Columbus Street, east of Hanover Street to the city boundary. The poll shall be held at or near the corner of America and Cooper Streets. The first precinct of ward ten shall embrace all that portion of said ward north of Mary Street, south of Columbus Street,

west of Nassau Street and east of King Street. The poll shall be held at or near the corner of Wolfe and Meeting Streets. The second precinct of ward ten shall embrace all that portion of said ward north of Columbus Street, east of King Street and west of Hanover Street to the city boundary. The poll shall be held at or near the corner of Lime and Meeting Streets. The first precinct of ward eleven shall embrace all that portion of said ward north of Radeliffe Street, south of Spring Street, west of King Street and east of Rutledge Avenue. The poll shall be held at or near the corner of Morris and Coming Streets. The second precinct of ward eleven shall embrace all that portion of said ward north of Spring Street, west of King Street, and east of Rutledge Avenue to the city boundary. The poll shall be held at or near the corner of Lime and Coming Streets. The first precinct of ward twelve shall embrace all that portion of said ward north of Bee Street, west of Rutledge Avenue, east of President Street and its line of prolongation to the city boundary. The poll shall be held at or near the corner of Ashley and Spring Streets. The second precinct of ward twelve shall embrace all that portion of said ward north of Bee Street, west of President Street, and its line of prolongation to the city boundary. The poll shall be held at or near the corner of Spring and Norman Streets. 1934 (38) 1498.

(12) CHESTER.—In the county of Chester there shall be voting places as follows: Chester Court House, Lowryville, at J. Wesley Carter's, Lando, Fishing Creek Church, Rodman, on S. A. L. Railroad, Rossville, Halselville, Wilksburg, Lansford, Cornwell's, Richburg, Edgemore, Baton Rouge, Ferguson's Store, Fort Lawn, White's Store, voting to be at New Hope School House, Leeds, Great Falls, and Hazelwood, Colvin's Springs, the voting of Colvin's Springs precinct shall be at Oak Hill School House, Blackstock township, Mt. Pleasant School House, near Mt. Pleasant Presbyterian Church in Baton Rouge township, Eureka Cotton Mills, and Baldwin Cotton Mills. 1934 (38) 1191; 1935 (39) 362.

(13) CHESTERFIELD.—In Chesterfield County there shall be voting places as follows: Chesterfield Court House, Cheraw, Marburg, Brooks' Mill, Wexford, Mount Croghan Cross Roads, Ruby, Snow Hill, Jefferson, Catarrh, Dudley, Pageland, McBee, Middendorf, Cat Pond School House, Bethel, Shiloh, Grant's Mill, Patrick, Windzo, Plains, White Oak, Angelus, Center Point, Bay Springs and Vaughn. 1936 (39) 1663.

(14) CLARENDON—* * * Oakdale. 1934 (38) 1275.

(15) COLLETON.—In Colleton County there shall be voting places as follows: Jacksonboro, Greenpond, Cottageville, Maple Cane, Horse Pen, Hendersonville, Sniders, Rice Patch, Bells, Edisto, Canadys, Smoaks, Doctor's Creek, Ashton, Lodge, Petits, Peoples, Williams, Berea, Walterboro, Hudson's Mill, Ruffin, Ritter, Sidney, Tiger Creek, Padgett's, Round O, Wolfe Creek, Benton's Mill, Pine Grove, and Peniel. 1932 (37) 1419; 1934 (38) 1264.

(16) DARLINGTON.—In the county of Darlington there shall be voting places, as follows: Antioch, at Bethlehem Church; Clyde, at Clyde school house; Darlington No. 1, at the Darlington court house; Darlington No. 2 at the Darlington manufacturing company; Hartsville No. 1, at chamber of commerce office building, 5th Street; Hartsville No. 2, at Segars motor company, Carolina Avenue; High Hill at High Hill school house; Lake Swamp, at Lake Swamp school house; Lamar No. 1, at Joyce store on Main Street; Lamar No. 2, at Wilkes store, Main Street; Leavenworth, at Dovesville school house; Lydia, at Rhinehardt's

store; Mechanicsville No. 1, at Mechanicsville school house; Mechanicsville No. 2, at Mont Clare school house; Palmetto, at Palmetto school house; Philadelphia, at Philadelphia school house; Pond Hollow, at New Market school house; Society Hill, at Sompayrae office bldg., Swift Creek, at Swift Creek school house. 1934 (38) 1414; 1935 (39) 97.

(17) DILLON.—In the county of Dillon there shall be voting places as follows: Bermuda, Fore's Cross Roads, Floydale, Centerville, Hamer, Gaddy's Mill, Page's Mill, Latta, Little Rock, Fork, Judson, Mt. Calvary, Kemper, Gin House and Pleasant Hill, Fowler's school house, Harlee, East Dillon, West Dillon, the Atlantic Coast Line Railroad being the dividing line between East Dillon and West Dillon precincts, Carolina school house in Harleesville township and Manning school house, in Manning township. 1934 (38) 1363, 1392.

(18) DORCHESTER.—* * *

For territory comprised in St. George No. 1 precinct see 1934/1415.

(19) EDGEFIELD.—In the county of Edgefield there shall be voting places as follows: Timmerman, Johnston, Trenton, Edgefield C. H., No. 1, for Pickens township, Edgefield C. H., No. 2, for Wise township, Meeting Street, Pleasant Lane, Red Hill, Cheatham's store, Mathis, Merriwether Hall, Ropers and Bacon school house, near J. O. Seigler's residence, Sullivans school house, and Hightower at or near Kendall Mill. 1933 (38) 357.

(20) FAIRFIELD.—In the county of Fairfield there shall be voting places as follows: Centerville school house, Feasterville, Mitford, at Keistler's store, Horeb, at Hau's store, Monticello, Ridgeway, Winnsboro, Woodwards, Longtown, at Jenkins' store, Greenbrier, Jackson's Creek school house, Jenkinsville, Fairfield Cotton Mill, New Hope session house, Blair's, Shelton, Gladden's Grove, Hickory Ridge, White Oak, and Simpson. 1934 (38) 1400.

(21) FLORENCE.—In the county of Florence there shall be voting places as follows: Pamplico, Hannah, Cartersville, James Cross Roads, Liberty, Vox, Lake City No. one, Lake City No. two, Salem, Friendfield, Prospect, Coward No. one, Coward No. two, Glenwood, Olanta, Leo, Stone, McAllister's Mill, Scranton, McCutcheon, Tans Bay, Ebenezer, Effingham, Oak Grove, Mars Bluff, High Hill, Evergreen, Elim, Kingsburg, Claussens, Back Swamp, Timmons ville, Johnsonville, Florence, Ward one, Florence, Ward two, Florence, Ward three, Florence, Ward four and Rail Road Shops. The county executive committee of Florence County and the executive committee of the city of Florence is hereby authorized and directed to make provisions for and supply a voting place and a box or boxes for all democratic primaries for national, state, county and city matters at or near the shops of the Atlantic Coast Line Railroad Company within or near the city of Florence, so that the railway employees shall have the opportunity and privilege of voting therein in any and all democratic primaries. It shall be the duty of the executive committee to provide copies of all books of registration where the railway employees are registered, in any voting precinct in the county of Florence, to the managers of election at said voting place so that any railway employee regardless of where he may have registered within the county of Florence shall have the right to vote at said box in any democratic primary. The employees of said railway shall have the right to cast their ballot in any democratic primary in said box or in the voting precinct where registered but if they cast their ballot in said box the same shall be legal and valid and shall be counted in any primary in which the same is cast.

All precincts herein designated for primary elections shall likewise be the designated voting precincts for general elections within the county of Florence. 1932 (37) 1457; 1935 (39) 194.

(22) GEORGETOWN.—In Georgetown County there shall be voting places as follows: Andrews; Bethel; Brown's Ferry; Carver's Bay, at or near Munnerlyn's Bay Store; Cedar Creek; Choppe; Georgetown no. 1, at or near County Court House; Georgetown no. 2, at or near A. C. L. Corporation in Fire Hall; Greer's, at or near Young's Cross Roads; Murrell's Inlet; Pennyroyal; Plantersville; Pleasant Hill, at or near Pleasant Hill School House; Folly Grove, at or near Bennie Powell's home; Potato Bed Ferry; Sampit, at or near Bourne's Old Store; Santee; Snow Hill; Spring Gully, at or near Brinkley Bros.' Store; Pawley's Island, at or near Lachicotte Mercantile Company's Store. 1935 (39) 274.

(23) GREENVILLE.—* * * Welcome, at Welcome school house; Kelley's Store, at Kelley's store on Stafford Avenue. 1933 (38) 238; 1934, (38) 1576.

Welcome precinct added by 1933/238. Kelley's store precinct added by 1934/1576.

(26) HORRY.—Adrian, at Adrian; Allsbrook, at Allsbrook; Aynor, at Aynor; Bayboro, at Bayboro; Joiner Swamp, at Joiner Swamp school house; Brownway, at Brownway school house; Cedar Grove, at Pee Dec school house; East Conway, at town hall in Conway; West Conway, at court room at court house; Cool Springs, at Cool Springs; Daisy, at Daisy; Dog Bluff, at Dog Bluff; Dogwood, at Dogwood school house; Ebenezer, at Longs; Floyds, at Floyds school house; Gallivants Ferry, at Gallivants Ferry; Graham X Roads, at Graham X Roads; Green Sea, at Green Sea; Gurly, at Gurly; Hammond, at Hammond; Hickory Grove at Hickory Grove school house; Hickory Hill, at Hickory Hill school house; Homeward, at Homeward Hall; Horry, at Horry; Jernig's X Roads, at Jernig's X Roads, Jordanville, at Jordanville; Knotty Branch, at Knotty Branch; Leon, at Leon school house; Little River, at Little River; Loris, at Loris; Marlow, at Burgess, Mt. Vernon, at Mt. Vernon school house; Myrtle Beach, at Myrtle Beach, Norton, at Norton school house; Oak Dale, at Oak Dale; Pauley Swamp, at Pauley Swamp school house; Port Harrelson, at Inland school house; Rehobeth, at Rehobeth; Shell, at Shell school house; Spring Branch, at Spring Branch; Socastee, at Socastee Academy; Sweet Home, at Sweet Home; Taylorsville, at Taylorsville; Tilly Swamp, at Tilly Swamp school house; Toddville, at Toddville; Vardelle, at Shelley's store; Wampee, at Wampee school house; and White Oak, at Booth's store. 1936 (39) 1353.

(27) JASPER.—The voting precincts for general elections in Jasper County shall be as follows: Grahamville, Gillisonville, Grays, Harceville, Ridgeland, Okatie, Tillman, Pineland and Coosawhatchie. 1933 (38) 234.

(29) LANCASTER.—In the county of Lancaster there shall be voting places as follows: Lancaster Court House, Lancaster Cotton Mills, Antioch, Fork Hill, Pleasant Valley, Pine Grove school house, Lindsay, Thornwell, Tradesville, Jacksonham, Union, at Union school house, Taxahaw's, Welsh's, Carmel, Heath Springs, Flat Creek, at Flat Creek church; Blair, Primus, Dwight, Kershaw, Van Wyck, Elgin, at Elgin station, Crenshaw, at Crenshaw school house, in Cedar Creek township; Haile Gold Mine, White Bluff and Unity, at Unity school house, New Bethel school house, Osceola, Tabernacle, Midway, Dixie school house, Flint Ridge, at Flint Ridge school house, Rich Hill and a new precinct in Flat Creek township; at Charlesboro school house, and also one at Pleasant Hill. One at Kershaw Cotton Mills and one at the club house at Lancaster Cotton Mills. The other voting precinct now provided by law for

said Lancaster Cotton Mills shall hereafter be held at some convenient place on the street or road known as "Midway" and Bell Town, at or near Bell Town school house. 1934 (38) 1337; 1936 (39) 1528.

(30) LAURENS.—* * * Shady Grove school house in Jacks township. 1934 (38) 1538.

Shady Grove school house precinct added 1934/1538.

(34) MARLBORO.—In the county of Marlboro there shall be voting places as follows: Bennettsville, Red Hill, Brownsville, Hebron, Clio, McColl, East McColl, Newtonville, Brightsville, at Goodwin's mill, Tatum, Joe Quicks Cross Roads, Kollock and Bennettsville mill village. 1932 (37) 1283.

(36) NEWBERRY.—Newberry Court House, Newberry Cotton Mills, Molohon Mills, Oakland Mills, Glymphville, Helena, Maybintown, Whitmire, Betheden, Jalapa, Longshore, Williams store, Chappells, Utopia, Prosperity, Hendricks's mill, Slighs, Jolly Street, Central school house, Pomaria, Walton, Mount Bethel, St. Phillips, Little Mountain, Union Academy, Silverstreet, Kinards, Garmany Academy, Peak, and Zion. *And provided*, all voting precincts in that portion of Lexington County which has recently been annexed to Newberry County are hereby declared and designated to be voting precincts in Newberry County. 1936 (39) 1711.

(37) OCONEE.—* * * Oakgrove school house; Chauga, at Chauga school house; Flat Shoals, at Flat Shoals school house. Voting precinct No. 14, at Clemson College, shall be known as "Stone Church" voting precinct. 1934 (38) 1238; 1936 (39) 1707.

(39) PICKENS.—In the county of Pickens there shall be voting places as follows: Easley, Central, Liberty, Pickens Court House, Dacusville, Catechee, Pumpkintown, Eastatoe, Cross Plains (at Freeman's store), Peter's Creek, (at Peter's Creek school house), Mile Creek (at Mile Creek church), Prater's (at Prater's Creek church), Six Mile (at Six Mile church), Calhoun, Holly Springs (at Holly Springs Church), Gaphill, Loopers Gin, Crosswell school house, Pleasant Grove (in Pumpkintown township), Norris, Easley Cotton Mill, Glenwood Cotton Mill, Alice Mills, Arial Mill, Rocky Bottom (at Rocky Bottom school house), and Flat Rock, Pickens Cotton Mills, near Pickens court house, Antioch at Antioch school house, and Estatoe at Estatoe school. There shall be two additional voting precincts in Pickens county, known as Issa Quenna Mill, at Central, and Easley Mill, No. 2, at Liberty, Garret's store, Cross Roads, Griffin's and another at Zion school house, and Durham's store. 1934 (38) 1312, 1476; 1936 (39) 1296.

(40) RICHLAND.—In the county of Richland, the voting precincts in the general election shall be as follows: In Columbia township—Ward 1, Ward 2, Ward 3, Ward 4, Ward 5, Ward 6, Ward 7, Ward 8, Ward 9, Ward 10, Arden, Eau Claire, Edgewood, Hampton, Olympia, Palmetto. In Upper township—Bellevue, College Place, Holly Grove, Koon's store, Slighs, Wayside. In Centre township—Brown's Chapel, Garners, Horrell Hill No. 1, Midway, Mill Creek, Pontiac No. 1. In Blythewood township—Bear Creek, Blythewood, Dentsville, Killian, Pontiac No. 2. In Hopkins township—Gadsden, Hopkins, Horrell Hill No. 2, Lykesland. In Lower township—Eastover. In Dutch Fork township—Ballentine, Folk, St. Andrews, Spring Hill, Summerville. 1936 (39) 1597.

(41) SALUDA.—* * * The place for voting in Saluda County of the Big Creek precinct is hereby changed, fixed and located at Union school house. 1936 (39) 1754.

(42) SPARTANBURG.—* * * Fair Forest Finishing Plant precinct, to be where Fair Forest Finishing Plant is now located. Ward 6, box 2, city of Spartanburg said voting place to be where West End school is now located, and the territory embraced in said precinct shall be as follows: Beginning at city limits, going east on Wofford Street, to the C. & W. C. Railroad, thence south, with C. & W. C. Railroad to city limits. The name of the voting precinct in Spartanburg County known as Gray Cotton Mill is hereby changed to "Mills Mill No. 2." 1932 (37) 1332; 1935 (39) 456, 57.

(44) UNION.—* * * The voting precincts in Union county shall be the same as now provided by law, except in Bogansville township in said county, there is hereby established a new voting precinct to be known as Parham. The voting in said precinct shall be at the school house in said township known as Parham school house. 1936 (39) 1484.

(45) WILLIAMSBURG.—In the county of Williamsburg there shall be voting places as follows: Trio, Earles, Sulton, Gourdins, Greeleyville, Salters, Kingstree, Cedar Swamp, Cades, Morrisville, Vox, Hebron church, Indian Town, Muddy Creek, Poplar Hill, Taft and Bloomingdale, Hemingway, Johnsonville, Workman, Pergannos, Mouzon, Henry, Lanes and Ebenezer. 1933 (38) 175; 1934 (38) 1264.

(46) YORK.—In the county of York: York, Hickory Grove, Santiago, at A. M. McGill's Store, New Zion, at New Zion school house, Bethany, Fort Mill, Rock Hill, Coates' Tavern, Ogden, at Ogden's school house, in Bethesda township, McConnellsville, Blairsville, Bullock's Creek, at Good's Store, Bethel, at Bethel Consolidated school, Clover, Newport, Sharon, Tirzah, Smyrna, Ebenezer, Aragon Cotton Mills, Hopewell, Filbert, Leslie, Highland Park, Oak Ridge school voting precinct, Mitchell's Store, and Bowling Green. 1935 (39) 21.

§ 2307. **Managers require evidence of payment of taxes.**—Managers of election shall require of every elector offering to vote at any election, before allowing him to vote, proof of the payment thirty days before any election of any poll tax then due and payable. The production of a certificate or of the receipt of the officer authorized to collect such taxes shall be conclusive proof of the payment thereof. 1935 (39) 282.

By 1935/282 electors offering to vote were required to pay only poll tax in lieu of all taxes and poll taxes.

§ 2333. **Congressional districts.**

See this section in 1934 Supplement.

§ 2343. **Meeting of the electors—organization.**—The electors of President and Vice-President shall convene at the capital, in some convenient place, on the first Monday after the second Wednesday in December next following their election; and those of them who shall be assembled at 11 o'clock in the forenoon of that day shall, immediately after that hour, proceed to preliminary organization and make such preliminary arrangements as may be necessary for permanent organization and the casting of the electoral vote of the state. 1936 (39) 1651.

Time for electors to convene changed to second Monday in January next following second Wednesday in December from the their election, 1936/1651.

§ 2344. **Duties of state officials.**—The chief executive, the secretary of state and other state officers shall perform such duties and functions in respect to the election of electors, the election of the President and Vice-President of the United States and certification of electors and results of such election as provided by the acts of Congress in relation thereto. 1936 (39) 1651.

By 1936/1651 stated duties of certain state officers were eliminated and they were required to perform such duties as acts of Congress provide.

§ 2365. Election on last Tuesday in August—arrangements of voting place—opening and closing polls.—* * * (1) *Provided*, that in Anderson County the polls shall open at eight o'clock, a. m. and close at six o'clock p. m. 1934 (38) 1223.

(2) *Provided*, That in the greater Greenville district in Greenville County, the polls shall open at 8 o'clock, a. m. and close at 6 o'clock, p. m. 1934 (39) 1381.

(3) *Provided*, That in Lexington County and the city of Camden, the polls in the Democratic primary election shall be opened at eight o'clock in the morning and close at six o'clock in the afternoon. 1934 (38) 1602; 1936 (39) 1407, 1458.

(4) *Provided*, That in the primary elections held in Aiken County and referred to in section 2365, at the voting places at North Augusta, Belvedere, Clearwater No. 2, Bath, Langley, Gloverville, Warrenville, Graniteville and Vauluse, the managers of election shall open the polls at 8 o'clock, a. m. and shall close them at 6 o'clock, p. m., and at Rock Hill, Fort Mill, Clover and York, in York County the polls shall be kept open in primary elections from 8 a. m. to 6 p. m. 1934 (38) 1383.

(5) *Provided*, That all primary elections held in Greenwood, Beaufort and Lancaster Counties the executive committee in the county of any party holding the election shall have the right to designate the voting precincts which shall open at eight o'clock in the forenoon and close at six o'clock in the afternoon on the day of election; and if not so specially designated, the polls in Greenwood, Beaufort and Lancaster Counties in such election shall open as now provided by law. 1934 (38) 1443.

(6) *Provided*, that in all primary elections in Fairfield county the polls shall open at eight (8) a. m., and close at four (4) p. m., except at the voting place at Winnsboro Mills, town of Winnsboro, where the polls shall remain open until six (6) p. m. 1936 (39) 1458.

(7) *Provided*, that in all primary elections in Chester county the polls shall open at eight (8) o'clock a. m. and close at four (4) p. m. *Provided, however*, that at the following precincts in said county: Ward three Chester, ward four Chester, Baldwin, Eureka, No. 1 Great Falls, No. 2 Great Falls, No. 3 Great Falls, and Lando, the polls shall open at eight o'clock a. m. and close at six (6) o'clock p. m. 1936 (39) 1575.

(8) *Provided*, that the polls in the Hampton club district in Richland County in primary elections shall open at eight (8) a. m. and close at six (6) p. m., instead of at four (4) p. m., as now provided for by law. 1936 (39) 1699.

§ 2383. Clubs and club districts.—* * * (2) CITIES OVER 60,000.—In counties containing a city or cities of more than sixty thousand (60,000) population, according to the 1930 United States census, the following provisions shall obtain for all municipal primary elections beginning in the year 1935, and applying to each and every municipal election held in such year and thereafter: organization of ward clubs and elections of club officers, city executive committeemen and delegates to the city convention to be held on the first Monday in April shall take place simultaneously in all clubs at 8 o'clock in the evening of the Saturday preceding the third Monday in March of each such municipal election year. Municipal books of enrollment for voting in all municipal primary elections shall be open in each and every ward by the secretary of each respective club on the Monday preceding the last Monday in April, and shall remain open for not less than eight hours of each day, Sundays and holidays excepted, until 12 o'clock noon of the last day of enrollment which shall be the fifth

Tuesday prior to the Monday preceding the date of the primary election, which shall be on the second Tuesday in July of each municipal election year. 1935 (39) 48.

§ 2400-1. Election commissioners.

See this section in 1934 Supplement.

§ 2400-2. Party primary to nominate mayor or councilman.

See this section in 1934 Supplement.

§ 2400-3. Enrollment books.

See this section in 1934 Supplement.

§ 2427. Tax commission direct abatement or refund of taxes.—(1) **ERRONEOUS, IMPROPER OR ILLEGAL ASSESSMENTS—PENALTIES.**—Whenever it shall appear to the satisfaction of the South Carolina tax commission that any tax has been erroneously, improperly or illegally assessed against any person, firm or corporation within this state that the South Carolina tax commission shall have the power and authority to order any officer having authority to assess or collect taxes to abate the whole or any part of said taxes that may have been erroneously, improperly or illegally assessed; and whenever it shall appear to the satisfaction of the South Carolina tax commission that any tax has been paid under an erroneous, improper or illegal assessment, the South Carolina tax commission shall have the power and authority to order any such officer having custody of the tax so erroneously, improperly or illegally paid, to refund the same to the person, firm or corporation from which it has been unjustly collected, and such officer having the custody of such taxes shall refund the same on the order of the South Carolina tax commission: *Provided*, Such officers having the custody of such taxes shall have in his possession the taxes so improperly collected, or other funds from which the same may be lawfully refunded, and in case such officer shall not have in his custody or possession funds which may be used as herein provided, he shall, in case of the county treasurer, report the order of the South Carolina tax commission to the legislative delegation from his county for the purpose of having the delegation make provisions for the payment thereof; and if the tax has been collected by the state treasurer, then, in each and every such case, he shall report to the General Assembly that he has been ordered by the South Carolina tax commission to refund certain taxes, and that he has no funds available for the payment thereof, with the request that proper appropriation be made to cover such amount as may have been ordered to be so refunded: *Provided, further*, that in case any city or municipal treasurer shall not have in his custody or possession funds which may be used as herein provided, he shall report the order of the South Carolina tax commission to the municipal council of said city for the purpose of having the council make provision for the payment thereof. 1935 (39) 465.

"Except municipal taxes" omitted after to this subsection added, 1935/465.
the word "state" on line 4, and last proviso

§ 2437. Imposition of the income tax on individuals.

See this section in 1934 Supplement.

§ 2441. Exemptions.

See this section in 1934 Supplement.

§ 2449. Deductions.—* * * (12) **DONATIONS MADE BY SOUTH CAROLINA CORPORATIONS TO AMERICAN RED CROSS.**—All sums of money paid to the American Red Cross as a donation by any corporation, duly chartered and existing as such under the laws of South Carolina, shall be exempt from all income tax imposed by the laws of this state; and deductions for any such dona-

tions shall be allowed in the annual income tax return of any such corporation. 1936 (39) 1681.

Subsection 12 added by 1936/1681. For Supplement. other changes in this section see 1934

§ 2451. Non-residents and foreign corporations.

See this section in 1934 Supplement.

§ 2452. Information returns.

See this section in 1934 Supplement.

§ 2453. Persons and corporations required to make returns.

See this section in 1934 Supplement.

§ 2453-1. Tax on dividends and interest.

See this section in 1934 Supplement.

This section is constitutional.—Marshall v. South Carolina Tax Commission, 178 S. C., 57; 182 S. E., 96.

Income tax.—This is an income tax, not a property tax. Marshall v. South Carolina

Tax Commission, 178 S. C., 57; 182 S. E., 96.

Tax commissioners levying tax hereunder in good faith not liable for error of fact or law to taxpayer which they may have committed. Marshall v. South Carolina Tax Commission, 178 S. C., 57; 182 S. E., 96.

§ 2460. Additional taxes.

See this section in 1934 Supplement.

§ 2461. Refund of taxes illegally collected.

This section does not create a plain ministerial duty on the tax commission to refund overpaid income taxes assessed and collected against taxpayers prior to its pas-

sage; and taxpayer has no right of redress hereunder for recovery of such taxes. Argent Lumber Co. v. Query. 178 S. C., 1; 182 S. E., 93.

§ 2467. Revision remedies and proceedings for relief of taxpayers.

Applied.—Argent Lumber Co. v. Query, 178 S. C., 1; 182 S. E., 93.

§ 2469. Payment under protest.

Applied.—Argent Lumber Co. v. Query, 178 S. C., 1; 182 S. E., 93.

tainable hereunder. Marshall v. South Carolina Tax Commission, 178 S. C., 57; 182 S. E., 96.

Suit to recover property taxes not main-

§ 2478. Unconstitutionality or invalidity.

This section in force for assessment and collections of taxes which accrued under it, notwithstanding it has been repealed. Ar-

gent Lumber Co. v. Query, 178 S. C., 1; 182 S. E., 93.

§ 2480-1. State tax commission to collect inheritance taxes as provided by

§§ 2480-2504, 1932 Code.

See this section in 1934 Supplement.

§ 2481. On interest in property less than an estate in fee.

See this section in 1934 Supplement.

§ 2483. When due—extension—interest.

See this section in 1934 Supplement.

§ 2502. Tax commission to certify amount of tax.

See this section in 1934 Supplement.

§ 2503. Tax commission to collect taxes unpaid.

See this section in 1934 Supplement.

§ 2504-1. Estate Tax.—(1) AMOUNT.—A tax in addition to the inheritance tax imposed by existing law is hereby imposed upon the transfer of the net estate of every decedent dying after June 5, 1936, whether a resident or non-resident of the state, where the inheritance tax imposed by existing law is in the aggregate of a lesser amount than the maximum credit of eighty per cent of the federal estate tax allowed by the federal estate tax act as contained in the federal revenue act of 1926, because of said tax herein imposed, then the inheritance tax provided for by law shall be increased by an estate tax on the net estate so that the aggregate amount of tax due this state shall be the maximum amount of credit allowed under said federal estate tax act; said additional tax shall be paid out of the same funds as any other tax against the estate.

(2) **PAYMENT—INTEREST.**—The South Carolina estate tax shall be payable to the South Carolina tax commission, at the same time or times at which the federal estate tax is payable and shall bear interest, if any, at the same rate and for the same period as such federal estate tax.

(3) **ADMINISTRATION—COMPUTATION.**—The administrative provisions contained in act No. 792 of the South Carolina General Assembly approved April 4, 1932, wherever applicable, shall apply to the collection of the tax imposed by this section. The amount of the tax as imposed by subsection 1 hereof shall be computed in full accordance with the federal law in force at the time of the death of the decedent, known as federal revenue act 1926.

(4) **SAVING CLAUSE.**—If any subsection, phrase or clause hereof, is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion or portions of this section. 1936 (39) 1768.

This section added by 1936/1768.

§ 2505. License tax on gasoline.

See this section in 1934 Supplement.

§ 2505-1. Tax commission collect gasoline taxes derived from §§ 2505-2511.

See this section in 1934 Supplement.

§ 2510. Reimbursement agreements.

Actions of state highway commissioners in voting to enter into reimbursement agreements with counties did not warrant Gov-

ernor's suspension of highway commissioners from office. *Dacus v. Johnston*, _____ S. C.,; 185 S. E., 491.

§ 2512. License tax on gasoline, etc., stored in state.

This section is constitutional. *Gregg Dyeing Co. v. Query*, 52 S. Ct., 631.

§ 2520-1. Carriers report monthly shipments and deliveries of gasoline in state.—(1) **REPORT TO TAX COMMISSION.**—Every railroad company, water transportation company, common carrier, or contract carrier and any person, partnership or corporation transporting and delivering gasoline, substitutes therefor and combinations thereof, either in interstate or intra-state commerce to points within South Carolina, shall make reports, under oath, to the South Carolina tax commission on forms prescribed by said tax commission of all deliveries of gasoline, substitutes therefor and combinations thereof, kerosene, benzol, casing head gasoline, natural gasoline, naptha or distillate made to points within the state. Such reports shall be submitted to the South Carolina tax commission on or before the 20th day of each month covering deliveries of gasoline, substitutes therefor and combinations thereof made during the preceding month. *Provided, however*, that upon good cause shown the South Carolina tax commission may allow further time for making and submitting the reports required by this subsection.

(2) **TAX COMMISSION REPORT TO COMMISSIONER OF AGRICULTURE AND COMMERCE.**—The South Carolina tax commission shall, at such times and in such form as may be specified by the commissioner of agriculture and commerce, certify to the commissioner of agriculture and commerce the following: Names of all consignors of gasoline, combinations thereof, or substitutes therefor, kerosene, benzol, casing head gasoline, natural gasoline, naptha or distillate when the said products are consigned to a resident dealer, the name and address of such consignee and the quantity and kind of such products so consigned; *Provided*, that such information shall be in the possession of, or on file in the office of the South Carolina tax commission and to the extent such information is not in possession of said South Carolina tax commission and not required to be kept there, no such report shall be required.

(3) PENALTY.—Any person, firm or corporation violating the provisions of subsection 1, or who shall make any false statement in the reports required by subsection 1, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred (\$500.00) dollars or imprisonment for a term not exceeding six (6) months, in the discretion of the court, for each and every offense. *Provided*, that the South Carolina tax commission may, in its discretion, compromise any prosecution under this section, either prior or subsequent to the commencement thereof. 1935 (39) 185.

This section added by 1935/185.

§ 2522. Governmental obligations not taxable.

See this section in 1934 Supplement.

§ 2525. Stamps.

See this section in 1934 Supplement.

Preferred stock and capital notes of banks

exempt from taxes.—See § 2578 (53) this supplement.

§ 2527. Business license tax.—* * * (5) * * * (g) CARTRIDGES AND SHELLS.—Upon all shot gun or other shells, two (\$2.00) dollars per thousand rounds.

Upon all cartridges, twenty-three (23) caliber or greater, two (\$2.00) dollars per thousand rounds. 1935 (39) 365.

(h) CANDY.—Upon all candy retailing at fifty (50c) cents per pound and above, one (\$0.01) cent for each ten cents or fraction of the retail price: *Provided*, that individual factory-wrapped packages of candy retailing for ten (10c) cents, or less shall not be taxable: *Provided*, that candy as used herein shall not be construed to include crystallized and/or glazed cherries, crystallized and/or glazed pineapples, crystallized and/or glazed pineapple or other crystallized and/or glazed fruits when used for cooking purposes. 1935 (39) 384.

(7) METHOD AND TIME OF AFFIXING STAMPS—* * * .—*Provided, however*, in the event such tobacco products are manufactured within the state of South Carolina and sold to consumers, such products shall be stamped by the manufacturers when and as sold, but where such tobacco products are sold to *bona fide* wholesale and retail merchants, such products shall be stamped by wholesale and retail merchants within the time required in this section. 1935 (39) 244.

Taxes on shells and cartridges reduced from four (\$4.00) dollars per thousand rounds to two (\$2.00) dollars, 1935/365.

Last proviso to subdivision h under subsection 5 added by 1935/384.

The proviso in subsection 7 substituted

for the following proviso, “*Provided, however, in the event any such tobacco products are manufactured within the state of South Carolina, they shall be stamped by the manufacturer when and as sold.*”

§ 2528. Sale of stamps—regulations for enforcement.

See this section in 1934 Supplement.

§ 2531. Admission tax.—(1) RATE—EXEMPTIONS.—There shall be levied, assessed, collected and paid upon all paid admission to places of amusement, public bathing places and public dance halls, or elsewhere, within the state of South Carolina, a license tax of one (\$0.01) cent for each ten (\$0.10) cents, or fractional part thereof: *Provided*, that no tax shall be charged or collected on account of any stage play or any pageant in which local or non-professional talent or players are used, nor where tickets or admissions are sold by any incorporated college or university presenting any musical or purely literary entertainment or athletic contests: *Provided, further*, that the exemptions allowed in the last above proviso shall not apply in case the admissions inure to the benefit of any individual: *Provided, further, that no tax shall be charged or collected on admissions to athletic contests in which a junior american legion athletic team is a participant; provided, the proceeds do no inure to any individual or player in*

the form of salary or otherwise. Provided, further, that no tax shall be charged or collected on admissions to high school or grammar school games or on general gate admissions to the state fair or of any county or community fair: Provided, further, however, that no tax shall be charged or collected on admissions to athletic contests played between textile or municipal amateur athletic teams, provided the proceeds do not inure to any individual or player in the form of salary, or otherwise: Provided, further, that no tax shall be charged or collected on admissions to entertainments other than motion pictures when presented in community houses that are publicly owned and publicly controlled, and the proceeds do not inure to any individual or individuals. Provided, further, that no tax shall be charged on admissions to any play, pageant or entertainment given for the benefit of a purely civic, charitable, religious or benevolent purpose, or for the benefit of a charitable or benevolent fraternal order, where no profit inures to the benefit of any individual. 1935 (39) 282; 1936 (39) 1771, 1591.

Provided, that the Columbia music festival committee is hereby exempt from the payment of any admission taxes to the state of South Carolina in any function at which they may charge admission fees. 1936 (39) 1377.

Words in italics in subsection 1 added by 1936/1591, 1771.

Last proviso to said subsection added by 1936/1377.

Attention is called to the fact that 1936/1591, 1771 did not refer to 1935/282 which amended this section and provided that

bathing places may operate by paying annual licenses. The said 1936 acts failed to reenact the said 1935 act.

Admissions to dances in honor of President Roosevelt exempt from taxes; see section 2578, this Supplement.

§ 2532. Soft drinks tax.

See this section in 1934 Supplement.

§ 2543. Contractors tax.

See § 7084-1 hereof for licensing of certain contractors.

§ 2554-1. Service of executions issued by tax commission.

See this section in 1934 Supplement.

§ 2555-1. Tax on oleomargarine.

See this section in 1934 Supplement.

§ 2557-1. Beer, ales, porter, and certain wines.—(1) **WHEN NON-ALCOHOLIC AND NON-INTOXICATING.**—Any other Acts or parts of Acts to the contrary notwithstanding, all beers, ales, porter, and all other similar malt or fermented beverages, containing not in excess of five (5%) per cent of alcohol by weight and all wines containing not exceeding fourteen (14%) per cent of alcohol by weight are hereby declared to be non-alcoholic and non-intoxicating beverages.

(2) **TAX—DISTRIBUTION.**—There shall be levied and collected on all beers, ales, porter and other similar malt or fermented beverages by whatsoever name called, containing not more than five (5%) per cent of alcohol by weight, and all wines containing not more than fourteen (14%) per cent of alcohol by weight offered for sale in this state, a license tax of fifteen (15c) cents per gallon: *Provided, however, that if such beer, ale, porter, wine and other similar malt or fermented beverages be offered for sale in bottles, or cans, there shall be levied and collected a tax of one (1c) cent for every bottle, or can, containing not more than six (6) ounces or fractional quantity thereof.* The taxes and license fees above provided for shall be paid to the South Carolina tax commission, forty (40%) per cent. of which shall be paid into the state treasury for ordinary state purposes; forty (40%) per cent. shall be paid into the county in which the wine or beer was sold at retail for general county purposes, and twenty (20%) per cent. to the city, town or incorporated village in which the

wine or beer was sold at retail. In case of sales outside of towns, cities or incorporated villages, fifty (50%) per cent. of the tax and license fee shall be paid into the state treasury for school purposes, and fifty (50%) per cent. to the county in which the wine and beer was sold for general county purposes.

(3) **COLLECTION AND PAYMENT OF TAXES—ADMINISTRATION BY TAX COMMISSION.**—The tax provided herein shall be paid by affixing stamps or crowns, approved by the South Carolina tax commission, to each individual bottle or container or in such other manner as the tax commission by regulation may designate. The administrative provisions contained in sections 2521 to 2554, inclusive, wherever applicable, are hereby adopted for the administration and enforcement of this section. The South Carolina tax commission is hereby authorized, empowered, and directed to promulgate rules and regulations for the payment and collection of taxes hereby levied. The cost of stamps, supplies, etc., and the administration of this section shall be paid out of the proceeds derived from the collection of this tax upon warrants drawn by the tax commissioner upon the state treasurer.

(4) **EXAMINE AND INSPECT RECORDS OF DEALERS.**—The South Carolina tax commission or any agent or representative designated by it for that purpose and/or any and all peace officers or police officers of the state of South Carolina shall have the power to enter upon the premises of any person, firm or corporation selling or offering for sale any beer, ales, porter or wine, malt or any beverage without a warrant and examine or cause to be examined any books, records, papers, memoranda, or commodities and to secure any other information directly or indirectly pertaining to the enforcement of this section.

(5) **PERMIT TO SELL—TAXABLE ON DELIVERY TO CONSIGNEE.**—Every person, firm or corporation engaged in the business of selling beer, ale, porter, wine or any beverage legalized under the provisions hereof, shall apply to the South Carolina tax commission for a permit to sell such beverages. Fees for all permits shall be payable January 1st of each year or before commencing the sale of beverages legalized herein. Permits shall be issued for calendar years upon the payment of the fees provided herein for a full year.

The fees charged for permits herein shall be prorated quarterly on January 1st, April 1st, July 1st and October 1st of each year, and any dealer commencing business during one of these quarters shall be required to pay for the quarter in which business is commenced and for the quarters during the remainder of the year, but no refund shall be made to a dealer who ceases business after securing a permit.

In addition to the penalties provided herein, the tax commission may revoke the permit of any person, firm or corporation failing to comply with any or all of the requirements hereof.

Any dealer, wholesale or retail, failing to secure permits required in this subsection shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not less than ten (\$10.00) dollars nor more than one hundred (\$100.00) dollars, or imprisonment not less than ten (10) days nor more than thirty (30) days in the discretion of the court. Each day that such business is carried on without a permit shall constitute a separate offense.

All of the licenses and taxes imposed by this subsection shall also apply to any and all beers, ales, porter, wine and/or other similar malt or fermented beverages containing not more than 5% alcohol by weight which may be shipped into this state for the purpose of distribution after it has lost its interstate

immunity. A shipment shall be considered to have lost its interstate immunity when delivery has been made to the consignee in this state.

(6) SEPARATE PERMIT REQUIRED FOR EACH SEPARATE PLACE OF BUSINESS.—Retail dealers shall procure a separate permit for each and every place in which retail sales of beverages enumerated in this section are made, and for each and every retail permit shall pay to the South Carolina tax commission two (\$2.00) dollars per annum.

Wholesale dealers shall procure a separate permit for each and every place from which the beverages enumerated in this section are distributed, and for each and every such permit shall pay to the South Carolina tax commission two hundred (\$200.00) dollars per annum.

(7) "WHOLESALE DEALER" AND "RETAILER" DEFINED.—A "wholesale dealer" is defined as being a dealer who makes the first sale within this state of any quantity of any of the beverages subject to tax under the provisions of this section, whether such sale is made to a consumer, retailer or wholesaler.

A "retailer" is defined as being a dealer, not making the first sale, who sells beverages subject to tax under the provisions of this section for personal consumption.

(8) UNLAWFUL TO SELL UNLESS TAX THEREON PAID—PENALTY.—It shall be unlawful for any person, firm or corporation to sell or permit to be sold, any beer, ale, porter, wine, malt, or any beverage authorized to be sold hereunder, on which the tax levied be not paid; and any person having charge of the sale of such fermented malt or beverages who shall sell or permit them to be sold in violation of the provisions of this section, shall be deemed guilty of a misdemeanor, and shall be fined for each offense not less than twenty-five (\$25.00) dollars nor more than one hundred (\$100.00) dollars, or imprisonment for a period of not less than ten (10) days nor more than thirty (30) days in the discretion of the court.

(9) TAXES HEREIN IN LIEU OF OTHER TAXES AND LICENSE ON BEER AND WINE.—The taxes provided for in this section shall be in lieu of all other taxes and licenses on beer and wine, of the state, the county or the municipality and shall include licenses for its delivery by the wholesaler.

(10) ALCOHOLIC LIQUORS OR BEVERAGES IN STATUTES CONSTRUCTED.—Wherever in the penal and civil statutes of the state as enacted prior to the approval hereof the words "alcoholic liquors or beverages" or like words appear, said words shall be construed to mean alcoholic liquors or beverages of greater than alcoholic content than 5% by volume.

(11) BREWERY—WINERY—(a) CONSTRUCT, MAINTAIN OR OPERATE.—It shall be lawful for any person, firm or corporation to construct, maintain, or operate any brewery or winery within this state for the production of any of the beverages legalized hereunder.

(b) CONSTRUCT, MAINTAIN OR OPERATE—LICENSE TAX.—Any person, firm or corporation desiring to construct, maintain or operate a brewery or winery under the provisions of this section shall first apply to the South Carolina tax commission for a permit so to do; such application shall be in writing in such form as the South Carolina tax commission may prescribe, and such person, firm or corporation so applying for such permit shall be subject to the payment of an annual license tax upon each brewery, and on each commercial winery, to be established and operated, of one hundred (\$100.00) dollars, which shall be paid to and collected by the South Carolina tax commission before permit is issued; *Provided, however,* the owner and operator of any such winery who consumes,

in the operation thereof, only the fruits produced on his own farm or premises shall be subject to the payment of a license fee of only five (\$5.00) dollars per annum. Each and every license or permit shall expire on the thirty-first day of December of each and every year. The fees charged for permits for the operation of breweries and wineries, as provided herein, shall be prorated quarterly on January 1st, April 1st, July 1st and October 1st of each year, and any brewer or commercial wine manufacturer commencing business during one of these quarters shall be required to pay for the quarter in which business is commenced and for the quarters during the remainder of the year, but no refund shall be made to a dealer who ceases business after securing a permit.

(c) **TAX COMMISSION ISSUE RULES AND REGULATIONS.**—The South Carolina tax commission shall have authority and it is hereby required to make such rules and regulations for the operation of breweries and commercial wineries authorized hereunder, and such rules and regulations after they are reduced to writing and mailed, or otherwise delivered to the person, firm or corporation operating a brewery or winery, shall have the force and effect of law, and upon violation of any such rules and regulations, the license or permit provided for herein shall be forthwith canceled and become null and void.

(d) **OPERATING WITHOUT PERMIT—PENALTY.**—Any person, firm or corporation operating a brewery or winery without having secured a permit from the South Carolina tax commission, or after the same has been canceled by the South Carolina tax commission, shall be guilty of a misdemeanor; and, upon conviction, shall be fined not less than one hundred (\$100.00) dollars nor more than five thousand (\$5,000.00) dollars, or by imprisonment not more than one (1) year, either or both.

(e) **STAMP PRODUCTS.**—All wines and brewed products referred to in this section shall be stamped by the manufacturer or producer in the manner provided by law for paying the tax on soft drinks, and at the rates hereinabove provided: *Provided*, however, the manufacturer or producer of beer or wine shall not be required to affix the tax paid crowns or stamps to beer and wine intended to be sold outside this state.

(f) **ADMINISTRATION AND ENFORCEMENT.**—For the purpose of administration and enforcement hereof so much of sections 2521-2554, inclusive, wherever applicable, are hereby adopted and made a part hereof. 1933 (38) 287, 576; 1934 (38) 1439; 1935 (39) 263, 268, 276, 325, 467, 1211; 1936 (39) 1477.

Subsection 1 comes from 1936/1780. Subsection 2 comes from 1936/1780 and 1935/1211. Subsections 3, 4, 5, 8, 9, and 10 come from 1933/287, 576; 1934/1439; 1935/268. Subsections 6 and 7 come from 1935/263. Subsection 11 comes from 1935/1211 and 1936/1477.

Disposition of revenue received from beer, wine and alcoholic beverages: Pay state's portion of revenue in special school account monthly.—See § 1829 (32) hereof.

§ 2558. **Power tax—exemptions.**—(c) In addition to all other taxes of every kind now imposed by law, every person, firm or corporation engaged in the business of selling electric power within the state of South Carolina shall be subject to the payment of an excise, license, or privilege tax of five-tenths of one mill upon each kilowatt hour of electric power sold in the state of South Carolina and said tax shall be paid to and collected by South Carolina tax commission: *Provided*, that if such seller procures electric power which has been subject to the payment of the excise, license, or privilege tax hereinabove provided in subdivisions (a) and (b), a credit on said sales tax to the amount of

five-tenths (5/10) of one mill on each kilowatt hour sold, shall be allowed: *Provided, further* that the provisions of sections 2558 to 2564 shall not apply to the electric power manufactured or generated in another state and brought into this state until such power has lost its interstate character and immunities: *Provided, further*, that the provisions of sections 2558 to 2564 shall not apply to any person, firm or corporation owning and operating an electric manufacturing or generating plant of ten horse power or less, nor shall the provisions of sections 2558 to 2564 apply to industrial plants manufacturing or generating power for its own use, or for use upon its own premises by its *bona fide* operatives or employees but the tax shall be paid upon so much thereof as may be sold to other than its employees: *Provided, further*, that the provisions of sections 2558 to 2564 shall not apply to municipalities manufacturing or generating electricity for the use of its customers. 1935 (39) 275.

Manner of allowing credit changed in the first proviso, 1936/275.

§§ 2558-2564 are constitutional. Duke Power Co. v. S. C. Tax Commission, 81 F. (2nd) 513. Broad River Power Co. v. Query, 54 S. Ct., 326.

§§ 2558-2564 impose two distinct taxes: one a production tax, and the other a sales tax. Station and line are system lost not deductible in assessing production tax. Duke Power Co. v. S. C. Tax Commission, 81 F. (2nd), 513.

§ 2561. **Saving clause—captions.**—If any clause, sentence, paragraph or part of sections 2558 to 2564 shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of sections 2558 to 2564, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered. No caption of any section or set of sections shall in any way affect the interpretation of sections 2558 to 2564 or any part thereof. 1935 (39) 275.

All after the word "thereof," line nine, this section, 1932 Code, repealed by 1935/275.

Co. v. S. C. Tax Commission, 81 F. (2nd), 513.

Rights to funds paid hereunder under protest not affected by amendment to this section (1935 Acts, page 276). Duke Power

Act on page 276 of 1935 acts amending this section construed as operating prospectively. Duke Power Co. v. S. C. Tax Commission, 81 F. (2nd), 513.

§ 2564. Use of tax.

Legislature direct funds raised under this section. Crawford v. Johnston, 177 S.

C., 399; 181 S. E., 476.

§ 2570. Enforcement of lien on realty.

See this section in 1934 Supplement.

§ 2578. Exemptions from taxes.— * * * (34) In addition to the securities

which may be deducted by banking institutions from their tax returns (to the extent only of twenty-five per centum of their capital and surplus) as provided in subdivision 33 of this section are added bonds and other obligations of the state of South Carolina and any and all governmental and/or political subdivisions thereof. The securities on account of the ownership of which any banking institution claims the deduction or exemption herein referred to must have been owned absolutely and in good faith by such banking institution continuously for at least six months prior to the date of the tax return upon which such exemption or deduction is claimed or from the date of issue of such securities: *Provided*, that the requirement of six months' previous ownership of such securities as may be exempted or deducted from such returns shall not apply to banks or banking institutions, which have opened up and commenced business within six months previous to the dates fixed by law for the making of such tax returns, and that this proviso shall apply to returns made for the year 1935. 1935 (39) 358.

(42) All property of the American Legion, or of the Veterans of Foreign Wars, or of the Spanish American War Veterans, or of Disabled American Veterans of World War, whether belonging to the department or to any of the posts in this state, when used exclusively for legion purposes, or for the purposes of said other organizations, is hereby exempt from all state, county, municipal and school taxes: *Provided, however*, that this exemption shall not extend to any property owned by the legion, or said other organization, which is used for any purposes other than club-rooms, offices, meeting place or for activities directly in keeping with the policies stated in the national constitution of the American Legion, or of such other organizations, as the case may be. 1935 (39) 129.

(49) All real estate owned, now or hereafter, by orphanages and educational institutions in this state, acquired by gift or devise, until such real estate can be disposed of, is hereby exempt from taxation each year for a period of five years unless the income from said property for any year during that period becomes sufficient to pay the taxes. 1932 (37) 1457; 1935 (39) 234; 1936 (39) 1652.

(49a) All real estate owned, now or hereafter, by orphanages and educational institutions in this state, acquired under proceedings for the foreclosure of mortgages securing loans made by orphanages and educational institutions as investments of their endowment funds, and also trust funds, is hereby exempt from taxation, including taxes due at the time of foreclosure sale and now unpaid, for a period of five years, unless the income from said property during that period becomes sufficient to pay the taxes. *Provided*, that Cherokee County be exempted from the provisions of this subsection. 1936 (39) 1652.

(52) The property known as the John B. Adger Camp and used for cultural and recreational purposes, and consisting of an unimproved tract of land in Pickens County, containing about one hundred sixty acres, and owned by the Young Men's Christian Association of this state, is hereby exempted from the payment of all state and county taxes, so long as the above described property remains in the possession of the present owners and is used for the purposes enumerated herein. 1936 (39) 1293.

(53) All preferred stock and/or capital notes heretofore or hereafter issued by national banks and state banks operating in South Carolina, and/or any conversion thereof, under the authority and direction of the comptroller of the currency of the United States and/or the federal deposit insurance corporation shall be exempt from taxation. 1936 (39) 1650.

(54) Textile hall corporation in the city of Greenville, county of Greenville, state of South Carolina, is hereby declared to be an eleemosynary society and not used for the purposes of profit and all taxes heretofore assessed against said society or institution and which have not been paid are hereby rebated and the said textile hall corporation is hereafter exempt from taxes by the state, county or municipality. 1936 (39) 1666.

(55) St. Phillip's Mercy Hospital of the Sisters of the Third Order of St. Frances, an eleemosynary corporation located at Rock Hill, South Carolina, together with all houses, furniture, real estate and property of every nature and kind belonging to said hospital, and hereafter acquired and used for hospital purposes in connection therewith are hereby exempted from all taxation for state, county, school, municipal, special or other purposes of every nature. 1936 (39) 1699.

(56) No tax of any kind or description shall be collected by the state of South Carolina, or any political sub-division thereof, on the sale of tickets to, or any

income from any birthday ball held in this state in honor of President Franklin D. Roosevelt where the payment and collection thereof as now provided by law would reduce the amount to be contributed to the said charitable endowment. 1936 (39) 1293.

(57) Lot in the town of Estill, Hampton County, donated by W. W. Baker and on which was erected public library and recreation hall and together with any building thereon is exempt from all taxes. 1934 (38) 2027.

Tax exemptions in Charleston County: Heyward Washington house, and Manigault house exempted from Charleston County taxes, 1933/484; 1936/1397. Certain manufacturing establishments located in Charleston County exempted from Charleston County tax, 1933/265. Cooper River Bridge, Inc., may be exempt from taxes of city of Charleston, 1932/1726, and also certain taxes of Charleston County, 1932/1727.

empted from Oconee County taxes, 1933/25. Exemption of certain manufacturing plants in Oconee County. 1934/1211.

For other tax exemption: See particular county in index.

Public properties used for private purposes in addition to their public uses are not exempt from taxation hereunder. Bank v. Greenville County, 174 S. C., 256; 177 S. E., 369.

Oconee County: Certain personalty ex-

§ 2585. Tax exemption of manufactories in Richland County.

See this section in 1934 Supplement.

§ 2590. Tax exemptions of manufacturing establishments in Greenville and Sumter Counties.

John K. Crosswell home exempt from certain taxes, Sumter County, 1936/Sumter County taxes, 1934/1573.

Certain manufacturing enterprises exempt

1707.

§ 2595. Orangeburg County and Florence County exempt certain manufacturing establishments.

See this section in 1934 Supplement.

§ 2597. Manufactories in Richland, Lancaster, Georgetown, Greenwood, Marion, Cherokee, Saluda, and Laurens Counties exempt from county taxes for five years.

See this section in 1934 Supplement.

and township taxes for 5 years, Georgetown County, 1936/2292.

§ 2598. Exemption of certain manufacturing establishments in Spartanburg County.

See this section in 1934 Supplement.

§ 2600. Tax exemption of manufactories in Clarendon County.

See this section in 1934 Supplement.

§ 2607. When returned and how valued.

See this section in 1934 Supplement.

§ 2608. Return of real estate for taxation.—* * * RETURN OF REAL ESTATE

SITUATE IN TWO OR MORE COUNTIES FOR TAXES—PAYMENT OF TAXES.—All lands

situate in two or more counties shall be returned for taxation to the county auditor of the respective counties in which said lands are situate, based on the acreage in each county, and the taxes assessed thereon shall be paid to the county treasurer of the county in which each portion of the land so assessed is situate.

Provided, that all taxes heretofore assessed and unpaid on such property shall be paid to the county treasurer of the county in which the same has been returned. All taxes on such lands heretofore paid on the basis of returns heretofore made shall be retained by the county to which payment has been made, and any lien for taxes on lands so situated is hereby declared to have been discharged by the payment thereof to the county in which the same have been returned. 1936 (39) 1433.

§ 2609. Dog tax—return—collection—lien.

See this section in 1934 Supplement.

§ 2610. **Amount of dog tax.**—There shall be levied on all dogs on January first of each year, in the state of South Carolina an annual license of one dollar and twenty-five cents (\$1.25) per head. The word “dog” or “dogs” as used herein shall include all animals of the species: male and female, old and young, except a suckling pup. *Provided*, that no capitation tax shall be levied upon the dogs of Union, Anderson and Abbeville Counties. 1933 (38) 245; 1935 (39) 70. Last proviso added by 1933/245, 1935/70.

§ 2611. **Receipts and tags—time of payment**

See this section in 1934 Supplement.

§ 2612. **Keep license on dog—counties exempted from dog tax.**

See this section in 1934 Supplement.

§ 2613. **Non-payment—penalty—disposition of fines.**

See this section in 1934 Supplement.

§ 2614. **Fee of county treasurer.**

See this section in 1934 Supplement.

§ 2615. **School trustees to assist.**

See this section in 1934 Supplement.

§ 2619. **Tax on dogs in Darlington, Georgetown, Lee, Berkeley, Chesterfield, Aiken, York and Lexington Counties.**—There shall be levied on all dogs, irrespective of age, in the counties of Darlington, Georgetown, Lee, Berkeley, Chesterfield, Aiken, York and Lexington an annual tax of one (\$1.00) dollar, said dogs to be listed at the same time and in like manner as other personal property is listed, the tax to be collected at the same time as other taxes are now collected. All taxes collected in pursuance of this section shall be credited to the respective school districts in Darlington, Georgetown, Lee, Berkeley, Chesterfield, Aiken, York and Lexington Counties from which the same shall be collected: *Provided*, that in each school district of said counties a census of all dogs in said district may be taken by the school trustees or under their direction, the cost of same, not to exceed twenty-five (\$25.00) dollars for each district. The sum of twenty-five (\$25.00) dollars provided for this section for the taking of the census of all dogs in the school district shall be paid out of the school funds of such district as requires and takes said census; *Provided*, that commencing with the year 1936, the capitation tax on dogs in York County shall be fifty (50c) cents each. 1935 (39) 107.

§ 2621. **Capitation tax on dogs in Dorchester County.**—*Repealed by 1933 Acts, page 69.*

§ 2669. **Banks required pay tax on stock.**

Stock exempt from taxation.—See § 2578 (53) this supplement.

§ 2678-1. **Tax commission to collect corporation license fees and taxes due under §§ 2678 to 2690-A.**

See this section in 1934 Supplement.

§ 2681. **Fees of domestic corporations.**—Every corporation organized under the laws of this state to do business for profit, other than railroad companies, express companies, street railway companies, navigation companies, waterworks companies, power companies, light companies, telephone companies, telegraph companies, parlor, dining and sleeping car companies, shall upon the filing of the report required of them in section 2678 pay to the state treasurer, on or before the first day of April in each year, an annual license fee of one mill upon each dollar paid to the capital stock of said corporation, said license fee not to be less than five dollars in any case: *Provided*, that nothing contained in sections 2678 to 2690, inclusive, shall be construed to apply to any building and

loan association doing a strictly mutual business: *Provided, further*, that in the case of a domestic corporation having part of its capital stock invested in property and used in the conduct of its business beyond the borders of the state, that such corporation be credited with that portion of the tax representing the proportion that the value of the corporation property used in the conduct of its business beyond the borders of this state bears to the total value of the corporation property. 1935 (39) 135.

Last proviso to this section added by 1935/135.

Attention is called to section 2678-1, (1932/1392) 1934 Supplement, which provides that the tax commission collect corporation license fees and taxes due under sections 2678-2690-A. Present section 2681 as it was re-enacted by 1935/135 provides for the annual license fee to be paid to the state treasurer.

The tax commission has the right to assess this license tax against so much of

the capital of domestic corporation as is invested in property in other states. *Pacolet Mfg. Co. v. Query*, 174 S. C., 359; 177 S. E., 653.

Editor's Note: See this section as amended by 1935 acts, page 135.

Transfer of surplus fund to capital stock makes said dividend capital stock taxable under this section and sections 2690-1 and 2690-A. *Pacolet Mfg. Co. v. Query*, 174 S. C., 359; 177 S. E., 653.

§ 2682. Fees of foreign corporations upon property used in state.

See this section in 1934 Supplement.

§ 2685. License fee upon gross income in South Carolina.

See this section in 1934 Supplement.

§ 2686. Tax commission's receipt—reports.

See this section in 1934 Supplement.

§ 2687. Penalty for failure to report—collection.

See this section in 1934 Supplement.

§ 2690-A. Additional license fees required.—* * * (1) LICENSE FEES—SCHEDULE.—* * * (b) Upon each corporation organized under the laws of this state to do business for profit other than those enumerated above, one mill upon each dollar paid to the capital stock of said corporation: *Provided*, that in the case of a domestic corporation having part of its capital stock invested in property and used in the conduct of its business beyond the borders of the state, that such corporation be credited with that portion of the tax representing the proportion that the value of the corporation property used in the conduct of its business beyond the borders of this state bears to the total value of the corporation property. 1935 (39) 135.

Proviso to subdivision (b) added by 1935/135. See notes to § 2681.

§ 2690-1. Further additional license fees required.—(1) SCHEDULE OF FEES.—* * * (b) Upon each corporation organized under the laws of this state to do business for profit other than those enumerated above, one mill upon each dollar paid to the capital stock of said corporation, except mutual building and loan associations, which are hereby exempted: *Provided*, that in the case of a domestic corporation having part of its capital stock invested in property and used in the conduct of its business beyond the borders of the state, that such corporation be credited with that portion of the tax representing the proportion that the value of the corporation property used in the conduct of its business beyond the borders of this state bears to the total value of the corporation property. 1935 (39) 135.

Proviso to subdivision (b) added by 1935/135. See notes to § 2681.

§ 2698. County auditors.

See this section in 1934 Supplement.

see § 4644-1.

For bond of McCormack County auditor

§ 2699. Term of office of auditor and treasurer in Dillon County.

See this section in 1934 Supplement.

§ 2700. Salaries of county auditors and treasurers.—*Repealed by 1936 Acts, page 1805.*

§ 2703. Time for making returns to county auditors.

See this section in 1934 Supplement.

§ 2712. When tax books shall be made up—transmission and contents.—

* * * *Provided*, that in Charleston county the final date fixed by this section shall be the thirty-first day of July, in each year, instead of the thirtieth day of June, in each year. 1936 (39) 1612.

Above proviso added by 1936/1612.

§ 2727. How returns are made and kept correct.

See this section in 1934 Supplement.

§ 2736. Tax districts.—* * * *Provided*, that in the county of Greenville each school district shall constitute a tax district, provided that the provisions of this proviso shall not effect the assessment and collection of taxes in the greater Greenville sewer district. 1935 (39) 247.

§ 2737. Assessment of property for taxation by township boards of assessors, etc.

This section was amended by 1933/399, relating to Darlington County, however, the said 1933 act was repealed and this section restored to the status it was before the said 1933 act was enacted 1935/60.

Board of assessors, Spartanburg County,

1934/1207, city of Spartanburg, 1936/1708, town of Hickory Grove, 1936/364.

Board of assessors and equalization, Oconee County, 1934/1325, 1615.

School district assessors, Cherokee County, 1934/1534.

§ 2749. Appointment of board of assessors in cities and towns.

Spartanburg city board of assessors, 1936/1708.

Board of assessors, town of Hickory

Grove, 1935/364.

See § 2737 hereof.

§ 2757. Assessors in Clarendon County—duties—compensation—terms.

See this section in 1934 Supplement.

§ 2758. Assessors for Dorchester County.—*Repealed by 1933 Acts, page 8.*

§ 2769. Board of tax assessors, town of St. George.—*Repealed by 1934 Acts, page 1259.*

§ 2774. Election—term—organization.—The said board of assessment shall be elected at the next general election: *Provided*, that in the county of Charleston, five of the members of the board of assessment shall be residents of the city of Charleston, one a resident of that section of the county of Charleston to the east of the Cooper river, one a resident of that section of said county outside of the city of Charleston north of the city boundary and between the Ashley and the Cooper rivers, and one a resident of said county to the west of the Ashley river. The said board of assessment shall hold office for four years and until their successors shall have been elected. Upon the election of the said board, the members shall meet and organize, and elect from their number a chairman, who shall preside at all meetings. Any vacancy now existing or hereafter occurring in the said board by reason of death, resignation, removal, incapacity, or otherwise, shall be filled by election of a successor by the remaining members of said board, together with the county auditor and county supervisor; and such successor shall hold office until the expiration of the terms of the other members of said board. *Provided*, that the county committee of any county containing a city of over 60,000 population according to the 1930 United States census shall

be at liberty to order a primary election for the office of members of the board of assessment and equalization in said county. 1936 (39) 1466, 1445.

The method of filling vacancies changed added by 1936/1466.
by 1936/1445. Last proviso to this section

§ 2779-A. Board of tax appeals for counties under §§ 2773-2788.—* * *
They shall each receive for their services as a member of such board the sum of seventy-five (\$75.00) dollars per annum. * * * 1936 (39) 1773.

This section remains as it is in 1934 Supplement except as the above sentence in the first paragraph will show. The compensation of the members of the board fixed at seventy-five (\$75.00) dollars per annum instead of five (\$5.00) dollars per meeting, meetings not to exceed twenty.

§ 2785. Compensation of board.

See this section in 1934 Supplement.

§ 2789. County treasurer.

See this section in 1934 Supplement.

For bond of McCormick County treasurer

see § 4644-1.

§ 2794. County treasurer may attend convenient place to collect tax.—The county treasurer of the respective counties may attend at certain safe and convenient places for the purpose of collecting taxes. They shall give twenty days' public notice of the days when they will be at the places designated: *Provided*, that the provisions of this section shall not apply to the counties of Orangeburg, Clarendon, Edgefield, Florence, Colleton, Pickens, Marlboro, Abbeville, Kershaw, Newberry, Calhoun, Saluda, Fairfield, Lancaster, Hampton, Barnwell, Dillon, Sumter, Spartanburg, Williamsburg, York and Horry. 1935 (39) 102.

Horry County added to proviso, 1935/102.

§ 2795. Taxes payable annually—how payable.—

Date Tax Books Open in Aiken County, 1933/475; Allendale County, 1933/423; Bamberg County, 1933/430; Beaufort County, 1933/499; Lexington County, 1933/228; Marlboro County, 1933/522.

Delinquent Taxes Payable in Installments in Aiken County, 1936/1909; Allendale County, 1933/423; Anderson County, 1934/1744; Bamberg County, 1933/430, 1934/1384; Chester County, 1934/1849; Chesterfield County, 1933/543, 1934/1862; Clarendon County, 1933/540, 1934/1408; Colleton County, 1933/532, 1934/1887, 1893; Darlington County, 1932/1348, 1933/353, 1934/1900; Edgefield County, 1933/335; Fairfield County, 1933/331, 1934/1951; Florence County, 1933/217, 355; 1934/1968; Georgetown County, 1934/1974; Greenwood County, 1933/462; Greenville County, 1932/1348; 1934/2001; Hampton County, 1933/427; Kershaw County, 1933/470; Laurens County, 1932/1348; Lee County, 1932/1388, 1933/217, 355, 1934/1968; Lexington County, 1933/228; Marion County, 1933/348; Marlboro County, 1933/522; Oconee County, 1933/335; Orangeburg County, 1932/1560; Richland County, 1932/1558, 1933/147; Saluda County, 1933/295; Spartanburg County, 1933/370, 1934/2193; Sumter County, 1932/1443, 1933/443; Williamsburg County, 1933/556.

Discount on Taxes: Aiken County, 1933/475; Allendale County, 1933/423; Bamberg

County, 1933/430; Clarendon County, 1932/1267; Darlington County, 1932/1267; Edgefield County, 1932/1492; Greenville County, 1932/1267; 1933/390; Lee County, 1932/1492; Lexington County, 1933/228; Marion County, 1932/1267; Marlboro County, 1932/1492; 1933/522; Newberry County, 1932/1359, 1935/218; Oconee County, 1933/390, 1934/1449; Sumter County, 1932/1447.

Notices of Taxes Due: Sumter County, 1932/1447.

Pay in Installments: Aiken County, 1933/475; Allendale County, 1933/423; Bamberg County, 1933/430; Beaufort County, 1933/499; Fairfield County, 1933/331; Lexington County, 1933/228; Marlboro County, 1933/522, 1934/2119; Newberry County, 1933/326.

Payment of Taxes with School Claims and County Claims: Allendale County, 1933/322, 1934/1255; Calhoun County, 1933/110, 324; Clarendon County, 1933/95; Darlington County, 1933/219, 829; Edgefield County, 1933/276; Fairfield County, 1933/331; Lancaster County, 1934/2051; Newberry County, 1933/326; Williamsburg County, 1933/110, 324; York County, 1934/2229.

Determination of Taxes on Real Estate Sold to United States: Chesterfield County, 1935/425, 1936/1776; Kershaw County, 1935/265.

§ 2804. Deposit of Abbeville County funds.

See this section in 1934 Supplement.

§ 2805. Officials in Anderson County require bond for deposits of public funds.

This section was amended by 1936/1365. *Transport v. South Carolina Tax Commission*, 52 S. Ct., 340.

§ 2807-1. Deposits of public funds in Beaufort County.

See this section in 1934 Supplement.

§ 2808. Treasurer of Berkeley County to take security for deposits of all county funds.

See this section in 1934 Supplement.

§ 2808-6. Clarendon county funds—deposit—investment.

See this section in 1934 Supplement.

§ 2810. Deposits of public funds in banks of Darlington County.

This section amended by 1933/451, however, the said 1933 act was repealed by 1936/1289.

§ 2811. Deposit of sinking funds, Dillon County.

See this section in 1934 Supplement.

§ 2812-1. Deposit of public funds in Edgefield County.

See this section in 1934 Supplement.

§ 2815. Deposit of public funds in Georgetown County.

See this section in 1934 Supplement.

§ 2815-2. Deposit of public funds in Greenwood County.

See this section in 1934 Supplement.

§ 2816. Deposit of Hampton County funds—bonds of auditor and treasurer.

This section amended by 1932/1112 and 1935/171, 383. Security for deposits of Hampton County funds in banks with deposits insured by

Additional securities give secure deposits, FDIC reduced, 1936/2365.
Hampton County, 1935/383.

§ 2818. Deposit of public funds, Kershaw County.

See this section in 1934 Supplement.

§ 2818-1. Deposit of Lancaster County funds.

See this section in 1934 Supplement.

§ 2820. Treasurer of Lexington County obtain security for deposits.

This section amended by 1935/42.

§ 2822. Deposit of public funds in Newberry County.

See this section in 1934 Supplement.

§ 2823. Oconee County treasurer requires security for deposit of county funds.—Repealed by Acts of 1933, page 583.**§ 2824. Security required for deposits of Pickens County funds.**

See this section in 1934 Supplement.

§ 2825. Treasurer of Richland County must obtain security for deposit.

See this section in 1934 Supplement.

§ 2825-2. Security required for deposits of Spartanburg County.

1933/386 providing for deposit of public funds in Spartanburg County repealed by 1935/348.

§ 2826. Investments by county treasurer of Sumter County.

See this section in 1934 Supplement.

§ 2827. Deposit of public funds in Williamsburg County.—Repealed by 1934 Acts, page 1559.

Bank receiving deposits from county contrary to this statute acquire no title thereto and as to these funds, the relationship of debtor and creditor do not exist and the bank should hold these funds for the benefit of the county, separate and apart from its assets. *Cook v. Elliott*, 73 F. (2nd), 916.

§ 2829. Annual report to court of general sessions—exceptions.

See this section in 1934 Supplement.

§ 2830. Delinquent taxes—penalty—execution.—When the taxes and assessments or any portion thereof charged against any property or party on the duplicate for the current fiscal year, shall not be paid on or before the 31st day of December, the county auditor shall proceed to add a penalty of one per cent, on the county duplicate, and the county treasurer shall collect the same; and if the said taxes and assessments and penalties are not paid on or before the first day of February next thereafter, an additional penalty of one per centum thereon shall be added by the county auditor on the county duplicate and collected by the county treasurer; and if the said taxes, penalties and assessments are not paid on or before the first day of March next thereafter, an additional penalty of one per centum thereon shall be added by the county auditor on the county duplicate and collected by the county treasurer; and if the said taxes, penalties and assessments are not paid on or before the first day of April next thereafter, an addition penalty of four per centum thereon shall be added by the county auditor on the county duplicate and collected by the county treasurer, and if the said taxes, penalties and assessments are not paid on or before the fifteenth day of April next thereafter, the said county treasurer shall issue his tax execution for the said taxes, assessments and penalties against the property of the defaulting taxpayer, according to law. 1936 (39) 1389.

Penalties on delinquent taxes were changed by 1936/1389.

§ 2831. Mortgagee may pay tax and include same in mortgage debt.

Where second mortgagee paid taxes on mortgaged property pending his foreclosure suit in which he did not join first mortgagee and did not assert his right to lien for taxes so paid and decree made no allowance therefor, second mortgagee not entitled to payment of such taxes from proceeds of sale of same land in first

mortgagee's subsequent foreclosure suit. First Carolinas Joint Stock Land Bank of Columbia v. McNeil, 177 S. C., 332; 181 S. E., 21.

Cross reference.—See § 8712-3 hereof for priority of advancements made under real estate mortgages for taxes, public assessments, insurance premiums and repairs.

§ 2843-1. Charge off losses of public funds in any county office on consent of comptroller general.

See this section in 1934 Supplement.

§ 2853. Treasurer issues execution to sheriff—form of.

See this section in 1934 Supplement.

§ 2854. Fees and charges allowed—treasurer—sheriff.—The treasurer for every such warrant issued shall have from such defaulter one (\$1.00) dollar; and the sheriff shall take from such defaulter the following fees in the execution of his office; to-wit, for serving each warrant, one (\$1.00) dollar, besides mileage at the rate of five (5c) cents for each mile actually traveled in executing the warrant; for advertising sale twenty-five (25c) cents; for making sale and executing deed of conveyance, and putting purchaser in possession, three (\$3.00) dollars; and for all sums levied as aforesaid, five (5%) per cent, and the sheriff is prohibited from demanding or collecting any greater sum therefor than is hereby allowed; and neither the sheriff nor county treasurer shall receive fees upon *nulla bona* returns: *Provided*, that the treasurer of Marion County shall not receive from salary, fees or other compensation any amount above twenty-four hundred (\$2,400.00) dollars annually, and that all fees, costs and salary in excess of twenty-four hundred (\$2,400.00) dollars per year shall be returned into the general fund of the county: *Provided*, that the treasurer for Williamsburg County for every such warrant issued shall take from such defaulter fifty (50c) cents; and the sheriff of Williamsburg County shall take from such defaulter the following fees in the execution of his office, to-wit, for serving each warrant, fifty (50c) cents, besides mileage at the rate of five (5c) cents for each mile actually traveled in executing the warrant; for advertising sale twenty-

five (25c) cents, for making sale, executing deed of conveyance and putting purchaser in possession, three (\$3.00) dollars: *Provided* that if the defaulting taxpayer redeems the property sold within the period allowed by law for same, and no deed of conveyance or putting purchaser in possession is necessary, then the sheriff shall return to the purchaser two (\$2.00) dollars and not charge same against the party redeeming. The sheriff is prohibited from demanding or collecting any greater sum therefor than is hereby allowed, and should the sheriff, or his deputies, or anyone acting as agent of the sheriff, collect any greater sum from any delinquent taxpayer than is herein provided, the bond of the sheriff shall be liable therefor, and any aggrieved taxpayer by his proper action in the court of common pleas for Williamsburg County may recover of the sheriff and against his bond a penalty of two hundred (\$200.00) dollars. Neither the sheriff nor county treasurer shall receive fees upon *nulla bona* returns: *Provided*, that in Clarendon County all of the fees and charges provided in this section and collected by said officers shall be paid by them to the county treasurer for credit to the ordinary funds of said county monthly and in such manner as may now or hereafter be provided by law except the mileage provided for the sheriff in cases when such mileage is earned and collected by him he shall also retain as his compensation fifty (50c) cents of the fee of one (\$1.00) dollar collected for serving the warrant: *Provided* that beginning July 1, 1931 the treasurer of Dillon County for every such warrant or tax execution issued shall be allowed only fifty (50c) cents as his fee. *Provided*, that the treasurer of Beaufort County for every such warrant or execution issued shall have from such defaulter the sum of one (\$1.00) dollar; and the sheriff shall be entitled to collect in such default the following fees for his services in the performance of his duties in the collection of delinquent taxes, that is to say, for serving each warrant or execution, one (\$1.00) dollar, besides mileage at the rate of five (5c) cents per mile for every mile actually traveled in executing the warrant, not to exceed, however, twenty-five (25) miles when real estate is seized; for advertising sale twenty-five (25c) cents; for making sale one (\$1.00) dollar; for executing deed of conveyance for putting purchaser in possession two (\$2.00) dollars; and a commission of five (5%) per cent on the amount of delinquent taxes collected. That the sheriff shall be allowed only the five (5%) per cent commission above provided for, and the other fees above provided for shall be charged against and collected from the taxpayer only when the services for which they were charged are actually performed. That neither the sheriff nor county treasurer shall receive fees upon *nulla bona* returns; nor shall the sheriff or county treasurer receive fees on those properties sold to the county forfeited land commission, except however, the sheriff shall be entitled to a fee of fifty (50c) cents for serving each warrant or execution, and the amount of one (\$1.00) dollar for executing the deed of conveyance and putting the forfeit land commission in possession. 1935 (39) 398.

Present section 2854 comes from 1935/398. The said act made no mention of 1934/1284, (which provided the fee for making sale and executing deed, and putting purchaser in possession, Clarendon County); 1934/1598 (which provided the fees of sheriff and treasurer for collecting delinquent taxes, Chesterfield County); and 1933/327 (which provided the fees and charges for collecting delinquent taxes, Richland County). See section 2854, 1934 Supplement.

For fees and commissions of sheriff and treasurer of Edgefield County, see 1933/78; disposition of execution fees collected by treasurer of Cherokee County, see 1933/398; tax execution fees payable to sheriff and treasurer of Newberry County eliminated see 1933/158 and § 4684-1. See 1934/1474, § 4365, for mileage on tax executions, Florence County.

“Levy” defined.—Plaxico v. Webster, 175 S. C., 69; 178 S. E., 270.

§ 2855. Seizure, advertisement and sale under execution for delinquent taxes—redemption—execution of title.—* * * *Provided*, that in Beaufort County when the sheriff seizes real estate he shall post a notice at one or more conspicuous places on the premises reading: "Seized by sheriff for delinquent taxes", and the posting of said notice or notices shall be equivalent to the taking of exclusive possession thereof. The sheriff shall keep a record of the date of the seizure of all real estate seized under this section. 1935 (39) 398.

The above proviso added by 1935/398.

See notes to § 2859.

Sale of real estate for taxes does not operate as a final and irrevocable divestiture of the title of the owner. The

mere sale itself does not operate at once to transfer title to the purchaser. 26 R. C. L., 427; 61 C. J., 1291. Crook v. Hartford Fire Ins. Co., 175 S. C., 42; 178 S. E., 254.

§ 2855-1. Collection and payment of recording fees on transfers of real estate sold for delinquent taxes.

See this section in 1934 Supplement.

§ 2855-2. Levy and sale of personal property for taxes.

See this section in 1934 Supplement.

§ 2857. Purchase by auditor for sinking fund commission—how titles to be made, etc.

See this section in 1934 Supplement.

§ 2859. Sheriff's deed prima facie evidence of good title.

Two years' statute of limitations does not run against infants having interest in land sold at tax sale. Glymph v. Smith, S. C.,; 185 S. E., 911.

Smith, S. C.,; 185 S. E., 911.

Where sheriff did not take possession of land sold at tax sale before sale, and purchaser at sale had never had possession, claim of former owners who had remained in possession at all times not barred by two years' statute of limitations. Glymph v.

Mere statement by deputy sheriff he would have to make levy on land, in absence of exhibition of tax execution and notification to owner he had taken possession of land, insufficient to constitute taking possession, and hence tax sale of such property and deed to purchaser were invalid. Glymph v. Smith, S. C.,; 185 S. E., 911.

§ 2861. Duties of sheriffs as to tax executions.

See this section in 1934 Supplement.

§ 2865-3. Tax collector, Allendale County.

1936/1450 provides for tax collector for Allendale County.

§ 2866. Tax collector, Anderson County.

1935/51 and 1936/1530 should be consulted for provisions providing for tax

collector, etc., for Anderson County. See section 2861, 1934 Supplement, also.

§ 2867. Tax collector, Calhoun County.

See this section in 1934 Supplement.

§ 2868. Tax collector, Cherokee County.

See this section in 1934 Supplement.

Person recommended hereunder for appointment as tax collector not entitled to appointment, where he had no registration certificate and so was not a qualified elector. Blalock v. Johnston, S. C.,; 185 S. E., 51.

that the land (or personal property) is liable to a specific lien," the lien for taxes due to the state and county. Gassaway v. Hall, 3 Hill (21 S. C. L.), 289; 36 C. J., 1032, 25 Cyc., 206. Plaxico v. Webster, Tax Collector, 175 S. C., 69; 178 S. E., 270.

Tax collector does not have to actually make a sale of property, execute a deed of conveyance, and put the purchaser into possession before he would be entitled to commissions on delinquent taxes and penalties collected by him. The word "levy" means "a specific declaration by the sheriff

Appointment of Cherokee county tax collector by Governor upon recommendation of Cherokee County legislative delegation placed upon Governor purely "ministerial" duty. Blalock v. Johnston, S. C.,; 185 S. E., 51.

§ 2869. Enforcement of the collection of delinquent taxes, Chester County.

See this section in 1934 Supplement.

§ 2871. Tax collectors in Darlington County.

1935/30, 103, provide for tax collector, Darlington County. Said acts repealed. 1934/1265, 1231.

County treasurer holds executions until November 1; then tax collector to proceed to levy and sell for taxes, 1934/1208.

§ 2871-1. Tax collector, Dillon County.

See this section in 1934 Supplement.

§ 2872. Tax collector, Edgefield County.—Repealed by 1933 Acts, page 78.**§ 2873. Tax commissioner, Fairfield County.**

1935/239 provides for tax commissioner, Tax collector agent for forfeited land
Fairfield County. commission, 1935/239.

§ 2874. Tax collector, Florence County.

See this section in 1934 Supplement.

§ 2876. Delinquent tax collector, Greenville County.

See this section in 1934 Supplement.

§ 2876-1. Tax collector, Greenwood County.

1935/158 provides for tax collector, Greenwood County.

§ 2878. Tax collector, McCormick County.

§ 2878, 1932 Code, superseded by 1932/1932/1404, provides for assessment and
1136. The said 1932 act and 1935/157 should collection of back taxes.
be consulted for the law relating to the tax For bond of tax collector see § 4644-1.
collector of McCormick County. Disposition of fines collected for non-
Persons seeking office of tax collector in payment of road and poll taxes, 1935/91.
primary disqualified, 1934/1358.

Persons seeking office of tax collector in primary disqualified, 1934/1358.

§ 2880. Tax collector, Marlboro County, and Saluda County.

See this section in 1934 Supplement.

§ 2880-1. Tax collector, Newberry County.

See this section in 1934 Supplement.

§ 2880-3. Tax collector, Orangeburg County.

The office of tax collector for Orange- devolved on the collector of delinquent
burg County created by 1932/1539; how- taxes by the said 1933 act. 1932/1539 and
ever the said office was abolished by 1933/ 1936/1642 should therefore be consulted
561, and the duties and powers thereof together with the said 1933 act.

§ 2881-1. Tax collector, Richland County.

See this section in 1934 Supplement.

§ 2882. Tax collector, Spartanburg County.

See this section in 1934 Supplement.

§ 2883-1. Tax collector, Sumter County.

1933/160 and 1935/393 provide for tax 1936/1446 authorizes county board of
collector and collection of delinquent taxes. commissioners *nulla bona* tax executions.

§ 2883-3. Collection of delinquent taxes, Williamsburg County.

1935/161 provides for collection of tax executions, etc.

§ 2883-4. Tax collector, York County.

See this section in 1934 Supplement.

§ 2891. Authority of Governor to order out militia.

Governor declaring state of insurrection duty as relates to the causes enumerated
and calling out militia.—See § 1390 and in the statute, in relation to which the
notes thereto. Governor is given power to call out the

The phrase "cause them to perform such militia. *Hearon v. Calus*, 178 S. C., 381;
duty as he shall deem proper" means such 183 S. E., 13.

§ 2896. Proclamation of state of insurrection.

Governor declaring state of insurrection notes thereto.
and calling out militia.—See § 1390 and

§ 2966-1. Adjutant general receive conveyances of real estate to be used as sites for national guard armories.—The adjutant general of this state is hereby authorized and empowered to receive on behalf of the state of South Carolina conveyances of sites of real property suitable for the erection of national guard armories, *Provided, however*, that in accepting all such conveyances on behalf of the state of South Carolina the state shall incur no liability for purchase of said real estate. 1936 (39) 1319.

§ 2967. State service bureau.

See this section in 1934 Supplement.

§ 2971. **Service officer for Pickens County.**—*Repealed by 1933 Acts, page 9.*

§ 3041. **When county liable for damages for lynching.**

A county is liable in damages to personal representatives of a person lynched within its borders by a mob, whether such person

be at the time a prisoner or not. *Green v. Greenville County*, 176 S. C., 433; 180 S. E., 471.

§ 3045. **Form of bond to be given by all public officers.**

Official bond of probate judge is not liable for deposits of funds made to probate judge by executors, administrators, or

guardians. *In Re Wells et al. Snyder et al. v. Scott et al.*, 174 S. C., 403; 177 S. E., 665.

§ 3061. **Bonds required of peace officers discharging duties in Chester and Union Counties.**

For bond of Union County rural policemen, deputy sheriffs and constables see § 4873-1.

§ 3063. **Bonds for certain Pickens County officials.**

See this section in 1934 Supplement.

§ 3079. **State electrician and engineer.**

See this section in 1934 Supplement.

§ 3079-1. **Purchase of materials and supplies by state institutions.**—(1)

OBTAIN BIDS—WHEN SECTION NOT APPLY.—The president, superintendent or managers of each and every state institution are hereby required to purchase all materials, furnishings and supplies after obtaining three competitive bids from within the state, where practical, or after advertisement once in a newspaper of general circulation in the state, at least one week prior to the purchase of such articles: *Provided*, where the material or supplies desired to be purchased is less than two hundred (\$200.00) dollars, then the provisions of this section shall not apply.

(2) GIVE PREFERENCE TO RESIDENTS.—In the purchase of materials, furnishings and supplies as provided hereinabove, preference shall be given to persons, firms and corporations including commodities produced by the penitentiary residing in and having a place of business in this state, and said purchases to be made from such persons, firms or corporations who are regularly engaged in the sale of the goods or supplies sought to be purchased; *Provided* that the resident person, firm or corporation shall meet non-resident or foreign bids both as to price and as to quality of goods sold.

(3) DEFINITIONS.—A resident person, firm or corporation as mentioned in this section shall be construed to mean a person, firm or corporation who has been regularly engaged in business and has had a place of business within this state for a period of one year prior to the time of filing bids under the provisions of this section. The term "state institution" as used in this section shall be construed to mean all educational institutions and all penal and charitable institutions which are supported either wholly or in part by the state of South Carolina.

(4) GOODS PURCHASED IN VIOLATION HEREOF.—Any goods purchased in violation of the provisions of this section shall not be a debt against the state of South Carolina. 1935 (39) 302.

This section added by 1935/302.

§ 3079-2. **State institutions purchase sprinkler systems and other fire prevention devices.**—The board of trustees or other governing board of any state institution, the state insurance commissioner and the secretary of the South Carolina sinking fund commission are hereby authorized and empowered to make, execute and enter into contract or contracts with any sprinkler companies, or other companies selling and installing fire prevention measures which have been duly approved by the southeastern underwriters association, or other

authorized fire insurance associations wherein and whereby savings will be affected to the state of South Carolina, by a reduction in the insurance rate by reason of the installation of said sprinkler systems or other fire prevention devices: *Provided, however*, that the said contract or contracts, when made, shall provide that the payment for such sprinkler systems or other fire prevention devices will be made from the savings in the insurance premiums affected thereby, so that the state of South Carolina will not be called upon to appropriate any additional funds in payment of same. The said board of trustees, or other governing body of any state institution, the state insurance commissioner and the secretary of the South Carolina sinking fund commission are hereby fully empowered and authorized to negotiate through the proper channels with the public works administration, or the sinking fund commission, for the purchase outright for such sprinkler equipment, or other fire prevention device, provided that the same be paid for out of the savings in the reduction of the insurance rates. 1935 (39) 379.

This section added by 1935/379.

relating to sprinkler systems.

See § 2195 hereof for other provisions

§ 3079-7. Use on public works and in conduct of public business equipment, materials and supplies of classes produced in this state—when.—It shall be the established policy of all departments of the state government and of all governing officials of the counties, municipalities and other sub-divisions of the state, in the conduct of the public business entrusted to their care, and involving purchase of property for the public account, to show such preference for equipment, materials and supplies produced or manufactured within the state as may be consistent with the needs, the governing law, and the economic advantage of free competition in each case. In general, the policy thus established shall be applied by the adoption and publication of specifications governing any particular purchase, or contract that involves purchase, designed to limit, as far as may appear practicable to the purchasing or contracting authority, the equipment, materials or supplies to such acceptable classes as are produced or manufactured within the state and as are customarily used for the purpose or purposes in contemplation, but not to bar from competition the same classes of equipment, materials or supplies produced or manufactured elsewhere: *Provided, however*, that the application of this policy shall not serve to prevent the purchase for the public account, directly or through contractors, of any equipment, materials or supplies produced or manufactured without the state whenever, in the judgment of the responsible official authority concerned, such purchase is necessary to produce the desired results economically, to conform with controlling law or is otherwise demonstrably in the public interest; nor shall it serve to limit in any way cooperative undertakings between the state or sub-divisions thereof and the federal government. *Provided, further*, that the said purchasing or contracting authority shall permit any interested party, resident or non-resident, to appear and to be heard, upon written application, in advocacy of any preference consistent with this section, or in protest against any such preference that may have been accorded, and that a record shall be kept of all such applications and appearances. 1935 (39) 423.

This section added by 1935/423.

§ 3081. Use by state institutions and individuals of electric power controlled by state.—(1) RATES.—Any electric power owned or hereafter to be owned by the state of South Carolina, or under its control, shall be furnished at two cents (2c) per kilowatt to all state institutions within a radius of ten miles of the state capitol: *Provided*, that the state institutions herein referred

to shall not, and do not include any residence, apartment house, dwelling or other state building used by individuals who are in the employ of the state or any of its institutions, for their own use: *Provided, further*, that any such residence, apartment house, dwelling or other state building used by individuals (other than the governor's mansion), who are in the employ of the state or any of its institutions, for their own use, shall be furnished power by the state electrician, who shall keep up and maintain all such secondary lines to each meter and shall receive and collect from the consumers for such power four (4) cents per kilowatt hour: *Provided, further*, that where buildings in which current is used for cooking purposes are not available to Broad River power company lines the rates shall then be three (3c) cents per kilowatt hour. 1935 (39) 168; 1936 (39) 1779.

Subsection 1 of this section amended by flat rate of four (4c) cents per kilowatt 1935/168, 1936/1779. The said act fixed a for current; and added last proviso.

§ 3081-1. Fiscal year July 1 to June 30.

See this section in 1934 Supplement.

§ 3093. Officers appointed by Governor by and with advice and consent of Senate.

See this section in 1934 Supplement.

§ 3094. Officers—Governor appoint.

See this section in 1934 Supplement.

§ 3096. Governor may appoint special deputies, constables, etc.

Failure of officer clad in uniform of highway patrolman to advise defendants that he was also state constable did not justify homicide in resisting arrest. State v.

Luster, 178 S. C., 199; 182 S. E., 427.

State highway patrolman acting as state constable.—See notes under § 6004.

§ 3098. Governor may remove certain officers.

State highway commissioners charged by Governor with declining to vacate their offices at Governor's order held entitled to have question thus made by Governor decided by courts, and hence Governor's attempting to substitute other commissioners,

and calling out militia and proclaiming existence of insurrection in connection with highway department was unauthorized and violated due process clauses of State and Federal Constitutions. Hearon v. Calus, 178 S. C., 381; 183 S. E., 13.

§ 3099. Governor may suspend sentence or parole prisoner.

See sections 972-1, 972-2, and 972-3 for power of recorders in certain cities to suspend sentences.

See section 1039-1 for time suspended sentence run.

§ 3115. May file information against persons who intrude on property of state.

Attorney general proper party institute action in Supreme Court enjoin truck owners from prosecuting 13 separate actions in courts of common pleas for injunctions against enforcement of act reg-

ulating trucks, enjoin truck owners from operating trucks in violation of act and for adjudication that act was valid. State v. John P. Nutt Co., _____ S. C., _____; 185 S. E., 25.

§ 3125. Solicitors—vacancies.—In case any circuit solicitor shall cease to reside in his circuit, his office shall become vacant. In case any vacancy shall occur in such office by death, resignation or otherwise, the vacancy thereby created shall be filled by the Governor, by and with the advice and consent of the Senate. The judge residing in the circuit of the solicitor, whose office shall thus become vacant, shall certify such vacancy to the Governor. 1936 (39) 1456.

The first paragraph in this section, 1932 Code, eliminated by 1936/1456.

§ 3140. All payments by treasurer to be on his warrant, exceptions.

See notes under article 5, section 9, and article 10, section 9, state constitution.

§ 3141. Payments from state treasury.

See notes under article 5, section 9, and article 10, section 9, state constitution.

§ 3189. Payment of appropriations to meet ordinary expenses.

Surplus funds in treasurer's office sufficient to pay circuit judge's salary past due should be applied to judgment thereof. *Grimball v. Beattie*, 174 S. C., 422; 177 S.

E., 668.

See notes under article 5, section 9, and article 10, section 9, state constitution.

§ 3190. Salaries paid monthly.

See notes under article 5, section 9, and article 10, section 9, state constitution.

§ 3212-1. Fund for state treasurer pay insurance and postage on securities in transit.

See this section in 1934 Supplement.

§ 3213. Members—state departments, institutions, etc., furnish estimates.

See this section in 1934 Supplement.

§ 3214. Comptroller general furnish estimate of needs of state.

See this section in 1934 Supplement.

§ 3215. Statements comptroller general furnish.

See this section in 1934 Supplement.

§ 3216. Departments, etc., furnish information.

See this section in 1934 Supplement.

§ 3217. Public hearings.

See this section in 1934 Supplement.

§ 3218. Secure information—make surveys, inspections—issue regulations.

See this section in 1934 Supplement.

§ 3219. Submit budgets and statements to the General Assembly.

See this section in 1934 Supplement.

§ 3220. Meetings of appropriation committees.

See this section in 1934 Supplement.

§ 3222. Employ assistants—duties of tax commission.

See this section in 1934 Supplement.

§ 3222-1. State auditor—appointment—duties and powers.

See this section in 1934 Supplement.

§ 3223. Created.—A state department of agriculture and commerce is created, which shall be charged, as far as possible, with the execution of the work usually devolved upon a bureau of agriculture and a bureau of publicity. 1936 (39) 1615.

By 1936/1615 the department of agriculture, commerce and industries was changed to department of agriculture and commerce. The powers theretofore ad-

ministered by the said department relating to industries was transferred to a department of labor created by the said act. See section 3253-1 *et al.*

§ 3227. Duties.

See section 3253-11 which devolved certain powers and duties herein on the com-

missioner of labor.

§ 3228. Publication of information.

See section 3253-11 which devolved certain powers and duties herein on the com-

missioner of labor.

§ 3230. Other departments to furnish information.

See section 3253-11 which devolved certain powers and duties herein on the com-

missioner of labor.

§ 3235. When answers thereto to be filed.

See this section in 1934 Supplement.

§ 3253-1. Revolving fund for department of agriculture and commerce pay insurance premiums.—The state treasurer is hereby authorized and directed to forthwith set aside the sum of fifty thousand (\$50,000.00) dollars out of the general account to be used by the department of agriculture, commerce and industries for the payment of insurance premiums as they become due. The department of agriculture, commerce and industries is hereby charged

with the proper disbursements of this fund and the collection of such insurance payments, and it shall return to the state treasurer any of said fund used in the payment of insurance premiums at such time and in such amount as in its discretion the circumstances warrant, and that the said fund so returned shall remain in the said revolving fund. 1933 (38) 236; 1934 (38) 2261.

See this section in 1934 Supplement. 2262.

This section added by 1933/236; 1934/

ARTICLE 8A—DEPARTMENT OF LABOR

§ 3253-11. Created—commissioner of labor—certain duties and powers.—

A department of labor is hereby created and established under the supervision and direction of a commissioner to be known as the commissioner of labor. He shall have charge of the administration of the department of labor and the enforcement of all rules and regulations which it is the duty of the department to administer and enforce, and shall direct all inspections and investigations except as otherwise provided. On and after May 30, 1936, there shall be transferred to the commissioner of labor so much of the powers and duties vested in the commissioner of agriculture, commerce and industry pursuant to sections 3227, 3228 and 3230, as relate to labor and industrial conditions; and in accordance therewith, said commissioner shall have the powers heretofore granted to the commissioner of agriculture, commerce and industry, pursuant to section 3230, to enter manufacturing establishments, providing he shall do so in an orderly manner. 1936 (39) 1615.

§§ 3251-11 thru 3251-16 added, 1936/1615.

§ 3253-12. Commissioner — appointment — term — salary — vacancy.—

The Governor, by and with the advice and consent of the Senate, shall appoint the commissioner of labor from three persons whose names shall be submitted to him by the South Carolina federation of labor. The term of office of the commissioner of labor shall be for two years and until his successor is appointed and qualified. His salary is hereby fixed at thirty-two hundred (\$3,200.00) dollars per year. Any vacancy by death or resignation in the office shall be filled by appointment of the Governor until the session of the General Assembly next ensuing. 1936 (39) 1615.

§ 3253-13. Further duties and powers of commissioner.—In addition to the other powers and duties conferred upon the commissioner of labor by this article, the said commissioner shall have authority and be charged with the duty:

(1) EMPLOYEES.—To appoint and assign to duty such clerks, stenographers, and other employees in the various divisions of the department, with approval of said director of division, as may be necessary to perform the work of the department, and fix their compensation, subject to the approval of the General Assembly or such other agency of government as may be designated by the General Assembly. The commissioner of labor may assign or transfer employees from one division to another, or may combine the clerical and inspection forces of two or more divisions, as he may consider necessary and advisable.

(2) REGULATE WORK OF DEPARTMENT.—To make such rules and regulations with reference to the work of the department and of the several divisions thereof as shall be necessary to properly carry out the duties imposed upon the said commissioner and the work of the department.

(3) WITNESSES—INTERROGATE EMPLOYEES AND EMPLOYERS.—The commissioner of labor shall have the power to subpoena witnesses, to take and preserve testimony, examine witnesses, administer oaths, and under proper restriction

enter any public institution of the state, any factory, store, workshop, laundry, public eating-house, or mine, and interrogate any person employed therein or connected therewith, or the proper officers of a corporation, or file a written or printed list of interrogatories and require full and complete answers to the same, to be returned, under oath, within thirty (30) days of the receipt of said list of questions.

(4) **INSPECT FACTORIES, MERCANTILE ESTABLISHMENTS, ETC.—INSPECTORS.**—He shall secure the enforcement of all laws relating to the inspection of factories, mercantile establishments, mills, workshops, public eating-places, and commercial institutions in the state and to aid in the work shall have power to appoint factory inspectors and other assistants. The duties of such inspectors and other assistants shall be prescribed by the commissioner of labor. The commissioner of labor, his assistants and factory inspectors shall visit and inspect at reasonable hours, as often as practicable, the factories, mercantile establishment, mills, workshops, public eating-places, and commercial institutions in the state, where goods, wares, or merchandise are manufactured, purchased, or sold, at wholesale or retail.

(5) **ENFORCEMENT.**—It shall be the duty of the commissioner of labor to enforce the provisions of this section, and to prosecute all violations of law relating to the inspection of factories, mercantile establishments, mills, workshops, public eating-places, and commercial institutions in this state before any justice of the peace or court of competent jurisdiction.

(6) **CERTAIN EMPLOYERS POST CERTAIN LABOR LAWS.**—It shall be the duty of every employer to keep posted in a conspicuous place in every room where five or more persons are employed printed notice stating the provisions of the law relative to the employment of adult persons and children and the regulation of hours and working conditions. The commissioner of labor shall furnish the printed form of such notice upon request.

(7) **SOLICITORS PROSECUTE VIOLATIONS.**—It shall be the duty of the solicitor of the circuit or the prosecuting attorney of the city or county court, upon the request of the commissioner of labor, or any of his assistants or deputies, to prosecute any violation of law, which is made the duty of the said commissioner of labor to enforce. 1936 (39) 1615.

§ 3253-14. Commissioner report.—The said commissioner of labor shall collect, assort, systematize and present in an annual report to the Governor and to the General Assembly such statistical details heretofore collected by the commissioner of agriculture, commerce and industry, pursuant to South Carolina Code of Laws of 1932, section 3233, sub-sections 2, 3, 4, 5, 6, 7 and 9 as are within the purposes of § 3253-11 thru § 3253-16, together with such other matters as he may deem advisable or for the public welfare. 1936 (39) 1615.

§ 3253-15. Appropriation.—The department of labor shall be supported by an appropriation to be made annually by the General Assembly. 1936 (39) 1615.

§ 3253-16. Exemptions.—The provisions of § 3253-11 thru § 3253-16 shall not apply to the timber, lumber and turpentine industries, and to farming. 1936 (39) 1615.

§ 3272. Duties.

See this section in 1934 Supplement.

§ 3274. Analysis of food products of state.

See this section in 1934 Supplement.

§ 3275. Organization—assistants—issue bulletin, etc.

See this section in 1934 Supplement.

§ 3276. Powers for making analysis of food products.

See this section in 1934 Supplement.

§ 3280. State forester.

Forest fire control: Aiken County, 1935/497; Allendale County, 1935/295; Barnwell County, 1935/256; Dillon County, 1935/270; Fairfield County, 1934/1611; George-town County 1935/229; Kershaw County, 1935/186, 434; Richland County, 1935/359; Sumter County, 1934/1455; Williamsburg County, 1935/344.

§ 3284-1. Acquire real estate to promote reforestation and provide for unemployed.

See this section in 1934 Supplement.

§ 3284-2. Control and maintain state parks.

See this section in 1934 Supplement.

§ 3284-3. Acquire lands for state forests or parks.—(1) AUTHORIZED.—The state commission of forestry is hereby authorized to accept gifts, donations and contributions of land suitable for forestry or park purposes and to enter into agreements with the federal government or other agencies for acquiring by lease, purchase or otherwise such lands as in the judgement of the state commission of forestry are desirable for state forests or state parks.

(2) USE UNOBLIGATED FUNDS TO DEVELOP LANDS—SELL PRODUCTS FROM LANDS—MAKE RULES AND REGULATIONS.—When lands are acquired or leased under subsection 1 hereof, the state commission of forestry is hereby authorized to make expenditures from any funds not otherwise obligated for the management, development and utilization of such areas, and to sell or otherwise dispose of products from such lands, and to make such rules and regulations as may be necessary to carry out the purposes of this section.

(3) USE OF REVENUES.—The revenues derived from the lands now owned or later acquired by the commission shall be segregated by the state treasurer for the use of the commission in the acquisition, management and development and use of such lands until all obligations incurred have been paid in full. Fifty per cent of all net profits accruing from the administration of such lands shall be applicable for such purposes as the General Assembly may prescribe, and fifty per cent shall be paid into the school fund of the county in which lands are located.

(4) PAYMENT OF OBLIGATIONS.—Obligations for the acquisition of land incurred by the state commission of forestry under the authority of this section shall be paid solely and exclusively from revenues derived from such lands and shall not impose any liability upon the general credit and taxing power of the state.

(5) SELL, EXCHANGE OR LEASE LANDS.—The state commission of forestry shall have full power and authority to sell, exchange or lease lands under its jurisdiction when in its judgment it is advantageous to the state to do so in the highest orderly development and management of state forests and state parks: *Provided, however,* said sale or lease or exchange shall not be contrary to the terms of any contract which it has entered into. 1935 (39) 150, 1214.

This section added by 1935/150, 1214.

§ 3286. Game wardens—appointment—election.—* * * (1) *Provided, further,* that the game warden for Bamberg and Pickens Counties shall be nominated in the primary election, and it is made the duty of the legislative delegation from Bamberg and Pickens Counties, respectively, to recommend to the Governor for appointment the person so nominated. (2) *Provided,* that any game warden in the county of Charleston may be removed upon the written

request of the Senator and a majority of the members of the Charleston Delegation in the House of Representatives. 1934 (38) 1210; 1935 (39) 378.

Proviso 1 added by 1934/1210. Proviso 2, 1935/378.

Appointment and/or election of game wardens: Abbeville County, 1935/26; Aiken County, 1933/329, 1935/209; Cherokee County, 1935/101; Dillon County, 1933/259; Chesterfield County, 1932/1550; Fairfield County, 1932/1318; Kershaw County, 1934/

1244, 1935/225, 1936/1585; Lancaster County, 1935/41; Laurens County, 1933/248; Lexington County, 1932/1550; Marion County, 1935/238.

Fish and game clubs: Cherokee County, 1935/101; 1936/1311.

Game funds, expenditure: Cherokee County, 1935/382.

§ 3294-1. Chief game warden may acquire land to establish fish hatcheries.

See this section in 1934 Supplement.

§ 3295-1. State game and fish commission.—(1) **APPOINTMENT.**—There is hereby created a state game and fish commission to be appointed by the Governor, by and with the advice and consent of the Senate and the House of Representatives which shall be composed of six members, one from each of the present six congressional districts of the state.

(2) **TERMS—VACANCY—PAY—MEETINGS—REMOVAL.**—In making the appointments, two members shall be appointed for one year, two for two years, and two for three years, unless sooner removed. And thereafter, as all such terms expire, their successors shall be appointed for three years. All vacancies on said commission shall be filled through appointment for the unexpired term by the Governor. Four members of said commission shall constitute a quorum, and shall have full power to transact any and all business of the said commission. The commission shall meet at the state capitol within two weeks after their appointment and shall select from among their members a chairman and a secretary. Meetings of the commission shall be held at least quarterly at such place or places as the commission itself shall determine. The commissioners shall receive no salary, but they shall be entitled to receive the per diem allowed other state boards and commissioners by the annual appropriation act, for the time spent in the performance of their official duties, and their mileage for travel as also fixed in the appropriation act: *Provided, however,* said payments shall not exceed one hundred (\$100.00) dollars to any member in one year, and shall be paid from the state game fund. The Governor may remove a commissioner for malfeasance or misconduct in office, giving him a copy of the charges against him and an opportunity of being publicly heard in person or by counsel in his own defense upon not less than ten days' notice.

(3) **DUTIES.**—The commission shall continuously investigate the game and fish conditions of the state and the laws relating thereto and counsel with and advise the chief game warden particularly as to the enforcement of the laws looking to the conservation, protection and replenishment of game and fish; and shall annually make report of their activities to the General Assembly, as a part of the annual report of the chief game warden, and recommend legislation and other action by the General Assembly in its judgement conducive to the conservation of wild life.

(4) **CHIEF GAME WARDEN CO-OPERATE.**—The chief game warden shall cooperate with the commission, meet with it upon request and furnish it with clerical and other assistance that may be reasonably required.

(5) **CUMULATIVE.**—This section is hereby declared to be supplementary to existing legislation for the protection and conservation of the wild life resources of the state, but shall supersede any provisions of such legislation inconsistent herewith. 1935 (39) 478.

This section added by 1935/478.

§ 3299. **Definitions.**—Sections 3299 to 3414 shall be known and referred to as the coastal fisheries law. Whenever used in said sections; (a) The term ‘person’ shall include firms and corporations as well as individuals; *except as otherwise provided herein.*

(b) The term ‘fish’ shall include shrimps, terrapin, shellfish, turtles and porpoises.

(c) The term ‘shellfish’ shall include oysters, clams, mussels and escallops and all immobile fish having shells.

(d) The term ‘crustacean’ shall include crabs, shrimp, crayfish, stone crabs, and any other mobile fish having a shell.

(e) The term ‘bottoms’ shall include all of the tide lands of South Carolina covered by water when at the stage of ordinary high tide.

(f) The words ‘fishing’ and ‘fisheries’ shall be construed to mean all operations involved in taking or catching fish and in preparing them for transporting them to market. 1936 (39) 1644.

3414 substituted for 3412 line one; words subdivision (f) of this section, 1932 Code in italics in subdivision (a) added and eliminated, 1936/1644.

§ 3302. **Natural beds.**—*Repealed by 1936 Acts, page 1644.*

§ 3303. **Vested rights.**—This article shall not interfere with any rights to oyster beds acquired under provisions or existing laws by the owners thereof until the present leases have expired, except as herein provided. 1936 (39) 1644.

§ 3307. **Office of board—meetings.**—It shall be the duty of the state board of fisheries to establish an office in some convenient place, namely a city or town in one of the counties bordering the coast of the state, and to hold meetings once each month at the said office and at such other times and places as to them may seem advisable on the call of the chairman or a majority of the board. 1936 (39) 1644.

§ 3319. **Assistant and deputy inspectors.**—*Repealed by 1936 Acts, page 1644.*

§ 3320. **Bond and oath of secretary.**—Before the secretary of the board is vested with any authority or duties such secretary shall take and subscribe to the oath of office in the manner and upon the same conditions as provided for the chief inspector and shall also furnish an approved surety bond in the amount of \$1,500.00 for the faithful performance of duties of the said offices. 1936 (39) 1644.

§ 3329. **Oyster beds—private ownership or control.**—For the purpose of this article all of the bottoms within the jurisdiction of this state contained between high-water mark and one foot below ordinary low-water mark shall be deemed and considered as oyster beds, *and the board of fisheries may lease all or parts thereof as it may determine,* and no grant, lease or conveyance hereafter made, except it be a special grant by the Legislature, shall be or become effective to convey any private ownership or control of any fishing of fisheries therein. 1936 (39) 1644.

“Natural” omitted before “oyster” line 4; and words in italics added 1936/1644.

§ 3330. **When exclude public from bottoms—oysters gather for private use.**—* * * *Provided, however,* any person may gather oysters from any bottom at any time for his private use in an amount not exceeding two bushels any one day. 1936 (39) 1644.

The above proviso added 1936/1644.

§ 3332. **Lease bottoms—acreage—terms—rate.**—It shall be lawful for the board of fisheries to lease to any person, firm or corporation portions of the bottoms for the purpose of oyster culture not exceeding an aggregate of 1,000

acres to any person, firm or corporation for a term not exceeding five years, which lease shall be renewed at the option of the lessee for an additional term of five years at the rate of rental of \$1.00 per acre per year for the renewal period: *Provided, however*, all existing leases shall at the option of the lessee be renewed for an additional term of five years at the expiration date of the same at an annual rental of \$1.00 per acre per year regardless of the terms therein now provided. 1936 (39) 1644.

§ 3333. **Leases to firms.**—*Repealed by 1936 Acts, page 1644.*

§ 3334. **Lease to corporations.**—*Repealed by 1936 Acts, page 1644.*

§ 3335. **Initial leases.**—*Repealed by 1936 Acts, page 1644.*

§ 3336. **Reservation of leases for initial lessees.**—*Repealed by 1936 Acts, page 1644.*

§ 3337. **Application for leases—deposit—surveys—plats.**—Whenever any person, firm or corporation shall desire a lease of the bottoms for the planting or propagating of shellfish, application shall be made to the board of fisheries upon forms prescribed by it showing the location and boundaries of the area desired and shall deposit with the board of fisheries the sum of ten (\$10.00) dollars as a guarantee of good faith; whereupon it shall become the duty of the chief inspector or district inspector to inspect the area applied for and ascertain by such means as may be best calculated to discover the facts whether such territory or any portion thereof is capable of producing oysters and to make a report to the board of fisheries, whereupon the applicant shall cause a survey of the area or such portion thereof as is reported subject to lease, said survey to be made by a competent surveyor approved by the board of fisheries who shall make a plat thereof in accordance with the approved form of the board of fisheries and such plat shall be filed in triplicate with the board of fisheries before approving the said application. 1936 (39) 1644.

§ 3338. **Notice of application—objections—hearings.**—Upon the filing with it of the application approved by the chief inspector *or district inspector* and the plat of the territory so approved, the board of fisheries shall cause to be published in a newspaper in the county wherein the territory applied for is located and in which legal advertisements by the sheriff are published, a notice to all persons of the application for such bottoms for planting and propagation of oysters, giving the name of the applicant and sufficient description of the bottoms applied for to enable the same to be located, and the day on which the board will pass upon objections to the granting of such lease, which advertisement shall be published once a week for three weeks immediately preceding such date. Should any person appear in person or by attorney or by filing objections in writing on or before such date and object to the granting of the whole or any portion of the bottoms applied for upon any lawful or sufficient ground, then the board may proceed to a hearing thereof as in a case at law under the regular rules of evidence and their decision shall be subject to appeal as in a magistrate's court. 1936 (39) 1644.

Words in italics added 1936/1644.

§ 3339. **Leases—execution—contents.**—Whenever an application for planting ground is granted and all expenses of survey and advertising have been paid by the applicant, to be evidenced by receipted bills therefor, to be filed with the said board, it shall become the duty of the board of fisheries to execute and deliver to the lessee a lease of the territory allowed him on the form of lease approved by the board of fisheries, which form shall be in conformity with the laws governing and regulating the leasing of oyster bottoms; which lease shall

contain a provision for a renewal at the expiration thereof for a similar term thereof upon such rate of rental as may then be of force. 1936 (39) 1644.

§ 3340. **Rentals.**—All leases granted under the authority of this law and now of force and effect shall be upon a rental basis of \$1.00 per acre per year for each year thereafter; *provided, however*, the prevailing rate of rentals in all existing leases shall prevail until the expiration of the present year; but any new leases issued after June 2, 1936, shall provide for the rate of rental hereinabove set forth. 1936 (39) 1644.

§ 3345. **Transfer of leases.**—No leases now in force or which may hereafter be granted shall be transferred without the approval of the board of fisheries endorsed thereon to be effective or to act as a release of the original lessee from the terms of the same. 1936 (39) 1644.

§ 3359. **Leases heritable and transferable.**—Leases of bottoms for oyster cultivation shall be heritable or transferable in whole or in part provided the qualification of the heirs or transferees are such as are above prescribed in this article. 1936 (39) 1644.

All of section 3359, 1932 Code, eliminated this Supplement.
except the above by 1936/1644. See § 3345,

§ 3374. **Scale of fisheries' tax.**

See this section in 1934 Supplement.

§ 3375. **License tax on boats.**

Paint registration numbers on boats licensed to trawl for shrimp, 1936/1385.
See § 3414-2.

pack and stamp shrimp before shipping or transporting shrimp out of state, 1936/1412. See § 3414.

Licensed shrimp trawlers unload and

§ 3378. **License take, can, pack, or ship shellfish—application—revoke.**—Any person desiring to obtain a license for the taking, canning, packing or shipping of shellfish within this state for market shall take and subscribe to an oath according to the form provided by the board of fisheries, showing his name, age, color, citizenship, residence, *place of business*, kind of license applied for and waters in which he proposes to take shellfish; and upon the same being approved in writing by endorsement thereon by the chairman of the board of fisheries *or the chief inspector, he may deliver the same to any county treasurer to deliver to him a license accordingly. Provided, that the board is hereby specifically directed to revoke any license so issued when the party to whom such license is issued changes his place of business or handles his business from a place other than that set forth in his application and license without the written consent of the chief inspector.* 1936 (39) 1534.

Words in italics added by 1936/1534.

§ 3380. **License to fish for market—issuance—revoke.**—Each person desiring to fish for market, shall, before engaging therein, file with the board of fisheries or the chief inspector, an application for license, showing the number and kind of seines or other apparatus he proposes to use, duly verified by oath, and showing his name, age, color, residence, *place of business*, and the waters wherein he proposes to fish, and upon the approval of the board of fisheries or the chief inspector being endorsed thereon together with the amount of such license as may be required therefor he may, upon payment thereof to any county treasurer, receive the license. The amount of such license shall be a sum equal to the fee or tax prescribed for the different kinds and amounts of apparatus shown upon the application therefor, except where otherwise provided herein. *Provided, that the board is hereby specifically directed to revoke any license so issued when the party to whom such license is issued changes his place of business*

or handles his business from a place other than that set forth in his application and license, without the written consent of the chief inspector. 1936 (39) 1533.

Words in italics added by 1936/1533.

§ 3381. License for sturgeon nets—license to ship sturgeon and caviar.

See this section in 1934 Supplement.

§ 3386. Nets for catching shad.

See this section in 1934 Supplement.

§ 3410. Trawling for shrimp prohibited.

See sections 3414 and 3414-2 which regulates shrimp trawlers.

§ 3413. Taking of non-food fish—purse nets and seines.—It shall be lawful for any person, firm or corporation to fish for and catch with purse-nets and seines menhaden and other non-food fish known as menhaden fish within the waters of this state, which shall include the Atlantic Ocean lying within the distance of three miles from the shores of this state: *Provided*, that no purse-net or seine with bars of less than three-fourths inch or a mesh of less than one and one-half inches shall be used for the purpose of catching non-food fish as herein provided. 1936 (39) 1498.

Dimensions of bars and mesh of purse-nets and seines use catch non-food fish reduced, 1936/1498. Other subsections of this section not affected.

§ 3414. Licensed shrimp trawlers unload and pack and stamp shrimp before shipping or transporting shrimp out of state.—All boats licensed by this state to trawl for shrimp in the waters of the state of South Carolina shall land or dock at some point in South Carolina, and shall unload their catch of shrimp, and pack and properly stamp the same before shipping or transporting it to another state or the waters thereof. Any person, firm or corporation violating the provisions of this section shall upon conviction thereof be fined not exceeding five hundred (\$500.00) dollars or imprisoned not exceeding one year, or both in the discretion of the court

This section shall be a part of the coastal fisheries law, and any equipment or property used in the violation of any of the provisions of this section shall be confiscated, as provided for in section 3404. 1936 (39) 1412.

§ 3414, 1932 code, repealed by 1936/1644. Present section comes from 1936/1412.

§ 3414-1. Planting of Japanese seed oysters.

See this section in 1934 Supplement.

§ 3414-2. Paint registration numbers on boats licensed to trawl for shrimp.—Each and every boat hereafter licensed by the state board of fisheries to trawl for shrimp in this state, at the time of the issuance of such licenses, shall be assigned by said board a number under which such boat or boats shall be registered and operated. The number so assigned to any such boat shall be painted on each side of the bow and stern thereof in distinctive numerals at least two (2) feet in height and four (4) inches in width, and the paint used for said purpose shall be different from and in clear contrast in color to the boat on which applied so that said registration number may be easily and definitely determined at a great distance. Any person operating a boat, licensed to trawl for shrimp, without having the registration number affixed thereon as required by the terms of this section shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than ten (\$10.00) dollars nor more than one hundred (\$100.00) dollars, or imprisoned for a period of not less than ten (10) days nor more than thirty (30) days for each and every offense. 1936 (39) 1385.

This section added by 1936/1385.

§ 3414-3. **Sanctuaries for marine life, Charleston County.**—(1) **AREAS.**—In order to aid in preserving and increasing the supply of small fish, shrimp and other forms of marine life and to provide areas where the ocean bottom and spawning beds and the waters over the same may have a chance to function according to natural laws without unnatural disturbance by trawling or other means unduly agitating the same, and at the same time leave open ample other areas wherein the trade of commercial fisheries, shrimping and trawling may be plied under regulations provided by law, there shall be and are hereby established and set apart as sanctuaries for marine life the following areas or portions of the coastal waters and ocean beds of Charleston county in the state of South Carolina, to wit:

(1) That portion or area lying north east of the north jetty at the mouth of Charleston harbor and the line of said north jetty extended as far to the seaward as the territory or jurisdiction of the state extends, and lying south-west of a line running southeast (true), starting at a point on the north east shore of the inlet known as Capers Inlet on the Capers Island side of said inlet, which point is where the north east shore of said inlet at mean high water intersects the ocean Beach Line of Capers Island and which line runs from said point south-east (true) as far to the seaward as the territory or jurisdiction of the state extends; the area so designated being all that lies to the south east of the ocean beaches or shores of Sullivan's Island, the Isle of Palms, and Dewees Island, and south east of the said beach lines extended across all intervening inlets or breaks in the beach lines, and between the two lines herein above designated and extending into the ocean, as far as the jurisdiction or territory of the state extends.

(2) That portion or area lying south west of a line running due south east (true), starting at a point on the south west shore of the inlet known as Morris Island Lighthouse Inlet on the Folly Island side of said inlet, which point is where the south west shore of said inlet at mean high water intersects the ocean beach line of Folly Island, and which line runs from said point south-east (true) as far to the seaward as the territory or jurisdiction of the state extends, and lying north-east of a line running south-east (true), starting at a point on the north east shore of the inlet known as Stono Inlet on the Folly Island side of said inlet, which point is where the north east shore of said inlet at mean high water intersects the ocean beach line of Folly Island, and which line runs from said point south-east (true) as far to the seaward as the territory or jurisdiction of the state extends; the area so designated being all that lies to the south east of the ocean beach or shore of Folly Island, and between the two lines hereinabove designated and extending into the ocean as far as the jurisdiction or territory of the state extends.

(3) That portion or area lying north-east of a line running due south-east (true), starting at a point on the north east shore of the mouth of South Edisto river on the Edisto Island side of said inlet, at the place now known as Edisto beach, formerly as McConkey's beach, which point is where the north east shore of said river at its mouth at mean high water intersects the ocean beach line of the said Edisto Beach, and which line runs from said point south-east (true) as far to the seaward as the territory or jurisdiction of the state extends, and lying south-west of a line running south east (true), starting at a point on the south west shore of the inlet known as Frampton's inlet on the Edingsville Beach side of said inlet, which point is where the south west shore of said inlet at mean high water intersects the ocean beach line of Edingsville Beach on Edisto Island, and which line runs from said point south-east (true) as far

to the seaward as the territory or jurisdiction of the state extends; the area so designated being all that line to the south east of the ocean beaches or shores of Edisto Island known as Edisto Beach and Eddingsville Beach, and between the two lines hereinabove designated and extending into the ocean as far as the jurisdiction or territory of the state extends.

(2) NOT TO TRAWL, ETC., IN SUCH AREAS—PENALTY.—Any person, firm or corporation who after the approval of this section shall trawl or shall drag or tow or cause or permit to be dragged or towed behind any boat or vessel powered by gas, steam, electricity, oil, sail or any motive power other than man power with oars or poles, any trawl or net or other device, contrivance or appliance for scooping or otherwise taking shrimp or fish or other forms of marine life upon or over the ocean bed or in the waters over the same within any of the areas hereinbefore set apart as sanctuaries for marine life or any part thereof, or who shall cause, suffer or permit any such boat or boats owned or operated by such person, firm or corporation, or the crew thereof to trawl or drag as aforesaid within any part of said areas, and any person or member of the crew engaging or participating in the same, shall be deemed guilty of a violation of this section and shall upon conviction be fined not less than twenty-five (\$25.00) dollars nor more than one hundred (\$100.00) dollars, or be imprisoned for not less than five (5) nor more than thirty (30) days for the first offense, and for the second and each subsequent offense shall be fined not less than one hundred and ten (\$110.00) dollars nor more than two hundred and fifty (\$250.00) dollars or be imprisoned for not less than thirty (30) nor more than sixty (60) days.

(3) NOT TO DRAG OR TOW NETS, ETC. OVER OR THROUGH SUCH AREAS.—Any person, firm or corporation, dragging or towing behind any such boat or vessel as defined in section 2 of this section, any net, trawl, or other device or appliance within any of the areas hereinbefore set apart as sanctuaries whether or not the said net, trawl or other device or appliance is at the time actually in contact with the ocean bottom or not, and whether the same is being used at the time for the catching of shrimp, fish or other form of marine life, or for the purpose of washing or cleaning of the nets or not, shall be deemed guilty of a violation of this section and shall be subject to the same penalties hereinbefore prescribed in subsection 2 of this section.

(4) NO EFFECT ON NAVIGATION OR OTHER FORMS OF FISHING.—Nothing contained in this section shall be construed to interfere with or abridge the free use of the said areas or any part thereof for all the purposes of navigation and all purposes of fishing otherwise than by nets and trawls in the manner hereinabove prohibited.

(5) AREAS OPEN TO TRAWLING BOATS.—All areas of the costal waters of Charleston County lying outside of the creeks, rivers, inlets, bays, harbors and sounds or other inland waters, other than and excepting the areas hereinbefore specifically set apart as sanctuaries, shall be open to the use of trawling boats and vessels under such regulations as are now or may hereafter be provided by law.

(6) ERECT RANGE MARKERS.—As an aid more easily to distinguish the sanctuary areas from the open areas and to aid in the enforcement of this section day markers may be placed by or under the direction of the state board of fisheries on the beaches on the range of the respective lines hereinbefore designated, which when placed shall control the range, but the absence of any such range markers shall not affect or impair the operation or enforcement of this section as the lines can be determined from U. S. coast and geodetic survey chart No.

1239 dated July 1930 and corrected to December 19, 1935. The expense of erecting such range markers shall be defrayed by the state board of fisheries.

(7) **ENFORCEMENT.**—It shall be the duty of the state board of fisheries to enforce the provisions of this section.

(8) **EFFECT.**—Nothing in this section shall be taken to impair or affect the act in Code 1932, section 3410, prohibiting trawling for shrimp in any stream, bay or river, or Code 1932, section 3408, providing a closed season on shrimp or prawn, or any other law regulating or affecting trawling in any of the coastal waters or ocean beds lying outside of the areas set aside in this section as sanctuaries. 1936 (39) 1413.

This section added by 1936/1413.

§ 3427-1. Inoculate dogs against rabies.—(1) **ANNUALLY—CERTIFICATES.**—

The owner, or the person having possession of, any dog four (4) months or more of age shall annually on or before the first day of July have the same vaccinated or inoculated against rabies by a licensed veterinarian, physician, druggist, or other person designated by a governing board of any municipality or of any county. The person administering the vaccine or serum shall issue his certificate in triplicate, one for himself, one for the owner, and one for the county treasurer or tax collector, giving the name, age, breed, sex, and identifying marks of the dog and the date of the treatment. The certificate shall have written in ink or printed across its face the following inscription: "Warning! Inoculation is not a sure preventative against rabies. Take all precautions to protect your dog."

(2) **CHARGE.**—The charge for inoculation or vaccination of a dog shall not exceed one (\$1.00) dollar, including cost of the serum and such charge shall be paid by the owner or person in possession of the dog and shall be in lieu of any tax now imposed by law on dogs. The county treasurer of those counties wherein a tax is levied on dogs is authorized and directed to give the taxpayer credit for the amount of the dog tax upon production of a certificate of inoculation, and the treasurer is himself authorized to take credit in his annual settlement for the aggregate amount of such rebates.

(3) **ALLOW DOGS NOT INOCULATED RUN AT LARGE UNLAWFUL.**—It shall be unlawful for any person, having the possession and control of any dog which has not been inoculated, to allow it to run at large.

(4) **VACCINE.**—The vaccine used in the inoculation of dogs against rabies shall meet the standard fixed by the United States department of agriculture, bureau of animal industry.

(5) **ENFORCEMENT.**—All law enforcement officers, state, county and municipal, and all school trustees within their respective districts are hereby specifically charged with the enforcement of this section and are hereby invested with all necessary police powers to effectuate that purpose.

(6) **PENALTY.**—Any person refusing to comply with the provisions of this section, or intentionally violating any of the provisions thereof shall be deemed and held guilty of a misdemeanor and on conviction shall be fined not more than ten (\$10.00) dollars or imprisoned not more than ten (10) days.

(7) **LEGISLATIVE DELEGATION SUSPEND THIS SECTION.**—The operation of this section may be suspended and shall stand suspended until otherwise ordered in any county within the state by and upon the filing with the clerk of the court of common pleas in said county, a written notice to that effect, signed by the State Senator and at least half of the members of the House of Representatives

from such county, and the section may be made again operative in such county upon a like order so signed and filed rescinding the former order. 1935 (39) 462.

This section added by 1935/462.

Aiken County, 1936/1408, 1750.

Inoculation of dogs against rabies in

§ 3473. When election of sheriff held.

See this section in 1934 Supplement.

§ 3474. Sheriff—vacancies.—In the event that a vacancy shall, at any time, occur in the office of sheriff in any county of this state, whether from death, resignation, disqualification, or other cause, the Governor, *except in Berkeley County where such appointment shall be made upon the recommendation of a majority of the legislative delegation* shall have full power to appoint some suitable person, who shall be an elector of such county, and who, upon duly qualifying, according to law, shall be entitled to enter upon and hold the office until the next general election for county sheriffs, and shall be subject to all of the duties and liabilities incident to said officer, during the term of his service in said office. 1936 (39) 1541.

Words in italics added by 1936/1541.

§ 3479. Sheriff's bond.—* * * In the county of Orangeburg the bond of the sheriff shall be twenty-five hundred (\$2,500.00) dollars. *Provided*, that in the county of York the bond of the sheriff shall be two thousand five hundred dollars, 1933, XXXVIII, 256; 1936 (39) 1390.

By 1932/1118 the bond of Saluda County sheriff was reduced from \$10,000 to \$2,000.

§ 4666; Oconee County § 4689.

For bond of sheriff of Bamberg County § 3989-1; Cherokee County § 4121-1; Greenwood County, 1936/1360, (§ 4466); McCormick County § 4644-1; Newberry County

Proviso relating to bond of Orangeburg County sheriff added by 1936/1390; proviso relating to York County sheriff added by 1933/256.

§ 3486. Deputies—appointment—term—bond.—* * * *Provided*, that the bond which may be required of deputy sheriff in Orangeburg County shall be twenty-five hundred (\$2,500.00) dollars. 1936 (39) 1390.

Proviso added by 1936/1390.

§ 3489. Special deputies—appointment—sheriff responsible for.

See this section in 1934 Supplement.

§ 3490. Deputy sheriffs for Newberry County.

See this section in 1934 Supplement.

§ 3497. Deputy sheriffs of Beaufort County.

See this section in 1934 Supplement.

§ 3499. Industrial corporations procure appointment of peace officers.

See this section in 1934 Supplement.

§ 3518. Sheriffs appoint bailiffs.

See this section in 1934 Supplement.

1544.

Pay of bailiffs in Darlington County, 1936/

§ 3556. Bond.

See this section, 1934 Supplement.

see § 4644-1.

For bond of McCormick County coroner

§ 3579. Bond.—Before receiving their commissions they shall enter into bond, to be approved and recorded and filed, as prescribed in chapter 113, article I, in the penal sums following: The bond of the clerk for Charleston County, twenty thousand dollars; for Oconee and Horry Counties, six thousand dollars; for Edgefield, Calhoun, McCormick and Saluda Counties, each five thousand dollars; for Greenwood County, seven thousand dollars; Dorchester County two thousand dollars; *for Lexington County, twenty-five thousand*

(*\$25,000.00*) dollars; and for each of the other counties, ten thousand dollars. 1936 (39) 1314.

Words in italics added by 1936/1314.

Cormick County § 4644-1; Newberry County § 4666.

Bond of clerk of court: Bamberg County § 3989-1; Cherokee County § 4121-1; Mc-

§ 3586. Books, calendars and records to be kept by clerks.— * * * (8)

CLERK OF COURT REPORT ON PERSONS BROUGHT TO TRIAL IN GENERAL SESSIONS COURT TO ATTORNEY GENERAL AND SOLICITOR.—Each clerk of court of general sessions shall keep a record and report annually to the attorney general and to the solicitor of his circuit, by the 30th day of July, on the blank forms to be furnished by the attorney general, the name, race, age, sex, alleged crime of every person brought to trial in his court, together with summary of said crimes, for the year ending June 30; and in case of his failure to make said report within the time herein limited, he shall forfeit to the county ten (\$10.00) dollars for each day's delay in making such report, to be recovered by the solicitor of the circuit by an action in any court of competent jurisdiction. 1935 (39) 273.

Subsection S amended by 1935/273. The section otherwise remains unchanged.

§ 3636. Sufficient registry record of chattel mortgage of crops.— * * *

Provided, that this section shall not apply to the counties of Sumter, Clarendon, Berkeley, Georgetown, Abbeville, Richland, Greenville, Beaufort, Saluda, Chesterfield and Marlboro. 1935 (39) 306, 261.

Chesterfield County added to proviso by 1936/1324; Berkeley County, 1936/1290; 1935/306. Dorchester County, 1936/1775; Fairfield County, 1935/253; Jasper County, 1936/1333; Lexington County, 1935/214; Marion County, 1936/1298; Union County, 1935/253.

Marlboro County added to proviso by 1935/261.

Fee to record certain mortgages on crops and personalty: Bamberg County,

253.

§ 3637. Fee for indexing and registering.

See notes to section 3636.

§ 3637-1. Fees record conveyances or mortgages of personalty to federal agencies and for search and certificate.—The fee that may be charged for the recording of any mortgage or other instrument conveying an interest in, or creating a lien on, personal property and made to any corporation organized under the act of Congress known as the farm credit act of 1933, a regional agricultural credit corporation, a federal intermediate credit bank or any other corporation which rediscovers notes or other obligations with or procures loans from a federal intermediate credit bank, the reconstruction finance corporation or the government of the United States or any department, agency, instrumentality or office thereof, shall be seventy-five (75c) cents, *provided*, that a copy or duplicate of such instrument be furnished to the recording officer. (a)

Provided, further that in Anderson, Oconee, Newberry, Dillon and Horry Counties, the fee for indexing, registering and/or recording any such mortgage or such other instrument, shall be fifty (50c) cents, which shall be exclusive of the fee of the said clerk of court for searching the records and issuing a certificate of such, the fee for such is hereby fixed at twenty-five (25c) cents. The clerks of court of said counties shall not be required to collect such fees in advance.

Provided, further, that in the absence of a copy or duplicate of such mortgage, or such other instrument, being furnished to said clerks of court, that the fee above fixed for indexing, registering and/or recording shall be seventy-five (75c) cents, instead of fifty (50c) cents as above provided. *Provided, further*, that nothing herein shall be construed to require the clerks of court in Anderson and Oconee Counties to search the records and issue certificate thereof—whether

or not he performs this work shall be optional with him however, if he does, the fee shall be as above stated.

(2) The provisions of this section shall not be construed to amend, alter or in any wise affect the provisions of section 3635, 3636 and 3637. *Provided, further*, that the provisions of this section, relating to the fees to be paid to the clerks of court of Newberry, Dillon, Anderson, Oconee, and Horry Counties, shall be construed to amend, alter and affect any and all provisions of section 3635, 3636 and 3637, which in any way conflicts with the provisions of subsection (a) of subsection 1 hereof. 1934 (38) 1492; 1935 (39) 443, 367.

See this section in 1934 Supplement also.

§ 3641. Vacancies.

See this section in 1934 Supplement.

§ 3657. Discharges duties of master in Anderson County—special referee in Anderson County.

See this section in 1934 Supplement.

§ 3663. Practice of law by probate judge, Darlington County.—*Repealed by 1936 Acts, page 1299.*

§ 3673. Bond.

For bond of probate judge and master, Union County, see § 4873-1.

§ 3678. Office of referee abolished and master established in certain counties.—The office of referee, and the practice of referring cases to referees, as provided in the Code of Procedure, shall not exist or be used in the counties of Abbeville, Aiken, Barnwell, Berkeley, Charleston, Chesterfield, Darlington, Dillon, Dorchester, Edgefield, Florence, Greenville, Greenwood, McCormick, Oconee, Orangeburg, Richland, Saluda, Spartanburg, Sumter and Kershaw.

In these counties the office of master is established.

In the county of Charleston there shall be one master, and in each of the other counties one master. The master shall hold his office under the appointment of the Governor, by and with the advice and consent of the Senate. He shall hold his office for four years, and until his successor shall be appointed and shall qualify: *Provided*, the master of Dorchester County shall be appointed on the recommendation of the Senator from said county: *Provided, further*, that should a vacancy occur in the office of probate judge in Orangeburg County the master shall perform the duties of such office until the vacancy can be filled at the next ensuing general election. In the counties of Berkeley and Dorchester the masters shall attend at their respective court houses at least twice in each week for the transaction of business. 1935 (39) 458.

By 1935/458 only one master was provided for Charleston County.

The above section is as it was enacted by the said act.

See section 3685-1 (1932/1171) which abolished the office of master and devolved the duties thereof on the county judge, Orangeburg County.

See section 3680-1 (1933/125, 1934 Supplement) which abolished the office of

master and devolved the duties thereof on probate judge, Dorchester County.

Office of master abolished, Berkeley County and issues to be referred, (1936/1531). See section 3680-2 this Supplement.

Office of master devolved on tax collector, Pickens County, 1933/17. (See section 3685-2, 1934 Supplement.)

See 1934/1201 for term of master, Dillon County.

§ 3680-1. Office of master, Dorchester County, abolished—duties devolved on probate judge.

See this section in 1934 Supplement.

§ 3680-2. Office of master abolished, Berkeley County—refer issues to referees.—The office of master in Berkeley county is hereby abolished, and all issues in which a reference is proper shall be referred to a referee or referees as provided by chapter 33 of the Code of 1932. 1936 (39) 1531.

This section added by 1936/1531.

§ 3685-1. Duties of master of Orangeburg County devolved on county judge.

See this section in 1934 Supplement.

§ 3685-2. Office of master of Pickens County devolved on tax collector.

See this section in 1934 Supplement.

§ 3690. Not to practice law in civil cases.

See this section in 1934 Supplement.

§ 3695. Master's sales, Charleston County.—It shall be lawful for the master's sales in Charleston County to be conducted *on any day other than Sunday or legal holidays* at the Charleston real estate exchange, or such other place in said county as the court may direct, any law or custom to the contrary notwithstanding. Any and all master's sales heretofore made in Charleston County on any day other than legal holidays or Sunday, and made in accordance with directions of the court, are hereby declared valid in so far as the time of said sale may have affected same, and no such sale shall be held or declared invalid by reason of the fact that same was made on a day other than salesday: *Provided, however*, that same was made in accordance with the directions of the court. If any section, sentence, clause or provision of this section be declared unconstitutional, such shall not affect any other section, sentence, clause or provision of same. 1935 (39) 592.

Words in italics in first sentence added; and all after first sentence added, 1935/592.

§ 3711. Parties may agree upon a jury in civil cases—how juries are drawn.

—* * * *Provided, further*, that the two magistrates in Spartanburg township, Spartanburg county, South Carolina, be and they are hereby required to make up and have at all times a jury box in which shall be placed the names of all of the persons residing in Spartanburg township, whose names are in the regular county jury box and made up by the jury commissioners of Spartanburg county. *Provided, further*, that the magistrates and constables in said Spartanburg township shall secure from the jury commissioners on or before the 1st of January of each year a list of all persons residing in Spartanburg township contained in the regular county jury box or boxes and shall prepare same for use in the drawing of jurors in the magistrates' courts as provided in the above proviso. 1936 (39) 1535.

The above proviso added to this section; and comma after the word "one" line six, this section 1932 Code, omitted, 1936/1535. Pay of jurors in criminal cases in magistrates' court, Chester County, see 1936/1472.

§ 3749. Magistrates, Aiken County.

See this section in 1934 Supplement.

§ 3751. Magistrates, Anderson County.

See 1933/359 and 1935/445 which provide for the serving of processes issued by the magistrates in the city of Anderson, and when Anderson County liable for same.

§ 3752. Special magistrates, city of Anderson.—(1) DEFINITIONS.—As used in this section, the terms "cause" and "case" mean "cause", "case", "action" and/or "proceeding". The terms "party" and "parties" mean "party or his or her attorney of record" and "parties or their attorney of record", respectively. In criminal cases the term "party" shall include the prosecuting witness, and any attorney representing the state in such cases shall be considered the "attorney of record" as used in this section of such prosecuting witness. The terms "court of common pleas" and "court of general sessions" mean the "court of common pleas for Anderson County" and the "court of general sessions for Anderson County", respectively.

(2) QUALIFICATIONS.—Any magistrate residing in the city of Anderson, in the county of Anderson, who is licensed to and has been actively engaged in the

practice of law in this state for a period of five years shall be numbered and commissioned, designated and known as "Special Magistrate". The two magistrates now residing in the city of Anderson, namely, G. H. Geiger and H. G. Dean, are hereby declared to possess the qualifications of special magistrates and are hereby designated as such, as follows: G. H. Geiger, special magistrate No. 1, and H. G. Dean, special magistrate No. 2. If at any time a special magistrate shall cease to reside in said city of Anderson and/or shall cease to be licensed to practice law in this state and/or shall cease to be a magistrate, such person shall no longer be a special magistrate.

(3) JURISDICTION OF ORDINARY MAGISTRATES.—Special magistrates shall have the same jurisdiction, power and authority conferred upon magistrates generally throughout the said county and nothing in this section shall be construed to alter or change the law applicable thereto or the procedure, rules, methods and manner of performing their duties as an ordinary magistrate in cases and matters within the jurisdiction of magistrates generally throughout said county; except, however, as is specifically set forth in subsection 9 hereof.

(4) ADDITIONAL CIVIL JURISDICTION.—Special magistrates in addition to their jurisdiction, power and authority referred to in subsection 3 hereof, shall have the same jurisdiction as the court of common pleas and the judges thereof and concurrent therewith, in all cases in law and equity, special proceedings and remedial remedies, when the value of the property in controversy or the amount claimed does not exceed the sum of one thousand (\$1,000.00) dollars, to issue and hear writs of *habeas corpus*, to determine the custody of minor children: *Provided, however*, they shall not have jurisdiction in any case where the title to real estate is involved, and shall not have appellate jurisdiction: *Provided, further*, that when in any case before such special magistrate a defendant pleads a counterclaim, recoupment or set off for more than one thousand (\$1,000.00) dollars, said magistrate shall not try the case, but shall forthwith transfer the same to the court of common pleas for trial and no transfer fee shall be charged for so transferring same.

(5) TRANSFER OF CAUSES.—The jurisdiction of any civil case when once acquired by a special magistrate shall not before the termination of such case be surrendered, except by appeal and except that such case may at any time after the issues have been joined and before trial be transferred as follows: (1) To the court of common pleas upon the written consent of all parties to said case, not in default. (2) To the court of common pleas as set out in subsection 4 hereof. (3) To some other special magistrate upon the written consent of the special magistrate to whom the transfer is to be made and the written consent of all parties to said case, not in default. (4) To some other special magistrate, if there be some other such special magistrate, and if not, to the court of common pleas, whenever any party to said case shall file with the special magistrate from whom such case is sought to be transferred, an affidavit to the effect that he does not believe that he can get a fair trial before such special magistrate, *Provided*, Said affidavit shall set forth the grounds of such belief, and *Provided, further*, That five days' notice in writing shall have been given to each party to said case, not in default. Except in cases of transfer under provisions of subsection 4 hereof before any case is transferred as herein provided, the special magistrate shall charge and collect from the moving party the sum of one dollar and fifty cents (\$1.50) as costs for such transfer and such costs shall not be taxable as court costs in the case against any of the parties to the case. *Provided*, nothing herein shall be con-

strued to prevent a withdrawal of any such cause upon the written consent of all parties thereto, not in default: *Provided, further*, a nonsuit shall be for the purpose of this subsection considered a termination of such case.

(6) COSTS AND FINES—COLLECTION—DISPOSITION.—Before or at the time any civil case is filed in court of special magistrate such magistrate shall require the payment of the sum of two and 50/100 (\$2.50) dollars, *Provided*, That the plaintiff's money demand if any in such case does not exceed four hundred (\$400.00) dollars, but if such does exceed four hundred (\$400.00) dollars, then the cost shall be five (\$5.00) dollars instead of two and 50/100 (\$2.50) dollars, such sum to be total magistrate's cost in said cause, if there be no transfer or appeal. *Provided*, this requirement shall not apply to civil causes referred to in subsection 3 hereof. In claim and delivery cases the value of the property claimed shall be considered as the amount of money demanded by the plaintiff. In the event said cause is transferred to some other special magistrate the said sum of two and 50/100 (\$2.50) dollars or five (\$5.00) dollars as the case may be, shall be forwarded to such magistrate to whom the cause is transferred. In the event the said cause is transferred to the court of common pleas, said costs of two and 50/100 (\$2.50) dollars or five (\$5.00) dollars as the case may be shall be returned to the party having paid same. Upon a cause being transferred to the court of common pleas the clerk of that court shall charge such costs as provided by law in cases originally commenced in said court of common pleas. The costs received by a special magistrate under the provisions of this subsection that are not returned to the payer or forwarded to another special magistrate as above provided, together with all costs collected under the provisions of subsections 5 and 14 hereof shall accrue to the county of Anderson and shall be paid over to said county in like manner as fines. All fines collected by a special magistrate shall be paid over to the county of Anderson in like manner as fines collected in cases referred to in subsection 3 hereof. The filing of the summons in any civil case before such special magistrate shall be construed and deemed as the filing of such case and no summons in such court shall be valid or binding unless before service same shall have been filed in the court of special magistrate.

(7) ADDITIONAL CRIMINAL JURISDICTION.—Special magistrates in addition to their jurisdiction, power and authority referred to in subsection 3 hereof, shall have the same jurisdiction, power and authority as the court of general sessions and the judges thereof and concurrent therewith in the following criminal cases, to-wit: cases charging violation of any of the laws of this state relating to intoxicating and/or alcoholic liquors, cases charging non-support of wife and/or child or children, bastardy, drawing and uttering fraudulent check, driving motor vehicle under the influence of intoxicating liquors, disposing of property under lien, and in all other cases charging a violation of any of the criminal laws of this state where the punishment does not exceed a fine of five hundred (\$500.00) dollars and/or imprisonment of eighteen (18) months, with or without hard labor.

(8) TRANSFER OF CASES FROM GENERAL SESSIONS.—Upon motion of the solicitor, the judge of the court of general sessions may at any time after the finding of an indictment and before trial, in open court, transfer any criminal case within the jurisdiction of a special magistrate to such magistrate for trial. Upon motion of the solicitor, the judge or clerk of the court of general sessions may at any time upon the written consent of the defendant or his attorney of record, before or after the finding of an indictment, before trial, at

chambers or otherwise; transfer any criminal case within the jurisdiction of a special magistrate to such magistrate. Upon any case being so transferred to the special magistrate to whom such case was transferred shall proceed to try and dispose of same.

(9) TRY CERTAIN CRIMINAL CASES INSTEAD OF SENDING TO GENERAL SESSIONS.—A special magistrate in performing his duties as an ordinary magistrate, shall perform same in like manner as if he were an ordinary magistrate only, except, in matters relating to criminal cases which are not within the jurisdiction of an ordinary magistrate to try, said special magistrate may, if he deems advisable instead of sending such case to the court of general sessions, proceed to try and dispose of same in like manner as if said case had been transferred to him from the court of general sessions as in this section provided; *Provided*, that said case is within the jurisdiction of the special magistrate to try, and *Provided, further*, that the defendant in said case waives in writing presentment and indictment by the grand jury of said county.

(10) SOLICITOR OF TENTH CIRCUIT—DUTIES.—The solicitor of the tenth judicial circuit is not required to appear in the court of a special magistrate and prosecute the criminal cases before such court. However, such solicitor may if his time and other work permit appear and represent the state and prosecute such cases, *Provided*, that the special magistrate before whom such case is to be tried make request upon the solicitor for such services.

(11) REPORT ON CRIMINAL CASES.—Each special magistrate shall at intervals of not exceeding ninety days, make a report to the clerk of court of general sessions. Said report shall contain a list of all criminal cases not under appeal and in which the time for appeal has expired, tried and disposed of by said special magistrate subsequent to his last report, showing the name of the defendant, offense charged and disposition made with date of same, of each case. The arrest warrant, the indictment if there be one, exhibits when practicable and such other papers as said magistrate deems advisable in each case shall accompany said reports. *Provided*, the provision of this section shall not apply to cases referred to in subsection 3 hereof.

(12) CRIMINAL RECORDS.—The clerk of court of general sessions shall keep an index book similar as near as practicable to "Sessions Index" book now kept by him, in which he shall list the name of all defendants tried by special magistrates, alphabetically arranged, together with the offense charged, the plea, the date of conviction or acquittal, as the case may be, and final disposition made of same, including the sentence imposed if any together with the number given by said clerk of such case. Said clerk shall keep suitable file within which he shall keep the papers of such cases, after numbering each case filed with him in the reports of the special magistrate. The papers in cases other than those referred to in subsection 3 hereof, under appeal from the court of a special magistrate shall be kept in the clerk's regular magistrat court appeal file until disposed of. Upon final determination of such appeal cases, said clerk shall enter the proper data in said index book, shall number the case and place all papers pertinent thereto in the file with other cases of the special magistrates, except however in cases where a new trial has been granted, and in these cases all papers therein shall be forwarded to the proper special magistrate for disposition.

(13) TRANSCRIPT OF RECORD—FILE PLEADINGS AND EXHIBITS—ENTER JUDGMENT—LIEN.—Upon the demand of any party litigant in any civil case in which judgment has been entered by a special magistrate, other than those

cases referred to in subsection 3 hereof, such magistrate shall issue a transcript thereof and shall forward same together with the pleadings and exhibits if practicable in said case to the clerk of the court of common pleas to be filed and docketed in his office, *Provided*, that the party demanding such transcript shall pay to such magistrate the said clerk of court's costs in such matters, which shall be forwarded to said clerk along with said transcript. Upon receipt of said transcript and said papers and his fee accompanying same said clerk of court shall file and docket said case in the manner provided by law for the transcript of judgment in cases referred to in subsection 3 hereof; and from that time such judgment shall be a judgment of the circuit court.

No such judgment shall be a lien on any real property of the judgment debtor until it shall have been entered upon the book of abstracts of judgment and duly indexed in the office of the clerk of court of common pleas. Such judgment when so entered upon said book of abstracts and duly indexed shall from time of such entry on said book of abstracts and of being so indexed constitute a lien upon the real property of the judgment debtor as provided in section 743.

(14) APPEALS.—(a) Appeals in civil cases, other than those referred to in subsection 3 hereof, from a magistrate's court in which the magistrate is a special magistrate, shall be in the same manner and under the same rules as provided by law for appeals in cases referred to in subsection 3 hereof, except however as follows. to-wit: (1) An appeal shall operate as a supersedas and stay to the extent and in the manner that an appeal from the circuit court to the supreme court operates as a supersedas and stay. (2) The appellant shall have ten days to serve the notice of intention to appeal and the grounds thereof, both of which shall be in writing, instead of five days as provided in section 795, and such notice shall be of no effect unless at the time of serving same upon the special magistrate, or prior thereof, the magistrate's return cost be paid as below in this subsection provided. (3) The court of common pleas shall have only the same appellate jurisdiction of appeals from the court of a special magistrate as the supreme court of appeals from the court of common pleas, save and except that appeals may be taken from said court of common pleas to the supreme court in the manner provided by law. (4) In every appeal the special magistrate before whom the judgment appealed from was rendered, shall receive three (\$3.00) dollars as return costs, to be paid by the party appealing and which shall be taxable as costs in the case, which sum shall accrue to the said county. The clerk of court of common pleas shall make no charge for the filing of such appeal, the said three (\$3.00) dollars paid as return costs to the special magistrate being in lieu of all fees of the clerk of court of common pleas pertinent to such appeal. (5) In cases in which the testimony was taken in shorthand by a stenographer the return may be made without the transcribed testimony, if at the time of the making of such return the transcribed testimony is not available for the reason that the stenographer has not transcribed same. In such event the transcribed testimony when available shall be forwarded to the clerk of the appellate court and by him filed with other papers in the case. (6) Only so much of the transcribed testimony pertinent to the issues raised by the appeal as is necessary for the determination of such issues need be filed with the clerk of the appellate court. If the parties interested in the appeal cannot agree on the transcribed testimony to be filed, the special magistrate shall designate what portion of the testimony shall be filed, and such designated portion of the testimony shall be filed as aforesaid,

Provided, that in such event the appellate court in hearing the appeal may order other portions of said testimony to be filed and consider same in determining the issues before it. *Provided, further*, that nothing herein shall prevent the parties interested in the appeal from waiving the testimony upon an agreed statement of facts. (7) The stenographer's transcribed testimony signed by the stenographer and attested by the special magistrate as provided in subsection 26 hereof, shall be used by the appellate court in lieu of and in like manner as if the testimony were taken down in writing at the trial and signed by the witnesses. (8) And except as is otherwise in this section provided.

(b) Appeals in criminal cases, other than those referred to in subsection 3 hereof, from a magistrate's court in which the magistrate is a special magistrate, shall be in the same manner and under the same rules as provided by law for appeals in cases referred to in subsection 3 of this section except however as follows, to wit: (1) The appellant shall have ten days after sentence to serve the notice of intention to appeal with the grounds thereof, both of which shall be in writing, instead of five days as provided in section 1025. The pleading setting forth the grounds of appeal shall contain a statement by the party appealing, his agent or his attorney of record, to the effect that in his opinion the appeal is meritorious and is not made for the purpose of delay. (2) The time limit set out in section 1026, for the magistrate to file the record, etc., with the clerk of court of general sessions shall be twenty days instead of ten days as provided in said section. (3) The court of general sessions shall have only the same appellate jurisdiction of appeals from the court of a special magistrate as the supreme court has of appeals from the court of general sessions, save and except that appeals may be taken from said court of general sessions to the supreme court in the manner provided by law. (4) Provisions in exceptions five, six, seven and eight applicable to civil cases set out above shall likewise apply to criminal cases.

(c) The transcribed testimony in civil and criminal cases referred to in subdivisions (a) and (b) in this subsection shall upon request of the party appealing be furnished by the stenographer to the special magistrate before whom the case was tried, *Provided*, that such stenographer be paid by the party requesting such transcribed testimony the legal charges for his service for transcribing such testimony. Legal charges as above used shall be construed to mean such charges as are provided by law for the circuit court stenographer of the tenth judicial circuit for furnishing transcripts of testimony, and such charges shall be taxable as costs in the case.

(d) In appeals in both civil and criminal cases, other than those referred to in subsection 3 hereof, the special magistrate before whom the case was tried, may within his discretion extend the time in which the grounds upon which such appeal is founded may be served, *Provided*, that this provision of extension of time shall not apply to notice of intention to appeal.

(15) TRIAL OF CONTESTED CASES.—In all civil cases pending for trial before a special magistrate, other than cases referred to in subsection 3 hereof, such special magistrate shall as soon as practicable ascertain from all parties to such action, not in default, if a jury trial is desired; if such is desired, then in that event the trial of said case shall be before a jury, otherwise the right of trial by the jury shall be deemed waived and the case shall be tried without a jury.

(16) JURY BOXES.—On or before the first day of each year each special magistrate shall prepare a jury box for the use in his court in the trial of all jury cases, except those referred to in subsection 3 as follows: Said box shall be

furnished by the county board of commissioners of said county, or other governing body of said county, shall have two compartments marked A and B respectively, and in compartment A said special magistrate shall place the names of not less than four hundred qualified electors, who are subject to jury duty in the court of general sessions and common pleas, residing within a radius of seven miles of the court house of said county; and shall cause each of said names to be written on a separate piece of paper and shall fold up said pieces of paper so as to resemble each other as much as practicable, and so that the names thereon shall not be visible from the outside, and shall place said pieces of paper with said names written thereon, in said compartment A of said box. That the names of all jurors, except in case of emergency as provided in subsection 20 hereof, and except extra veniremen as provided in subsection 22 hereof, in all jury trials before the special magistrate, except those causes referred to in subsection 3 hereof shall be drawn from said compartment A of said box in the manner hereinafter provided.

(17) **JURY TRIALS—DRAWING OF JURORS.**—The trial of jury cases before a special magistrate shall be before six jurors who shall be selected in the following manner, to wit: Before trial the special magistrate shall draw from compartment A of said box slips of paper with said names written thereon until he has drawn the names of seventeen (17) prospective jurors and shall prepare a list of same in the order drawn. If in the case to be tried there be more than one defendant, in criminal cases, or more than one defendant not in default, in civil cases, the number of names so drawn and listed shall be an additional four names for each defendant to be tried in such criminal case and for each defendant not in default in such civil case in excess of one. In drawing and listing said prospective jurors said special magistrate may as he sees fit lay aside, and same shall not be considered as having been drawn, and not list, one or more of such names drawn, provided the number of such names laid aside and not listed shall not exceed six in any one cause.

(18) **SELECTION OF JURY.**—Before trial of any cause to be tried with a jury the special magistrate shall notify all parties to said cause, not in default, of the time and place of the selection of the jurors to serve on said cause. At the designated time and place said list of prospective jurors shall be submitted to said parties and thereupon the plaintiff or plaintiffs in civil causes and the prosecuting witness in criminal causes, shall strike from said list the name of one of the prospective jurors. Upon this being done each defendant not in default in civil causes, and each defendant in criminal cases, shall strike one name from said list. This procedure shall be repeated until the number of names left upon said list shall be nine (9), all of whom shall be summoned to appear for service upon said cause. At the commencement of the trial of said cause said special magistrate shall select six (6) of the jurors summoned as above provided, who have not been adjudged disqualified and/or excused, to comprise the jury panel in said cause. In the event any of the parties do not appear and participate in the striking of the names from said list as above provided, the special magistrate shall strike for and in behalf of such party or parties not participating in the striking, so many of the names on the said list as will leave the required number of nine to be summoned.

(19) **ADDITIONAL PROCEDURE TO SELECT JURY.**—The special magistrate before whom a case is to be tried may, in any case he deems advisable, in lieu of the procedure set out in subsection 18 above, summon all of the men whose names appear on said jury list, to appear for service as jurors in the cause to

be tried. In this event, in civil cases, the striking of the names of those appearing from said list after the names of any who have been disqualified or excused have been stricken off by the special magistrate, and the selection of the six men to serve as jurors, shall be at the time of the commencement of the trial in the same manner as prescribed in subsection 18 above; and in criminal cases, the jurors appearing who are not excused by the court, or disqualified, shall be presented to be accepted or rejected in the order their names appear on said list; and the prosecuting witness and each defendant shall each be entitled to object to and reject four of the jurors so presented. The first six jurors not objected to shall constitute the jury to try said cause.

(20) EXTRA JURORS.—If at the time of the commencement of the trial of any cause there are not sufficient jurors, who have not been objected to, to fill the panel of six, for the reasons that one or more have failed to attend as required by the summons, and/or one or more have not been summoned after due diligence on the part of the person serving the summons, and/or one or more have been excused and/or declared disqualified by the court; the jurors necessary to fill the panel may be selected in the usual manner as jurors are selected to try cases before ordinary magistrates, that is those cases referred to in subsection 3 hereof.

(21) TERMS OF COURT—DRAWING OF JURORS.—Any special magistrate may at such time or times, as he deems advisable, in lieu of the method of trial of cases as above provided in this section, set, fix and designate a term of court consisting of a week or less, during which such of the cases pending for trial before him as he may designate shall be subject to trial. At least ten (10) days before the commencement of such term of court the special magistrate shall give notice of such term of court and of the drawing of the jurors for such term by publishing a statement in one of the newspapers published in said county or by posting such statement at the court house door in said county. Said statement so published or posted, as the case may be, shall state the time and place of the commencement of such term of court and shall also state the time and place of the drawing of the jurors for such term of court consisting of a week or less, during which such of the cases pending for trial before him as he may designate shall be subject to trial. At least ten days before the commencement of such term of court notice shall be given to the parties whose cases are to be called for trial during such term, or to their respective attorneys of record.

(22) JURY TRIALS DURING TERMS.—In the event of a fixed term of court as provided in subsection 21 hereof, the magistrate may in lieu of the method set out in subsections 17, 18, 19 and 20 hereof, provide for jury trials during such term of court, as follows: Said magistrate shall make up a jury list as provided for in subsection 17 hereof, except the list shall contain eighteen names instead of seventeen. That the eighteen proposed jurors whose names appear on said list shall be summoned to appear before the said magistrate at the commencement of such term of court and they shall be liable for jury duty during the entire term of the court. That during such term of court the magistrate may at any time require the attendance upon the court such number of additional jurors or extra veniremen as he may deem advisable, who shall be selected by the magistrate in the manner provided for the selection of additional jurors in subsection 20 hereof.

(23) JURORS LIVING MORE THAN 7 MILES FROM COURT HOUSE.—If before, during or after the trial of any jury case before a special magistrate, it should

appear that, on account of an unintentional error in making up the jury box or on account of change of residence since the making up of said box, one or more of the jurors or prospective jurors reside at a greater distance than seven miles from the Anderson County court house, such fact shall not disqualify such juror or prospective juror and he shall be competent, if not otherwise disqualified, to serve in like manner as if such error had not occurred or as if such change of residence had not been made.

(24) DRAWING OF NAMES FROM JURY BOXES.—All names drawn from compartment A of said box in selecting a jury as in this section provided shall as soon as practicable be returned to said compartment A, except, however, the names of jurors who are finally selected to and do participate in the trial of the cause, and the names of these men shall be placed in compartment B of said box. At intervals of not less than three months and not more than six months all names in compartment B of said box shall be returned to and placed in compartment A of said box: *Provided, however*, that if at any time the names in compartment A become exhausted, the names in compartment B shall forthwith be returned to and placed in compartment A.

(25) PAY OF JURORS AND WITNESSES.—Jurors summoned as herein provided shall be paid as follows: Each juror actually serving on any case, the sum of one dollar per day and mileage at five cents per mile one way the nearest traveling distance from the residence of such juror to the place of trial; each juror appearing for service but not serving on the case, the sum of fifty cents per day and mileage as above provided, *Provided*, that jurors who appear for service and are excused upon their own motion shall not receive any pay or mileage. State witnesses other than expert witness in criminal cases shall be paid the sum of fifty cents per day and mileage in the amount provided for jurors; expert witnesses in such cases shall be allowed the same pay and mileage as allowed expert witnesses in the court of general sessions; *Provided*, that the special magistrate may refuse to allow any pay and mileage to any witness that he deems not a necessary witness in the case. That such magistrate in allowing pay and mileage to witnesses and jurors shall issue pay certificates similar to those used by the clerk of court of general sessions. The treasurer of said county shall, upon presentation, honor and pay the amount called for by said certificates in like manner as is done by certificates issued to the jurors and witnesses in the court of general sessions.

(26) STENOGRAPHER.—The special magistrates shall appoint and employ an official stenographer who shall hold office at the pleasure of said special magistrates, and who shall be paid by said county such salary or compensation as the legislature may designate, to take down and transcribe the testimony and judge's rulings and charge in cases before them as special magistrate, and to do such other stenographic and/or other work pertinent to their magisterial work, including matters pertinent to their work under their power and authority referred to in subsection 3 hereof, as may be convenient and practicable. The special magistrates shall confer with one another and divide the time of such stenographer between them to the end that the taking and transcribing of testimony in cases may be done expediently and with as little delay as possible. Said special magistrates may, whenever to do so will not interfere seriously with other duties of the stenographer, require said stenographer to attend inquests held by the coroner of said county and take down and transcribe the testimony given at such inquest. In all instances where the testimony is taken by the stenographer in shorthand, witnesses giving such testi-

mony shall not be required to sign name, and the transcribed note of the stenographer, signed by the stenographer and attested by such magistrate or coroner, as the case may be, shall be as effectual as if witnesses signed their respective testimonies. Said stenographer shall furnish any party litigant with transcript of testimony and magistrate's rulings and charge: *Provided*, that except as may be otherwise provided in this section, the stenographer's fees or charges for furnishing transcripts of testimony, rulings and charges of the special magistrate, and the furnishing of same without fee or charge, shall be as is provided in section 596, and any amendments thereto. Materials and supplies used by the stenographer shall be paid for by the county of Anderson, except materials and supplies used by him in furnishing transcript for which he is paid by party litigants.

(27) **PUT TESTIMONY, RULINGS AND CHARGE IN WRITING.**—The testimony of witnesses and the magistrate's rulings and charge in all cases before a special magistrate, other than cases referred to in subsection 3 hereof, shall be taken down in writing, either in longhand or in shorthand, and later if necessary transcribed: *Provided*, such testimony and magistrate's charge need not be written down in default civil cases: *Provided, further*, the parties not in default in civil cases and the prosecuting witness and defendants in criminal cases may waive the writing down of the testimony and magistrate's rulings and charge.

(28) **STENOGRAPHER FURNISH CORONER COPIES OF TESTIMONY OF INQUESTS.**—In all inquests at which the testimony of the witnesses was taken down in shorthand by said stenographer, an original and one copy of such testimony shall be furnished by said stenographer to the coroner as soon as practicable, and said stenographer shall make no charge for so doing.

(29) **ATTACHMENT—CLAIM AND DELIVERY.**—The procedure and security required in attachment and in claim and delivery cases before a special magistrate shall be the same as provided by law for attachment and claim and delivery cases in ordinary magistrates' courts, except however in attachment cases the security required of the plaintiff shall be two hundred and fifty (\$250.00) dollars in all the cases in which the plaintiffs' demand exceeds five hundred (\$500.00) dollars, and in cases in which such demand does not exceed five hundred (\$500.00) dollars the security shall be at least twenty-five (25%) per cent of such demand.

(30) **PAYMENT OF COSTS AND FEES.**—Any and all costs and fees required by this section to be paid by any parties litigant shall be paid as herein provided, and the provisions of section 6, of act No. 893, of the General Assembly, 1932, approved April 12, 1932, shall not apply thereto.

(31) **PROCESS — PLEADINGS — PROCEDURE — PRACTICE — EVIDENCE.** — The same form of process and pleadings, and the same rules of procedure, practice and evidence shall obtain in any case, other than those cases referred to in subsection 3 hereof, before a special magistrate, as is provided by law for the court of common pleas and the court of general sessions, respectively, where not inconsistent with any of the provisions of this section.

(32) **SAVING CLAUSE.**—In the event that any subsection, sentence, clause, paragraph or portion of this section be declared unconstitutional by any court of competent jurisdiction, such judgment shall affect only the subsection, clause, sentence, paragraph or portion of this section affected by such judgment, and

the remainder of the said section shall remain in full force and effect. 1935 (39) 311; 1936 (39) 1474.

Section 3752, 1932 Code, repealed by 1933/ 1474.

360. This section added by 1935/311; 1936/

§ 3755. Magistrates, Beaufort County.

Magistrates report monthly to county on collection of road and poll tax execu-
tions, Beaufort County, 1935/385.

§ 3757. Magistrates, Charleston County.—(1) MINISTERIAL MAGISTRATES IN CITY OF CHARLESTON—CONSTABLES—SALARIES.—There shall be three ministerial magistrates in the city of Charleston, who shall have the same powers and duties as ministerial magistrates in the city of Charleston have heretofore had, and whose salaries shall be annually fixed in the Charleston County supply bill: *Provided, however,* that nothing herein contained shall affect any provision in said supply bill granting to the Charleston County delegation to the South Carolina General Assembly the right to reduce or eliminate any salary or salaries therein contained. Said magistrates shall have the right to appoint one constable each at a salary to be fixed annually in said supply bill subject, however, to any provisions that may be incorporated in said supply bill applicable thereto.

(3) MAGISTRATES IN COUNTY OUTSIDE OF CITY OF CHARLESTON—CONSTABLES SALARIES—VACANCIES—CHANGE OF VENUE.—The magistrates of the county of Charleston, outside of the city of Charleston, shall be located as follows: One in Second St. James Goose Creek Parish, whose jurisdiction shall be limited to and include all territory in the Parishes of First St. James Goose Creek, Second St. James Goose Creek, and St. Phillip's and St. Michael's; the office of magistrate at Ten Mile Hill in the county of Charleston be and the same is hereby abolished; said magistrate of Second St. James Goose Creek Parish shall have the right to appoint two constables; one in the Parish of St. Andrew's, whose jurisdiction shall be limited to the territory in said parish, and he shall have the right to appoint one constable; one on Edisto Island, whose jurisdiction shall be limited to the territory included in Edisto Island; one on Wadmalaw Island, whose jurisdiction shall be limited to the territory included in Wadmalaw Island; two on John's Island, whose jurisdiction shall be limited to the territory included in John's Island; one on James Island, whose jurisdiction shall be limited to the territory included in James Island; one on Sullivan's Island, whose jurisdiction shall be limited to the territory included in Sullivan's Island and the Isle of Palms; one in the town of Mt. Pleasant, whose jurisdiction shall be limited to the territory included in said town and Christ Church Parish, one at Awensdaw Bridge, on Awensdaw Creek, which divides the parish of St. James Santee from Christ Church Parish, whose jurisdiction shall be limited to the territory included in St. James Santee Parish; one on Christ Church Parish, to be located at or near seven mile stone, whose jurisdiction shall be limited to the territory included in Christ Church Parish; one at McClellanville, whose jurisdiction shall be limited to the territory in the parish of St. James Santee; three in St. Paul's Parish, one of whom shall be located at or near Meggetts, one at Adams Run, and one at Warrens Gross Roads, whose jurisdiction shall include all territory of Charleston County to the north of the Atlantic Coast Line Railroad, and bounding on the east on a line running due north from Rantowles to the Dorchester County line, and west by the Edisto River.

The salaries for all magistrates and magistrates' constables in Charleston County, with the exception of the magistrates in the city of Charleston and

the magistrates at Second St. James Goose Creek Parish, St. Andrew's Parish and St. James Santee shall receive a salary of \$500.00 per annum, and constables of such magistrates shall receive a salary of \$250.00 per annum. The salaries of the magistrates and the constables in the city of Charleston and the parishes of Second St. James Goose Creek and St. Andrew's shall be fixed annually in the Charleston County supply bill. *Provided*, that in case the office of magistrate of any district in Charleston County is vacant and in cases where the magistrate of a district is dead, disqualified or otherwise incapable of serving, all criminal offenses committed, or having been committed, within his jurisdiction and all causes of action arising, or having arisen, therein shall be within the jurisdiction of and triable by any other magistrate in Charleston County other than the ministerial magistrates within the city of Charleston. And in all cases in which the magistrate before whom the matter is presented shall deem it necessary to prescribe a change of venue, the venue thereof may thus be transferred to any other magistrate in Charleston County other than the three (3) ministerial magistrates in the city of Charleston. 1935 (39) 212; 1936 (39) 1491.

Except as above amended this section remains unchanged.

§ 3759. Magistrates and constables in Cherokee County.

See this section in 1934 Supplement.

§ 3760. Magistrates, Chester County.—(1) COMPENSATION. — The magistrates of Chester County, South Carolina, shall receive the following salaries said salaries to be paid monthly:

First district (Chester township), \$1,200.00; second district (Lewisville township), \$230.00; third district (Landsford township), \$280.00; fourth district (Rossville Township), \$230.00; fifth district (Baton Rouge township), \$230.00; sixth district (Halsellville township), \$230.00; seventh district (Hazelwood township), \$100.00; eighth district (Blackstoeks township), \$230.00; ninth district Great Falls, \$800.00. *Provided*, that the magistrate of the first district shall be allowed ten (\$10.00) dollars per month for clerk hire, beginning March 1st, 1936.

(2) COMPENSATION OF MAGISTRATES' CONSTABLES—DUTIES OF CONSTABLE IN SECOND DISTRICT.—The magistrates' constables for Chester County, South Carolina, shall receive the following salaries, said salaries to be paid monthly: First district, \$600.00; second district, \$240.00; third district, \$120.00; fourth district, \$300.00; fifth district, \$120.00; sixth district, \$80.00; seventh district, \$40.00; eighth district, \$90.00; ninth district, \$650.00; industrial deputy sheriff at Elizabeth Heights (—————), \$120.00.

Provided, that in addition to the regular duties which the constable in the second district is required to discharge, he shall be required to serve two full days each week at the Monetta cotton mill village in Chester County and the adjacent surrounding community; that the days in which he is to serve at such village shall be designated by the magistrate of that district, *Provided, further*, that in said village, only, he shall, in addition to his regular authority, have police authority as now granted to the rural police of Chester County; *Provided, further*, that if he fails or refuses to discharge the additional duties provided herein or any part thereof required of him, his salary shall be at the rate of one hundred and twenty (\$120.00) dollars per year for such length of time as such duties are not discharged.

(3) **DUTIES.**—Magistrates and constables shall co-operate with the county board of directors in collecting the road tax, and shall also co-operate at all times in enforcement of law and especially the game laws. 1936 (39) 1461.

(4) **REPORT CASES PENDING OR ON APPEAL.**—It shall be the duty of each magistrate in Chester County to report to the board of county directors of Chester County, the name of every defendant whom he has admitted to bond for trial in his court, and the charge against him, and who has been out on bond for fifteen days and make said report at the end of fifteen days from the date of the bond; also to report to the said board each appeal taken from an order or judgment of his court and to make said report of appeals within ten days from the date of the appeal. Before the salary warrant of any magistrate shall be issued he shall certify in his claim therefor that he has complied with the provisions of this subsection and the county board of directors shall not issue any salary warrant until such certificate has been made or until it is satisfied that the magistrate has complied with the provisions hereof. 1935 (39) 125.

§ 3760-1. Magistrates and constables, Chesterfield County.

See this section in 1934 Supplement.

§ 3760-2. Magistrates in Clarendon County.

See this section in 1934 Supplement.

§ 3762. Magistrates, Dorchester County.

See this section in 1934 Supplement.

§ 3764. Magistrates, Winnsboro Mills Village, Fairfield County.—* * *

Provided, that this magistrate shall be voted for in the primary. 1936 (39) 1304.

The above proviso added; and comma 1932 Code, line seven thereof, 1936/1304. omitted after word "district," this section,

§ 3765. Magistrates, Florence County.—There shall be the following magistrates in Florence County, located as follows: One in the city of Florence, one at Timmons ville, one at Olanta, one at Lake City, one at Johnsonville, one in the vicinity of Kingsburg, one at Pamplico, one at Evergreen, one at Cowards. *Provided*, that so much of the territory of Pee Dee and Hanna Magisterial district as now comprises Trinity school district No. 35 in Florence County is hereby transferred, annexed to and made a part of Johnsonville magisterial district in the said county of Florence. Each magistrate shall appoint a constable and the salary of each magistrate and each constable shall be fixed by the county supply bill. *Provided*, that the governing board of Florence County shall furnish to all magistrates in the county all legal blank forms used in criminal cases that are necessary in their official duties. Each magistrate shall keep in a book provided for that purpose all receipts to him from the county treasurer for all fines and costs collected in his court, which shall be itemized and such receipts shall be delivered with the docket of each magistrate to the governing board at least once in every three months. 1933 (38) 516; 1935 (39) 170.

By 1933/516 magistrates were provided annual supply bill; and certain duties de-
 veloped on the governing board.
 By 1935/170 magistrates and constables to be determined by First proviso added by 1936/170.

§ 3769. Magistrates, Greenville County.—* * * The magistrate at the town of Greer, in Greenville County, in addition to his present jurisdiction, shall have criminal and civil jurisdiction throughout the whole of Greenville County. 1935 (39) 30.

The above added by 1935/30.

§ 3769-1. Magistrates, Hampton County.

See this section in 1934 Supplement.

§ 3770. Magistrates, Horry County.

See this section, 1934 Supplement.
1936/1440 provided for nomination of
magistrate of Little River and Dogwood

Neck townships, and designated certain
persons who could vote for the magistrate
at Myrtle Beach.

§ 3772. Magistrates, Kershaw County.

See this section in 1934 Supplement.

§ 3773. Magistrates, Lee County.

1935/348 transferred portion of Spring district.
Hill magisterial district to Iona magisterial

§ 3773-1. Magistrates, Lancaster County.

See this section in 1934 Supplement.

§ 3773-2. Magistrates, Lexington County.

See this section in 1934 Supplement.

§ 3774. Magistrates, Marion County.—There shall be five magistrates in Marion County, located respectively at Marion, Mullins, Brittons Neck township, Sellers and Nichols, who shall receive such salaries as shall be fixed from year to year by the General Assembly and inserted in the annual county supply act. The sheriff shall be required to perform all of the duties of constable for the magistrate at Marion. There shall be a constable for the magistrate at Mullins to be appointed by such magistrate, who shall serve for the term of one year and shall be required to file with said magistrate and the board of county commissioners a monthly itemized statement of the work done by him during the previous month, and no salary shall be paid until such statement has been duly filed. The said constable shall have police powers in Reaves township, and shall also act as constable for the magistrate at Nichols. There shall also be constables for each of the magistrates at Brittons Neck township and Sellers, who shall be appointed by these magistrates respectively, and shall be subject to the requirements aforesaid with reference to term of office and monthly statements. The salaries of all these constables shall be fixed from year to year by the General Assembly and inserted in the annual county supply act. 1935 (39) 155.

This section comes from 1935/155.

§ 3776. Magistrates, McCormick County.

See 1935/131 (§ 4644-1. this supplement)

1935/34 provides for constable for mag-
istrate in town of McCormick.

§ 3777. Magistrates, Newberry County.—(1) DISTRICTS.—The county of Newberry shall be divided into six (6) magisterial districts, to be designated as magisterial district number one; magisterial district number two; magisterial district number three and magisterial district number four; magisterial district number five, magisterial district number six. Magisterial district number one shall consist of that part of township number three lying north and east of Enoree River, township number four and that part of township number five lying north and east of state highway number two. Magisterial district number two shall consist of township number one, township number two and that part of township number three lying south and west of Enoree River, and that part of township number five lying south and west of highway number two, township number six and township number eight; magisterial district number three shall consist of that part of township number nine, not including the Wheeling school district, the Little Mountain school district, and township number ten and not including the Central school district. Magisterial district number four shall consist of Central school district and townships numbers eleven and twelve, not including Red Knoll school district. Magisterial district

number five shall consist of Wheeling, Little Mountain and Red Knoll school districts, and magisterial district number six shall consist of township number seven.

(2) OFFICES.—The place of office for magisterial district number one shall be Whitmire; the place of office for magisterial district number two shall be Newberry, the place of office for magisterial district number three shall be Prosperity, and the place of office for magisterial district number four shall be Pomaria; the place of office for magisterial district number five shall be Little Mountain, and the place of office for magisterial district number six shall be Chappells.

(3) NOMINATION—TERMS—JURISDICTION.—Candidates for magistrates shall be *bona fide* electors of the respective magisterial districts of which he seeks election and shall be nominated in the primary election every two years and shall hold office until his successors have been appointed and where jurisdiction shall extend over territory as set forth hereinabove provided that those magistrates serving at the time of the passage of this act shall serve two years from the date of appointment. 1935 (39) 222, 89; 1936 (39) 1673.

Section 3777, 1932 Code, repealed by 1935/222, 89; 1936/1673. 1932/1268, 1525. Present section comes from

§ 3778. Magistrates, Oconee County.

See this section in 1934 Supplement.

§ 3781. Magistrates, Pickens County.

The sentence added to this section by 1933/466 was repealed by 1936/1377.

1936/1493 authorized county constable

commission to appoint magistrates constables for Six Mile and Pumpkintown.

See this section in 1934 Supplement.

§ 3782. Magistrates, Richland County.—* * * (11) JURISDICTION.—Each

magistrate in Richland County shall be limited in his jurisdiction of criminal causes triable before him to those offenses occurring within the territorial limits of his magisterial district, and in civil causes triable before him to causes of action arising within the territorial limits of his magisterial district or where the defendants, or any of them reside within the said district: *Provided*, that the territory lying north of United States highway no. 76, east of Messrs Mill road and south of Leesburg road to Wateree river shall be under the concurrent jurisdiction of the magistrates at Eastover and Garners. 1936 (39) 1628.

Subsection 11 added to this section by 1936/1628. See this section in 1934 Supplement for other provisions relating to

magistrates in Richland County.

See § 165, 1932 Code, and this supplement.

§ 3785. Magistrates, Spartanburg County.—* * * (1) TERMS—SALARIES—

JURISDICTION—* * * In addition to the number of magistrates in Spartanburg County, there is hereby created the office of magistrate at Pacolet Mill in Spartanburg County. The salary of the magistrate at Pacolet Mill shall be fixed in the Spartanburg County supply bill. There shall be two additional magistrates for the county of Spartanburg, to be located one at Glendale and one at Clifton Mills number one (1), in said county, whose territorial jurisdiction shall extend throughout the county of Spartanburg, and whose salaries shall be as provided annually in the county supply act. 1935 (39) 216; 1936 (39) 1460.

The first sentence added to subsection 1 by 1935/216. Second sentence added by 1936/1460.

See this section in 1934 Supplement for other provisions relating to magistrates in Spartanburg County.

§ 3786. Magistrates in Sumter County.

See this section in 1934 Supplement.

§ 3786-1. Magistrate, third magisterial district, Sumter County.

See this section in 1934 Supplement.

§ 3787. Magistrates, Union County.—* * * There shall be one magistrate for Pinckney township in Union County and he shall have the right to appoint and/or discharge his constable. The said magistrate shall run in the primary and be elected by the voters of Pinckney township. There shall be one magistrate for Fish Dam and Goshen Hill townships whose jurisdiction shall extend throughout the two said townships and who shall have the right to appoint and/or discharge his constable. The said magistrate shall run in the primary and be elected by the voters of Fish Dam township and Goshen Hill township. 1936 (39) 1629.

The above added to this section by 1936/1629. See this section in 1934 Supplement for other provisions relating to magistrates in Union County.

§ 3789. Magistrates, York County.

See this section in 1934 Supplement.

§ 3797-1. Rural police, Chesterfield County.

1936/1633 provides rural police officers for Chesterfield County.

§ 3799. Rural police, Darlington County.—*Repealed by 1933 Acts, page 92.*

§ 3804-3. Rural police, Horry County.

1936/1436 provides rural police system for Horry County.

§ 3805. Rural police, Kershaw County.

§ 3805, 1932 Code, repealed by 1933/92. See 1935/137 for rural police, Kershaw County.

§ 3806. Rural police, Lee County.

Result of election held August 28, 1934, on abolishing rural police system for Lee County was: Yes—1939; No—1164. See 1934 Acts.

§ 3808. Rural policemen for Marlboro County.

See this section in 1934 Supplement.

§ 3809. Rural policemen in Oconee County.

See this section in 1934 Supplement.

§ 3811. County constables, Pickens County.

This section was superseded by 1933/90. See 1936/1493 authorized county constable commission to appoint magistrates' constables for Six Mile and Pumpkintown. See 1936/1377 for county constables for Pickens County.

§ 3813. Rural police system, Richland County.—*Repealed by 1933 Acts, page 86.*

§ 3815. Rural police system, Sumter County.

1936/1316 provided another rural policeman for Sumter County.

§ 3817. Rural police system in York County.

See this section in 1934 Supplement.

§ 3818. Supervisor—election—term—sub-supervisors.

See this section in 1934 Supplement.

§ 3819. General jurisdiction of supervisor.

County supervisor and board of county commissioners without power to direct county auditor to levy tax. Clary v. Harvey, 176 S. C. 512; 180 S. E. 673.

§ 3820. Bond of supervisor.

See this section in 1934 Supplement.

§ 3821. County board of commissioners—how composed—generally.—* * * *Provided, further,* that in Richland County one commissioner shall be elected in each township by the qualified electors thereof at each alternate general election, and all commissioners of said county hereafter elected shall hold office for four years, eo-terminal with that of the supervisor, and until their successors are elected and qualified: *Provided,* that in case of an election to fill a vacancy, or at a time when the expiration of a four-year term would not

be co-terminal with the expiration of the supervisor, then such term of office shall not be for a term of four years, but shall expire with that of the supervisor. The present term of the county commissioners of Richland County elected at the last general election shall be co-terminal with that of the supervisor of Richland County. 1935 (39) 22.

The proviso in this section in 1932 Code relating to Richland County was eliminated and the above provisions substituted therefor, 1935/22. The said act generally changed the term of office of county commissioners for Richland County.

§ 3822. Bond of commissioners.

See this section in 1934 Supplement.

§ 3827. Supervisor publish list of claims audited.

See this section in 1934 Supplement.

§ 3831. Sentence convicts to county chaingangs—municipal convicts—time.

See note to § 956, 1934 Supplement.

See section 1039-1 for time suspended sentence run.

Working of convicts and prisoners in

§ 3844. Fees for dieting prisoners.

See this section in 1934 Supplement. See also section 4950.

§ 3847. Health of convicts—fees and expenses.

See this section in 1934 Supplement.

§ 3884. Protection of sinking funds of bonds issued by political subdivision of the state.—(1) INVESTMENT OF SINKING FUNDS OF POLITICAL SUBDIVISIONS OF THE STATE—CHANGE—USE.—* * * *Provided, further,* that custodians of sinking funds of Spartanburg County, or any political subdivision therein, may invest such funds in federal savings and loan association shares without complying with subsection 3 of section 3884 of the Code of Laws, 1932. No investment shall exceed the amount insured by the federal authorities. 1935 (39) 432.

The above proviso added to subsection (1) by 1935/432. Subsection (6) of this section amended by 1932/1352, 1363. See 1934 Supplement.

ABBEVILLE COUNTY

§ 3886. Record of claims allowed—publication of statement.—The county board of commissioners shall keep a book called "Classification of Claims Allowed," in which shall be entered all claims allowed in numerical order. This book shall be printed and ruled with appropriate columns, showing: (1) Line number; (2) claim number; (3) warrant number; (4) item number in supply act to which chargeable; (5) claimant; (6) nature of claim; (7) amount allowed; (8) amount paid; (9) date paid; (10) amount unpaid; (11) column headed and numbered "items number 1" and upwards, with a tabulated statement at head of each column showing: (a) The amount of the appropriation made for the particular item; (b) the amount of claims allowed to date chargeable to such item; (c) the balance of the appropriation subject to future claims which may be allowed or the balance of over-allowed; (12) total, with similar tabulation. Within the first ten days of each and every month or quarter, the county board of commissioners shall publish one time in a newspaper of the county selected by them as calculated to give full publicity thereto, the statement under their hands, attested by the clerk of the board, showing the exact amount expended for the preceding month or quarter and shall pay therefor not exceeding twenty-five (\$.25) cents per inch for each insertion. 1935 (39) 18.

§ 3895. Clerk of court, register of mesne conveyances, sheriff, auditor, treasurer, probate judge, receive salaries in lieu of fees, etc.—(1) SALARIES.—In lieu of the retention of all fees, costs and charges and of any and all sums paid them on account of compensation or otherwise, the clerk of court of common pleas and general sessions, and register of mesne conveyances, sheriff, judge of probate, county treasurer and county auditor, beginning January 1st, 1937, shall receive the following salaries per annum, payable one-twelfth monthly:

Clerk of court of common pleas and general sessions and register of mesne conveyances	\$2,200.00
Sheriff	2,200.00
Judge of probate	1,800.00
County treasurer to be paid by Abbeville County one-half of whatever sum is paid by the state of South Carolina.	
County auditor to be paid by Abbeville County one-half of whatever sum is paid by the state of South Carolina.	

(2) KEEP RECORD AND ACCOUNT FOR FEES COLLECTED.—The said county officers shall separately keep in duplicate, accurate and completely itemized accounts of all fees collected, and on or before the tenth day of each calendar month they shall deliver one copy sworn to by said officers, respectively, to the treasurer of said county together with the payment to said treasurer in full of all fees, costs and charges collected during the preceding calendar month; *Provided, further*, that the official bonds of such officers shall be responsible for any failure to collect and pay the same to the treasurer.

(3) PAYMENT OF SALARIES.—Upon the filing of such sworn, itemized statement and it appearing correct in form to the said treasurer and payment of the sum thereby shown to be due having been made, the treasurer shall certify to the county board of commissioners that such officer has complied with the provisions of this section and until receipt of such certificate the said board shall not pay to the county officers affected hereby his salary for the preceding month.

(4) FORMS—STATEMENT OF FEES PUBLIC RECORD.—The forms for the account and statement and the certificate hereby required may be prescribed and furnished by the Abbeville County board of commissioners, and each officer required to keep and submit such shall retain one copy of each monthly statement as a permanent public record of his office, and the treasurer shall likewise preserve as a permanent and public record of his office the sworn monthly statement submitted to him by each officer, the same to be filed in an orderly manner and readily accessible. 1935 (39) 15; 1936 (39) 1325.

§ 3895, 1932 code, repealed by 1935/15. This section comes from 1936/1325.

§ 3898. Loans—advertise for.—Should the county board of commissioners find it necessary to borrow money for any year for county expenses in advance of the collection of taxes therefor, as provided and authorized by law, they shall insert an advertisement in a county and state newspaper for at least three weeks in at least three issues thereof, setting forth the amount wanted and when the same will be repaid, asking for competitive bids on terms and the rate of interest, and all money borrowed shall be at the best terms and lowest rate of interest the board can get: *Provided*, that the provisions herein as to advertisement may be waived by a majority of the Abbeville delegation. 1935 (39) 17.

The word “and” omitted after “repaid” line six; and last proviso added by 1935/17.

§ 3902-1. Issue certificates of indebtedness pay obligations.

See this section in 1934 Supplement.

§ 3902-2. Borrow in anticipation of collection of taxes levied for retiring bonds.—The county supervisor and county treasurer of Abbeville County are hereby authorized, empowered and directed to borrow during any fiscal year without advertisement in anticipation of the collection of taxes levied or to be levied that year for the purpose of retiring the several installments and paying the semi-annual interest on the bonded indebtedness of said county, and they are hereby authorized, empowered and directed, for the purpose of obtaining and procuring such loan or loans, to pledge the taxes so levied or to be levied for that purpose and to execute and deliver note or notes of Abbeville County, in such respective amounts and at such rate of interest and with such maturity dates, as in their discretion may be deemed necessary and advisable for such purposes; and the sum or sums so borrowed shall constitute a valid and prior claim and lien upon the taxes in anticipation of which the same are borrowed and said notes may be renewed from time to time pending the collection of said taxes. 1935 (38) 154.

This section added by 1935/154.

AIKEN COUNTY

§ 3903. County commissioners—term—removal.

See this section in 1934 Supplement.

§ 3938-1. Operation of motor boat on Bath Lake, with exhausts or cut-outs open restricted.

See this section in 1934 Supplement.

§ 3938-2. Certain contracts and obligations for payment of money legal.—

The officers of Aiken County having the authority to make contracts for the payment and/or receipt of money are hereby authorized and empowered to obligate said county for the payment and/or receipt of such interest and/or principal, payable at such times as said officers may deem proper, and when said contracts or obligations are made by such officers and approved by a majority of the Aiken county delegation, said contracts and/or obligations shall be binding and legal obligations of Aiken County for the payment of interest and/or principal. 1936 (39) 1596.

This section added by 1936/1596.

ALLENDALE COUNTY

§ 3940. Appointment of members—term—bonds.

See this section in 1934 Supplement.

§ 3942. County board—duties and powers.

Section 3955-2, this Supplement, should etc. (1936/1424).
be consulted for the purchases of supplies,

§ 3949. May borrow:

See this section in 1934 Supplement.

§ 3955-1. Duties and powers of remaining member of legislative delegation in event of vacancy.—In the event of a vacancy occurring in the office of the senator or representative in the Legislature from Allendale County, all duties pertaining to the borrowing of money by the county and its subdivisions and the expenditure of county and school funds and the recommendation and appointment of all officers in said county, now requiring joint action on the part of the senator and representative, shall, during the period of such vacancy, devolve upon the remaining member of the legislative delegation

from said county, and such remaining member is hereby authorized and empowered, during the period of such vacancy, to perform all of the said duties with the same legal, valid and binding effect as if the same had been acted upon by the full delegation in the General Assembly from said county. 1936 (39) 1663.

This section added by 1936/1663.

§ 3955-2. Purchasing agent.—(1) **APPOINTMENT—TERM—REMOVAL—VACANCY—COMPENSATION.**—There is hereby created the office of purchasing agent for Allendale County, who shall be employed by the county board of commissioners, upon the recommendation of the legislative delegation of said county, and shall hold office for a term of four (4) years: *Provided*, that he may be removed or discharged for cause at any time by the said county board, after being fully informed of the charges against him and an opportunity to be heard, and to offer evidence, and to be represented by counsel at such hearing or hearings. In case of a vacancy caused by death, resignation, removal, or otherwise, his successor shall be chosen in like manner, for a term of four years. His compensation shall be annually fixed by the county board of commissioners, with the written approval of the said legislative delegation, and shall be paid as other county employees are paid.

(2) **COUNTY OFFICERS FILE REQUISITIONS MONTHLY FOR SUPPLIES, ETC.—OTHER PURCHASES PROHIBITED.**—It shall be the duty of each officer and department of Allendale County to file with said purchasing agent on or before the first Tuesday of each calendar month a requisition duly signed by official or person making such requisition of the requirements of such officer or department, for next following month, and no such officer or department shall make any purchase of supplies, equipment or materials except through said purchasing agent, as provided in this section.

(3) **COUNTY BOARD APPROVE REQUISITIONS—ADVERTISE FOR BIDS AND AWARD CONTRACTS—EMERGENCY SUPPLIES.**—The purchasing agent shall, upon receiving the requisitions of officers and departments of the county, submit the same to the county board of commissioners, and said board shall approve, modify or disapprove the same. Thereafter the purchasing agent shall advertise for sealed bids or proposals upon the supplies, equipment or materials authorized by the county board to be purchased, by posting such advertisements upon the county bulletin board at the court house; bids shall close at noon on third Tuesday of each month and the purchases shall be made from the lowest responsible bidder or bidders meeting the specifications provided in the advertisements; the purchasing agent reserving the right to reject any or all bids; *Provided, however*, that any such advertisement shall be published in a newspaper published in said county when so required by said county board, when the purchases to be made are larger than the usual monthly purchases of said county; *Provided, further*, that in cases of emergency or immediate need, certified to by the officer or department making the requisition, purchases not exceeding in amount fifty dollars may, with the approval of said county board, be made forthwith without advertisement for bids. That the purchases made as herein provided shall be paid for by the county treasurer upon the warrants of said purchasing agent.

(4) **RECORDS—REPORT MONTHLY.**—The purchasing agent shall keep a complete record of all requisitions, copies of all advertisements, all bids, and pur-

chases made, and shall monthly report in writing on such matters in detailed form to the legislative delegation and to the county board. 1936 (39) 1424.

This section added by 1936/1424.

ANDERSON COUNTY

§ 3956. Supervisor and board of finance administer affairs—board of county commissioners abolished—duties devolved.—The county government of Anderson County shall be in the hands of the county supervisor and of board of finance as herein provided for. Upon the expiration of the present terms of office of the county commissioners of Anderson County, the offices of county commissioners of said county are abolished, and sections 3956, 3957, 3958, 3960, and 3962, creating the board of county commissioners for Anderson County, providing for their appointment, defining their duties and fixing their compensation, are hereby repealed, and the duties heretofore exercised by the county board of commissioners are devolved upon the county supervisor under such limitations as are provided in §§ 3956 and 3957. 1934 (38) 1447; 1935 (39) 95.

Section 3956, 1932 Code, repealed by act and 1935/95.
1934/1447. Present section comes from said

§ 3957. Supervisor—board of finance.—The term of office of the supervisor shall be as now provided by law, and he shall enjoy and have all the powers now conferred upon him by law, except as may be limited herein. The board of finance shall be composed of the supervisor, who shall be elected as now provided by law, and four discreet, competent men, who shall be appointed by the Governor, upon the recommendation of a majority of the legislative delegation from Anderson County. The regular terms of office of the appointive members of the board of finance shall be for four years, and until their successors have been appointed and qualified: *Provided*, that the initial term of two of the members shall be for only two years, and the legislative delegation shall indicate in their recommendation to the Governor which persons shall serve for the initial two-year term. It shall be the duty of the said board to meet at Anderson, South Carolina, on the first Tuesday in each month, and oftener if necessary, and audit all claims against the county and determine the important work of the county and devise plans for the prosecution thereof to perform all the duties devolved upon the county commissioners or other governing body, under the general laws of South Carolina, except such duties as relate to the construction and maintenance of roads and bridges and except as hereinafter provided; to receive the financial reports of all county officers and to coordinate as far as possible the work of said offices; to recommend to the delegation such changes in the administration of county government as to them seems conducive to more businesslike and economical county government, and to pass upon and determine all matters pertaining to the due administration of the county government. It is distinctly declared that no important or expensive county projects shall be undertaken by the supervisor without the approval of the board, neither shall any claim be paid by the county without the approval of such board. The supervisor shall have control of the county chaingang, the county home and farm, and county roads, and is charged with the care and supervision of all county property. The clerk, as now provided by law for the county supervisor, shall be clerk for the county supervisor and the board of finance. Any vacancy occurring in the membership of the board of finance shall be filled as provided for the regular appointments.

For failure to perform his duty, it shall be the duty of the Governor to remove any such member upon the written request of a majority of the legislative delegation. 1934 (38) 1447; 1935 (39) 95.

§ 3957, 1932 code, repealed by 1934/1447. Present section comes from 1935/95.

§ 3958. **Duties.**—*Repealed by 1934 Acts, page 1447.*

§ 3960. **Purchases.**—*Repealed by 1934 Acts, page 1447.*

§ 3962. **Compensation.**—*Repealed by 1934 Acts, page 1447.*

§ 3967. **Publication of statements by supervisor and county commissioners of Anderson County.**

See this section in 1934 Supplement.

§ 3971. **Audit books annually.**—(1) **AUDITORS.**—The books of Anderson County shall be audited annually at the end of each fiscal year by a certified public accountant licensed to do business in South Carolina *or other competent auditors*, such audit shall cover the records of all the county officials and the various county agencies. 1935 (39) 210.

Words in italics added, 1935/210. Section otherwise unchanged.

§ 3971-1. **Compensation of officials—collection and disposition of fees.**

See this section in 1934 Supplement. Coy (filed 11-3-36) should be consulted as **Constitutionality**: Holt v. Calhoun, 175 to the constitutionality of this section. S. C., 481, 179 S. E., 50 and Salley v. Me-

§ 3971-2. **County board of health.**—(1) **AUTHORIZED.**—Anderson County, South Carolina, shall have and maintain a county board of health, under the direction and control of the state board of health, as now provided by law, for the direction and control of local boards of health in incorporated cities, towns and villages.

(2) **APPOINTMENT.**—The said county board of health shall be composed of a member of the county teachers' association, duly elected and appointed by the said county teachers' association; a member of the county council of farm women; duly elected and appointed by the said county council of farm women; a member of the county tuberculosis association duly elected and appointed by the said county tuberculosis association; three (3) members of the county medical society, duly appointed and elected by the county medical society; one licensed dentist of Anderson County duly appointed by the licensed dentists of Anderson County; a bona fide resident of the county duly elected and appointed by the county delegation to the General Assembly; a bona fide resident of the county duly elected and appointed by the state board of health. That immediately upon their election their names shall be certified to the state board of health.

(3) **TERM—APPOINTMENT.**—The members of the county board of health, functioning as such, are to serve for a term of one year and until their successors have been elected and qualified. *Provided*, that if for any reason the members of the said county board of health are not appointed, it shall be the duty of the state board of health to forthwith appoint such duly qualified residents of the county, to serve on the said county board of health as may be necessary.

(4) **DUTIES AND POWERS.**—The county board of health is hereby vested with all the rights, powers, duties, privileges and responsibilities that are now imposed by law upon local boards of health in incorporate cities, towns and villages.

(5) **EMPLOYEES.**—All personnel that may be employed in the county health unit shall be recommended by the Anderson County board of health and approved by the state board of health.

(6) JURISDICTION.—The said county board of health is hereby empowered with jurisdiction over all that area lying in the county beyond the incorporate limits of cities, towns and villages. *Provided, further,* that if the duly constituted authorities of any incorporate city, town and village, desire to relinquish their own rights, duties, powers and privileges as provided by law, they shall have the right to do so, and forthwith shall become within and under the jurisdiction and authority of the said county board of health.

(7) APPROPRIATE NECESSARY FUNDS—DISBURSEMENT.—The necessary appropriation be provided by members of the General Assembly to carry out the provisions of this section for the county board of health and county health department, and that the said moneys so appropriated shall remain in the custody of the county authorities to be paid out upon properly prepared vouchers of the county health department. Said vouchers having been approved for payment by the county board of health.

(8) SECRETARY—SERVICES COUNTY HEALTH DEPARTMENTS AND DISTRICT HEALTH DEPARTMENTS RENDER.—The director of the county health department shall be secretary of the county board of health; he shall be the custodian of books, papers, instruments or appliances belonging to said board of health or that may be intrusted to his care; he shall summon the board to meetings and shall attend all meetings of the board unless otherwise ordered, and shall discharge the duties appertaining to the office of secretary.

The county health departments and district health departments carrying on their duties shall be expected and directed to render the following services: The control of contagious diseases, by locating and isolating cases, quarantining those exposed and inducing strict bedside precautions, and by giving all forms of biologicals which have been recognized as preventive by the state board of health; *Provided,* that the same shall only be given to the indigent with the consent of the family physician, or in the event of threatened epidemics or as directed by the state board of health examination of school and pre-school children; the inspection of all food manufacturing and vending establishments, school houses and other public buildings; infant and maternity welfare work and all approved forms of modern sanitation, especially of the rural homes; and such other activities as may be directed by the state board of health. 1936 (39) 1621.

This section added by 1936/1621.

BAMBERG COUNTY

§ 3989. Term of office—superintendent of education—appointment.

See this section in 1934 Supplement.

§ 3989-1. Bonds of county officials.

See this section in 1934 Supplement.

BARNWELL COUNTY

§ 3994. Duties devolved.

See this section in 1934 Supplement.

§ 4019-1. Fiscal year.

See this section in 1934 Supplement.

BEAUFORT COUNTY

§ 4021. Board of directors—term.

See this section in 1934 Supplement.

§ 4022. Appointment—vacancy.

See this section in 1934 Supplement.

§ 4023. Supervisor of roads—appointment—term—salary—duties and powers—removal.—The Governor shall appoint a supervisor of roads for Beaufort County upon the recommendation of a majority of the legislative delegation from Beaufort County, the said delegation in making said recommendation shall be bound by the nomination in any democratic primary if made. The term of office of said supervisor of roads shall be for a period of four (4) years and his salary shall be as fixed in the annual supply act for Beaufort County. Said supervisor of roads shall have charge of organizing and managing the construction, maintenance and repairs of the roads and bridges of Beaufort County under the general supervision of the county board of directors and shall perform such other duties as said board of directors shall direct. He shall be removed from office by the Governor at any time when so requested by a majority of the board of directors and a majority of the legislative delegation from Beaufort County. 1933 (38) 248; 1936 (39) 1438.

§ 4024. Directors—organization—compensation—bond.

See this section in 1934 Supplement.

§ 4025. Duties devolved on directors.

See this section in 1934 Supplement.

§ 4026. General duties and powers of directors—office.—* * * ACQUIRE REAL PROPERTY—SELL LEASE.—The Beaufort county board of directors is empowered and directed to acquire title by gifts, purchase, or otherwise, to such real property as it may desire and deem fit to be held by the same for the purposes of cooperating with and securing the location in Beaufort County of industrial enterprises and for such other purposes as the said board may deem fit and proper. The Beaufort County board of directors is empowered to enter into agreements for the sale or lease of any real property acquired, as provided above, with any person, firm or corporation for any development of any business or industry which desires to locate in Beaufort County, on such terms and conditions as may be approved by the said board of directors. 1936 (39) 1621.

The above added by 1936/1621.

See this section in 1934 Supplement.

§ 4027. Clerk—duties—employees.

See this section in 1934 Supplement.

§ 4028. Compensation of employees—bonds—removal.

See this section in 1934 Supplement.

BERKELEY COUNTY

§ 4046. Fiscal year.—The fiscal year of Berkeley County shall begin on July 1 of each year and end on June 30 of the following calendar year. 1936 (39) 1339.

Section 4046, 1932 Code, repealed by 1933/116. Present section comes from 1936/1339.

§ 4048. Use sinking fund monies or other funds to finance schools or for general purposes.

See this section in 1934 Supplement.

§ 4063. Salary of clerk of court.—*This section repealed by 1935 Acts, page 48.*

CALHOUN COUNTY

§ 4069. Road tax.

See this section in 1934 Supplement.

§ 4069-1. Fiscal year.

See this section in 1934 Supplement.

CHARLESTON COUNTY

§ 4075-1. Sanitary and drainage commission advertise letting of contracts exceeding \$500.00 for labor or supplies.

See this section in 1934 Supplement.

§ 4075-2. Sanitary and drainage commission establish chain gang.—The sanitary and drainage commission of Charleston County is hereby authorized and empowered to use any prisoners confined in the Charleston County jail, who have been convicted and have received sentences of less than six (6) months, on the public works of Charleston County, except on projects financed in whole or in part by funds received from the federal government. The said commission, in using said prisoners, shall not be required to maintain separate establishment or establishments in taking care of the said prisoners, but may keep the same in the county jail; provided that the sheriff shall not be responsible for the safekeeping of any such convict, except while at the jail. For the purposes of this section, all of the powers, authority and duties in connection with chain gangs conferred and imposed upon county supervisors and county boards of commissioners under sections 3835, 3836, 3841, 3843, 3844, 3846 and 3847 are hereby conferred, imposed and devolved upon the said commission. The funds required for the maintenance and operation of said chain gang or chain gangs are hereby authorized to be expended from the funds provided for the operation of said commission. *Provided*, that the sanitary and drainage commission of Charleston County is hereby authorized and empowered to use aforementioned prison labor in the maintenance and construction of roads situate within the limits of incorporated towns of less than three thousand (3000) population when application is made to the commission by the mayor and council of such towns. 1936 (39) 1393.

This section added by 1936/1393.

§ 4077-1. Treasurer pay salaries of county officers and employees for January, February and March each year.

See this section in 1934 Supplement.

§ 4077-2. Officials receiving fees pay portion to treasurer—keep and file records of same.

See this section in 1934 Supplement.

Constitutionality: Holt v. Calhoun, 175 S. C., 481, 179 S. E., 50 and Salley v. Mc-

Coy (filed 11-3-36) should be consulted as to the constitutionality of this section.

§ 4077-3. License to sell food, fruit, produce or merchandise from motor vehicles.

See this section in 1934 Supplement.

§ 4077-4. Fiscal year.—The fiscal year of Charleston County shall begin on July first of each year and end on June thirtieth of the following calendar year. 1936 (39) 1376.

This section added by 1936/1376.

§ 4077-5. Filling of vacant county offices.—No vacancy of any elective or appointive office or position, created or occasioned by the death, resignation or removal of an office-holder or employee of the county of Charleston, shall be filled either by special election or appointment without first obtaining the written advice of the Charleston delegation to the General Assembly of South Carolina as to whether said office or position shall be abolished. The pro-

visions of this section shall not apply to laborers employed by the sanitary and drainage commission of Charleston County. The terms "office-holder" and "employee" as used herein shall be construed to mean any and all persons whose compensation is paid in whole or in part by Charleston County, or by funds obtained in whole or in part from appropriations of the funds of said county. *Provided, however*, that since the sole purpose of this section is to effect economies, nothing herein contained shall be construed to take away from the appointing official or officials the right and duty of making appointments, should the position in which a vacancy occurs be not abolished under the provisions herein. 1935 (39) 107.

This section added by 1935/107.

§ 4077-6. County commissioners lease certain property—terms—procedure.

—The board of county commissioners of Charleston County are authorized and empowered to lease any property title to which is vested in either Charleston County or the forfeited land commission for Charleston County, for such terms and on such conditions as said board, or a majority thereof, may deem to be for the best interest of said county, in the manner hereinafter provided for; *Provided, however*, that no lease shall be made of any property adjoining or contiguous to any road, bridge or highway in Charleston County except upon the consent of the sanitary and drainage commission for Charleston County:

(a) Such property shall be advertised at least once in a newspaper published in Charleston County in which advertisement attention shall be directed to the property sought to be leased and sealed proposals shall be invited for leasing.

(b) No lease shall be made for a term longer than two (2) years, unless consent thereto shall be given in writing by the senator and a majority of the Charleston County delegation to the South Carolina General Assembly.

(c) Such lease shall be awarded to the highest responsible bidder: *Provided*, that in instances where a bid other than the highest bid is contemplated to be accepted, at least 5 days' notice shall be given to the Charleston delegation to the General Assembly by a letter directed to the secretary of the delegation and such bid shall not be finally accepted without approval by said delegation or a majority thereof.

(d) Such lease or leases shall be executed in the name of Charleston County by the supervisor or treasurer of Charleston County, and shall be kept on file in the office of the county treasurer. 1936 (39) 1398.

This section added by 1936/1398.

§ 4077-7. Sale of county property adjoining public highways.—Such portion of property in Charleston County owned by Charleston County which immediately adjoins public highways in said county shall not be sold by said county except with the consent of the sanitary and drainage commission for Charleston County, or such other authorities as may be in charge of the operation and maintenance of public roads of said county. 1935 (39) 155.

This section added by 1935/155.

§ 4077-8. County health board.—(1) APPOINTMENT — TERMS — VACANCY. —There shall be a county health board of Charleston County, which shall consist of five (5) members, four (4) of whom shall be appointed by a majority of the Charleston County legislative delegation and one of whom shall be appointed by the city council of Charleston. They shall be commissioned by the Governor and shall hold office for the terms herein provided, but in the absence of a formal commission from the Governor a letter in writing addressed to the appointees

by the appointing body shall be a sufficient warrant for the members of said board to function as hereinafter provided for. Of the four (4) appointed by the Charleston county delegation, one shall hold office for a term of one (1) year, the second shall hold office for two (2) years; the third shall hold office for three (3) years and the fourth shall hold office for four (4) years from the date of appointment. The one (1) appointed by the city council of Charleston shall hold office for a period of five (5) years from the date of his appointment. At the expiration of each of the terms herein provided for a successor shall be named whose term shall be for five (5) years from the date of the expiration of the term of his predecessor. In the event of any vacancy on the board caused by death, resignation or inability to serve, a successor shall be named for the balance of the unexpired term.

(2) **HEALTH OFFICER—APPOINTMENT—TERM.**—The county health board shall employ a county health officer for Charleston County who shall serve in such capacity so long as his services are satisfactory, and who shall be subject to removal for cause by the health board at any time. No person shall be appointed to fill this office unless he shall be a graduate of a reputable medical college and otherwise qualified to carry on public health work.

(3) **EMPLOYEES.**—The county health officer may employ, subject however to the approval of the county health board being first given, a chief sanitary inspector, and such other personnel necessary to suitably supervise and maintain satisfactory health conditions in Charleston County. All or any of these employees may be discharged by the county health officer for cause subject to the approval of the county health board. The salaries of all employees shall be fixed by the county health board subject to the approval of the Charleston County delegation to the General Assembly.

(4) **DUTIES OF HEALTH OFFICER, SANITARY INSPECTOR, AND NURSES.**—The county health officer, the sanitary inspector and the public health nurses herein provided shall have jurisdiction in the county of Charleston, within and without the city of Charleston and shall inspect frequently the sanitary conditions throughout the city and county, and give information by bulletins, and provide communications as to the need of promoting health and preventing disease. They shall discuss as far as practicable all causes of disease, and when any disease is contagious or infectious they shall, where practicable, effect an isolation or quarantine of such cases so as to prevent the spread of disease. They shall be charged with the duties of enforcing all health or sanitary laws of the state and regulations of the state board of health, and all health and sanitary ordinances of the city of Charleston.

(5) **RULES AND REGULATIONS—PENALTY.**—The county health board is hereby empowered to make reasonable rules and regulations for the promotion of health and the prevention of disease within Charleston County. Any person violating any rule or regulation of the said board, after he or she shall have been notified thereof in writing by the board or any of its authorized agents, shall be guilty of a misdemeanor and upon conviction shall be imprisoned for not less than three (3) days or more than ten (10) days or pay a fine of not less than five (\$5.00) dollars or more than twenty-five (\$25.00) dollars. Each day that any such regulation is not obeyed, after one notice of the violation thereof, shall constitute a separate offense. Notice by registered mail shall be sufficient notice. The penalty herein provided shall be in addition to other penalties or remedies provided by law.

(6) **DUTIES OF BOARD.**—The county health board shall cooperate with and assist the various hospitals, health and charitable institutions in Charleston County to which an appropriation is given by Charleston County and shall make annually a report to the Charleston County delegation to the General Assembly concerning the needs and conditions of those institutions. It shall have full power and authority to direct the disposition of cases of insanity and of contagious diseases and may direct the commitment of persons found to be lunatics to the State Asylum in Columbia.

(7) **PHYSICIANS REPORT PATIENTS HAVING CONTAGIOUS OR INFECTIOUS DISEASE.**—Any physician attending any patient in the county of Charleston, who has a contagious or infectious disease shall within twenty-four (24) hours after diagnosing such disease report to the county health office the name and residence of such person and nature of the disease.

(8) **BOOKS, STATIONERY, PRINTING, POSTAGE, ETC.**—The county health board shall furnish the county health officer with such books, stationery and postage as may be necessary for his office and in addition shall pay the cost of printing such bulletins the county health officer to contract for the printing of such bulletins as may be necessary and to certify the bill as correct to the county health board, who shall draw their warrants upon the county treasurer in payment thereof.

(9) **APPROPRIATION.**—An appropriation from the funds of Charleston County shall be made to adequately carry on the work outlined herein: *Provided*, that the sum of money appropriated for this purpose shall not be exceeded. 1936 (39) 1537.

This section added by 1936/1537.

§ 4077-9. **James Island park commission.**—There is hereby created a commission which shall be known as the James Island park commission. It shall be composed of three (3) members, each of whom shall hold office for a term of two (2) years from the date of their appointment and until their successors shall have been duly appointed and qualified; one of whom shall be appointed by the trustees of school district no. 3 of Charleston County, South Carolina, and the remaining two (2) by a majority of the Charleston delegation to the General Assembly. A letter addressed to each appointee by the appointing bodies shall be a sufficient warrant to the said appointees to perform the duties and functions herein granted to and conferred upon the James Island park commission. The said commission shall have charge of and supervise all parks and play grounds within the territorial limits of school district no. 3 of Charleston County including specifically the athletic field adjoining the Riverland Terrace school. It shall have full power to accept gifts or grants and to expend any sum or sums of moneys which it may become possessed of, and in general, power to do all things necessary to properly maintain and equip said parks or play grounds. 1936 (39) 1662.

This section added by 1936/1662.

§ 4077-10. **North Charleston park and playground commission.**—There is hereby created the North Charleston park and playground commission which shall be composed of the following: the trustees of school district no. 4, Charleston County; two residents of North Charleston who shall be selected in the following manner, one (1) selected by the North Charleston holding company, its successors or assigns and one (1) member selected by the North Charleston water and sewer commission. The members of the commission other than the said trustees shall hold office for a term of two (2) years and until their successors have been appointed. The commission herein created is given the power

to acquire by gift or otherwise real and personal property and to hold the same in trust for the uses and purposes provided for in this section. The said commission shall have the power to lay-out, create, develop, maintain and operate a system of parks and playgrounds within North Charleston for the use and benefit of residents, institutions and schools located in North Charleston. Any property whether real or personal, owned and held by said commission within said area and for the use and purposes set forth in this section shall be exempt from county, school and state taxes. 1936 (39) 1380.

This section added by 1936/1380.

CHEROKEE COUNTY

§ 4078. County board of commissioners.

See this section in 1934 Supplement.

§ 4082. Clerk—bond of commissioners and clerk.

See this section in 1934 Supplement.

§ 4120. Sinking fund commission.

See this section in 1934 Supplement.

§ 4121-1. Bonds of county officials.

See this section in 1934 Supplement.

CHESTER COUNTY

§ 4131. Commutation road tax.

See this section in 1934 Supplement.

§ 4138-1. County peace officers accepting check or draft as payment of fines, etc., liable for payment.

See this section in 1934 Supplement.

§ 4138-2. Officers file bonds in clerk of court's office.—Every officer in Chester County who is now required by law to furnish bond for the faithful performance of his official duties shall have the said bond recorded in the office of the clerk of court for the said county immediately upon its execution and shall pay the clerk for recording the said bond the fee now required by law for recording real estate mortgages. That upon the payment of the said fee, the clerk of court shall issue to every such officer his certificate of recording. The salary of every bonded officer in Chester county who fails to comply with the provisions of this section shall be withheld until he or she shall comply therewith. The certificate required herein to be issued by the clerk of court shall be sufficient evidence of the recording of any bond. 1936 (39) 1447.

This section added by 1936/1447.

CHESTERFIELD COUNTY

§ 4145. Commutation road tax.

See this section in 1934 Supplement.

§ 4146. Fiscal year.—The fiscal year of Chesterfield County shall begin on July 1 of each year and end on June 30 of the following calendar year. 1936 (39) 1594.

§ 4146, 1932 Code, repealed by 1933/348. Present section comes from 1936/1594.

§ 4148-1. Annual audit.

See this section in 1934 Supplement.

CLARENDON COUNTY

§ 4149. Road tax.

See this section in 1934 Supplement.

§ 4185. Officers receive salaries in lieu of fees.

This section, 1931/212, re-enacted by 1935/239.

§ 4186. Office hours for court house.

See this section in 1934 Supplement.

§ 4186-1. Load limits for vehicles.

See this section in 1934 Supplement.

§ 4186-2. Purchase of cows and hogs.—(1) LICENSE REQUIRED—ISSUANCE.—

No person, for himself or another, shall be permitted to buy in Clarendon County a cow or hog, or cows or hogs, from the owner or owners thereof or from any other person without having first procured from a magistrate of said county a license for each day on which such purchase or purchases occur or for each trip (if less than a day) into or about the county in which such purchase or sale is consummated and any said magistrate shall issue such license, keeping a duplicate thereof on permanent file, on which license shall appear the name, age, color, post office address, vehicle number and other matter of description of the licensee, the date for which such license is issued, the signature of the licensee, to be signed and dated by the magistrate so issuing the same; and for such service such magistrate shall be paid by the licensee the sum of fifty cents, which said magistrate may retain as his fee and expense for the performance of his duties hereunder.

(2) **LICENSEES FILE REPORTS WITH MAGISTRATES.**—At the end of the day for which any such license was issued, or after the completion of the licensee's purchasing for that day, he shall report to the magistrate issuing the license or a constable designated for the purpose, and exhibit his purchases to said magistrate or constable and file with him a description of the animals purchased, including the names of the persons from whom each animal has been purchased, and the color, sex, mark and approximate weight of each such animal, such report to be sworn to before the magistrate or constable who shall check the report and determine its accuracy by actually viewing the animals described therein, which report shall be permanently retained on file by the magistrate.

(3) **HOURS PURCHASE COWS AND HOGS.**—It shall be illegal, and a violation hereof constituting a misdemeanor for anyone to purchase any cow or hog in Clarendon county after sunset or before sunrise.

(4) **PENALTY.**—Any violation of the terms hereof shall be deemed a misdemeanor and anyone convicted thereof, or pleading guilty thereto, shall be subject to a fine not exceeding \$100.00 or imprisonment not exceeding thirty days.

(5) **PURCHASES EXEMPTED.**—The terms of this section (except subsection 3) shall not apply to purchases made by or for (and delivered within the county to) any person, firm or corporation regularly conducting a farm, meat market or store in said county, or purchasing such animals for possession within said county for the purpose of fattening or pasturing them. 1936 (39) 1630.

This section added by 1936/1630.

COLLETON COUNTY

§ 4210. Payment of poll tax.—Any poll taxpayer shall have the right to have his poll tax segregated from his other taxes and upon paying said poll tax to have due receipt therefor. 1935 (39) 290.

Section 4210, 1932 Code, repealed by 1935/290. Present section 4210 comes from 1933/473; 1934/1326. The said 1933 act 1935/290. and the said 1934 act were repealed by

§ 4225-1. Compensation of auditor, clerk of court, probate judge, sheriff, and treasurer—collection of fees.

See this section in 1934 Supplement.

§ 4225-2. Investment of sinking funds.—The county treasurer of Colleton County is hereby authorized and empowered to invest any sinking funds now held by him with any increments thereto, or any sinking funds which may hereafter come into his custody, in the purchase in the open market of bonds or notes of the issue for which the sinking fund was created, or in bonds or notes of Colleton County or of any of its political subdivisions, or in bonds or notes of the state of South Carolina, or in bonds of the United States Government, or in bonds the payment of which is wholly guaranteed by the United States Government, or in certificates of indebtedness of the state highway department of South Carolina, if in his opinion such investment is necessary or advisable. Said investment shall be kept by him separate and distinct and properly earmarked with, or registered in, the name of the particular sinking fund to which applicable, and be used for no other purpose, and are to be kept until such time before the maturity of the obligations for which the sinking fund was established as may be necessary to sell or collect the same in order to meet such obligations at maturity. In the purchase of bonds or notes, (other than bonds of or guaranteed by the United States Government, bonds or notes of the State of South Carolina, or certificates of indebtedness of the state highway department), he shall purchase bonds or notes maturing on or before the obligations for which the said sinking fund was created. He shall have power and authority to sell from time to time the securities so purchased in order to reinvest the funds to an advantage or to meet the payment of the obligations for which the sinking fund was created, when securities are so bought or sold by him he shall within ten (10) days thereafter file in the office of the clerk of court for public inspection a list of the securities so bought or sold, designating the particular sinking fund affected thereby and stating the amount paid therefor or the amount for which sold, as the case may be, and as to securities purchased give short descriptions thereof, showing the quantity purchased, the name of the obligor, the maturity date, and interest rate. He shall also make due record of all transactions hereunder in a book to be kept as a permanent record of his office. Provided, that in investing sinking funds now on deposit in banking institutions located in Colleton County, he shall not during the next three years withdraw said deposits at a rate exceeding one third of the aggregate thereof, as to each bank, in any one year. 1935 (39) 198.

This section added by 1935/198.

sinking funds.

See § 5365, 1932 Code, for investment of

DARLINGTON COUNTY

§ 4227. Board of directors.—(1) **PERSONNEL**—**SECRETARY**—**BOND**—There is hereby created for Darlington County a board known and designated as the board of directors of Darlington County, which shall be composed of three members, the chairman of the sinking fund commission, the chairman of the county board of education and the chairman of the Darlington County highway commission, all *ex-officio*, to be charged with the duties and responsibilities herein provided as additional duties and responsibilities of their respective offices, and the salaries provided to be for additional work hereby demanded of said original offices. The said board shall meet at the county courthouse and organize by electing one of their number as chairman. The permanent secretary of the board shall be

the clerk of the supervisor and whose selection is hereinafter provided for. Each of the said members shall give bond for the faithful performance of his duty under the provisions of §§ 4227-4230 in the sum of \$5,000.00, the premiums on which bonds shall be paid by the county.

(2) DUTIES AND POWERS.—It is made the general duty of the said board of directors, and for the discharge of which full power and authority are hereby conferred, to organize and conduct the administration of the county's business, financial and fiscal affairs, upon a systematic, economical and efficient basis. To that end said board shall, in connection with the office of the county supervisor and purchasing agent, provide and maintain at the county seat an office for the transaction of business, which shall be open as nearly as practicable upon every business day of the year, wherein shall be kept all books of account, contracts, correspondence and other records of official business, and shall inaugurate and maintain a system of receiving and disbursing funds and of keeping accurate check upon same, and of accounting and bookkeeping that will properly safeguard the public interest and accurately file and show the cost of maintaining the public institutions and property of the county and of performing public work of every character and the cost of the several activities of the county and shall maintain and keep in repair and in efficient operative condition all county property and county institutions except bridges, highways and roads, which are more specifically hereinafter provided for. All of the duties, obligations and functions heretofore imposed by law upon the county commissioners and the county supervisor of Darlington County and thereafter imposed upon the board of county directors of said county, except as hereinafter limited and provided for, are imposed upon the board of directors as created under the terms of §§ 4227-4230.

(3) FINANCES.—The board of directors shall pass such rules and regulations as may be necessary to the proper handling of all monies and finances of Darlington County and shall at the same time direct the payment thereof and prepare statements of the financial condition of the county and shall fix the levy to meet the operating expenses of said county each year.

(4) REPORT TO LEGISLATIVE DELEGATION.—On or before December 31st of each year the said board shall prepare and submit to the legislative delegation of the said county an itemized statement of all needful appropriations together with the estimated revenues accruing to the county from special sources and in such form that the same may be used as the basis for the annual county appropriation bill. It is also made the duty of the board to make recommendations to the delegation in respect to needful legislation in the interest of an efficient administration of the affairs of the county.

(5) DUTIES AND POWERS AS TO FORFEITED LANDS.—The powers and duties hereby devolved upon and vested in the present board of county directors of Darlington County with respect to forfeited lands and being the same heretofore exercised by the forfeited land commission of Darlington County are hereby devolved upon the county board of county directors as created and established under the provisions of §§ 4227-4230.

(6) COMPENSATION.—Each member of the board of directors (other than the chairman of Darlington County highway commission, whose compensation is hereinafter provided for) shall receive the sum of twenty-five (\$25.00) dollars per month. 1936 (39) 1687.

§ 4227, 1932 Code, repealed by 1936/1687. Present § 4227 comes from said act.

§ 4228. County supervisor and purchasing agent.—(1) **APPOINTMENT—TERM—BOND—REMOVAL.**—The office of county supervisor and purchasing agent is created. The term of office shall be for four (4) years, beginning January 1, 1937, and until a successor shall be appointed and qualified. It shall be filled by the board of directors with the approval of the legislative delegation. The appointee to this office should be a person of experience and possess the finest business ability. He shall give bond for the faithful performance of the duties of his office in the sum of ten thousand (\$10,000.00) dollars and shall be subject to removal by a majority vote of the combined members of the board of directors and of the legislative delegation of the county. Any vacancy in the office shall be filled as provided for the original appointment.

(2) **DUTIES AND POWERS—SUPPLIES AND EQUIPMENT—HIGHWAYS—CLERK—SALARY.**—It is made the duty of the county supervisor and purchasing agent to purchase all goods, office equipment and supplies, wares, merchandise, supplies, groceries and other articles which may be needed by the county from time to time, but all such purchases shall be made under such regulations, rules and restrictions and in such manner as may be directed by the board of directors. The said supervisor and purchasing agent shall have full supervision, guidance and direction of maintaining and upkeep of county highways, except as limited herein. He shall be the custodian of all public buildings and other real property, all road machinery and chain-gang camp equipment; and with respect to the public buildings and other real property, he shall be subject to the direction of the board of directors, and with respect to the road machinery and chaingang camp equipment, he shall be subject to the direction of the Darlington County highway commission, hereinafter created; but in all such matters it is made his duty in the first instance to care for the property and bring to the attention of the board of directors any and every matter which, in his opinion, is needful in the proper care and disposition of all such property. The said supervisor and purchasing agent shall receive such salary as the board of directors shall fix with the approval of the legislative delegation of the county. He shall employ a clerk to be approved by the board of directors and who shall receive such salary as shall be fixed by the board of directors, with the approval of the legislative delegation. The clerk so employed shall serve as the clerk and secretary to the board of directors and shall perform such duties as may be prescribed by the supervisor and purchasing agent not inconsistent with any provisions in respect thereto as may be fixed by the board of directors. The said clerk shall also serve as the clerk to the Darlington County highway commission and shall perform such duties as may be fixed by such board not inconsistent with the duties of the position as may be prescribed by the county board of directors. The clerk shall give bond for the faithful performance of his duties in the sum of \$2,000.00. 1936 (39) 1687.

Section 4228, 1932 Code, repealed by 1936/1687. Present section 4228 comes from said act.

§ 4229. County officials and employees furnish information.—Each county officer, head of any department, head of any agency or employee of Darlington County, shall upon request of the board of directors, furnish it with such detailed information with respect to the status of the affairs of the county with which such office or position has to do, financially or otherwise; and in such form and as often as may be required by the said board of directors. Any officer or employee failing to comply with any such request shall be subject to

removal from office or position by a majority vote of the members of the board of directors and the legislative delegation from the county. 1936 (39) 1687.

Section 4229, 1932 Code, repealed by 1936/1687. Present section 4229 comes from said act.

§ 4230. Darlington county highway commission.—(1) **ELECTION—TERMS—BOND.**—There is hereby established for Darlington County a commission to be known and designated as the Darlington County highway commission. The commission shall be composed of six members, one of whom shall be selected as hereinafter provided from each of six districts into which the county is divided as provided herein. District No. 1 to be composed of all that territory including Darlington No. 1, Darlington No. 2, Darlington No. 3, Mechanicsville No. 1 and Palmetto precincts; district No. 2 to be composed of all that territory including Hartsville No. 1, Hartsville No. 2, Hartsville No. 3, Clyde and Pond Hollow precincts; District No. 3 to be composed of all that territory including Lamar and Philadelphia precincts; District No. 4 to be composed of all that territory including Society Hill, Antioch and Mechanicsville No. 2 precincts; district No. 5 to be composed of all that territory including Lydia, Swift Creek and Levensworth precincts; district No. 6 to be composed of all that territory including High Hill and Lake Swamp precincts. The regular terms of office of the members of the said commission shall be for four years and until their successors have been elected and qualified. *Provided*, that the initial terms of office of the members selected from districts Nos. 2, 4 and 6 shall be for only two years, and at the end of their terms the same shall run for the regular period of four years. One member of the commission shall be selected from each of the said districts by the qualified electors thereof. Upon their election the commission shall meet at the courthouse and organize by selecting one of their number as chairman of the Darlington County highway commission. The chairman shall give bond in the sum of \$5,000.00; *Provided*, that he is not required to give more than one bond under all of the provisions of §§ 4227-4230, but may give bond which will suffice for every public duty devolved upon him under §§ 4227-4230. All other members of the commission shall give bond for the faithful performance of their duties in the sum of \$2,000.00.

(2) **DUTIES AND POWERS.**—The Darlington county highway commission is chargeable with and responsible for the construction, proper maintenance and upkeep of the highways, roads and bridges in Darlington County and the distribution and provision of all road machinery, chain-gang and camp equipment. The said board shall have general charge of the chaingang and shall generally direct the supervisor in respect to his duties in reference to highways, roads and bridges, who shall act as executive officer of the said commission with respect to such work. The commission shall have the power to direct the sections of road or area of the county in which the chain-gang shall be placed and the length of time that such gang shall be kept in any particular area or section of the county or on any particular project. In his district each of the commissioners, with respect to road construction, shall have the same power and authority now exercised by directors in the respective districts from which they were selected. The compensation of each member of the commission shall be \$20.00 per month; *Provided*, that the chairman of the commission shall receive \$30.00 per month, which shall be inclusive of the compensation for his services as a member of the board of directors.

(3) **VACANCIES.**—Any vacancy occurring for any cause in the membership of the commission shall be filled by the legislative delegation, unless the unexpired term is for more than two years and occurs prior to the time when entries

are made in the democratic primary, and in such event such vacancy shall be filled by the delegation, only until such time when a successor shall have been named in the general election held next after the occurring of the vacancy, and when such successor shall have been so named he shall only serve for the remainder of the unexpired term. 1936 (39) 1687.

Section 4230, 1932 Code, repealed by 1936/1687. Present section 4230 comes from said act.

§ 4231. **Office—records—public property—highways.**—*Repealed by 1936 Acts, page 1687.*

§ 4236. **Clerk—supervisor of roads.**—*Repealed by 1936 Acts, page 1687.*

§ 4237. **Compensation of employees.**—*Repealed by 1936 Acts, page 1687.*

§ 4238. **When no supply bill enacted, supply bill of previous year effective.**

—In any year in which the General Assembly shall fail to enact a county supply bill for Darlington County, the county supply bill of the previous year shall be and continue in full force and effect twelve (12) months from the date when the supply bill for the previous year expired of its own limitation; *Provided*, that the auditor of Darlington County shall be required to levy and the treasurer of said county shall be required to collect sufficient amount of tax on the taxable property of Darlington County to pay each and every item of the appropriation made in the said previous Darlington county supply bill; *Provided, further*, that in the event it is found necessary for the officers of Darlington County to borrow money under the emergency provision in the previous county supply bill which is continued of force by this section, then the county auditor and the county treasurer shall, after a majority approval of the Darlington County legislative delegation, levy and collect a sufficient tax to pay the amount so borrowed for said emergency and the authority is hereby given to pledge said tax levy for emergency as security for the money so borrowed. This section shall not be construed to repeal any of the provisions now of force for the operation of Darlington County's fiscal affairs, but shall be in addition to all such provisions. 1936 (39) 1380.

§ 4238, 1932 Code, repealed by 1936/1687. Present section comes from 1936/1380.

§ 4239. **Fiscal year.**—The fiscal year of Darlington County shall begin on July 1 of each year and end on June 30 of the following calendar year. 1936 (39) 1419.

§ 4239, 1932 Code, repealed by 1936/1687. Present section comes from 1936/1419.

§ 4241. **Commutation road tax.**

See this section in 1934 Supplement.

§ 4253-1. **Collection and disposition of fees and costs.**—All fees and costs of the tax collector of Darlington County shall be paid to the treasurer of said county, it shall be unlawful for the clerk of court to receive, file or record any papers; the sheriff to serve any papers, the judge of probate to file or record any papers or proceedings or for any officer on salary or fees to take any action whatsoever concerning papers in civil matters recording, filing, or serving etc., until the fees therefor provided shall first be paid to the respective officers and until such officers shall have duly received payment therefor: *Provided*, that the said tax collector shall make settlement to the treasurer of all funds collected under this act every thirty (30) days on or before the 5th day of each month subsequent to the month in which same were collected. Any payment of fees for mileage shall not operate to relieve the party responsible therefor from liability of such deficiency. Any violation hereof shall be punished by a fine of not less than five (\$5.00) dollars, or more than twenty-five (\$25.00) dollars; or imprisonment for not more than ten (10) days. 1935 (39) 33; 1936 (39) 1318.

Present section 4253-1 replaces sections 4253-1 and 4253-2 in 1934 Supplement.

§ 4253-2. **Levies for Florence-Darlington tuberculosis sanatorium.**—The auditor of Darlington County is hereby authorized to levy and the treasurer to collect annually a tax of one and one-fourth (1 1/4) mills for the maintenance of the Florence-Darlington tuberculosis sanatorium. The fund so derived and appropriated for the said tuberculosis sanatorium to be paid out monthly upon certified claims filed by the county board of directors, of Darlington county, based upon the prorata number of patients in the said sanatorium from Darlington county. 1936 (39) 1443.

Section 4253-2, 1934 Supplement, was re-placed by section 4253-1, this Supplement. Present section 4253-2 comes from 1936/1443.

DILLON COUNTY

§ 4258. **Road supervisor.**

See this section in 1934 Supplement.

§ 4268-1. **Issue certificates of indebtedness.**

See this section in 1934 Supplement.

DORCHESTER COUNTY

§ 4276. **Terms.**—The terms of office of the other four members of the said board shall be for a period of four years beginning January 1st, 1935. The following persons having been nominated in the last primary are hereby named as members of the said board for the term beginning January 1st, 1935: W. W. Pooster, F. M. Weeks, P. W. Taylor and Barney E. Meyers of Dorchester County. 1935 (39) 60.

§ 4299-1. **Legislative delegation may change annual supply bill.**

See this section in 1934 Supplement.

§ 4299-2. **Sell bonds or notes held by treasurer—expenditure of county funds.**

See this section in 1934 Supplement.

§ 4299-3. **Treasurer make monthly report.**

See this section in 1934 Supplement.

§ 4299-4. **“The board of county commissioners of Dorchester County” in acts and joint resolutions interpreted.**—Wherever and whenever the words “the board of county commissioners of Dorchester County” appear or is in any acts or joint resolutions of the General Assembly of South Carolina, it shall be deemed and construed to be the same as the county board of directors of Dorchester County. 1936 (39) 1786.

This section added by 1936/1786.

FAIRFIELD COUNTY

§ 4316. **Commutation road tax.**

See this section in 1934 Supplement.

§ 4321. **Committee administer funds appropriated provide hospitalization for needy persons.**—A committee of three persons is hereby created to administer such sums as may be annually appropriated in the supply bill for Fairfield County to provide hospitalization for needy persons of said county. It shall be the duty of the said committee to administer this fund in its discretion so as to provide immediate relief for persons who reside in Fairfield County who themselves are unable to secure such relief or the members of his or her immediate family are unable to supply, and who, unless cared for from the proceeds of such funds, would suffer. The committee shall be designated annually by the legislative dele-

gation to administer the funds appropriated in any such year. The funds so appropriated shall be disbursed upon warrants approved and signed by a majority of the members of the committee. 1934 (38) 1948.

§ 4321, 1932 Code, repealed by 1933/208. Present § 4321 comes from 1934/1948.

FLORENCE COUNTY

§ 4351. **Governing board.**—(1) APPOINTMENT.—On and after January 1st, 1933, a governing board for Florence County is hereby established to consist of six members, one from each commission district to be appointed by the Governor upon the nomination at the democratic primary, as now provided by law for the members of the governing commission.

(2) VACANCY.—Should a vacancy occur on the governing board of the county of Florence by reason of the death, resignation or removal from office of any member or members thereon constituting said board, then such vacancy shall be filled by appointment of the Governor for the unexpired term so becoming vacant, upon the recommendation of a majority of the legislative delegation of said county.

(3) TERM.—The term of office of the members of the said governing board is hereby declared to be four (4) years from January 1, 1935, and until their successors have been nominated, appointed and qualified, whose term of office shall likewise be for a term of four (4) years, and until their successors are nominated, appointed and qualified, and so on *ad infinitum*. 1932 (37) 1441; 1935 (39) 440.

Sections 4351-4363 superseded by 1932/ 1932/1441 and 1935/440. 1441. Present sections 4351-4361 come from

§ 4352. **Duties.**

See this section in 1934 Supplement.

§ 4353. **County manager—term—removal.**

See this section in 1934 Supplement.

§ 4354. **Duties and powers—approve purchase of supplies, etc.**

See this section in 1934 Supplement.

§ 4355. **Contract and purchase of supplies, etc.**

See this section in 1934 Supplement.

§ 4356. **Advertise quarterly for bids for supplies, etc.**

See this section in 1934 Supplement.

§ 4357. **Claims.**

See this section in 1934 Supplement.

§ 4358. **County manager to make monthly report.**

See this section in 1934 Supplement.

§ 4359. **Clerk—duties—office of county manager.**

See this section in 1934 Supplement.

§ 4360. **County manager under supervision of governing board—payment of claims.**

See this section in 1934 Supplement.

§ 4361. **Governing commission abolished.**

See this section in 1934 Supplement.

§ 4362. **Bond of road overseer of commission.**—*Superseded by 1932 Acts, page 1441.*

§ 4363. **Office of county supervisor abolished—duties devolved.**—*Superseded by 1932 acts, page 1441.*

§ 4365. Compensation of sheriff, auditor, treasurer, and tax collector.

See this section in 1934 Supplement.

Coy (filed 11-9-36) should be consulted as

Constitutionality: Holt v. Calhoun, 175 S. C., 481, 179 S. E., 50 and Salley v. Mc-

to the constitutionality of this section.

§ 4372. Annual audit.

See this section in 1934 Supplement.

§ 4372-1. Office hours for certain officers.

See this section in 1934 Supplement.

§ 4372-2. Sale of real estate owned by county.—All real property now owned or hereafter acquired by the county of Florence, except such as has been or may be acquired by tax sales, may be sold by the governing board of said Florence County in its discretion, both as to price and terms, save that all future payments of remainder of purchase price must be secured by a purchase money mortgage. In all such sale to be made the deeds shall be signed by the chairman of the board and attested by the secretary; and there shall be incorporated therein a resolution of the governing board of the county signed without witnesses as to such resolution by a majority of said board. 1935 (39) 64.

This section added by 1935/64.

GEORGETOWN COUNTY

§ 4374. Board of county commissioners—terms—removal.

See this section in 1934 Supplement.

§ 4397. Bonds of county officers.

See this section in 1934 Supplement.

§ 4400. Compensation of county officers and employees.

See this section in 1934 Supplement.

GREENVILLE COUNTY

§ 4405. Officers receive salaries in lieu of fees—clerical help and assistance.—

(1) **COLLECT AND ACCOUNT FOR FEES.**—The officers of Greenville County shall receive such salaries as shall be provided in the Greenville County supply bill each year. The said salaries to be in lieu of all fees of whatever nature or description collected by the aforesaid officers as provided by law, including all fees or costs accruing by virtue of their offices, and all such fees or costs collected by the said officers under the law now requiring such fees to be paid and collected shall be by the official collecting same paid over to the treasurer of Greenville County on the first Wednesday of each month, and at the same time he shall file with the treasurer a verified, itemized statement in duplicate on blanks approved by the treasurer and furnished the officers by the county. Such statement shall show the amounts collected by the officers during the preceding month, as well as all fees accruing during said period but not collected.

(2) **COLLECTION OF COSTS TO SERVE PAPERS.**—All costs and fees now required by law to be paid for serving documents and papers shall be paid in advance to the officer receiving the same for service, who shall endorse thereon "Costs Paid", with the date thereof, and at the same time he shall make a proper entry thereof, upon book to be furnished for said purpose. No paper or document shall be served by any officer charged therewith, unless the required costs have been paid: *Provided*, that this paragraph shall not apply to criminal processes, and no costs in criminal cases shall be required in advance: *Provided*,

further, that in all cases the officer charged with the duty of collection of fees shall exercise due diligence in collecting all of said fees and charges.

(3) **CLERICAL HELP.**—In addition to the salaries provided for herein to be paid to the officials of Greenville County, the Greenville County delegation shall from year to year provide for such clerical help and other assistance as it may think right and proper for the aforementioned officials in the annual supply bill for Greenville County: *Provided, however*, that the said officials shall not in any manner profit by the moneys paid for clerical help or other assistance, and said clerical help shall be paid only on vouchers, properly drawn, which shall be sworn to by claimants and countersigned by the county supervisor.

(4) **PENALTY.**—Any official violating any of the terms and conditions and provisions hereof, shall be subject to the payment of a fine of not less than five hundred (\$500.00) dollars nor more than five thousand (\$5,000.00) dollars, or not less than three months nor more than twelve months imprisonment upon the public works of Greenville County for each and every offense hereunder. 1935 (39) 365.

§ 4405, 1932 Code, repealed by 1935/365. Present section comes from said act.

§ 4406. **Sinking fund commission.**—* * * (8) **CONTROL AND INVESTMENT OF OTHER SINKING FUNDS.**—Greenville city school district no. 17, Parker school district no. 8-A, Greer school district no. 9-A, and all districts and bodies politic, for which taxes are levied in Greenville County, or on any Greenville County real estate for sinking funds for any bonds which have been issued or may hereafter be issued, where separate sinking fund commissions have been established or exist, or may hereafter be established, shall be subject to the same provisions of section 4406 as are applicable to Greenville County sinking fund commission in the investment of any funds in the control of any of said commissions, and said commissions shall be allowed to make no other investments except the same kind and character of investments as are provided in said section 4406 for Greenville County sinking fund commission. 1936 (39) 1439.

Subsection 8 added by 1936/1439. See amendments.
this section 1934 Supplement for other

§ 4433-1. **Annual audit.**

See this section in 1934 Supplement.

§ 4441. **Attorney.**—The Greenville delegation in the General Assembly shall have exclusive power to appoint an attorney to represent Greenville County, and to provide compensation for said attorney, and he shall be elected and removable at the will of the delegation. Said attorney shall represent Greenville County and all of its officers in matters relating to said county, shall give them advice when called upon and it is their duty to go to him for advice. Said attorney shall represent all the political subdivisions of said Greenville County, including all commissions, such as sewer commission, financial board, board of county commissioners, or any other commission or board under whatever name designated, including school trustees, and shall be the sole and exclusive attorney of said boards and commissions. It shall be unlawful for any board, or political subdivision, or officer of Greenville County to have any other attorney than the regular one selected by the Greenville delegation in the General Assembly. There shall be only one attorney for said county and its political subdivisions, *provided, however*, that the county attorney may with the permission of the county delegation have others to assist him if he so desires,

such attorney or attorneys to be compensated by the county. 1934 (38) 1202; 1935 (39) 49.

§ 4441, 1932 Code, repealed by 1932/1176. Present § 4441 comes from 1934/1202, 1935/49.

§ 4442. County board of commissioners.—(1) **CREATED.**—There is hereby created a commission which shall be known as the county board of commissioners of Greenville County and which shall have the powers, duties and personnel hereinafter provided for.

(2) **MEMBERS—ELECTION—TERM.**—Said commission shall be composed of three (3) members who shall be C. O. Milford, L. H. Stringer and R. W. Arrington, who shall hold office until December 1, 1936, or until their successors have been elected in the manner hereinafter provided, commissioned and qualified. Upon the expiration of the initial term of office of each of the three (3) above-mentioned commissioners, three (3) successors shall be elected by a majority of the Greenville County legislative delegation to the General Assembly for a term of two years, and in like manner successors shall thereafter be named upon the expiration of the term of any of the commissioners.

(3) **VACANCY.**—Any vacancy on the board shall be filled by appointment of the Governor of South Carolina upon the recommendation of a majority of the Greenville County delegation, by and with the consent of the remaining member or members of the said board.

(4) **GOVERNOR COMMISSION—COMPENSATION.**—The Governor of South Carolina shall issue commissions to each of the three (3) commissioners named in subsection 2 hereof and upon the election of their successors, and subsequent commissioners, the Governor shall issue commissions to those persons hereafter elected as a member of the said board of commissioners. No member of the board shall receive any remuneration for his services as a member of the board.

(5) **RULES AND REGULATIONS—MEETINGS—HAVE NO INTEREST IN CONTRACTS.**—The commissioners shall effect their own organization and make rules and regulations governing their own officials and the officials and administration of the department of the county's government touching any of its business and financial affairs; they shall hold stated meetings at least once a month, and such meetings as shall be necessary to properly and efficiently control and manage the county's affairs and to carry out the functions of their office, and shall keep minutes of their meetings and shall make and file with the secretary of the legislative delegation of Greenville County quarterly statements showing sums borrowed and unpaid and cash balances on hand. No member of the board shall ever participate directly or indirectly, in negotiations relating to, or in determination of, any matter or thing in which his personal interest would be served by any particular decision on account of relationship, enterprise, business, location, or otherwise; any violation of this provision shall operate as a forfeiture of office, and the appointment of any member of the board shall be revoked by the Governor on written report, signed by a majority of the Greenville County legislative delegation, that he has violated this provision.

(6) **CONTROL FINANCES—EMPLOYEES—APPROVE LEVIES FOR SCHOOLS AND BOND ISSUES.**—The said board shall have full and complete control of all of the business and financial affairs of the county, including the right to designate the depositories of all county funds. Said board is hereby authorized to employ a full time business secretary whose salary shall be fixed in the absolute discretion of said board of commissioners. The said board is hereby authorized

to employ whatever clerical assistance it may deem necessary. It shall provide business methods of handling the county's finances, and no claim or accounts for anything whatsoever, except the salaries which are fixed by law, shall be paid, except such items as have been approved by the board; and no special levies shall be made in any school district in said county without the written approval of said board, nor shall any bonds be issued or sold by any political subdivisions of said county without written approval of said board.

(7) **ACT AS ADVISORY BOARD—APPROVE NOTES, BONDS, ETC.**—Said board shall confer with the Greenville County legislative delegation as often as may be necessary and shall act as an advisory board to the various officials of Greenville County, and the school trustees of the several school districts in the county. No notes, bonds or other evidences of indebtedness, except bank checks or drafts shall be binding upon the county of Greenville or any school district thereof unless approved by the said county board of commissioners by resolution adopted by a majority of said county board of commissioners at a duly called meeting of the said board. It is expressly provided that it is not the intention of this subsection to qualify, enlarge, change, amend or repeal existing law referring to the issue and sale of any notes, bonds or other evidences of indebtedness and the provisions of this subsection are intended to provide additional and further safeguards to the execution and issuance of such obligations.

(8) **BOND CERTAIN EMPLOYEES.**—The said board shall provide that no employee of the board who may handle any moneys or funds of Greenville County or any political subdivision thereof shall enter upon the discharge of the duties of his office without first securing a bond executed by a surety company regularly licensed to do business in this state in such form and in such amount as, in its discretion, may be fixed by the said board of commissioners. The premiums on such bonds shall be paid by the county treasurer of Greenville County out of the general funds of the county.

(9) **REPEAL.**—This section shall not be construed to repeal the provisions of any existing law authorizing the borrowing of money by Greenville County or any political subdivision thereof. 1936 (39) 1638.

§ 4442, 1932 Code, repealed by 1932/1176. Greenville County supervisor to keep certain Greer to N. C. line road in travelable condition, 1932/1858.
Present section comes from 1933/270; 1936/1446, 1638.

§ 4443. **Term of office.**—*This section repealed by 1932 acts, page 1176.*

§ 4444. **Criminal investigator.**—The solicitor of the thirteenth judicial circuit shall have an assistant in Greenville County who shall be known as "Criminal investigator of Greenville County", who shall be appointed by a majority of the legislative delegation of Greenville County, upon the approval of said solicitor. The term of office of said investigator shall be for a period of one year. He shall work directly under said solicitor and shall investigate the various criminal cases arising in Greenville County, and shall assist the solicitor in the preparation and trial of such cases, in such manner as said solicitor may direct. Said investigator shall receive a salary of one hundred-twenty-five (\$125.00) dollars per month, and be allowed for traveling expenses the sum of fifty (\$50.00) dollars per month, all to be paid by Greenville County. The said investigator shall be vested with all the power and authority of a deputy sheriff. 1935 (39) 23.

§ 4444, 1932 Code, repealed by 1932/1176. Present section comes from 1935/23.

§ 4445. **Board of charity appeals.**—(1) **CREATED—MEMBERS.**—There is hereby created in Greenville County a board of charity appeals to be composed of five (5) members, three (3) of whom shall be members of the Greenville County house delegation, appointed to said board by the senator from Greenville County, one of whom shall be a member of the board of county commissioners of Greenville County, appointed to said board of charity appeals by said board of county commissioners, and one to be a member of the general hospital board, to be appointed to said board of charity appeals by said general hospital board. The members of the board of charity appeals shall hold office for a term of one year, and until their successors have been appointed, and shall meet at least once a month, and oftener if necessary.

(2) **CHARITY INVESTIGATOR—DUTIES AND POWERS.**—The board of charity appeals, hereby created, or a majority thereof, shall have the power and authority to select, employ, and at any time in their discretion, or in the discretion of a majority thereof, to remove or discharge a full time charity investigator with the approval of the Greenville County delegation. The salary of such investigator shall be fixed by said board of charity appeals, or a majority thereof with the approval of the Greenville County delegation and shall be provided for in the salary item of the annual appropriation bill for Greenville County. The duties of such investigator shall be to investigate the circumstances and conditions of those applying to the general hospital for treatment or hospitalization as charity patients; and to perform such other duties as are set forth in this section or as may be provided by rules and regulations promulgated by said board of charity appeals: *Provided*, the board of charity appeals is hereby expressly authorized to empower the investigator of charity patients to investigate all candidates for admission into the Greenville county home under such rules, restrictions, and requirements for admission into said home as the board aforementioned may prescribe.

(3) **BOARD ISSUE RULES AND REGULATIONS.**—The board of charity appeals, hereby created, shall have power and authority, and is hereby directed to promulgate rules and regulations covering the admission of charity patients to the general hospital not inconsistent with the provisions of this section, and also covering and outlining the duties and powers of an investigator, and all other matters not herein otherwise provided for; with power and authority to change the same from time to time in their discretion, or in the discretion of a majority thereof.

(4) **CHARITY PATIENTS.**—Patients to receive medical treatment at city hospital must be destitute. The investigator shall establish this fact beyond question where time for investigation is allowed before entrance. The financial situation of each such patient must be studied carefully, particularly as to ability to pay all or any part of hospital fees which might be charged to county. Each such patient must be a *bona fide* resident of Greenville County and must have lived in Greenville County long enough to establish legal residence with power to vote before he can receive free hospitalization. Only in extreme emergencies shall this requirement not be complied with.

(5) **INVESTIGATOR COLLECT COMMODITIES FOR TREATMENT—DISPOSITION.**—The investigator shall have authority to collect money, agricultural products, produce, chickens, eggs, butter, milk or live stock, where patient has no money available. The investigator shall have authority to dispose of these commodities as best he can, either to hospital or to other charitable or penal institutions of

the county or to sell same in the open market, *Provided*, that he must keep an accurate record of all such products received and monies derived from the sale of same and include same in his weekly report above mentioned. The money derived from the sale of such products, or any monies collected, shall be kept in a special account by the county treasurer and shall be used by him in settlement of county hospital bills.

(6) **EMERGENCY CASES.**—Emergency cases shall be investigated quickly and in cases of fights, shootings, cutting and automobile accidents and similar mishaps, unless the patient is destitute, relatives of the patient must be notified at once that the county assumes no responsibility for hospital bills.

(7) **CHECK PATIENTS.**—The investigator shall include in his duties the frequent check of all hospital patients by consulting with hospital attache, doctors in charge of cases and others necessary and see that patient leaves hospital just as quickly as doctors give consent.

(8) **HOSPITALIZATION.**—Except in cases of extreme emergency no patient will be allowed county charity hospitalization unless some Greenville County doctor approves and recommends the case as worthy. The doctor will sign a card giving full details of the illness of the applying patient and these cards must be retained by the investigator as permanent records.

(9) **RESPONSIBILITY OF INVESTIGATOR.**—The investigator shall assume no responsibility as to the nature of illness of any patient and shall be in no way responsible for patient's condition after leaving the hospital.

(10) **INVESTIGATOR—TERM—RECORDS.**—The investigator shall commence his records as of January 1, 1935 and he shall pass on all new applicants for all of the institutions of the county or those to which the county contributes support. He shall not be required to have records of cases dating before January 1, 1935.

(11) **APPEAL FROM INVESTIGATOR'S DECISION.**—Appeals shall lie in the case of every patient applying for charity treatment or hospitalization from any decision of the investigator to the board of charity appeals, in such manner as shall be provided for said board of charity appeals by rules and regulations; and the decision of said board of charity appeals, or a majority thereof, on any such appeal shall be final. 1935 (39) 36.

§ 4445, 1932 Code, repealed by 1932/1176. Present section comes from 1935/36.

§ 4446. **County jail—county home.**—The board of county commissioners of Greenville County shall have full and complete charge and management of the county jail and full and complete management of the county home. 1935 (39) 246.

Section 4446, 1932 Code, repealed by 1932/1176. Present section comes from 1935/246. Charity and corrections commission abolished, 1935/246.

§ 4447. **Supervisor to furnish office and supplies.**—*Repealed by 1933 Acts, page 159; 1932 Acts, page 1176.*

GREENWOOD COUNTY

§ 4453. **Term of supervisor.**—The term of office of the county supervisor shall be four years and until his successor is elected and qualified. 1935 (39) 377.

All of the provisions of this section in 1932 Code except the above eliminated, 1935/377.

§ 4453-1. **County board of commissioners abolished—duties devolved.**—The county board of commissioners of Greenwood County is hereby abolished and

§ 4445. **Board of charity appeals.**—(1) **CREATED—MEMBERS.**—There is hereby created in Greenville County a board of charity appeals to be composed of five (5) members, three (3) of whom shall be members of the Greenville County house delegation, appointed to said board by the senator from Greenville County, one of whom shall be a member of the board of county commissioners of Greenville County, appointed to said board of charity appeals by said board of county commissioners, and one to be a member of the general hospital board, to be appointed to said board of charity appeals by said general hospital board. The members of the board of charity appeals shall hold office for a term of one year, and until their successors have been appointed, and shall meet at least once a month, and oftener if necessary.

(2) **CHARITY INVESTIGATOR—DUTIES AND POWERS.**—The board of charity appeals, hereby created, or a majority thereof, shall have the power and authority to select, employ, and at any time in their discretion, or in the discretion of a majority thereof, to remove or discharge a full time charity investigator with the approval of the Greenville County delegation. The salary of such investigator shall be fixed by said board of charity appeals, or a majority thereof with the approval of the Greenville County delegation and shall be provided for in the salary item of the annual appropriation bill for Greenville County. The duties of such investigator shall be to investigate the circumstances and conditions of those applying to the general hospital for treatment or hospitalization as charity patients; and to perform such other duties as are set forth in this section or as may be provided by rules and regulations promulgated by said board of charity appeals: *Provided*, the board of charity appeals is hereby expressly authorized to empower the investigator of charity patients to investigate all candidates for admission into the Greenville county home under such rules, restrictions, and requirements for admission into said home as the board aforementioned may prescribe.

(3) **BOARD ISSUE RULES AND REGULATIONS.**—The board of charity appeals, hereby created, shall have power and authority, and is hereby directed to promulgate rules and regulations covering the admission of charity patients to the general hospital not inconsistent with the provisions of this section, and also covering and outlining the duties and powers of an investigator, and all other matters not herein otherwise provided for; with power and authority to change the same from time to time in their discretion, or in the discretion of a majority thereof.

(4) **CHARITY PATIENTS.**—Patients to receive medical treatment at city hospital must be destitute. The investigator shall establish this fact beyond question where time for investigation is allowed before entrance. The financial situation of each such patient must be studied carefully, particularly as to ability to pay all or any part of hospital fees which might be charged to county. Each such patient must be a *bona fide* resident of Greenville County and must have lived in Greenville County long enough to establish legal residence with power to vote before he can receive free hospitalization. Only in extreme emergencies shall this requirement not be complied with.

(5) **INVESTIGATOR COLLECT COMMODITIES FOR TREATMENT—DISPOSITION.**—The investigator shall have authority to collect money, agricultural products, produce, chickens, eggs, butter, milk or live stock, where patient has no money available. The investigator shall have authority to dispose of these commodities as best he can, either to hospital or to other charitable or penal institutions of

the county or to sell same in the open market, *Provided*, that he must keep an accurate record of all such products received and monies derived from the sale of same and include same in his weekly report above mentioned. The money derived from the sale of such products, or any monies collected, shall be kept in a special account by the county treasurer and shall be used by him in settlement of county hospital bills.

(6) **EMERGENCY CASES.**—Emergency cases shall be investigated quickly and in cases of fights, shootings, cutting and automobile accidents and similar mishaps, unless the patient is destitute, relatives of the patient must be notified at once that the county assumes no responsibility for hospital bills.

(7) **CHECK PATIENTS.**—The investigator shall include in his duties the frequent check of all hospital patients by consulting with hospital attache, doctors in charge of cases and others necessary and see that patient leaves hospital just as quickly as doctors give consent.

(8) **HOSPITALIZATION.**—Except in cases of extreme emergency no patient will be allowed county charity hospitalization unless some Greenville County doctor approves and recommends the case as worthy. The doctor will sign a card giving full details of the illness of the applying patient and these cards must be retained by the investigator as permanent records.

(9) **RESPONSIBILITY OF INVESTIGATOR.**—The investigator shall assume no responsibility as to the nature of illness of any patient and shall be in no way responsible for patient's condition after leaving the hospital.

(10) **INVESTIGATOR—TERM—RECORDS.**—The investigator shall commence his records as of January 1, 1935 and he shall pass on all new applicants for all of the institutions of the county or those to which the county contributes support. He shall not be required to have records of cases dating before January 1, 1935.

(11) **APPEAL FROM INVESTIGATOR'S DECISION.**—Appeals shall lie in the case of every patient applying for charity treatment or hospitalization from any decision of the investigator to the board of charity appeals, in such manner as shall be provided for said board of charity appeals by rules and regulations; and the decision of said board of charity appeals, or a majority thereof, on any such appeal shall be final. 1935 (39) 36.

§ 4445, 1932 Code, repealed by 1932/1176. Present section comes from 1935/36.

§ 4446. **County jail—county home.**—The board of county commissioners of Greenville County shall have full and complete charge and management of the county jail and full and complete management of the county home. 1935 (39) 246.

Section 4446, 1932 Code, repealed by 1932/ Charity and corrections commission abolished, 1935/246.

§ 4447. **Supervisor to furnish office and supplies.**—*Repealed by 1933 Acts, page 159; 1932 Acts, page 1176.*

GREENWOOD COUNTY

§ 4453. **Term of supervisor.**—The term of office of the county supervisor shall be four years and until his successor is elected and qualified. 1935 (39) 377.

All of the provisions of this section in 1932 Code except the above eliminated, 1935/377.

§ 4453-1. **County board of commissioners abolished—duties devolved.**—The county board of commissioners of Greenwood County is hereby abolished and

(5) COMPENSATION.—The compensation of the chairman and members of the board of county commissioners shall be as annually fixed by the legislative delegation in the annual county supply act. 1936 (39) 1609.

§ 4491, 1932 Code, repealed by 1936/1609. Present section comes from said act.

§ 4492. Execution of obligations of county.—The chairman of the board of county commissioners, together with the county treasurer, shall execute all notes or other obligations of the county, after same have been adopted by a resolution of the county board of commissioners or a majority thereof, such obligation or obligations to be attested by the clerk of the board of county commissioners and approved by the county attorney. 1936 (39) 1609.

Section 4492, 1932 Code, repealed by 1936/1609. Present section comes from said act.

§ 4494. Officers receive salaries in lieu of fees—clerical help and assistance.
(1) FIX SALARIES ANNUALLY.—The annual salary of each of the county officers of Horry County, South Carolina, shall be as fixed annually in the supply act of Horry County, S. C., for each year respectively, *Provided*, that if such salary be omitted from the said supply act of any year, the salary as fixed in the supply act of the last previous year fixing such salary shall remain in force and effect.

(2) PAY INTO COUNTY TREASURY ALL FEES RECEIVED.—All fees now prescribed or hereafter prescribed by law to be paid to said officers shall be paid by them to the county treasurer and placed by him in the general county fund. *Provided*, that all such fees so collected by any and all officials of Horry County shall be paid to the county treasurer on or by the tenth of each month following such collection.

(3) CLERICAL HELP.—In addition to the salaries provided for in subsection 1 the county delegation shall, from year to year, provide for such clerical help and other assistance as to it may seem right and proper for the conduct of business of the county in the several public offices, said provisions to be contained in the annual supply act: *Provided, however*, that the public officials of Horry County mentioned in subsection 1 shall not, in any manner, profit by the moneys paid for clerical help, or other assistance, which amounts shall be paid only on vouchers properly drawn, which shall be sworn to by the claimants and passed upon by the county commissioners, as other claims against the county.

(4) KEEP RECORD OF INSTRUMENTS ACTED ON AND FEES RECEIVED.—Each public officer of Horry County shall keep a complete record of every instrument filed, recorded or acted upon and amount of fees paid therefor, which shall be open to inspection by any citizen of Horry County at any time.

(5) PENALTY.—Any official violating any of the terms, conditions or provisions of this section shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than five hundred (\$500.00) dollars, or imprisonment for not more than twelve (12) months, either or both, in the discretion of the court, and shall be immediately removed from office by the Governor. 1936 (39) 1348.

Section 4494, 1932 Code, repealed by 1936/1609. Present section comes from 1936/1348.

§ 4494-1. Salaries of certain officers.—*This section, 1934 Supplement, repealed by 1936 acts, page 1348.*

Unconstitutional.—*Holt v. Calhoun*, 175 S. C., 481; 179 S. E., 501.

§ 4495. Road tax.

See this section in 1934 Supplement.

§ 4502-1. Fiscal year.—The fiscal year of Horry County shall begin on July first of each year and end on June thirtieth of the following calendar year. 1936 (39) 1442.

This section added by 1936/1442.

JASPER COUNTY

§ 4503. Close county offices at noon Saturdays and certain Thursdays.—All county officers for the county of Jasper are authorized to close their respective offices at twelve o'clock noon on each and every Saturday throughout the year; and said officers are likewise authorized to close their said respective offices at twelve o'clock noon on each and every Thursday, and to keep the same closed for the remainder of the day, during the months of June, July and August. 1936 (39) 1683.

§ 4503. 1932 Code, repealed by 1933/15. Present section comes from 1936/1683.

§ 4504. Purchase of supplies.

See this section in 1934 Supplement.

§ 4510. Sinking fund commission.

See this section in 1934 Supplement.

§ 4510-1. 1936 supply bill effective when no supply bill enacted.—In any year until the General Assembly shall enact the county supply bill for Jasper County, or if the General Assembly shall fail to enact a supply bill, the supply bill for the year 1936 shall be adopted for that year and continue in full force and effect until the supply bill is enacted, and, if none is enacted, the said supply bill for the year 1936 shall continue in full force and effect for the entire year. The auditor of Jasper County shall be required to levy and the treasurer of Jasper County shall be required to collect the same taxes as provided for in the supply bill for the year 1936 and the board of county commissioners and the county treasurer are authorized to borrow and pledge the taxes as provided for in said act. 1936 (39) 1478.

KERSHAW COUNTY

§ 4517. Officers record their bonds.—Every officer in Kershaw County who is now required by law to furnish bond for the faithful performance of his official duties shall have the said bond recorded in the office of the clerk of court for the said county immediately upon its execution and shall pay the clerk for recording the said bond a fee of one dollar. Upon the payment of the said fee, the clerk of court shall issue to every such officer his certificate of recording. The salary of every bonded officer in Kershaw County who fails to comply with the provisions hereof shall be withheld until he or she shall comply therewith. The certificate required herein to be issued by the clerk of court shall be sufficient evidence of the recording of any bond. 1936 (39) 1329.

§ 4517. 1932 Code, repealed by 1932/1221. Present section comes from 1936/1329.

§ 4521. Road tax.

See this section in 1934 Supplement.

§ 4529-1. Sinking fund commission.

See this section in 1934 Supplement.

§ 4529-2. Officers may write off losses.

See this section in 1934 Supplement.

§ 4529-3. Game sanctuaries.—(1) COUNTY COMMISSIONERS MAY SET ASIDE CERTAIN LANDS FOR—ADVERTISE—TRESPASS.—The county board of commissioners of Kershaw County as the forfeited land commission of Kershaw County here-

by is directed to forthwith set aside for game sanctuaries, such tracts of land owned by such forfeited land commission of not less than one hundred (100) acres in each tract, in the several sections of Kershaw County, suitable for such purposes; and upon the setting aside of such lands as herein directed, the said board shall forthwith advertise in the two newspapers published in Kershaw County a notice against trespass thereon, and post notice against trespass by any person for the purpose of hunting thereon. Such land so set aside as herein provided shall be held as game sanctuaries for a period of not less than twenty years.

(2) PROVIDE FOR PROTECTION.—The said board shall provide for the protection of said game sanctuaries from fire, and shall for such purpose cause such fire brakes to be cut as may be necessary, using chain gang labor whenever necessary for such work as may be proper to protect and preserve such sanctuaries from fire, and for the purpose of planting food or cover crops or pine or other merchantable trees thereon.

(3) PEACE OFFICERS PROTECT FROM TRESPASS AND FIRE.—It shall be the duty of the rural police, the sheriff, game warden and constables of Kershaw County to protect the said lands so set aside as aforesaid from trespass, or fire, and to prosecute any person trespassing, or setting out fire on said lands set aside as aforesaid.

(4) FILE DEEDS OF SUCH LANDS IN CLERK'S OFFICE—USE OF PREMISES.—Upon setting aside such lands as hereinabove provided, the said board shall file and cause to be recorded in the proper books of the office of the clerk of court a deed or deeds, setting aside said lands as game sanctuaries of said county for the period of twenty years, and for such period of time said lands shall be held and used for no other purpose, save to take therefrom such timber as may be merchantable and to plant and harvest food and cover crops thereon. 1935 (39) 211.

This section added by 1935/211.

LANCASTER COUNTY

§ 4555-1. **Sums expend for roads and bridges—when borrow.**—The board of county commissioners of Lancaster County are hereby expressly forbidden to expend in any one quarter of the year for road and bridge purposes a sum in excess of one-fourth of the total amount appropriated annually in the Lancaster County supply bill for that purpose. The said board is hereby expressly forbidden to borrow any funds or to obligate the county of Lancaster to any person, firm or corporation for the purpose of any material for any such purposes during any one quarter in an amount in excess of such quarterly sum. The treasurer of Lancaster county is also expressly forbidden to honor a claim against the county for road and bridge services for labor or material where the same have been contracted in violation of the hereinabove provisions. Should such situation arise as to make it advisable in the public interest then the county board may expend in a particular quarter an amount in excess of one-fourth of the amount appropriated, and the treasurer may pay such amounts in excess of one-fourth of the amount appropriated, *provided*, the county board of commissioners and the county treasurer shall have written instructions to do so, signed by a majority of the legislative delegation, including the Senator. *Provided, further*, that the county board of commissioners shall have no authority whatever to borrow funds for Lancaster county except

upon the written authority of a majority of the legislative delegation, including the Senator. 1936 (39) 1540.

§ 4552, 1932 Code, should be compared with present § 4555-1.

§ 4569. Salaries of certain official.

See this section in 1934 Supplement.

§ 4569-1. Fiscal year.—The fiscal year of Lancaster County shall begin on July 1 of each year and end on June 30 of the following calendar year. 1936 (39) 1432.

This section added by 1936/1432.

LAURENS COUNTY

§ 4573. County officers receive salaries in lieu of fees.

See this section in 1934 Supplement.

Constitutionality: Holt v. Calhoun, 175 S. C., 481, 179 S. E., 50 and Salley v. Me- Coy (filed 11-3-36) should be consulted as to the constitutionality of this section.

LEE COUNTY

§ 4576. Office of county supervisor abolished.

See this section in 1934 Supplement.

LEXINGTON COUNTY

§ 4582. County board of commissioners.

See this section in 1934 Supplement.

Newspaper publication of statement of candidate for nomination for legislature that county had failed to get roads and bridges, followed by inquiry, "Who got the money?" not applicable in libel action, to

rival candidate as member of legislative delegation, in view of control of county commissioner over roads and bridges. Jackson v. Record Pub. Co., 175 S. C., 211; 178 S. E., 833.

§ 4583. Qualifications.

See this section in 1934 Supplement.

§ 4584. Election.

See this section in 1934 Supplement.

§ 4585. Districts.

See this section in 1934 Supplement.

§ 4586. Bond of commissioners—salary.

See this section in 1934 Supplement.

§ 4588. Powers and duties of board.

See this section in 1934 Supplement.

§ 4589. Clerk of board—report of county officers.

See this section in 1934 Supplement.

§ 4591. Commutation tax.

See this section in 1934 Supplement.

§ 4597-1. County attorney may bid on collateral in which county has an equity.

See this section in 1934 Supplement.

§ 4597-2. County not to employ delinquent taxpayers—publish names of employees delinquent in paying their taxes.

See this section in 1934 Supplement.

§ 4597-3. Not contract for services, materials and supplies in excess of funds provided.—It shall be unlawful for any county officer, employee, agent, board or commission of Lexington County to contract for any services, materials or supplies in any amount whatever in excess of the funds provided for in the annual county supply act, or above and beyond any funds which may be

specifically authorized by law. Any person, firm or corporation contracting with or attempting to contract with any officer, employee, agent, board or commission of Lexington County for any services, materials or supplies is charged, with knowledge of this section, and the amount of funds which may be available for such contract and any contract made or entered into in violation of the provisions of this section is declared to be null and void, and the same shall not be enforced, and no demand or claim filed against said county of Lexington because of any such contract shall be paid. 1935 (39) 410.

This section added by 1935/410.

§ 4597-4. Treasurer keep past due and unpledged taxes in separate fund—disbursement.—The county treasurer of Lexington County is empowered and directed to keep all past due and unpledged taxes received during any current year in a special fund which shall be used from year to year for the payment of past indebtedness of Lexington County upon the presentation of proper vouchers issued by the board of county commissioners for such purpose. 1935 (39) 370.

This section added by 1935/370.

§ 4597-5. Distribution and transportation of prisoners sentenced to chaingangs.—The board of county commissioners for Lexington County shall meet after each term of court in said county and divide the prisoners sentenced, at said court, as equally as possible among the chaingangs of the county and such prisoners shall be transported by said board of county commissioners to such chaingang by the board of county commissioners or the captains of the respective chaingang under the direction of said commissioners and the transportation of such prisoners shall not be at any costs to Lexington County. The sheriff of Lexington County shall only transport such prisoners as are sentenced in Lexington County who shall be confined in the state penitentiary and should said sheriff transport any prisoners to any chaingang of the county, he shall not be allowed any compensation therefor. 1935 (39) 381.

This section added by 1935/381.

§ 4597-6. Forfeited land commission revolving fund.—There is hereby created a forfeited land commission revolving fund in Lexington County in the sum of five hundred (\$500.00) dollars. There shall be set aside by the treasurer of Lexington County the said sum of five hundred (\$500.00) dollars, from any funds available, and designated as the forfeited land commission fund. Such fund shall be subject to withdrawal by the forfeited land commission upon proper voucher for the purpose of paying expenses incident to the advertising and sale of real estate owned by said forfeited land commission as the result of purchases at delinquent tax sales, and such vouchers when signed by all of the forfeited land commissioners shall be honored and paid by the county treasurer. The forfeited land commission shall, from time to time, replace the funds expended under the provisions hereof from the proceeds of the sales of lands, to the end that there may be kept in said fund a sufficient amount of money, not to exceed the original five hundred (\$500.00) dollars, to defray all necessary expenses incident to the advertising and sale of such lands. 1936 (39) 1586.

This section added by 1936/1586.

MARLBORO COUNTY

§ 4619. Supervisor—election—term—salary—bond.

See this section in 1934 Supplement.

§ 4620. Highway commissioners—appointment—term—salary.

See this section in 1934 Supplement.

§ 4621. Appointment of highway commissioners—term.—*Repealed by 1933 Acts, page 347.*

§ 4622. Fiscal year.—The fiscal year of Marlboro County shall begin on July 1 of each year and end on June 30 of the following calendar year. 1935 (39) 416.

§ 4622, 1932 Code, repealed by 1933/347. Present section comes from 1935/416.

§ 4636-1. Annual audit, Bamberg and Marlboro Counties.

See this section in 1934 Supplement.

McCORMICK COUNTY

§ 4643. Issuance and payment of school claims.

See this section in 1934 Supplement.

§ 4644-1. Bonds of officers.—The official bond of the several county officers of McCormick County shall be in the sums hereinafter stated for each:

County treasurer	\$10,000.00
County auditor	2,500.00
County superintendent of education	2,500.00
Clerk of court	2,500.00
County supervisor	5,000.00
Sheriff	2,500.00
Master	5,000.00
Tax collector	5,000.00
Magistrates (each)	500.00

No bond shall be required of the coroner. The premiums on all such bonds shall be paid for by the county of McCormick. 1935 (39) 131.

This section added by 1935/131.

§ 4644-2. Clerk of court.—(1) COMPENSATION.—From and after the expiration of the present term of office of the clerk of court for McCormick County in January, 1937, the salary of the clerk of court of said county shall be twelve hundred (\$1200.00) dollars per year, payable in equal monthly installments of one hundred (\$100.00) dollars each, which salary shall be in lieu of all fees, costs, and charges now collected by the clerk of court and retained by him as a portion of his compensation.

(2) COLLECT AND ACCOUNT FOR FEES.—The clerk of court of McCormick County shall collect all costs, fees and charges as now provided by law for such services as he shall render as clerk of court, in advance and before the filing of any papers or instruments for recordation. He shall keep an accurate itemized account of all such fees collected, and on or before the tenth day of each calendar month deliver a copy thereof, duly verified, to the treasurer of McCormick County and shall, at the same time, pay over to the treasurer all fees, costs and charges collected by him during the preceding calendar month. And all such funds as shall be paid to the treasurer shall be placed in the county ordinary fund to be used as other county ordinary funds are used.

(3) MAKE MONTHLY REPORT AND SETTLEMENT TO RECEIVE SALARY.—Before the monthly salary of the clerk of court shall be paid, the board of county commissioners shall ascertain from the treasurer of McCormick County if the monthly report provided for herein has been filed and the fees paid over for the preceding calendar month, as provided for in this section. And no salary

shall be paid to the clerk of court for any month unless such statement has been filed and the moneys turned over to the county treasurer for the preceding calendar month. Copies of each monthly report or statement of the clerk of court shall be retained by the treasurer of McCormick County and by the clerk of court, respectively.

(4) **BOND LIABLE FOR UNCOLLECTED FEES.**—The official bond of the clerk of court shall be liable for any loss sustained by McCormick County because of the failure of the clerk of court to collect and pay over the fees, costs and charges pursuant to the provisions of this section. 1936 (39) 1449.

This section added by 1936/1449.

NEWBERRY COUNTY

§ 4651-1. Further duties of supervisor.

See this section in 1934 Supplement.

§ 4666. Bonds of officers.

See this section in 1934 Supplement.

§ 4667. **Certain officers receive salaries in lieu of fees.**—All officers of Newberry County shall be placed on a salary basis and any and all fees collected by any officer of Newberry County shall be turned over to the treasurer of Newberry County and by him to be placed in such fund or funds as he shall be directed so to do by the legislative delegation. The salaries of all officers of Newberry County shall be fixed by the legislative delegation and the salaries so fixed shall be in lieu of all fees which any officer may now receive under existing law, except such fees and commissions as may be allowed from year to year in the county supply bill. *Provided*, that magistrates in Newberry County shall be excluded from the provisions hereof, and shall retain all civil fees collected. 1934 (38) 1197; 1935 (39) 130.

§ 4667, 1932 Code, superseded by 1934/1197, 1935/130. Present section comes from said act.

§ 4669. Supervisor—salary—election—term.

See this section in 1934 Supplement.

§ 4670. Board of county commissioners—members—election.

See this section in 1934 Supplement.

§ 4671. **Road districts.**—For the purpose of electing the two commissioners, the county shall be divided into two road districts, which shall be designated as road district number one and road district number two. Road district number one shall consist of the following townships: township number one, township number two, township number three, township number four, township number five, and township number six, township number seven. Road district number two shall consist of the following townships: township number eight, township number nine, township number ten, township number eleven, and township number twelve. 1934 (38) 1425; 1936 (39) 1433.

§ 4684-1. **Newberry County park commission.**—There is hereby created a body corporate to be known as the Newberry County park commission. The commission shall be charged with the care, management, control and development of the property heretofore acquired by the city and county of Newberry for a county park and other purposes. The commission shall be composed of five members, two of whom shall be elected by the city council of Newberry, two by the county delegation of Newberry County and one by the other four so elected; the said members shall serve for periods of two, four and six years to be decided by lot between them; and the said commission shall report annually

to the city council of Newberry and to the county commissioners of Newberry County. 1936 (39) 1410.

§ 4684-1, 1934 Supplement, superseded by This section added by 1936/1410.
1934/1197, 1935/130. (See § 4667 hereof.)

§ 4684-2. Sinking fund commission may sell real estate now held by it to former owners—terms.

See this section in 1934 Supplement.

OCONEE COUNTY

§ 4689. Compensation and bonds of certain officers.—(a) The salaries of officers of Oconee County not otherwise provided by law shall be as follows: comptroller \$2,400.00; clerk to comptroller \$900.00; supervisor \$1,800.00; clerk of court \$3,400.00; superintendent of education, sheriff, deputy sheriff and rural police each \$1,500.00; probate judge and master in equity each \$1,200.00; board of advisors to the supervisor each \$100.00; steward of the county farm \$600.00; coroner \$200.00. *Provided*, that the salary herein fixed for the clerk of court shall include the salaries of all deputy clerks and clerical help and the clerk of court is hereby required to collect and pay to the county treasurer all costs and fees due his office by the tenth (10th) of each ensuing month except costs in suits where the costs are to be collected from the subject-matter of the suit.

(b) When not otherwise provided for, the supervisor is authorized and directed to pay the salaries and the bond premiums or any part of them of any county official from the contingent fund, or if that be not sufficient, the county auditor is empowered and directed to levy an annual tax on property sufficient to pay the same and the revenues therefrom are hereby appropriated to that purpose.

(c) The following officers shall be bonded as follows: comptroller and treasurer, each \$40,000.00, supervisor, \$15,000.00, superintendent of education and sheriff, each \$15,000.00. 1936 (39) 1625.

§ 4692. Road tax.

See this section in 1934 Supplement.

§ 4693. Method of collection.—*Repealed by 1933 Acts, page 22.*

§ 4694. Comptroller.

See this section in 1934 Supplement.

ORANGEBURG COUNTY

§ 4695. Highway commission created—county divided into road districts.
See this section in 1934 Supplement.

§ 4696. Commissioners—election—term—removal—vacancies—powers.

See this section in 1934 Supplement.

§ 4699. Duties and powers of commissioners—director of maintenance—vouchers.

See this section in 1934 Supplement.

§ 4723-1. Treasurer, auditor, clerk of court, probate judge, and sheriff receive salaries in lieu of fees—clerical help and assistance.—(1) **DESIGNATE SALARIES ANNUALLY AND CLERICAL HELP.**—In lieu of the retention of all fees, costs and charges, and of any and all sums heretofore or now paid the treasurer, auditor, clerk of court, judge of probate, and sheriff of Orangeburg County on account of compensation or otherwise, the said officers of said

county, shall be paid such salaries as may be prescribed by the General Assembly and annually appropriated by it for such purpose, and shall have such clerical or other assistance as may be so provided.

(2) **COLLECT FEES AND PAY TO COUNTY TREASURER.**—The said county officers shall separately keep in duplicate accurate and completely itemized accounts of all fees collected, which shall in all cases (other than judicial sales) be collected, in cash in advance, except that reasonable credit terms may be extended to the government of the United States, the state of South Carolina, and any department or subdivision of either and on or before the tenth day of each calendar month they shall deliver one copy sworn to by said officers, respectively, to the treasurer of said county together with payment to said treasurer in full of all fees, costs and charges, collected during the preceding calendar month; *provided, further*, that the official bonds of such officers shall be responsible for any failure to collect and pay the same to the treasurer.

(3) **FILE MONTHLY STATEMENT OF FEES TO RECEIVE SALARY.**—Upon the filing of such sworn, itemized statement and it appearing correct in form to the said treasurer and payment of the sum thereby shown to be due having been made, the treasurer shall certify to the county board of commissioners that such officer has complied with the provisions of this section and until receipt of such certificate the said board shall not pay to any county officer affected hereby his salary for the preceding month.

(4) **FORMS FOR ACCOUNTS, STATEMENTS, ETC.—PUBLIC RECORD.**—The forms for the account and statement and the certificate hereby required may be prescribed and furnished by the Orangeburg County highway commission, and each officer required to keep and submit such shall retain one copy of each monthly statement as a permanent public record of his office, and the treasurer shall likewise preserve as a permanent and public record of his office the sworn monthly statement submitted to him by each officer, the same to be filed in an orderly manner and readily accessible.

(5) **PENALTY.**—Violation of any of the provisions of this section by any officer of Orangeburg County shall be deemed to be a misfeasance in office and ground for removal therefrom and shall be a misdemeanor and upon conviction thereof any officer so convicted shall be subject to a fine not exceeding five hundred (\$500.00) dollars or imprisonment for not exceeding one (1) year, or both, in the discretion of the court. 1935 (39) 254.

This section added by 1935/254.

§ 4723-2. Expense allowance of sheriff on official business outside of the county.

See this section in 1934 Supplement.

§ 4723-3. County may issue certificates of indebtedness for county expenses.

See this section in 1934 Supplement.

§ 4723-4. Forfeited land redemption board.—(1) **PERSONNEL—VACANCIES—MEETINGS—COMPENSATIONS.**—There is hereby created for Orangeburg County a forfeited land redemption board composed of the auditor, the delinquent tax collector by virtue of their offices, and Watt E. Smith, J. W. Williamson, and J. M. Russell whose duties shall be as hereinafter prescribed. The delinquent tax collector shall be chairman of the board and shall call meetings of the board as often as its duties demand. In case of the failure of any of the above named members to serve or in case of any subsequent vacancy new appointments to the board may be made by the tax collector upon recommenda-

tion of the senator and a majority of the representatives from Orangeburg County. Each board member, except the *ex officio* members, shall be paid three (3) dollars per day of actual service and mileage to the county seat and returning home at the rate of five (5) cents a mile.

(2) APPRAISER.—The said board is authorized and empowered to appoint an appraiser for the lands sold for delinquent taxes and bid in and, at the date of the filing of the application hereinafter provided for, owned by the forfeited land commission of the county and which are bringing no revenue to the county. The said appraiser shall hold his office or position at the will of the board and shall receive such compensation as is hereinafter allowed or provided for.

(3) PROCEDURE REDEEM TAX LANDS WHEN VALUE DEEMED LESS THAN TAXES AND COSTS.—Any party interested in such lands, either by himself or in conjunction with others, as owner, desiring to redeem the same or any portion or parcel thereof and deeming the same to be of less value than the taxes, costs, fees and penalties due thereon, may file an application with the delinquent tax collector of Orangeburg County within six months after the approval of this section, which shall set forth the interest of the applicant, and that of others, if any, the location of the property with respect to school districts, its quantity, if farming or wooded lands, expressed in acres, and if city or town property, expressed in feet measurement, its boundaries, the amount of taxes due thereon, the date of sale, his estimate of the value of the property, the nature of improvements thereon and any other information which in the opinion of the party filing the application, will tend to reflect the true condition and value of the property, and the amount that he is willing to pay to redeem the said property. Upon the filing of such application with the delinquent tax collector, if the same be not filed in duplicate, he shall make a copy thereof and turn the copy over to the appraiser, who shall inspect the property and report to the board his conclusions upon the merits of the application, and if in his opinion an abatement or reduction should be allowed, recommend the amount thereof. Upon consideration of the application and of the report of the appraiser, if the board be of the opinion that it would be to the best interest of the county to allow an abatement or reduction in taxes, costs, fees and penalties and the property restored to the class of tax producing property it is authorized to do so, and the taxes, costs, fees and penalties upon the said property shall be the amount shown by the tax books less the amount of abatement or reduction as fixed in the finding and order of the board. The amount so fixed to be due shall be payable in cash provided that the said board may allow one-fourth of the said amount to be paid in cash and the balance to be paid in three annual installments, with interest thereon until paid at the rate of six (6) per cent per annum; *Provided*, that no abatement or reduction as authorized herein shall affect the state's portion of any such tax.

(4) COMPENSATION OF APPRAISER—FORMS.—The compensation and expenses of the appraiser shall be fixed by the board and shall be based upon the actual number of days required in the performance of his duties hereunder and the actual number of miles traveled in reviewing the property and his work shall be so planned by the board as to provide that he inspect as many pieces of property in the same community on one trip as practicable. A copy of the agreement under which any appraiser appointed hereunder is to serve shall be filed with the Orangeburg County highway commission and his claim for serv-

ices and expenses shall be filed with the said commission and before the same is filed shall be approved by the board created under this section. It shall be the duty of the board to provide for the performance of duties of the appraiser in as economic manner as possible. The board may provide such forms for use of applicants, reports of the appraiser and for their findings and orders as in its judgment will contribute most effectively to the ends sought by this section. The costs thereof shall be paid by the Orangeburg County highway commission out of the contingent fund on claims therefor of the appraiser, approved by the board filed with the said commission.

(5) **LANDS EXEMPTED.**—The provisions of this section shall not apply to land taken in by the county at tax sales where the former owner, or owners has made an agreement with the delinquent tax collector to rent the land at a price which pays to the county a sum equivalent to current annual taxes and a substantial installment on the delinquent taxes for which the land was sold so that when said taxes have been paid in full the former owner may regain ownership of his land. 1936 (39) 1701.

This section added by 1936/1701.

§ 4723-5. **Annual appropriation for hospitalization of charity patients—treatment of charity patients.**—There is hereby appropriated annually the sum of four thousand (\$4,000.00) dollars to be used in the hospitalization of charity patients of Orangeburg County at a rate of not less than one (\$1.00) dollar per day for each such patient. The appropriation herein made shall continue from year to year until such time as the bonds sold to the public works administration for erection of hospital by city of Orangeburg have been fully paid, but the said county of Orangeburg shall assume no liability for the payment of said bonds other than the amount of the annual appropriation provided for herein, which amount shall be paid by services rendered in the hospitalization of such charity patients as are admitted to the said hospital. The admission of charity patients to said hospital shall be subject to such reasonable rules and regulations as the county highway commission may, from time to time, promulgate in regard to the beneficiaries of the fund herein appropriated. 1936 (39) 1790.

This section added by 1936/1790.

PICKENS COUNTY

§ 4724. **Commutation road tax.**—All persons within Pickens County who shall under the law be subject to perform labor upon the public roads within said county may, in lieu of such labor, pay a commutation tax of one dollar annually. 1936 (39) 1653.

Tax reduced to \$1.00 from \$3.00, 1936/1653.

RICHLAND COUNTY

§ 4733. **County attorney.**—(1) **ELECTION—TERM—DUTIES.**—There shall be elected from the members of the Richland bar association by the Richland County board of commissioners, a county attorney for Richland County who shall serve for a period of two (2) years from the date of his election or until his successor shall be elected and shall qualify, and his duty shall be to represent and defend the county of Richland and all of its officers in any of the courts of this state, or of the United States, to bring all actions and proceedings that may be necessary to enforce payment and collections of any claims existing in favor of Richland County or of any of its officers, boards or agencies,

and especially to collect all claims and demands that may be due and payable to the board of trustees of the Columbia Hospital, to advise the supervisor or board of township commissions for Richland County in all matters wherein they may seek advice or counsel. The county attorney shall meet with the legislative delegation of Richland County whenever so requested for the purpose of advising them as to any matters that may properly come before the said delegation. He shall at all times advise the county legislative delegation, or the members thereof, in matters pertaining to the proper performance of their duties as legislators for Richland County.

(2) **EMPLOYMENT OF OTHER ATTORNEYS.**—It shall be unlawful for any officer or officers, board, or other agency of said county to employ any other attorney than the Richland County attorney in any matter whatsoever, or to agree to pay any attorney for any service that might be rendered for them out of any of the public funds of Richland County without the consent of a majority of the Richland County board of commissioners.

(3) **COMPENSATION.**—The said county attorney shall receive as compensation for his services an amount to be fixed yearly by the county delegation, payable in equal monthly installments by the county treasurer out of the county funds upon warrant of the county supervisor. 1935 (39) 126.

§ 4733, 1932 Code, repealed by 1932/1201. Present section comes from 1935/126. The said 1932 act repealed by 1935/126.

§ 4737-1. Condemn lands for sewerage disposal plant for U. S. Veterans' Hospital—procedure.

See this section in 1934 Supplement.

§ 4738-1. Allocation of room in county court house.

See this section in 1934 Supplement.

§ 4738-2. Members of legislative delegation not to serve on certain boards, etc.—vacancies.

See this section in 1934 Supplement.

§ 4738-3. Officers receive salaries in lieu of fees—clerical help and assistance—costs and fees.—(1) **PROVIDE SALARIES IN SUPPLY BILLS.**—The annual salary of each of the county officers of Richland County, S. C., shall be as fixed annually in the supply bill of Richland County, S. C., for each year respectively, *Provided*, that if such salary be omitted from the said supply bill of any year, the salary as fixed in the supply bill of the last previous year fixing such salary shall remain in force and effect.

(2) **PAY FEES TO COUNTY TREASURER.**—All fees now prescribed or hereafter prescribed by law to be paid to said officers shall be paid to the county treasurer.

(3) **CLERICAL HELP AND ASSISTANCE.**—That in addition to the salaries provided for in subsection 1, the county delegation shall, from year to year, provide for such clerical help and other assistance as to it may seem right and proper for the conduct of business of the county in the several public offices, said provisions to be contained in the annual supply bill: *Provided, however*, that the public officials of Richland County mentioned in section 1 shall not in any manner, profit by the moneys paid for clerical help, or other assistance, which amounts shall be paid only on vouchers properly drawn, which shall be sworn to by the claimants and passed upon by the county commissioners, as other claims against the county.

(4) **KEEP RECORDS OF INSTRUMENTS ACTED ON AND FEES PAID.**—Each public officer of Richland County shall keep a complete record of every instrument

filed, recorded or acted upon and amount of the fees paid therefor, which shall be open to inspection by any citizen of Richland County at any time.

(5) COSTS AND FEES.—Any litigant in the courts of common pleas, general sessions, or county court of Richland County shall not be required to pay any fee for the filing of the necessary papers in the office of the clerk of court and that all costs shall await the final outcome of the action and shall be taxed against the losing party and that upon said taxation being had, all costs properly taxable shall be taxed in accordance with law: *Provided, however*, that no judgment shall be entered by the clerk of court for Richland County until the costs then accrued have been paid and a certificate furnished by the treasurer as to the payment of said costs: *Provided, further*, that in the case of attachments the clerk shall not sign the warrant for the same until the costs have been paid and, *Provided, further*, that where complaint has been filed, upon settlement of said case a certificate of the treasurer that the costs have been paid shall be necessary before said settlement shall be valid.

(a) The following schedule of fees is the amount of costs authorized to be taxed and collected in the county of Richland and no costs shall be taxed except in conformity with the provisions of the following schedule: *Provided, however*, where any fee is omitted from the schedule, in that case the fees provided by the statute law of South Carolina shall govern;

FEES AND COMMISSIONS OF CLERK OF CIRCUIT COURT:

Special order for bail .50. Signing and sealing each renewal of execution .25. Entering satisfaction on judgment .25. Taking security for costs, entering order thereon if made .50. Recording decrees, (except foreclosure), partitions and reports, if any, per copy sheet of ninety words .09. Signing and sealing commission to examining witness 1.00. Examining each witness de bene esse 1.00. Exemplification of proceedings or other office copy per copy sheet of ninety words .09. Recording plot of land under order of the court or copying the same 1.00. Rule survey .50. Issuing writ of attachment for contempt or other special writ 1.00. Signing and sealing writ of hab. fac. possessionem 1.00. Receiving and paying over money officially: two (2%) per cent, if under three hundred (\$300.00) dollars one (1%) per cent. for the balance 1.00. Every appeal from magistrate, all services included, except for issuing execution therein 1.00. Filing petition and signing writ de lunatico inquirendo 1.00. Furnishing advertisements in cases of escheat, exclusive of printer's bill 1.00. Recording whole proceedings therein 2.00. Filing and entering notice of alien's intention to become a citizen 1.00. Filing and recording a report of a lien 1.00. Administering oath of intention 1.00. Filing and entering application to become a citizen and administering oath 2.00. Giving certificates (over seal of office) citizenship 1.00. Swearing a magistrate or constable in office, taking constable's bonds, and giving certificates thereof 1.00. Signing and sealing dedimus potestatum 1.00. Official certificate to exemplification of record 1.00. Each day engaged in holding references 3.00. Hearing application for discharge of insolvent debtors 2.00. Hearing same when litigated 4.00. Making up and returning report on reference, but no more than one report in each case 3.00. Mortgages, real estate, with or without dower, or other instruments securing payment of money 2.00. Deeds of conveyance, with or without dower 1.50. Chattel mortgages securing less than \$100.00 index .15. Chattel mortgages securing over \$100.00 \$1.00.

(*Provided*, that if any of the above original instruments, to-wit: Mortgages, deeds or chattel mortgages exceed five pages in length, then there shall be an

additional charge of fifty cents per page for recording such excess, *Provided, further*, that the fee for recording any mortgage of personal property made to any corporation organized under the act of Congress known as the Farm Credit Act of 1933, a regional agricultural credit corporation, a federal intermediate credit bank or any other corporation which rediscounts notes or other obligations with or procures loans from a federal intermediate credit bank, the reconstruction finance corporation or the government of the United States or any department, agency, instrumentality or officer thereof, shall be seventy-five (75c) cents.)

Official notice of estray and filing papers 1.00. Recording and copying deeds or other papers per copy sheet of ninety words .09. Entering satisfaction on mortgage .25. Recording or copying plats or not more than two (2) square feet in size, one (\$1.00) dollar. For each additional square foot, or fraction thereof, fifty (50c) cents. Enrolling and recording transcript of judgments from magistrates' courts, and issuing execution thereon 1.00. Recording assignment of mortgages, judgments or other instrument creating a lien .25. Recording release of lien of judgment or mortgage or other instruments .25. Issuing writ of attachment in civil action, including costs due sheriff's fees 5.00. Entering default judgment, including issuance of execution 2.00. Certificates of removal to federal court and certifying record 5.00. Certifying transcript of record on appeal to supreme court 5.00. Costs for each jury trial in court of common pleas 9.00. Costs for each jury trial in the county court 6.00. Costs in the court of common pleas and County Court to be paid before entry of judgment.

All costs to be paid the clerk of court for foreclosure of real estate mortgages and partitions shall be \$10.00, same to be paid before entry of order of judgment and sale: *Provided*, if the property sells for less than \$1,000.00, the above costs for partition and foreclosure shall be one-half.

All costs for settled cases to be paid before final order 2.00. Registry of notary public 1.00.

MASTER'S FEES:

Every day spent in the business of a reference 3.00. Making and filing reports in a case 3.00. He shall be allowed commissions for moneys passing through his hands by sale or otherwise, 1/2 of 1%. Each appointment of guardian ad litem 1.00. Making and certifying, upon proper application to him, any order which the master is authorized to grant 1.00. Taking, transcribing, and filing any bond of guardian, receiver, or trustee, or any other injunction or ne exeat bond 3.00. Examining and auditing accounts of guardian, receivers or trustees 1.00. Granting commissions to take testimony of witnesses or answers of absent defendants 1.00. Every deed or mortgage prepared or executed by him 3.00. Proceedings on petition for homestead 5.00.

In partition cases where the property sells for less than \$1,000.00 and in cases of foreclosure where the amount demanded is less than \$1,000.00 only one-half (1/2) of the fees shall be charged by the master.

JUDGE OF PROBATE FEES:

Citation .50. Qualifying executor, administrator or guardian issuing letters to either and recording such letters 2.50. Taking bonds from administrator or guardian and recording same 1.50. Issuing warrant of appraisement certificate 1.00. Proving a will in common form and filing and certifying the same 1.00. Recording will probate and certificate, per copy sheet of ninety words .09. Proving a will in solemn form and filing and certifying the same 5.00. Filing

and entering renunciation of executor .50. Dedimus postetatum to prove will or qualify an executor 1.00. Recording each inventory and appraisal of an account of sales, each figure counting for one word, per copy sheet of ninety words .09. Receiving, examining and filing the annual or final accounts of each administrator, executor, or guardian, for first year 3.00. Each succeeding year 1.00. Recording said accounts, per copy sheet of ninety words .09. Hearing and filing petition for sale of personal estate and order 1.00. Hearing and filing petition for guardianship and appointment of guardian and guardian ad litem 1.00. Entering a caveat or withdrawing same .50. Hearing every litigated case, for each day engaged, and not to exceed \$12.00 in any one case 3.00. Swearing and examining each witness .15. Certifying copy of any paper on file in his office .50. Copying such paper, per copy sheet of ninety words .09. Every rule issued against defaulting witness or party failing to account 2.00. Every attachment issued on the return of such rule 1.00. Furnishing and certifying copy of proceedings in case of appeal 3.00. Every search .15. Every certificate not hereinbefore specified .25. Hearing petition to sell real estate in aid of assets and granting order therefor 2.00. Taking administrator's or executor's bond, in each case and recording same 1.50. Final discharge of executor, administrator or guardian and recording same 2.50. Proceedings in dower, inclusive of all charges, where the amount is under two hundred (\$200.00) dollars 5.00. When over that amount 10.00. Proceedings in lunacy 10.00.

Provided, where proceedings in lunacy are only had by certificate of physician 3.00. Proceedings and services setting off homesteads, including titles 5.00.

Provided, that in estates where the value of the estate is \$500.00, or less, the costs to be paid shall be one-half (1/2) of the costs herein provided for.

Receiving and paying over money officially two (2%) per cent. if under \$300.00; if over that sum two (2%) per cent. on the first \$300.00, and one (1%) per cent. for the balance.

Provided, further, that in estates of less than five hundred (\$500.00) dollars, no publication for any purpose shall be required to be inserted in any newspaper, but in lieu thereof notices to be posted at the court house door, which shall have the same force and effect as if published.

Provided further, that when the fees above set forth, as fixed for the judge of probate, do not cover an item the charge for such item shall be the same as that provided in the schedule of fees of other county officers, with limitations, however, as hereinabove set forth.

In case of rule to show cause against defaulting fiduciary costs are not necessary to be paid in advance. The judge of probate shall not be required to collect in advance any costs for the purpose of issuing any necessary rule against defaulting fiduciary.

Issuing marriage license 1.00. Issuing certified copy of marriage license .25. Commissions as public guardian same as allowed general guardian. Entering land devised 1.00.

SHERIFF'S FEES:

Entering every writ, summons process, execution, or other paper in writ or execution book, and making endorsements thereon .25. Serving every writ, summons, notice or rule, not otherwise herein specified, besides mileage 1.00. Mileage from court house to defendant or witness' residence, or place where found, going and returning each way, per mile .05.

Provided, said sheriff shall charge mileage for only the actual number of miles traveled by himself or deputy and in case more than one party or witness in the same case or parties or witnesses in different cases are served on one trip the mileage fee herein provided shall be prorated and charged according to the number of parties served.

Conveying lunatics to the asylum, per day and actual necessary expenses 2.00.

Provided, the sheriff may, in extreme cases call not more than two constables and be allowed therefor one dollar per day and actual expenses.

Serving subpoena writ, and mileage on each ticket .50. Search for persons or goods not found and return on the execution of non est inventum or nulla bona .50. Each execution returned to clerk's office on schedule .25. Levying executions or attachments, besides mileage 1.00. Bringing up prisoner under habeas corpus, to be paid by prisoner if able, if not, by the county, besides mileage and necessary expenses 1.00. Commissions on all moneys collected by him, if under three hundred (\$300.00) dollars, two (2%) per cent; if over that sum, two (2%) per cent for the first three hundred (\$300.00) dollars and one (1%) per cent for the balance, and one-half of one per cent on all sums paid to plaintiff his agent or attorney on execution lodged with the sheriff.

Execution lodged to bind, with order not to levy .50. Advertising defendant's property, in addition to printer's bill 1.00. Drawing and executing a deed of conveyance or taking a mortgage 2.00. Drawing and executing each bill of sale, when required by purchaser 2.00. No sheriff shall charge more than one bill of sale for property bought at the same sale by the same party.

For executing a writ of habere facias possessionem, besides mileage \$1.00. Transferring money bonds or other securities for money to party, one-half of one (1%) per cent.

For selling land under decree of court, in lieu of commissions and all other charges, except for advertising 2.00. Summoning freeholders to try suggestions of fraud 5.00. Every fine paid before levy .50. Every fine paid after levy and before sale 1.00. The service and execution of papers issued by a magistrate, the sheriff, or his deputy serving or executing the same shall be allowed the same fees as are allowed the constables.

(6) PAYMENT OF CERTAIN PROBATE COSTS.—Any person who desires to act as administrator of a decedent's estate for the purpose of bringing any suit for any cause shall not be required to pay the probate costs: *Provided*, such person shall make an affidavit, duly sworn to, that he is unable to pay the costs, which affidavit shall be approved by the treasurer of Richland County, and this will entitle the probate judge to issue the papers without costs: *Provided*, that this shall not include the waiving of the payment of any money for necessary advertising or necessary expenditure on the part of the probate court: *Provided, further*, that upon said case being settled that the party who shall make the affidavit shall agree under oath to pay to the judge such costs as may be due first out of any settlement and before any distribution thereof is made.

(7) RECORDING, ETC. OF PAPERS FOR CHARITABLE ORGANIZATIONS AND VETERANS.—The clerk of court and judge of probate for Richland County shall have authority, upon it being certified to him in writing that any paper is to be recorded for any charitable organization to waive the fees, upon the same being approved by the treasurer and, further, shall have the authority to record all honorable discharges for war veterans without costs and without waiver by the treasurer. The judge of probate for Richland County shall have authority,

upon it being certified to him in writing that any paper in his office is to be copied or certified for any charitable organization, to waive the fees, upon the same being approved by the treasurer.

(8) **RECORD STATE AND COUNTY PAPERS WITHOUT COSTS.**—The clerk of court for Richland County shall have the authority to record all papers for the state of South Carolina and the county of Richland or any school district, state or county, governmental agency, or department of the county of Richland, without costs: *Provided*, said papers show upon their face that the same is one of the ones named in this section.

(9) **FEES EARNED PRIOR TO APRIL 1, 1932.**—Nothing contained in this section shall prevent any officer or officers of Richland County from receiving the fees which he has earned prior to April 1, 1932, but they are hereby expressly declared entitled to receive same: *Provided*, that the treasurer of Richland County is hereby expressly declared entitled to receive all fees which he would have earned prior to April 1, 1932, except for the extension of the time for the payment of taxes by the comptroller general of the state of South Carolina: *Provided, further*, that all such fees collected after April 1, 1932, shall be paid to the county treasurer as other fees and disbursed as herein provided. The treasurer of Richland County is hereby authorized and directed to pay to the officer or officers entitled to receive such fees referred to in section nine hereof, upon proper claim filed therefor when such fees are collected.

(10) **CRIMINAL PROCESS.**—Nothing in this section shall be deemed, held or construed to apply to criminal process or cases.

(11) **PENALTY.**—Any official violating any of the terms, conditions or provisions of this section shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than five hundred (\$500.00) dollars, or imprisonment for not more than twelve (12) months, either or both, in the discretion of the court, and shall be immediately removed from office by the Governor. 1936 (39) 1755.

This section added by 1936/1755.

SPARTANBURG COUNTY

§ 4755. County board—term—duties—powers.

See this section in 1934 Supplement.

§ 4756-1. County board may borrow in anticipation of tax collections.

See this section in 1934 Supplement.

§ 4757. **County board install and operate system of accounts—receipts and disbursements.**—The county board of Spartanburg County is hereby authorized and empowered to install and supervise and direct the maintenance and operation of a system of accounts so as to provide for the county of Spartanburg a proper control and coordination of the financial affairs of Spartanburg County. All receipts and disbursements by officers and employees of the county of Spartanburg shall be received, disbursed and accounted for in accordance with the system of accounts installed by the county board of Spartanburg County, and records of the same made in accordance with the requirements of said system of accounts. 1935 (39) 65.

Section 4757, 1932 Code, repealed by 1934/1557. Present section comes from 1935/65.

§ 4758. Powers and duties.—*Repealed by 1934 acts, page 1557.*

§ 4760. **Township road supervisors to expend fund.**—*Repealed by 1934 Acts, page 1557.*

§ 4761. **Supervisor.**—* * * (2) ELECTION—SALARY—TERM—* * * Provided, that beginning January 1, 1937, the term of office of the supervisor of Spartanburg County shall be four (4) years. 1936 (39) 1435.

(10) MANAGE CONVICTS AND CHAIN GANGS.—The county supervisor shall have the control and management of all convict labor and of the chaingangs of the county. The number of chain gangs in Spartanburg County shall be in the discretion of the supervisor. 1935 (39) 148; 1936 (39) 1435.

Proviso added to subsection (2) as it appears in 1934 Supplement by 1936/1435. Supplement amended by 1935/148 to be as above stated.

Subsection (10) as it appears in 1934 See this section, 1934 Supplement.

§ 4762. **General hospital—supervision—supplies.**

See this section in 1934 Supplement.

§ 4763. **Attorney—election—duties—pay—term.**

See this section in 1934 Supplement.

§ 4764. **Contracts—parties.**

See this section in 1934 Supplement.

§ 4765. **Quarterly report—grand jury to examine.**—*Repealed by 1933 Acts, page 394.*

§ 4766. **Purpose of article—order of work.**—*Repealed by 1933 Acts, page 394.*

§ 4767. **Location and relocation of roads—power of condemnation.**—*Repealed by 1933 Acts, page 394.*

§ 4768. **May have work done by contract or chain gang or hired labor.**—*Repealed by 1933 Acts, page 394.*

§ 4769. **Supervisor to maintain roads, bridges, etc.**—*Repealed by 1933 Acts, page 394.*

§ 4778. **Sinking fund commission.**—(1) CREATED—MEMBERS.—There is hereby created a sinking fund commission for Spartanburg County composed of the following ex-officio members; the superintendent of education who shall act as secretary and custodian of bonds; the county treasurer, and one member of the county board of Spartanburg, the last named member to be designated by the said county board. The above sinking fund commission shall elect their chairman every two years from April 20, 1935.

(2) BUY BONDS FOR SCHOOL DISTRICTS—INVESTMENTS.—Upon the written request of a majority of the trustees of any school district to buy bonds for the sinking fund of the respective district, the sinking fund commission, in compliance with such request and in accordance with the provisions of section 3884 shall purchase such bonds available at prices and in issues deemed proper by the said sinking fund commission, *Provided*, such bonds shall be purchased at no more than market price as determined by quotations from two or more brokers, and, *Provided, further*, that the said sinking fund commission is not required to advertise for offers of bonds unless it is considered by said commission that such action is necessary to obtain a better price. The said sinking fund commission is directed to invest sinking funds, first, in the bonds of the district issuing same if such are offered, and, if not, then in the bonds of the county of Spartanburg. The said sinking fund commission shall make ample provision for the custody and safe-keeping of the bonds, collect the maturing coupons and bonds now held and to be purchased through the process necessary. In no case shall any bond be used, hypothecated or disposed of except as provided for in section 3884 above referred to, and the sinking fund of each school district shall

be kept separate and distinct and the sinking fund of each district shall be kept intact in cash or bonds or both for the purpose as now provided by law.

(3) APPLICATION.—The above subsections are applicable to all school districts of Spartanburg County with the exception of the city of Spartanburg, district No. 34. 1935 (39) 232.

This section should be compared with § 4778, 1932 Code.

§ 4779. **Property exempt from taxes.**—(1) YARBOROUGH CHAPEL.—Certain real estate situate in Cross Anchor township, county of Spartanburg, containing and being approximately one hundred and sixty-four (164) acres, held in trust by trustees for the use and benefit of the church at Yarborough Chapel and for burying purposes be hereby relieved from the payment of any delinquent county, township and/or school district taxes now assessed against them and said property shall hereafter be exempt from any county, township or school district taxes. 1936 (39) 1793.

§ 4779, 1932 Code, repealed by 1932/1380. Subsection 1 hereof comes from 1936/1793.

§ 4779-1. **Special auditor.**

See this section in 1934 Supplement.

§ 4780. **Annual audit of the affairs.**—*Repealed by 1932 Acts, page 1385.*

§ 4781-1. **Bond issues by county, or any political sub-division thereof, must be approved by qualified electors.**

See this section in 1934 Supplement.

SUMTER COUNTY

§ 4783. **Board of commissioners—number—how appointed, etc.**

See this section in 1934 Supplement.

§ 4784. **Investment of sinking funds.**—* * *(1) *Provided*, that said funds or other funds applicable for such purpose shall be on written direction of the legislative delegation, or a majority thereof, loaned to the several school districts of the county to relieve the present deficit of such school districts, at a rate of four (4%) per cent. interest per annum, the notes of such school districts to be taken evidencing the indebtedness due thereunder, and if such loan be so made, the auditor and treasurer shall provide by levy a sufficient tax on such school districts to retire the same at the time of the maturity of such notes: *Provided, further*, that the county may borrow such sum as may be needed from said funds at the same rate of interest for its ordinary expenses, pledging the current year's taxes for the repayment of such loan. (2) *Provided*, that the said county board of commissioners are hereby authorized and empowered, if necessary to meet payments on the bonded debt of Sumter County, or the interest thereon, to borrow such sum or sums as may be necessary to meet such payment or payments (in lieu of selling any of the securities purchased under the authority of this section) pledging as security for such loan or loans any or all of said bonds or securities purchased by authority of this section. 1932 (37) 1407; 1933 (38) 263; 1936 (39) 1465.

(2) INTEREST CHARGE ON LOANS TO SCHOOL DISTRICTS.—The rate of interest to be charged by the sinking fund commission of Sumter County on loans made to the various school districts in said county shall be four (4%) per cent. per annum. This rate shall apply to existing loans as well as loans to be made in the future. 1936 (39) 1465.

Proviso 1 added by 1932/1407. The last sentence of this section, 1932 Code omitted by said act. Proviso 2 added by 1933/263. Subsection 2 added by 1936/1465.

§ 4784-1. **Disposition of surplus sinking or special funds.**—In the county of Sumter when any surplus appears in any sinking fund or any special fund,

after the obligation or obligations for the payment of which such funds were created have been met and paid, whether the same be any sinking fund for county purposes or any subdivision thereof, including school districts of said county, the county treasurer of Sumter county is hereby authorized and directed to place such surplus, in the case of county funds to the credit of the county ordinary, and in the case of any school district, to the general fund of such district to which such fund belongs. 1935 (39) 62.

This section added by 1935/62.

§ 4789. Powers of county board of commissioners.

See this section in 1934 Supplement.

§ 4806. Road tax.

See this section in 1934 Supplement.

§ 4812. Compensation certain county officers.—The following public officers of or for Sumter County shall be paid a salary in lieu of present salaries or fees as follows, to-wit: Sheriff \$2200.00; county superintendent of education \$2200.00; coroner \$660.00; clerk of court of common pleas \$2640.00. 1935 (39) 68.

Present section superseded this section in 1934 Supplement.

§ 4812-1. Fiscal year.

See this section in 1934 Supplement.

UNION COUNTY

§ 4814. Powers of supervisor and advisory board.

See this section in 1934 Supplement.

§ 4828. County borrowings—bank deposits of officers.

See this section in 1934 Supplement.

§ 4831. Road tax.

See this section in 1934 Supplement.

§ 4852. How organized.

See this section in 1934 Supplement.

§ 4854. Bond.

For bonds of sinking fund commissioners, see § 4873-1.

§ 4873-1. Bonds of certain county officers.—The amount of the official bonds of certain officers in Union County is fixed at the respective amounts stated below, and before any person shall undertake to discharge the duties of any of said offices he shall give bond in the sum herein required:

Clerk of court	\$ 10,000.00
Probate judge and master	15,000.00
Superintendent of education	10,000.00
Sheriff	15,000.00
Clerk to sheriff	5,000.00
Auditor	5,000.00
Treasurer	40,000.00
Clerk to treasurer	5,000.00
Supervisor	5,000.00
Deputy sheriffs, each	1,000.00
County bookkeeper	3,000.00
Constables to magistrates, each	1,000.00
Coroner	1,000.00
Game Warden	1,000.00
Rural policemen, each	1,000.00

Treasurer, sinking fund commission.....	\$ 15,000.00
Members of sinking fund commission, each	5,000.00
Magistrate at Union	2,000.00
All other magistrates, each	500.00

1935 (39) 80.

This section added by 1935/80.

§ 4873-2. Fiscal year.—The fiscal year of Union County shall begin on July first of each year and end on June thirtieth of the following calendar year.
1936 (39) 1395.

This section added by 1936/1395.

§ 4873-3. Establish community cannery in each township—operation.—Power and authority are hereby conferred for the establishment of a community cannery in each of the several townships of Union County in the following manner: On the first Monday in April, 1936, there shall be held at a central point in each township to be designated by the farm demonstration agent of Union County a mass meeting of the farmers of that township for the purpose of determining whether or not they wish to take advantage of the provisions of this section for the establishment of a community cannery in such township. The meeting shall be organized by the election of a president and secretary and shall adopt rules for its procedure. If it be determined by a majority vote that it is desirable to establish a cannery for that community there shall be nominated a board of directors consisting of five persons who shall be residents of the township and interested in the promotion and successful operation of the cannery for the benefit of the entire community, and whose names and addresses shall be transmitted to the farm demonstration agent and upon receipt thereof, it shall be the duty of such agent to appoint the nominees as members of the board of directors of the community cannery in that township and who shall hold office for a period of two years and until their successors have been elected and appointed as provided herein for the original appointment; and for the purpose of nominating successors such mass meetings shall be held on the first Monday in April, 1938, and every two years thereafter in the townships desiring the establishment or continuation of community canneries. Vacancies occurring for any cause shall be filled by appointment by the farm demonstration agent. The farm demonstration agent, the home demonstration of the county and the agricultural teacher in the public school in the township shall be advisory members of each such board. It shall be the duty of each board to provide a site and building for the installation and operation of machinery suitable for canning agricultural products, vegetables, grains, fruits, and any and all products suitable for human consumption, in accordance with specifications, which shall be furnished them by the farm demonstration agent, and all such sites and buildings shall be approved by said agent. Upon appointment the board shall meet and designate one of their number as chairman and one as secretary-treasurer. The boards shall have power to establish such rules and regulations as may be necessary for the practical and successful operation of the respective canneries, including the right to fix such reasonable charges for the use thereof as it finds absolutely necessary to defray the expenses of acquiring and preserving the site and building, the repair of the machinery and the expense of operating the same. The boards shall also promote such instructional and advisory measures among the farmers who reside in their township as are calculated to assist and encourage them in the production and conservation of foods necessary for them, their families and those dependent upon them.

to the end that each farm in the county may become self-sustaining throughout the year in so far as such foods are concerned. 1936 (39) 1462.

This section added by 1936/1462.

WILLIAMSBURG COUNTY

§ 4893-1. Compensation of sheriff, auditor, treasurer, clerk of court, superintendent of education, probate judge, and supervisor—collection of fees and costs.

See this section in 1934 Supplement. Coy (filed 11-9-36) should be consulted as to the constitutionality of this section.
Constitutionality: Holt v. Calhoun, 175 S. C., 481, 179 S. E., 50 and Salley v. Mc-

YORK COUNTY

§ 4894. Supervisor.

See this section in 1934 Supplement.

§ 4895. County board of commissioners.

See this section in 1934 Supplement.

§ 4896. Commutation road tax.

See this section in 1934 Supplement

§ 4897. Annual levy for maintenance of highways and bridges—use of same and road tax.

See this section in 1934 Supplement.

§ 4898. Disbursements on issuance of warrants by commissioners.

See this section in 1934 Supplement.

§ 4899. General powers of supervisor and commissioners.

See this section in 1934 Supplement.

§ 4900. Construction of bridges—may award contracts for same—further duties of supervisor.

See this section in 1934 Supplement.

§ 4901. Opening up, closing or relocating roads—may condemn.

See this section in 1934 Supplement.

§ 4902. Office hours—clerk to keep books—when claims are barred.

See this section in 1934 Supplement.

§ 4903. Clerk to keep account of townships' transactions.

See this section in 1934 Supplement.

§ 4904. Extent of repeal.

See this section in 1934 Supplement.

§ 4905. Borrow for road work and pay last indebtedness.

See this section in 1934 Supplement.

§ 4906. Compensation of supervisor, supt. of education, sheriff, probate judge, treasurer, auditor, coroner and clerk of court.

See this section in 1934 Supplement. Coy (filed 11-9-36) should be consulted as

Constitutionality: Holt v. Calhoun, 175 S. C., 481, 179 S. E., 50 and Salley v. Mc-

§ 4907. Construction and maintenance of county roads.—While the York County chaingang is in King's Mountain township, pursuant to act 587, 1929 Acts, the said chaingang shall be retained in King's Mountain township until the completion of the road from Clover to the Cherokee County line, near Piedmont Springs. While the said chaingang is in King's Mountain township, for the purpose of the completion of the road hereinabove designated, it shall be kept in King's Mountain township until all of the public or side roads in said township shall be approved by a majority of the members of the county board of commissioners and the supervisor shall be worked. After the completion of the work in

King's Mountain township, as outlined herein, the chaingang shall be moved to the Adairas Ferry road, beginning at Smyrna, and continuing until the Adairas Ferry road is finished, and then shall remain in Broad River and York townships until such roads as may be approved by a majority of the members of the county board of commissioners and the supervisor shall be worked, and continued until such roads as may be approved by a majority of the members of the county board of commissioners and the supervisor are worked; and thereafter the county board of commissioners shall build and maintain the county roads throughout York County as in their discretion may be deemed for the best interest of all sections of said county: *Provided, however*, that in cases of emergency a majority of the county board of commissioners with the supervisor may at any time transfer from one section of the county to another any portion of the chaingang as may be necessary to repair the roads and bridges to meet such emergency. 1935 (39) 248.

§ 4907, 1932 Code, repealed by 1932/1245. Present section comes from 1935/248.

§ 4913. **Township highway commissioners.**—*Repealed by 1932 Acts, page 1245.*

§ 4914. **Treasurer notify taxpayers of taxes due.**—The county treasurer of York County in the state on or before December 15th of each year, shall notify the tax payers whose names appear on the tax books, by post card or other writing at the last known address, the amount of taxes due and when the penalty shall be charged and the amount thereof. 1936 (39) 1587.

§ 4914, 1932 Code, repealed by 1932/1245. Present section comes from 1936/1587.

§ 4915. **Property exempt from taxes.**—(1) OLD ROSE HOTEL PROPERTY—DURATION.—For the year 1936 and for all subsequent years thereto, or until the said property is rented for any purposes or sold to any person, partnership, or corporation, the property known as "Old Rose Hotel property" is hereby exempted from all county and school district taxes. 1936 (39) 1766.

§ 4915, 1932 Code, repealed by 1932/1245. Present section comes from 1936/1766.

§ 4916. **Custodians of public records furnish service officer certified copies of certain records.**—All custodians of public records in York County are hereby authorized and directed to furnish to the York County Service officer certified copies of any and all public records of which they are respectively the custodian, upon request by such service officer, and upon such service officer stating that such certified copies of said records are needed by veteran of any war or by dependant of such veteran, in filing a claim with the United States veterans administration. The furnishing of certified copies of such public records set out hereinabove, shall be free of charge. 1935 (39) 407.

§ 4916, 1932 Code, repealed by 1932/1245. Present section comes from 1935/407.

§ 4917. **Health nurse, Fort Mill township.**—(1) COMMISSION—APPOINTMENT—TERMS—VACANCY.—There is hereby created a commission of three (3) persons, residents of the township of Fort Mill, in York County, South Carolina, to be known as health nurse commission, to be now composed of S. W. Foster, Rev. A. W. Shaw and Mrs. O. T. Culp, who shall serve for a period of two (2) years from April 29, 1936, by the Governor, after which period their successors shall be appointed by the Governor upon the recommendation of a majority of the members of the General Assembly from York County; any vacancy in said commission, for any cause, shall be filled for the unexpired time by the remaining members of said commission.

(2) EMPLOY NURSE—DISCHARGE—PRESCRIBE DUTIES.—It shall be the duty of said commission to employ a health nurse for the township of Fort Mill and

prescribe her duties, and to discharge her whenever deemed necessary or proper by said commission, or a majority thereof.

(3) **TAX LEVY PROVIDE FUNDS—BORROW.**—In order to provide sufficient funds to pay the compensation and expenses of said nurse and other expenditures deemed wise by the said commission, or a majority thereof, the county auditor for York County, South Carolina, is hereby authorized, empowered and directed to fix and levy a one-half (1/2) mill tax on all of the property in Fort Mill township, in York County, South Carolina, to be collected by the treasurer of York County, South Carolina, as all other taxes are collected. *Provided*, that the commission herein appointed and their successors are authorized and empowered to borrow a sufficient sum to pay the salary of said nurse each year hereafter, until receipt of funds from said taxes, the amount so borrowed not to at any time exceed the amount that said millage will amount to, at the best rate of interest obtainable; and the said commission, or a majority of them, are authorized and empowered to pledge, as security for said loan, the amount received from said millage.

(4) **USE OF SURPLUS.**—If the said millage should amount to more than the amount necessary to pay the salary of said nurse and her expenses, then the said commission is hereby empowered and authorized to expend the balance in such manner as they deem right and proper for the relief of the sick and needy. 1936 (39) 1464.

§ 4917, 1932 Code, repealed by 1932/1245. Present section comes from 1936/1464.

§ 4918. **Disbursement of funds.**—*Repealed by 1932 Acts, page 1245.*

§ 4919. **Operation of trucks in York, Cherokee and Pickens Counties.**

Section 1624-1, regulating trucks, etc., connection with this section. this supplement, should be consulted in

§ 4923. **Fees of clerks of court and registers of mesne conveyances for recording papers.**

See § 4925 hereof also.

Fee, and collection thereof, in Richland

1933/49. Fee for search in York County abolished, County, § 4738-1.

§ 4924. **Other fees and commissions of clerks of court.**

See this section in 1934 Supplement.

§ 4925. **Fees of clerks in certain counties.**

See this section in 1934 Supplement.

mortgages, 1936/1345.

Fees for clerk of court and register of mesne conveyances, Abbeville County, 1935/45. Compensation of Union County clerk of court for recording certain deeds and

Register of mesne conveyances, Charleston County, record deeds conveying property to Charleston County, 1935/304.

§ 4927. **Recording fees of clerk of court of Beaufort County.**

See this section in 1934 Supplement.

§ 4937. **Fees of clerk of court, Sumter County.**—The fees of the clerk of the court of Sumter County shall be as now provided by law, except as follows: *for signing and filing order appointing guardian ad litem, twenty-five cents; for signing and filing order of reference, twenty-five cents;* for recording real estate mortgages of two thousand words or under, one dollar and fifty cents; for recording like mortgages of more than two thousand words, one dollar and fifty cents for the first two thousand words, and for additional words at the rate of ten cents per one hundred words; for recording deeds of real estate, one dollar, including the auditor's fee of twenty-five cents; for recording agricultural mortgages of one hundred dollars and over, one dollar; indexing agricultural mortgage under one hundred dollars, thirty cents; recording chattel mortgages over one hundred dollars, fifty cents; indexing chattel of one hundred

dollars and less, fifteen cents. All fees collected by the clerk of court shall be paid to the treasurer of Sumter County and by him placed in the general funds of Sumter County. 1935 (39) 124.

Words in italics added; and last sentence of present section substituted for last sentence of this section, 1932 Code, 1935/124.

§ 4941. Masters.

Fees, and collection thereof, Richland County, § 4738-1.

§ 4942. Costs and fees of judge of probate in certain counties.

Fees and collection thereof, Richland County, § 4738-1. Williamsburg County, Fee for search in York County abolished, 1933/45 (§ 4906, 1934 Supplement.)

§ 4950. Sheriffs.—* * * *Provided*, that in Florence county the sheriff shall receive no fees or expenses for transporting prisoners within the state and shall only receive actual expenses for transporting prisoners from a point without the state to a point within the state. 1936 (39) 1416.

The above proviso added to this section; and comma added after the word "may" line twelve, 1932 Code, 1936/1416. Fees, and collection thereof, Richland County, § 4738-1.

§ 4951. Fees of sheriffs or jailors for dieting federal prisoners.

See this section in 1934 Supplement.

§ 4958. Fees of physicians for post mortem examinations.

See this section in 1934 Supplement.

§ 4964. Witness fees in criminal cases.

See this section in 1934 Supplement.

§ 4976. Counties to aid in support of Carolina Orphan Home.

See this section in 1934 Supplement.

§ 4988. Additional pensions for Confederate veterans.

See this section in 1934 Supplement.

§ 4997. State board of health—how constituted.

State board of health prescribe rates for certain facilities at South Carolina sanatorium, 1936/2705.

§ 5036. Meetings of board—force and effect of rules, etc.—* * * *Provided, further*, that in the city of Rock Hill the board of health shall consist of not more than five members, one of whom shall be a practicing physician of not less than two years standing in the practice of his profession. The city council of said city shall, after the terms of the present members expire, appoint one-fifth of the members annually on the first Tuesday in June of each year, to serve for a period of five (5) years. The members of said board shall serve without compensation. The said members shall take the oaths prescribed for city officers, and shall organize by the election from among said board a president. The said board shall elect the city physician, a secretary who shall keep the minutes of their proceedings and perform such other duties as may be prescribed by the said board; a health officer and a dairy inspector, who shall for the proper performance of their duties have and exercise the powers and authority of a policeman of said city. The said city physician, health officer and dairy inspector shall receive such salaries as may be fixed by the said board, and shall hold office at the pleasure of the board, the same to be paid from city funds. The said board of Health shall have the power to make all needful rules and regulations for the promotion of the best sanitary conditions in the city of Rock Hill, and to enforce the same by such penalties as are proper within the limit prescribed to the city council for the enforcement of city ordinances, and for this purpose shall have all the powers, functions and privileges, and be subject to all of the duties, responsibilities and liabilities provided in an act entitled, 'An Act to

Establish Local Boards of Health in the Cities and Incorporated Towns of the State, and to Define the Powers Thereof', approved January 5, 1895. The board shall meet at least once a month for the transaction of business, and shall make out and cause to be published all necessary rules and regulations for carrying into effect the powers, and functions of which they are invested by law, which rules and regulations, when approved by the city council and when advertised in the same manner as other ordinances, shall have the force of ordinances of said city; and all penalties for the violation thereof, as well as expenses necessarily incurred in carrying into effect the same, shall be recovered for the use of the city council in the same manner as penalties for the violation of city ordinances, subject to the like limitations as to the amount thereof. 1935 (39) 5.

Above proviso added by 1935/5.

§ 5049. State board of health appoint local boards in unincorporated towns.—* * * *Provided, further, however,* that in the City View water and sewer district in Greenville County, the commission of and for said district shall, upon and after resolution duly adopted by said commission, appoint a local board of health for said district, which local board shall consist of seven members, one of whom shall be a regularly licensed practicing physician, and each of whom shall hold office at the will of said commission. The said local board of health, for said district, when so appointed, shall perform all the duties, and have all the powers of local boards of health appointed under this section and as may be conferred upon local boards of health by all other applicable sections under general laws pertaining to local boards of health, and in addition to such powers is hereby authorized to pass, adopt and promulgate rules and regulations requiring owners of property in said district to connect with the water and/or sewer systems where they are reasonably available and such connection is in the discretion of the board necessary to protect the public health and/or security of the district. 1935 (39) 375.

The above proviso added by 1935/375.

§ 5052. Penalties as to matters relating to local boards.—* * * *Provided, further, however,* that all rules and regulations adopted and promulgated by the local board of health of and for the City View water and sewer district of Greenville County, made by and in pursuance of this article and as may be needful or necessary for the preservation and promotion of the public health, sanitation and/or security of said district, after being published once a week for three weeks in a newspaper of said county, shall have the force and effect of law, and any person, who shall after notice violate, disobey, refuse, omit or neglect to comply with any rule or regulation so adopted and promulgated by said local board of health shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not exceeding the sum of one hundred dollars, or be imprisoned not exceeding thirty days. 1935 (39) 342.

The above proviso added by 1935/342.

§ 5057-1. Sterilize certain mental defectives and insane persons.—(1) PENAL OR CHARITABLE INSTITUTIONS MAY PETITION STATE BOARD OF HEALTH TO STERILIZE CERTAIN INMATES—SERVE PETITION ON SUCH INMATES AND OTHERS INTERESTED—HEARING.—Whenever the superintendent, or any other person or persons in charge of any penal or charitable institution of this state shall be of the opinion that it is for the best interest of the inmates of the institution of which he is the superintendent, or person in charge, that any inmate of such institution who is afflicted with any hereditary form of insanity that is recurrent, idiocy, imbecility, feeble-minded or epilepsy should be sexually sterilized, such

superintendent, or other person in charge, shall present to the state board of health, of this state, a written petition stating the facts of the case, and the grounds of his opinion verified by his affidavit to the best of his knowledge and belief, and praying that an order may be entered by the said board authorizing him to perform or have performed by some competent physician, or surgeon to be designated by him in his petition, or by the board in its order, upon such inmate named in such petition, at one of the institutions of the state, the operation of vasectomy, if upon a male, and of salpingectomy, if upon a female, or such other safe and proper operation as medical science may provide to accomplish such purpose. A copy of such petition shall be served upon such inmate named therein, together with a notice in writing designating the time and place in said institution, not less than thirty (30) days before the presentation of such petition to the state board of health, when and where the board will hear and act upon such petition. If such inmate has a parent, child, brother, sister, guardian or committee residing in this state whose name and place of residence are known to such superintendent, a copy of such petition and notice shall be served upon such parent, or parents, child, brother, sister, guardian, or committee, whichever may be first found upon whom such service may be made. If such notice cannot be so served, the superintendent shall file a copy of such petition in the office of the clerk of the court of the county where the inmate last resided, if known; and a certificate of the sheriff of the county where such patient has had his or her residence, if known, shall be filed with the board of health, and no further service of process shall be had. After the notice required by this section shall have been given as herein provided, the board of health, at the time and place named therein, with such reasonable continuances from time to time and from place to place as the board may determine, shall proceed to hear and consider the said petition and the evidence offered in support of and against the same. For every such inmate the board shall appoint a guardian *ad litem* who must be present at the hearing to defend the rights and interests of such inmate. And the board shall see to it that such inmate shall have leave and opportunity to attend such hearings in person, if desired by him, or by his parent, guardian or committee served with such petition as aforesaid. The board of health may receive and consider as evidence at such hearing the commitment papers and other records of such inmate in any of the aforesaid state institutions as certified by the superintendent or superintendents thereof, together with such other legal evidence as may be offered by any party to the proceeding. Any member of the board shall have the power to administer oaths to the witnesses at such hearings. Depositions may be taken by any party after due notice as in pending cases and such depositions may be read in evidence pertinent to the issue: *Provided, however*, that no deposition shall be read against such inmate, except with the consent of his guardian *ad litem*, unless it be taken in the presence of the guardian *ad litem* or upon interrogatories agreed on by him. The board shall preserve and keep all record evidence offered at such hearings, and shall have all oral evidence heard thereat reduced to writing and preserved and kept with its records. Any party to the proceedings shall have the right to be represented by counsel at such hearings. The board of health may deny the prayer of said petition, or if the board shall find that such inmate is insane, idiotic, imbecile feeble-minded or epileptic, and by the laws of heredity is or would be the probable potential parent of socially inadequate offspring likewise afflicted; that such inmate may be sexually sterilized without detriment to his or her general health; and that the

welfare of such inmate and of society will be promoted by such sterilization, it may by order authorize such superintendent to have performed, or cause to be performed by some competent physician or surgeon named in such order, upon such inmate, after not less than thirty (30) days from the date of such order, such suitable and safe operation as medical science may have devised to render such patient or inmate sterile.

(2) APPEAL.—From any such order so entered by the state board of health, any party or parties, interested therein shall have the right of appeal to the circuit court in the same form and manner as is now provided by law for appeals from inferior courts to the circuit courts, and the right of appeal shall be preserved to the supreme court in the same form and manner as appeals are now had from the circuit courts of this state to the supreme court, and such notice of appeal shall act as a stay of further proceeding pursuant to terms of said order until such appeal, or appeals have been finally disposed of.

(3) PERFORM OPERATION IF PETITION SUSTAINED—POSTPONE.—Whenever any such order shall be made as herein provided by the board of health, or such circuit court, or the supreme court of this state, authorizing such superintendent to perform, or cause to be performed by some competent physician or surgeon named therein, such operation hereinbefore mentioned such superintendent, upon the expiration of any stay of proceedings under any such order, shall be authorized to perform or cause to be performed by the physician or surgeon named in such order, such operation pursuant to such order, unless in the meantime, some physical or mental disability of such patient or inmate shall indicate the advisability of postponing or abandoning such operation.

(4) LIABILITY OF PARTICIPANTS.—Neither any such superintendent nor other person legally participating in the execution of the provisions of this section shall be liable either civilly or criminally on account of such participations.

(5) NATURE OF OPERATION.—Nothing in this section shall be construed to authorize the operation of castration nor the removal of sound organs from the body; but this provision shall not be construed so as to prevent the medical or surgical treatment for sound therapeutic reasons of any person in this state, by a physician or surgeon licensed by this state, in such a way as may incidentally involved the nullification or destruction of the reproductive functions.

(6) GUARDIAN AD LITEM—COMPENSATION.—Any guardian *ad litem* appointed by the state board of health or by a circuit court pursuant to this section to defend the rights and interest of any inmate of any state institution named herein in proceedings hereunder shall be paid by such institution for his services such fees, not exceeding ten (\$10.00) dollars, as may be allowed by the state board of health, or by the circuit court in case of appeal.

(7) INMATE OR REPRESENTATIVE DESIGNATE PHYSICIAN TO OPERATE.—Nothing herein contained shall prevent such inmate or his or her family, or committee or guardian from employing any duly licensed physician to perform such operation, provided the fee of such surgeon so employed is paid by such inmate, or his or her family, guardian or committee pursuant to such employment. 1935 (39) 428.

This section added by 1935/428.

§ 5123-1. **Tourist camps and road houses.**—(1) LICENSE OPERATE.—No person, firm or corporation shall maintain, operate, or own any tourist camp or road house where beds or lodging are had for hire without first obtaining from the governing board of the county in which such tourist camp or road house is located a license to be issued on the conditions hereinafter stated.

(2) OWNERS OF TOURIST CAMPS AND ROAD HOUSES BEYOND LIMITS OF MUNICIPALITIES APPLY FOR LICENSES.—Every owner or operator of a tourist camp or road house proposed to be operated beyond the corporate limits of a town or city of this state shall file with the governing board of the county a written application for a license, which said application shall give the name of the owner of the property, the name of the manager or operator, the general nature of the business proposed to be conducted, and such other information as the governing body may require.

(3) LICENSES—ISSUANCE—REVOCATION.—Upon the filing of the said application, the governing body shall pass upon the said application and make their recommendations in writing to the clerk of court. If the majority of the said governing body recommend the issuance of the said license, then the clerk of court shall issue the same for a period of one year from July 1st, 1936, upon payment of the license hereinafter prescribed. *Provided, however*, that the governing body of the said county shall have a right, upon such showing as to them may seem proper, to revoke any license issued under the terms of this section.

(4) LICENSE FEE.—The license fee to be charged in connection with the above application shall be one (\$1.00) dollar.

(5) NOTIFY OPERATORS—COUNTIES EXEMPTED.—The governing body of the respective counties of this state shall notify in writing all owners or operators of tourist camps or road houses doing business in this state, of the passage of this law, and the owners or operators shall comply with the requirements herein within ten (10) days after written notification. The following counties are exempt from the provisions of this section: Barnwell, Abbeville, Charleston, Aiken, Beaufort, York, Berkeley, Edgefield, Colleton, Newberry, Orangeburg, Horry, Spartanburg, Georgetown and Florence, Chester, Darlington, Marlboro, Richland, Sumter, Dorchester, Laurens, Clarendon, Allendale, Kershaw, Saluda, Bamberg, Williamsburg, Oconee, Chesterfield, McCormick, Lee, Calhoun, Anderson, Lexington and Greenville.

(6) PENALTY.—Anyone violating the provisions of this section shall be deemed guilty of a misdemeanor and shall be fined in the sum of not less than twenty (\$20.00) dollars nor more than one hundred (\$100.00) dollars in the discretion of the magistrate. All amounts collected under the terms of this section, whether from fees or fines, shall be turned over to the county treasurer to be placed in the general county funds. 1936 (39) 1778.

This section added by 1936/1778.

§ 5129-1. Manufacture and sale of ice cream and other milk products.

See this section in 1934 Supplement.

§ 5136. Petitions for establishment of public hospitals, or tuberculosis camps.

County hospitals: Barnwell County, 1935/1790; Berkeley County, 1935/663; Aiken County, 1935/435; Cherokee County, 1934/1718; Columbia Hospital, County, 1936/1326; Jasper County, 1935/1936/2590; Dillon County, 1936/2219; 1934/389, 1936/1588; Orangeburg County, 1936/2105.

§ 5167. Fee for testifying at inquests, etc.

See this section in 1934 Supplement.

§ 5204. Annual registration of licenses to practice dentistry.—Repealed by 1936 Acts, page 1361.

§ 5210. Licenses—suspend—revoke—renew—unprofessional conduct—advertising prices.—Any circuit court judge of this state shall have the power and authority, by proper order, after a hearing duly had on a petition of any person or by the state board of dental examiners to revoke or suspend, for

any period of time, practice under any license issued in this state to any dentist or dental hygienist, for any one of the following causes shown at a hearing before it, to wit: first, where any diploma, license or certificate, illegally or fraudulently obtained by the applicant, was presented to or filed with the board and considered by it in granting a license; second, where a license has been applied for and issued under an assumed name for the purpose of shielding dishonesty or a criminal record; third, the commission of any criminal operation, or habitual drunkenness for a period of three months, or insanity, or where one has been judicially adjudged by any court or legally authorized commission to be insane, if, in the opinion of the board, patients might suffer through the continuing practice of such dentist, or where one has been guilty of any immoral or dishonorable conduct which would prevent the board, in its sense of honor, from issuing the certificate of practice provided for in section 5207, or where a practitioner has become or is addicted to any harmful drug habit, or where any dentist shall use, or advertise as using, any drug nostrum, patent or proprietary medicine, of unknown formula, or any dangerous or unknown anaesthetic, which is not generally used by the dental profession; fourth, for unprofessional conduct, or for gross ignorance or inefficiency in his profession. Unprofessional conduct shall mean employing what are known as "cappers" or "steerers" to obtain business; the obtaining of any fee by fraud or misrepresentation; wilfully betraying professional secrets; employing directly or indirectly any student or any suspended or unlicensed dentist to perform operations of any kind, or to treat lesions of the human teeth or jaws, or to correct malposed formations thereof; making use of any advertising statments of a character tending to deceive or mislead the public; advertising professional superiority or the performance of professional services in a superior manner; advertising prices for professional service; advertising by means of large display; glaring light signs; or containing as a part thereof the representation of a tooth, teeth, bridgework or any portion of the human head; employing or making use of advertising solicitors or free publicity press agents; or advertising any free dental work or free dental examination; or advertising to guarantee any dental service, or to perform any dental operation painlessly; and fifth, for permitting any unlicensed person to perform any operation of whatever nature, on any patient or prospective patient, or to fit or attempt to fit any false tooth, teeth, or plate for such patients. No license when once revoked, shall ever be renewed by the board, and no license, when once suspended, shall be reinstated or renewed until the offender has given satisfactory assurance and guarantee of correct conduct for the future. A fee of fifty (\$50.00) dollars shall be paid to the board before it shall reinstate or renew a license once suspended for any cause set forth in this section. 1936 (39) 1361.

1936/1361 changed the method of suspending and revoking licenses and further provided for unprofessional conduct and the

advertising of prices. A comparison of the present section with former section 5210 is suggested for specific changes.

§ 5216. Board—compensation—put collected fees in state treasury—secretary—expenses.—Each member of the state board of dental examiners shall receive for his services ten (\$10.00) dollars per day for each day engaged in the business of said board, not to exceed four (4) days in any one calendar year, and traveling expenses at the rate of five (5c) cents per mile for one round trip to each annual meeting, said compensation and mileage to be paid from the state treasury, upon certificate of the secretary of the said board. All

license fees collected from applicants shall be turned into the state treasury. The secretary of the South Carolina dental association shall be ex officio secretary-treasurer of the South Carolina board of dental examiners, and shall receive a salary of one hundred (\$100.00) dollars per annum. The actual expenses of said board for necessary stamps, stationery and printing pertaining to the duties of said board shall be paid by the state treasurer upon an itemized statement sworn to by the members of said board. 1936 (39) 1364.

NURSES

§ 5223. Practice as registered or licensed nurse only when authorized—registered nurse defined—construction and purpose.—(1) No person shall practice as a registered nurse within this state unless he or she has been heretofore authorized so to do, pursuant to the law in force at the time of his or her authorization, or is hereafter authorized so to do by subsequent subdivision of sections 5223-5230. *Provided*, that a graduate of a school of nursing not an accredited school shall be allowed to take the examination required for registered nurses, and upon a successful passage of such shall be licensed as a "Licensed Nurse" which grade shall be at all times indicated both in advertisement and uniform by the use of the capital letters "L. N." on proper insignia.

(2) Any person shall be regarded as a registered nurse, within the meaning of these sections 5223-5230, who has graduated from an accredited school or schools of nursing, as hereinafter provided for in these sections 5223-5230, has passed a satisfactory examination before a state board of examination and registration of nurses to be established in accordance with the provisions of subsection 5224 (1) below, and has complied with all other requirements of sections 5223-5230.

Nothing in sections 5223-5230 shall be so construed as to prevent a nurse who does not hold a certificate of registration from said board, and who resides in another state, from accompanying and attending a person traveling in or through this state or sojourning herein for his or her health, or any non-resident nurse without such certificate from serving any person in this state in case of necessity or emergency, where such nurse is authorized and empowered to practice his or her profession under the laws of the state in which he or she resides, or to affect in any way the right of any person to nurse gratuitously or for hire; the purpose of this legislation being to secure the registration of those nurses only who are properly qualified therefor, and to prevent the use of the title, "Registered Nurse," or the abbreviation, "R. N.", by persons not registered under the provisions of sections 5223-5230. 1935 (39) 173.

Sections 5223-5231 repealed by 1935/173. Present sections 5223-5230 come from said act.

§ 5224. State board of examination and registration of nurses.—(1) APPOINTMENT—TERMS—VACANCY.—There shall be established a state board of examination and registration of nurses to be composed of five persons to be appointed and commissioned in the following manner:

The South Carolina state nurses association shall, within thirty days after April 6, 1935, nominate to the Governor of this state two of its members who must have had at least three years of practice in their profession immediately preceding their nomination. From this number the Governor shall, within thirty days thereafter, appoint and commission for places on the said board

one nurse who shall serve for one year from date of appointment and one nurse who shall serve for five years from date of appointment. The two nurses so appointed shall not have been graduated from the same training school.

The South Carolina medical association shall, within thirty days after April 6, 1935, nominate to the Governor two of its members who must have had at least three years of practice in their profession immediately preceding their nomination. From this number the Governor shall, within thirty days thereafter, appoint and commission for places on the said board one physician, who shall serve for two years from date of appointment and one physician who shall serve for three years from date of appointment.

The South Carolina hospital association shall, within thirty days after April 6, 1935, nominate to the Governor one of its members who is a superintendent of nurses and who is also a member of the South Carolina state nurses association and a graduate of a training school not already represented on the board. The Governor shall, within thirty days thereafter, appoint and commission this nominee for a place on the said board to serve for four years from date of appointment.

The terms of office of the five members of the board, appointed and commissioned as above provided for, shall all begin on the same date. Upon the expiration of the term of office of any member the Governor shall appoint and commission a successor who shall serve for five years from the date of appointment and each member shall hold office until the successor qualifies. The said appointment shall be made upon nomination of one of its members by the state nurses association, the state medical association or the state hospital association, as the case may be, depending upon which organization's representative on the board is to be replaced, and in accordance with the conditions and requirements set forth above. No two of the three nurse members of the board shall have been graduated from the same training school.

Any vacancy occurring on this board by death, resignation, or otherwise, shall be filled for the unexpired term by the Governor upon nomination furnished him in the manner specified in the paragraph immediately above.

(2) ORGANIZATION—OFFICERS—EDUCATIONAL ADVISOR—MEETINGS—REPORTS.—Within thirty days after appointment the members of the state board of examiners and registration of nurses shall meet and organize by the election of a president and a secretary-treasurer, both of whom shall be nurse members. The officers so elected shall serve for a period of one year each and until their respective successors are elected and have qualified. Officers shall be elected by the board annually, their terms of office beginning at the close of the meeting at which they are elected. In case of a vacancy among said officers the board shall, within thirty days after the vacancy occurs, elect one of its number to fill the unexpired term.

The secretary-treasurer shall certify to the Governor the names of officers elected for regular and unexpired terms; and in the event of a vacancy in the office of secretary-treasurer the president of the board shall certify to the Governor the name of the person chosen to fill the vacancy.

The board may appoint a state educational advisor of training schools for nurses from a list of three members of the South Carolina State nurses association whose names shall be submitted to it by the said association. The educational advisor shall be under the direction and control of the board in all matters pertaining to her position, and shall serve at the pleasure of the board. She

shall assist in maintaining necessary standards in the living, working and educational conditions in schools of nursing in South Carolina and perform such other duties as the board may assign her.

The board is hereby authorized to pay the educational advisor, provided there be sufficient funds in the treasury, a salary or a per diem allowance, as it may deem advisable, and necessary expenses incurred in the performance of her duties, the amount of salary or per diem allowance to be determined by the board, and paid out of funds held by the board, on approval by the president of the board.

Three members of the board shall constitute a quorum, but no action of the board shall be valid unless authorized by the affirmative vote of three members thereof.

The board shall meet regularly at Columbia, South Carolina, on the fourth Tuesday in May of each year for the purpose of examining applicants for registration, and shall continue in session until all applicants are duly examined. Should the board deem it expedient, the date of its regular meeting may be changed, but, in such event, notice of the change and the date on which the meeting will be held shall be published in a Columbia daily newspaper of general circulation; and written notice sent, postage prepaid, to the last known address of each applicant, at least ten days before the time of the regular meeting.

The board shall issue to each properly qualified applicant for registration a temporary permit which will authorize said applicant to practice nursing in the state until the next meeting of the board.

The board shall have power to call extra meetings when necessary for the examination of applicants or for the transaction of such other business as may properly come before it, and to make all necessary by-laws and rules for its government and for the proper discharge of its functions.

The board is authorized to have and to use an official seal bearing the words: "State Board of Examination and Registration of Nurses for South Carolina."

At intervals, regulated by its by-laws, the board shall prepare and make a report for public distribution of all schools for nurses, or combinations of schools for nurses, in South Carolina, approved by the board as meeting the requirements necessary for giving a student nurse a full and adequate course of training and instruction.

(3) RECORDS.—The board shall keep a record of all its proceedings and also a record of all applicants for licenses and of the action of the board thereon, and a register of all nurses who have complied with the requirements of §§ 5223-5230 and have been licensed to practice as registered nurses in South Carolina.

It shall also register as accredited such schools of nursing as shall meet the requirements of the board as to courses, standards and management. Books and registers kept by the board shall be *prima facie* evidence of all matters therein recorded. All such records and registers shall, at all reasonable times, be open to public inspection.

(4) COMPENSATION—FINANCES—ANNUAL REPORT.—Out of the funds coming into possession of the board each member may receive for his or her services traveling expenses at the rate of five cents (5c) per mile and five dollars (\$5.00) per day for each day actually engaged in the duties of his or her office. Said expenses shall be paid from the fees received by the board under the provisions of §§ 5223-5230. All money received in excess of said mileage and per diem allowances, as above provided for, shall be held by the secretary-treasurer of the board as a special fund for meeting the expenses of the board and carrying out

the provisions of §§ 5223-5230; and she shall give such bond as the board shall, from time to time, direct, the expenses of such bond to be paid out of the funds of the board. All disbursements from the funds of the board must have the approval of its president.

The board shall make an annual report of its proceedings to the governor on the first Monday in July of each year, which report shall contain an account of all moneys received and disbursed by it pursuant to §§ 5223-5230. 1935 (39) 173.

§ 5225. Examinations—(1) **QUALIFICATIONS OF APPLICANTS.**—It shall be the duty of said board to examine all candidates for registration, as hereinafter provided and described, and to pass upon their qualifications and fitness to practice as registered nurses in this state, and to give each successful applicant a certificate to that effect; provided that each applicant, before being allowed to take said examination, shall furnish evidence satisfactory to the board that he or she is at least twenty-one years of age, is of good moral character, has had such preliminary education as required by the board, and is a graduate of an accredited school or schools of nursing, as hereinafter described, or of a training school connected with a hospital of good standing supplying a course of training and instruction meeting standards approved by the state board of examination and registration of nurses, which training and instruction may be obtained in two or more hospitals. The board shall have the power to grant advanced credit, not to exceed twelve months, for didactic and laboratory work done in an accredited college, or for credits, either time or scholastic, earned in an institution other than the one from which graduated. *Provided, further,* that each applicant shall pay to the secretary-treasurer of the board a fee of ten dollars (\$10.00). Such certificate of registration shall entitle the holder thereof to practice in South Carolina as a registered nurse and to use the letters, "R. N." after his or her name. *Provided, further,* that on and after July 1, 1937, the preliminary education required by the board shall be the successful completion of at least 4 years of work in a high school accredited by the state board of education in the state in which the applicant attended school, or the equivalent of such work, satisfactory evidence of which shall be furnished to the board.

(2) **SUBJECTS—CONDUCT—FEES—PASSING GRADES.**—For each examination the board shall prepare suitable questions for testing the knowledge of the applicants in the following subjects: Anatomy and physiology; elements of bacteriology; elements of pathology; nutrition; diet in disease; materia medica; practical nursing; nursing ethics; history of nursing; personal hygiene; public sanitation; and such other subjects as the board may deem necessary. Examinations conducted by the board may be written, oral, by practical demonstration, or by a combination of any or all of these methods, at the discretion of the board. In case of failure at any examination the applicant shall have the privilege of a second examination on payment of the regular fee of ten dollars (\$10.00). In case of a second failure the applicant, to be eligible for a third examination, shall, in addition to the requirements for previous examinations, have further pursued his or her studies for such time as the board may designate, and furnish satisfactory evidence thereof. The grade requiring for passing the examinations before the board shall be an average of not less than seventy-five per cent (75%) on all subjects examined upon and not less than sixty per cent (60%) on any individual branch. 1935 (39) 173.

§ 5226. Suspend or revoke licenses.—The state board of examination and registration of nurses is hereby authorized and empowered to suspend or re-

voke, by a majority vote of its total membership, subject, on appeal, to revision by the courts of the state, the license of any registered nurse qualified under any provision of §§ 5223-5230, whether qualified prior or subsequent to the passage of §§ 5223-5230, after due notice and fair opportunity for hearing, upon evidence satisfactory to the board, that the holder thereof is guilty of felony or gross immorality, or is addicted to alcoholic or other drug habits to such a degree as to render him or her unfit or unworthy to practice as a registered nurse in this state. The presiding officer of the board is hereby authorized and empowered to administer oaths in the taking of testimony upon any and all matters pertaining to the business or duties of the board. *Provided*, that pending a final court decision, if resort is had to the courts under this section, the nurse under charges shall continue in the practice of his or her profession until the decision of the tribunal appealed to is reached. 1935 (39) 173.

§ 5227. **Certificates for nurses registered under 1910 act.**—All nurses registered under the provisions of the act of February 23, 1910, shall be permitted to register and receive a certificate without an examination, upon application duly made and accompanied by his or her certificate or registration previously granted and the payment of a fee of five dollars (\$5.00), provided that application be made before July 1, 1936. 1935 (39) 173.

§ 5228. **Non-resident nurses.**—The board is hereby authorized to issue certificates of registration without examination to nurses registered in other states, territories and the District of Columbia, or foreign countries, provided the individual qualifications of the nurse meet the requirements of §§ 5223-5230. A fee of ten dollars (\$10.00) shall be paid to the secretary-treasurer of the board for each such certificate of registration. 1935 (39) 173.

§ 5229. **Accredited school for nursing.**—An accredited school for nurses, within the meaning of §§ 5223-5230, is hereby defined to be a school for the education of nurses attached to or operated in connection with a general hospital, having a daily average of thirty (30) patients or more, giving a continuous training of not less than three years. This training shall include practical experience in caring for men, women and children, together with theoretical and practical instruction in medical, surgical, obstetrical and pediatric nursing. The curriculum of the school shall meet standards approved by the state board of examination and registration of nurses. *Provided*, that in cases where a student attends a training school for nurses which has a daily average of less than thirty (30) patients, the attendance of such student for a period of eight (8) months of the three years training required under §§ 5223-5230 at a training school for nurses which has a daily average of not less than thirty patients, shall be a sufficient compliance with the terms of §§ 5223-5230 and shall entitle such student to come within the provisions of §§ 5223-5230. 1935 (39) 173.

§ 5230. **Penalty—practical nurses—saving clause—students in training.**—(1) It shall be unlawful for any person to practice as a registered nurse or to use the abbreviation "R. N.", after his or her name, within the meaning of §§ 5223-5230, in this state, who has failed to comply with the provisions of §§ 5223-5230; and anyone violating any of the provisions of §§ 5223-5230 shall be deemed guilty of a misdemeanor, and for such offense, upon conviction by any court of competent jurisdiction, shall be fined in any sum not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00) or

imprisoned for a period of not less than thirty (30) days nor more than ninety (90) days, or both, at the discretion of the court.

The provisions of §§ 5223-5230 shall not affect nurses known as practical nurses, not holding themselves out to be registered nurses.

(2) In the event that any provision or part of §§ 5223-5230 shall be questioned in any court and shall be held to be invalid, the remainder of §§ 5223-5230 shall not be invalid, but shall remain in full force and effect.

(3) §§ 5223-5230 shall not apply to students in training now or at the time §§ 5223-5230 shall take effect. 1935 (39) 173.

§ 5231. Misdemeanor violate provisions as to trained nurse.—*Repealed by 1935 Acts, page 173.*

*CHIROPODISTS AND CHIROPODY (PODIATRY)

§ 5231-1. Definitions.—“Chiroprody,” sometimes called podiatry, shall for the purposes of this article mean the diagnosis, surgical, medical and mechanical treatment of ailments of the human foot, except the correction of deformities requiring the use of the knife, amputation of the foot or toes, or the use of an anaesthetic other than local.

(a) Surgical treatment shall be held to mean the surgical treatment of abnormal nails, corns, warts, callosities, superficial treatment of bunions, and other minor foot ailments, and does not confer the right of amputation of toes or joints thereof, or any portion of the foot, or the severing of any tendon, or the use of anaesthetics other than local.

(b) Medical treatment shall be held to be the local application or recommendation of any therapeutic agent or remedy for the relief of foot ailments.

(c) Mechanical treatment shall be held to be the employment of any forcible means for the correction of weak or fallen arches and other mis-allignments of the bones of the foot, and such corrective treatment shall include the use and recommendation of mechanical appliances, bandaging, strapping, massage, physico-therapy and the use of corrective shoes, but does not permit the treatment of fractures of the bones of the toes or feet. 1935 (39) 180.

*Sections 5231-1 thru 5231-18 come from 1935/180.

§ 5231-2. License to practice.—It shall be unlawful for any person to profess to be a chiroprodist or podiatrist or to practice or assume the duties incident to chiroprody (podiatry) without first obtaining from the state board of chiroprody examiners a chiroprody license. All persons before being licensed to practice chiroprody in the state of South Carolina shall make application upon a bank form and furnished by the board of chiroprody examiners herein created, to the secretary-treasurer of said board of chiroprody examiners which license shall be granted to such applicants after they have furnished satisfactory proof of being at least twenty-one years of age and of good moral character, and in active practice of chiroprody in the state of South Carolina for a period of one year preceding the enactment of this law. 1935 (39) 180.

§ 5231-3. Designation.—Any person to whom a license is granted upon the provisions of this article shall be entitled to be known as licensed chiroprodist and that any other chiroprodist who may later practice in the state of South Carolina shall be privileged to use the title to which their diplomas from their chiroprody college may have granted. 1935 (39) 180.

§ 5231-4. Examinations.—Any person not heretofore authorized to practice chiroprody in this state and desiring to enter upon such practice shall file with

the board of chiropody examiners upon payment of a fee of twenty-five (\$25.00) dollars, a written application for examination, together with a satisfactory proof that he or she is twenty-one years of age or over, and of good moral character, and that he or she has received at least four years high school training, or the equivalent thereof, and has received a diploma or certificate of graduation from a recognized college of chiropody having a minimum requirement of three scholastic years, embracing at least nine months of instruction each year, a minimum of 3,360 hours in three different calendar years; shall, upon payment of said fee be examined as provided herein, and if found qualified, shall be registered and shall receive in testimony thereof a license to practice chiropody. 1935 (39) 180.

§ 5231-5. Board of chiropody examiners.—For the purpose of carrying out the provisions of this article, the Governor shall appoint a board of chiropody examiners, to consist of three (3) chiropodists, actually engaged in said practice in the state of South Carolina and a member of the state board of medical examiners, who as *ex-officio* acts as executive officer of said board of chiropody examiners. The said members shall be appointed for terms of two (2) years, respectively, and the board shall have the right to formulate regulations to carry out the terms of the article. The Governor shall have the power to remove from office members of the board of chiropody examiners for neglect of duties as required by this article, or for malfeasance in office or for unprofessional conduct. 1935 (39) 180.

§ 5231-6. Deny or revoke licenses.—The state board of chiropody examiners may revoke the license to practice chiropody of any person, who while holding such license obtains a fee or a promise or obligation to pay a fee by fraud, or is guilty of gross negligence, or ignorant or wilful malpractice in the practice of chiropody, or violation of any provision of this article or is guilty of any immoral or dishonorable conduct. The procedure for denying or revoking a license to practice chiropody shall be the same as that for denying or revoking a license to practice medicine. 1935 (39) 180.

§ 5231-7. Time and place of examinations—board self-sustaining.—The board of chiropody examiners for the purpose of examining applicants under this article for a license to practice chiropody in this state shall hold at least two examinations annually if necessary. The examination shall be held at such time and place as the board may see fit, and notices of same shall be published in one or more newspapers in this state. This board shall be entirely self-sustaining and shall ask for no appropriation from the state of South Carolina. 1935 (39) 180.

§ 5231-8. Rules and regulations for examinations.—The board may make such rules and regulations as it may deem necessary to conduct its examinations and meetings. It shall provide such books, blanks, and forms as may be necessary to conduct said examinations, and shall preserve and keep a complete record of all its transactions. Examinations for registration under this article shall be in the English language, written, oral or clinical or both as the board of examiners may determine, and shall be in the following subjects wholly or in part: Anatomy, physiology, pathology, histology, bacteriology, chemistry, diagnosis and treatment, materia medica and therapeutics, clinical chiropody and chiropodial orthopedies and asepsis, limited in their scope to the treatment of the foot and leg and such added subjects as shall be subsequently taught by accredited colleges of chiropody. 1935 (39) 180.

§ 5231-9. **Examination averages to receive license—annual report.**—No applicant shall be granted a license unless he or she obtain a general average of seventy-five (75%) per cent or over, and not less than fifty (50%) per cent in any one subject. After such examinations the board shall without unnecessary delay act on same and issue a license to the successful candidate signed by the chairman and secretary of the board. The board of chiropody examiners shall report annually to the Governor in detail all of its transactions. 1935 (39) 180.

§ 5231-10. **Fees for examinations.**—Every applicant for an examination for a license to practice chiropody shall, at the time of filing application, pay to the secretary of the state association of chiropody or podiatry, a fee of twenty-five (\$25.00) dollars. In case the application is denied and examination is refused, the fee shall be returned to the applicant. Any applicant who fails to pass an examination shall be entitled to a re-examination within six (6) months, upon the payment of an additional fee of ten (\$10.00) dollars, but only two (2) such re-examinations shall be permitted under the privilege of the original application. 1935 (39) 180.

§ 5231-11. **Annual license fees.**—Chiropodists having practiced in this state one year prior to this article and licensed to practice without examination shall pay a fee of five (\$5.00) dollars. Every person licensed to practice chiropody must pay annually a renewal license fee of five (\$5.00) dollars. If such renewal fee is not paid within three (3) months after date of notification by the secretary that such fee is due, the license of the person so failing to pay shall be suspended or revoked and shall be reissued only by a majority vote of the board of chiropody examiners and upon payment of a fee of ten (\$10.00) dollars. All license fees received by the board of chiropody examiners to defray the necessary expenses arising from maintaining the board. 1935 (39) 180.

§ 5231-12. **Display license.**—Every license shall be conspicuously displayed at the place of practice, and must be recorded in the office of the clerk of court of each county wherein the licensee practices within thirty (30) days of its issue. 1935 (39) 180.

§ 5231-13. **Corporate practice.**—It shall be unlawful for any person or persons to incorporate under the laws of this state for the purpose of practicing chiropody within this state. It shall be unlawful for any foreign corporation organized for such purpose to attempt to practice chiropody within this state. 1935 (39) 180.

§ 5231-14. **Non-residents.**—Upon payment of a fee of fifty (\$50.00) dollars a license may be issued to chiropodists of other states removing to this state, maintaining requirements for the practice of chiropody equal to the standard herein, and extending the same reciprocal privileges in their state. Any chiropodists or podiatrist who has been practicing his profession in any state for a period of one year or more and who has been duly licensed by a state board and who has enjoyed during such time good moral and professional repute, and shall be recommended by the chiropodist or podiatrist society or association of his state, may upon presentation of proper credentials be issued a license without examination. 1935 (39) 180.

§ 5231-15. **Practice defined.**—It shall be deemed *prima facie* evidence of the practice of chiropody or of holding one's self out as a practitioner within the meaning of this article, for any person to treat in any manner the human foot by medical, mechanical or surgical methods, or to use the title chiropodist, registered chiropodist or podiatrist, or any other words or letters, which

designate or tend to the public that the person so treating or holding himself out to treat is a chiropodist. 1935 (39) 180.

§ 5231-16. Violations—penalty.—Any person who shall practice or attempt to practice chiropody in this state without having complied with the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than fifty (\$50.00) dollars nor more than two hundred (\$200.00) dollars and in default of payment of such fine shall be imprisoned for not less than thirty (30) days, nor more than ninety (90) days. 1935 (39) 180.

§ 5231-17. Exemptions.—This article shall not apply to licensed physicians or surgeons in this state, nor to osteopaths licensed by the state board of osteopathic examiners, nor to surgeons of the army, navy, and public health service, when in actual performance of their official duties. 1935 (39) 180.

§ 5231-18. Not apply to fitting or sale of corrective shoes, foot remedies, appliances, etc.—No part or portion of this article shall be deemed to prohibit the fitting, recommending or sale of corrective shoes, arch supports, or similar mechanical appliances by retail stores, or individuals; *Provided, further,* that the provisions of this article shall in no wise apply to or affect any mercantile establishment in this state selling shoes or fitting same, and that this bill does not prohibit the sale or recommendation of any branded foot remedies or appliances by any retail establishment or their employees. 1935 (39) 180.

This article added by 1935/180.

§ 5234. Board of examiners.

See this section in 1934 Supplement

§ 5235. Members—term—appointment—removal.

See this section in 1934 Supplement.

§ 5248. Not applicable to physicians—applicable peddlers—sale of ready-made eye glasses.

See this section in 1934 Supplement.

§§ 5250-1 to 5250-8. Chiropractors.

See these sections in 1934 Supplement.

§§ 5261-1 to 5261-16. Hairdressers and cosmetologists.

See these sections in 1934 Supplement.

§ 5266. Embalmers to obtain licenses.

See this section in 1934 Supplement.

§ 5289. Powers of state board of education.

See section 5290-1, subsection 3 thereof, for further powers of the state board of education in adopting text books.

State board of education could not substitute books beyond limit allowed herein,

although some books were obsolete and had ceased to be published. State ex rel. Frier et al. v. State Board of Education et al. 179 S. C., 188; 183 S. E., 705.

Editor's note: See § 5290-1 hereof.

§ 5289-1. State board of education may acquire maps to use in teaching history and geography of this state in public schools.—The state board of education, acting through the state superintendent of education, is authorized and empowered to have provided for the pupils in the public schools of this state, a series of maps suitably edited and adapted to portray a story of South Carolina from geographic and historic standpoints, in a manner best suited to serve the grades in which history and geography are taught, without incurring any obligation on the part of the said board. It is authorized to receive bids for the production and furnishing of the number of such maps as in the judgment of the state board of education will be requisite for the aforesaid purpose. Upon its determination of the approximate cost of the maps to

the several schools, or combination of schools, the board shall have the right and is directed, to negotiate with the several county boards of education, and through them, with the board of trustees of the respective school districts, with regards to purchase of such maps. When the said board shall have acquired a sufficient number of contracts to warrant its making a contract with the producer of such maps, in sufficient quantities, it is then authorized and empowered to enter into a contract providing for the purchase and furnishing of the maps, as the said parties may agree upon, and shall have the right to assign any or all of the contracts which it has made with the county boards of education and/or the boards of school trustees of the school districts in the state, as a guarantee to its engagement with the party furnishing the maps, *Provided*, that the state board of education shall in no way become liable upon any such contract, but all such liability shall be on the part of the county boards of education and the boards of school trustees under their respective contracts or agreements to purchase. 1935 (39) 363.

This section added by 1935/363.

§ 5290-1. Textbooks—rent—furnish free—adoptions—contracts for.—(1)

STATE SCHOOL BOOK COMMISSION—MEMBERS—TERMS—COMPENSATION.—There is hereby created and established a commission to be known as the state school book commission, the same to be composed of the Governor, the state superintendent of education, the director of the division of textbooks, hereinafter established, one member of the state board of education, to be designated by the state board of education and three county superintendents of education to be selected by the association of county superintendents of education, and the director of the division of textbooks, all of whom shall serve *ex officio*. The three county superintendents of education and the member of the state board of education shall serve for a term of three years and until their successors are appointed. The three county superintendents of education and the member of the state board of education shall be paid the usual *per diem* paid to members of state commissions and their travel and maintenance expenses as provided by law for the days upon which they are actually engaged in the discharge of the duties herein conferred upon them.

(2) OPERATE RENTAL SYSTEM FOR SCHOOL TEXTBOOKS IN CERTAIN COUNTIES AND SCHOOL DISTRICTS—INSTITUTIONS OF HIGHER LEARNING ESTABLISH TEXTBOOK RENTAL SYSTEMS.—The state school book commission is hereby authorized, empowered and directed to provide all the textbooks for use in the public schools of South Carolina on a rental system whereby the pupils in the public schools will pay an annual rental in an amount to be fixed by the state school book commission and in its discretion graduated as to grades and to be sufficient to pay all the costs of the administration of this section and the purchase of any books necessary to be acquired by the state school book commission. Said rentals shall be paid by or for each pupil annually in advance upon the opening of school or before any pupil is allowed the use of said books. No pupil in the public schools of the state shall be required to pay any larger amount for the use of the books than above authorized nor to buy outright or otherwise acquire any textbook, but any pupil may purchase, if he so desires, the books to be used by him, in which event no rental fee will be charged to said pupil. The state school book commission shall not be required to furnish materials which shall be consumed or rendered worthless in any one year, such as pencils, tablets, workbooks, drawing materials, etc. *Provided, however*, that nothing contained in this section shall abrogate the power of such school dis-

districts or counties as now have or hereafter may have the right to set up rental or free textbook systems and all rentals received by said districts or counties from rental of books belonging to said districts or counties shall be retained by the said districts or counties: *Provided, further*, that school districts enrolling five thousand (5000) or more school pupils may have the right to set up rentals or free textbook systems and choose and purchase their own textbooks, and all rentals received by said districts from rental of books belonging to said districts shall be retained by said districts: *Provided, further*, that any state institution of higher learning may, in the discretion of the respective boards of trustees or other governing body, set up a textbook rental system in the same manner as is provided in this section for school districts and choose or purchase their own textbooks, and all funds received by said institutions from rental of books belonging to said institution shall be retained by them, respectively. *Provided, further*, that upon the resolution of the legislative delegation of the county affected, any county or school district, as the case may be, may abandon its rental or free system of textbooks and accept the provisions of this section. Upon any such county or school district abandoning its rental or free system and accepting the provisions of this section, it shall be the duty of the state school book commission to make, or cause to be made, an investigation and to determine the value to the state of any textbooks belonging to said county or district which can reasonably be of use to the state under this section, and to purchase useful books from said county or district, either paying cash therefor, or in such installments as may be agreed upon between the state school book commission on the one hand and the county board of education, or trustees, as the case may be, on the other hand. In the event it be agreed upon to pay therefor in installments, then the state school book commission shall enter into reimbursement agreements with said officials to pay said installments in the future. *Provided, further*, that the provisions of this section shall not apply to any school district in which the board of trustees of said school district shall file before August 1, 1936, with the state school book commission a written statement, approved by the senator and at least one-half of the representatives from such county, to the effect that it does not elect to come under the provisions of this section: *Provided, further*, that the provisions of this section shall not apply to any county in which the county board of education shall file before August 1, 1936, with the state school book commission a written statement, approved by the senator and at least one-half of the representatives from such county, to the effect that it does not elect to come under the provisions of this section.

(3) **TEXTBOOKS—ADOPTION OF CONTRACTS FOR TEXTBOOKS.**—For the purpose of carrying out the provisions of this section and to provide school books for said rental system, the state board of education is hereby authorized, empowered and directed to use for a period of at least three (3) years from May 11, 1936, the school books adopted by the state board of education in October, 1934, and all textbooks now in use under the state adoption plan in the schools of South Carolina for which purpose said adoption and all contracts made thereunder are hereby ratified and confirmed. The state board of education is hereby authorized and empowered, in its discretion, to postpone, alter, amend or modify the terms of future state adoption of contracts for textbooks.

(4) **DIVISION OF TEXTBOOKS—DIRECTOR—APPROPRIATION.**—For the purpose of carrying out the provisions of this section the state superintendent of education is hereby authorized, empowered and directed to establish a division

of textbooks within the state department of education, and to appoint a director of said division, hereinafter referred to as the director, whose term of office shall be for a period of three (3) years. For the faithful performance of his duties said director shall enter into such bond in such penal amount as may be fixed by the state school book commission and approved by the attorney general of the state. As compensation for services, said director shall receive an annual salary of three thousand (\$3,000.00) dollars, payable monthly, and, in addition thereto, shall be allowed traveling expenses incurred in the performance of his duties not exceeding the sum of nine hundred (\$900.00) dollars per annum, and, in addition, twelve hundred (\$1,200.00) dollars per annum shall be allowed for stenographic and bookkeeping help. During the first year an additional sum of three hundred (\$300.00) dollars may be used for extra clerical and stenographic work. There is hereby appropriated the sum of five thousand (\$5,000.00) dollars, if so much be necessary, for the purpose of establishing said rental system and of paying the costs and expenses of said system until the first rentals are collected.

(5) DEPOSITORIES—DISTRIBUTION AND CARE OF BOOKS—PAYMENT OF EXPENSES—SALES.—The state school book commission is hereby authorized, empowered and directed to adopt, establish and promulgate such rules and regulations as may be necessary to carry out the purposes of this section, which rules and regulations when not in conflict with the terms and purposes of this section, shall have full legal force and effect. Said rules and regulations shall provide a system of depositories for said books in various counties of the state, which depositories may be designated as the state school book commission may deem best; and shall establish a method of distributing said books to the pupils and to provide for the reasonable use, care and safety of said books, with reasonable penalties, for the abuse or destruction of said books to fall upon those using said books or in charge of their distribution and use. The various counties, through their properly constituted authorities, are hereby required to furnish a sufficient and proper place for depositing or storing of books used in said counties. All necessary expenses in administering the terms of this section shall be paid from the rentals collected hereunder. The state school book commission shall provide by proper rules and regulations for payment by the pupils, its parent or legal guardian, for the loss of or damage, if any, to any books, ordinary wear and tear excepted. *Provided*, that the state school book commission may require all publishers of textbooks, with whom textbook contracts have been made, to maintain a joint agency or depository, in some city in the state to be located at some suitable and convenient distributing point, at which general depository each textbook publisher shall keep on hand a sufficient stock of books to supply the requirements of the state, through which central depository all textbooks shall be distributed. Any person or school not controlled by the state, or book dealer in any county in the state may order books from the general depository, and the books so ordered shall be furnished for cash at cost plus actual expenses: *Provided, further*, that the state school book commission shall make proper arrangements for the sale of textbooks to those pupils who desire to purchase them, and the same shall be sold at cost plus actual expenses.

(6) FIELD WORKERS.—In order to carry out the intent and purpose of this section, the director is authorized to appoint five (5) field workers who shall be charged with the duties assigned by the director and to perform any and all duties required by the provisions of this section, and not inconsistent with

the terms thereof. As compensation for their services the said field workers shall each receive the sum of one hundred fifty (\$150.00) dollars per month for twelve months in each year, and, in addition thereto, actual traveling expenses incurred while in the discharge of their duties, such expenses not to exceed nine hundred (\$900.00) dollars per year for any field worker.

(7) SCHOOL AUTHORITIES COOPERATE.—The county superintendents and boards of education in the various counties of the state are hereby directed and required to cooperate with the state school book commission in the administration of the terms of this section and the rules and regulations to be established by the state school book commission in such manner as may be requested or required by the state school book commission. All superintendents, principals and teachers in the schools of South Carolina are hereby directed and required to cooperate fully with the state school book commission and county boards of education in the proper and orderly administration of the terms of this section, and the state school book commission is hereby authorized to promulgate rules to provide cooperation by the superintendents, principals, and teachers and to establish penalties for failure to cooperate.

(8) CONTRACTS FOR BOOKS.—The state school book commission is hereby authorized to negotiate and execute contracts with the publishers of school books whereby the state will rent from the publishers or buy outright the books to be used in the public schools, with discretion in the state school book commission to make rental contracts and/or purchase contracts as it may be to the best advantage of the state. Any contracts made with publishers of textbooks may be made so as to divide the payment to publishers for rental or purchase over a period of three (3) years: *Provided, however*, that nothing herein shall be construed to prevent the state school book commission from purchasing or renting additional books as the necessity shall or may arise. The state school book commission is hereby authorized to issue its negotiable notes with interest not exceeding three and one-half (3½%) per cent per annum and to pledge all books purchased and all rentals collected hereunder, after the payment of all administrative expenses, for the discharge of said rental or purchase contracts. The full faith, credit and taxing power of the state are pledged for the payment of said notes. The state school book commission, in its discretion, may borrow upon the same terms as above authorized, from any available source, the money with which to purchase said school books, at a rate of interest not to exceed three and one-half (3½%) per cent per annum: *Provided*, that no notes hereunder shall be issued without the written approval of the state finance committee: *Provided, further*, that if the state school book commission should decide to purchase outright the books to be used in the schools of this state, the same shall be purchased at the lowest possible prices and, so far as existing contracts for state adopted books will permit, at competitive bidding: *Provided, further*, for the purpose of carrying out the provisions of this section, and enabling the state to avail itself to the fullest extent of federal aid in the form of grants or otherwise, that are now or may become available for use in the state for this and other purposes, the Governor is authorized, empowered and directed to procure from any and all sources available such amounts of funds as may be needed and not in conflict with the terms and purposes of this section.

(9) DUTIES AND LIABILITY OF SCHOOL DISTRICTS.—The director shall hold each school district in South Carolina responsible for the proper protection, use and care of all school books allotted to said districts under the terms of this sec-

tion. The said school district shall make reports to the director when required by the director as to the books on hand and the condition of the same, and shall, within thirty (30) days after the end of each school term, return all school books allocated to said districts to the place or places required by the director. The director shall, as soon as practicable, after the close of each school term, determine the loss and damage, if any, ordinary wear and tear excepted, sustained by said books in any school district, and shall make demand for the payment of the same upon the various districts against which loss and damage shall have been assessed with appeal by parties feeling themselves aggrieved to the state school book commission. Said district shall forthwith pay said loss and damage, and, that upon proper certification by the director and county superintendent of education, county auditors and county treasurers of the respective counties in which these school districts are located, are hereby authorized, empowered, and directed to levy sufficient millage in or upon any school district and/or other educational unit sufficient to pay any loss due the said state school book commission for any loss, damage or rentals due by the said school districts and/or other educational units under the terms of this section. *Provided*, that in the event there is sufficient funds on deposit to the credit of the school district and/or other educational unit, the trustees of said school district or the county board of education are directed to draw a warrant against such funds to cover an amount of said loss or shortage in rental funds accruing under the terms of this section, in which case no levy shall be made.

(10) COLLECTION AND PAYMENT OF RENTALS.—The rentals provided hereunder shall be collected by the various school districts in the state and each school district shall pay the amount of said rentals due for the use of books by the pupils in said district within thirty (30) days from the date of the opening of the schools or the admission of new pupils to said schools. No school books shall be delivered to any school child on a rental plan until the rentals have been fully paid.

(11) BOOKS FROM QUARANTINED HOMES—DISINFECT ALL BOOKS.—The said director, in conjunction with the state board of health, shall adopt rules and regulations governing the fumigation and/or disposal of textbooks from quarantined homes, and for the regular disinfection of all textbooks used in the public schools of the state. As far as may be practicable the director shall provide for the retention of all necessary school books for use by the school districts within said districts.

(12) WAIVE RENTALS—WHEN.—At the beginning of the fourth year of operation hereunder, and earlier if funds be available, the state school book commission is hereby authorized and directed to waive rentals for as many of the grammar school grades as available funds will permit; and at the beginning of the sixth year, or earlier if funds be available, said commission shall waive rentals for as many of the high school grades as available funds will permit, to the end that textbooks shall be supplied to the school children of the state without charge at the earliest possible date. 1936 (39) 1549.

This section added by 1936/1549.

See § 5289 also for adoption of textbooks.

Rent or furnish free text books: Anderson County, 1936/1572; Cherokee County, 1936/1581; Chester County, 1936/1578;

Colleton County, 1935/304; Fairfield County, 1936/1573; Greenwood County, 1936/1541; Marion County, 1936/1683; Marlboro County, 1936/1526; Newberry County, 1936/1681; Sumter County, 1936/1696; York County, 1936/1454.

§ 5291-A. Columbia Bible College confer degrees.—The board of trustees of Columbia Bible College, formerly named “The Columbia Bible School”, is authorized and empowered to confer such degrees as said board shall determine. A diploma from said Columbia Bible College may entitle the holder to be accredited by the state board of education in like manner as the diplomas are now accredited from other schools and colleges. 1935 (39) 130.

This section replaces section 5291-A in 1932 Code, 1935/130.

§ 5295. Record of teachers’ certificates.

See this section in 1934 Supplement.

§ 5296. State board of education to award scholarships.—*Repealed by 1934 acts, page 1686.*

§ 5297. Dates of competitive examinations.—*Repealed by 1934 acts, page 1686.*

§ 5298. Conditions and methods of examinations.—*Repealed by 1934 acts, page 1686.*

§ 5299. Vacancies—how filled.—*Repealed by 1934 acts, page 1686.*

§ 5300. Requirement as to scholarships.—*Repealed by 1934 acts, page 1686.*

§ 5301. State board of public welfare to investigate financial status of certain persons.—*Repealed by 1934 acts, page 1686.*

§ 5302. Report.—*Repealed by 1934 acts, page 1686.*

§ 5303. Boards to act on report.—*Repealed by 1934 acts, page 1686.*

§ 5304. Right of appeal.—*Repealed by 1934 acts, page 1686.*

§ 5305. Normal scholars deposit notes.—*Repealed by 1934 acts, page 1686.*

§ 5306. Enrollment defined.

See this section in 1934 Supplement.

§ 5308. County superintendent of education—election—term—bond.

See section 4689.

County § 4121-1; McCormick County, § 4644-1; Newberry County § 4666; Oconee County, 1933/33-1.

For bond of superintendent of education:
Bamberg County § 3989-1; Cherokee

§ 5309. Vacancies.—The state board of education shall fill all vacancies in the office of county superintendent of education for the unexpired term. (1) *Provided*, that in the county of Darlington all such vacancies shall be filled by the county board of education, where the unexpired term is for less than two (2) years; and when the unexpired term is for more than two (2) years then the Governor shall order a special election to fill the vacancy, and the Governor shall commission in accordance herewith. (2) *Provided*, that in the county of Spartanburg all such vacancies shall be filled by a majority of the legislative delegation from Spartanburg County where the unexpired term is for less than two years; and when the unexpired term is for more than two years, then the Governor shall order a special election to fill the vacancy, and the Governor shall commission in accordance herewith. 1935 (39) 439, 456.

Proviso 1 added by 1935/439.

Proviso 2 added by 1935/456.

See notes to § 5475.

This section was amended by 1932/1364 providing for the filling of vacancies in the office of county superintendent of education, Lancaster County; however neither of the 1935 acts made reference to the 1932 amendment and re-enacted this section without providing for the 1932 amendment relating to Lancaster County. This section as amended by said 1932 act may be seen in 1934 Supplement.

§ 5314. Abbeville County—school system.

Transportation of school children—see section 5474.

§ 5315. Aiken County—school system.

County board of education, appointment, duties, etc., 1933/495; 1935/27; 1936/1654. for provisions relating to schools and school funds in Aiken County.

1936/1654 should be consulted generally

§ 5316. Allendale County—school finances.

See this section in 1934 Supplement.

§ 5316-1. Anderson County—school system.

County board of education, appointment, duties, etc., 1933/368.

§ 5317. Bamberg County—school system.

Transportation of school children—see section 5474.

§ 5317-2. Beaufort County—school system.

Beaufort high school district—trustees, 1930/1785.

§ 5318. Berkeley County—school system.

1932/1197 provides for transportation of school children, appointment or election of trustees, employment of teachers, bus drivers, and other help.

Enrollment school children, 1934/1207.

Trustees, high school district No. 10, school district No. 19, and school district No. 16, 1936/1419.

§ 5319. Charleston County—school system.

School commissioners for city of Charleston may borrow on anticipated revenue of school district no. 20, 1933/391.

Charleston County auditor levy and collect school taxes in Charleston school district, 1934/1505.

Charleston County board of education arrange for transportation and attendance of white pupils in school district No. 21 upon school in school district No. 11, 1934/1820.

See also section 5413.

§ 5319-1. Cherokee County—school system.

Tax levies for school purposes, 1936/1298. Tax levy for library, school district No. 10, 1936/1310, 1698.

School trustees of Cherokee and Green-

ville counties investigate tax returns—report—duties of boards equalization, 1933/774.

§ 5319-2. Chester County—school system.

For transportation of school children, awarding of contracts, etc., see § 5474.

No increase in school levies in three

years in Chester County, 1933/407.

Chester County board of education may insure school buildings, 1934/1278.

§ 5319-4. Edgefield County—school finances.

See this section in 1934 Supplement.

§ 5319-5. Fairfield County—school finances.

See this section in 1934 Supplement.

§ 5319-6. Florence County—school finances.

See this section in 1934 Supplement.

§ 5319-8. Greenville County—school system.

School trustees of Cherokee and Greenville counties investigate tax returns—report—duties of boards equalization, 1933/774.

Special school taxes, 1933/114; 1934/1382; 1936/1704 (section 5356 hereof).

By 1932/1226, 1330, school districts of Greenville County may borrow to operate.

Annual appropriation by Parker school district, Greenville County, pay bonds issued for school improvements, 1934/2004.

§ 5319-10. Horry County—school system.

High school superintendents with trustees and county superintendent of education supervise grammar schools, 1936/1434.

Transportation of school children—see section 5474.

§ 5319-11. Kershaw County—school system.

School trustees prepare and file budgets annually, expenditures limited, 1933/508.

County board of education, appointment, duties, etc., 1933/330; 1936/1710.

§ 5319-12. Lancaster County—school system.

1932/1434; 1935/416; 1936/1658, 1787, should be consulted for provisions relating generally to the financing of schools; transportation of children, appointment

and election of trustees, etc.

County board of education, appointment, duties, etc., 1935/416.

§ 5319-13. Laurens County—school system.

County board of education, appointment, duties, etc., 1932/1386.

§ 5319-15. Lexington County—school system.

Annual levy support schools, Pelion school district No. 25, Lexington County, 1934/2278.

County board of education, appointment, duties, etc., 1933/21; 1935/127.

See this section 1934 Supplement.

§ 5319-16. Marion County—school system.

See 1932/1321, 1933/553, 1935/404 for school trustees prepare and submit budgets, provision providing for special taxes for payment of fees for high school pupils. school purposes, disbursement thereof,

§ 5319-17. Pickens County—school system.

County board of education, appointment, duties, etc., 1935/57.

§ 5319-22. Saluda County—school system.

Additional tax, Hollywood school district, Special tax levy, Fairfax school district, Saluda County, 1936/2608. Saluda County, 1934/2179.

§ 5319-23. Sumter County—school system.

Contracts to transport school children, prepare and file budgets, 1932/1236, 1936/1936/1330. 1330.

Trustees of the city schools of city of Sumter required to secure deposits of School district of the city of Sumter, see 1932/1415.

Use of sinking funds by trustees of the city schools Board of education, school district No. 17, 1936/1701.

of the city of Sumter, 1932/1177, 1936/1379. 1932/1415 and 1934/2200—school district of the city of Sumter.

§ 5319-24. Williamsburg County—school system.

Tax for school purposes, Williamsburg County, 1934/2212.

§ 5319-25. York County—school finances.

See this section in 1934 Supplement. York County, 1934/2230.

School levy, Ebenezer school district,

§ 5320. Clarendon County—school system.

Disbursement of school funds act, (1934/1934/1274), repeated by 1936/1368. Special levy in St. Paul school district No. 4, Clarendon County, 1933/805.

§ 5320-A. Colleton County—school system.

See this section in 1934 Supplement.

§ 5320-B. Darlington County—school system.

County board of education, appointment, County, to support Darlington public library, 1932/1797.

County board of education fix budgets for operation of schools, 1935/370. Tax levy for weak schools, 1933/1442.

Levy in school district No. 2, Darlington annually, 1936/1603. Hartsville school district No. 32, borrow

§ 5320-C. Dillon County—school system.

County board of education, appointment, duties, etc., 1932/1117.

§ 5320-D. Dorchester County—school system.

Annual tax of four mills in certain school Annual tax, Harleyville school district district, Dorchester County, 1934/1930. No. 9, 1936/1680.

County board of education, appointment, Annual tax, Harleyville school district duties, etc., 1933/113. No. 9, 1936/1680.

§ 5320-E. Hampton County—school system.

Payment of school claims in Hampton County, 1932/1874. Transportation of school children—see section 5474.

Preparation of school warrants, 1935/81.

§ 5320-F. Jasper County—school system.

For annual county school tax, teachers Tillman School District No. 5 added to Ridgeland Centralized High School District, 1934/1193.

salaries and authority for schools to borrow, see 1933/531; 1934/1300; 1935/309, 1936/1693. The said 1933 act is cumulative to § 5320-F. Salary of supt. of schools, Ridgeland, 1936/1693.

§ 5320-G. Marlboro County—school system.

Lower Marlboro high school district, etc., 1932/1366.

Marlboro graded school district, trustees, Trustees report annually on finances and teachers employed, 1934/1474.

§ 5320-I. Orangeburg County—school system.

Consolidate school district Nos. 46 and 87 operate schools, 1936/1788. 1934/2148.

Orangeburg County pay school district No. 47 portion of 2½ county school levy, Tax levy, school district No. 26, 1936/1788.

§ 5320-J. Spartanburg County—school system.

See 1933/566 for one mill levy for school purposes.

Tax for equalizing fund for high schools, 1936/1472.

County board of education, appointment, duties, etc., 1935/384.

Payment of bond interest and insurance due by school districts, 1936/1709.

§ 5320-K. Union County—school system.

The following proviso was added to subsection 2 of this section: "Provided, That no tax shall be levied by the auditor on all of the taxable property of Union County except by and with the consent and under the direction in writing of a majority in number, including the Senator, of the Union County delegation in the general assem-

bly." 1932/1412.

1932/1478 limited the contractual rights of school trustees in Union County.

The 6-0-1 School Law referred to in this section was superseded by 1933/567.

Clerk to county superintendent of education, 1935/446.

§ 5328. Expenses of county superintendents of education.

See this section in 1934 Supplement.

§ 5332. Duties of Oconee County superintendent of education.—*Repealed by 1935 acts, page 365.*

§ 5335. County board of education—of whom composed, etc.

Purchase of school maps by county boards of education. See § 5289-1 hereof.

Appointment, duties, etc., county board of education: Aiken County, 1933/495, 1935/27, 1936/1654; Anderson County, 1933/368; Darlington County, 1935/439; Dillon County, 1932/1117; Dorchester County, 1933/113; Kershaw County, 1933/

330, 1936/1710; Lancaster County, 1935/416; Laurens County, 1932/1386; Lexington County, 1933/21; 1935/127; Pickens County, 1935/57; Spartanburg County, 1935/384; Sumter County (city board of education, school district No. 17), 1936/1701.

§ 5336. Dorchester County board of education.

See this section in 1934 Supplement.

§ 5341-1. Teach in schools receiving state aid detrimental effects upon human system of drinking intoxicating liquors.—The superintendents, principals or other persons in charge and control of the grammar schools and/or high schools in this state, which receive any state aid whatsoever, be authorized, directed and required to teach or have taught in every grade in such schools, the detrimental effect of the drinking of intoxicating liquors upon the human system, for at least three scholastic periods per year. The state board of education shall provide for the enforcement of the provisions of this section. 1936 (39) 1339.

§§ 5339-5341, 1932 Code, should be consulted with this section.

§ 5343-B. Books and other necessaries for certain school children in Fairfield County.

See this section in 1934 Supplement.

§ 5343-1. Teach traffic laws in state schools and colleges.

See this section in 1934 Supplement.

§ 5344. One mill school tax levy.

See this section in 1934 Supplement.

§ 5345. Distribution of proceeds.

See this section in 1934 Supplement.

§ 5346. Three mill tax—distribution.

See this section in 1934 Supplement.

§ 5347. Schools in textile communities aided from three mill tax on eight grades—discretion of county board.

See this section in 1934 Supplement.

§ 5350. Counties to be divided into school districts.—* * * (1) Neither the area nor boundary lines of any school district in Greenville County shall be decreased, increased, altered, or changed in any way except by a majority

vote, by the electors of each of the school districts to be decreased, increased, altered or changed in an election held in said school district for that purpose. If it is desired to change the area or boundary line in any school district in Greenville County, the change so desired shall be clearly explained to the people of the said district and an election ordered, as in other elections now provided by law, and if a majority voting vote for the change, and such change does not conflict with the terms of our State Constitution, the change shall be made. And no two or more school districts in Greenville County shall be consolidated except by a majority vote in each of said districts voting in an election held in said districts asking for such consolidation. 1936 (39) 1466.

(2) The county board of education of Cherokee County is hereby forbidden from making any change whatsoever in the school district lines in said county as now designated except by a majority of the votes of the residents of the school districts affected by a proposed change in the line or lines. 1936 (39) 1709.

Paragraph 1 added by 1936/1466.

Paragraph 2 added by 1936/1709.

Area of school districts in Lexington County not to exceed 50, nor less than 9 square miles, 1932/1483. Consolidation of school districts in Lexington County limited, 1933/54.

Area certain school districts, see Const.

§ 5356. How school districts may levy special school tax.

See this section in 1934 Supplement.

Taxes for school purposes by this section; Charleston County, 1934/1591; Dorchester County (Harleyville school district), 1936/1680; Greenville County, 1933/114, 1934/

95, Article XI, this supplement.

School district receiving and using property for which trustees gave a note, in absence of fraud, is liable therefor. *Home- stead Bank v. Best*, 174 S. C., 522; 178 S. E., 143.

Area high school districts, see § 5608.

1382, 1936/1704.

Election, Ellenton graded school district, Aiken and Barnwell Counties, on annual four mill levy, 1934/1726.

§ 5359. School districts issue bonds—when.—The trustees of any school district in the state of South Carolina are hereby authorized and empowered to issue and sell coupon bonds of the said school district, payable to bearer, in such denominations and amounts as they may deem necessary not to exceed eight per cent. of the assessed valuation of the property of such school district for taxation, and bearing a rate of interest not exceeding six per cent. per annum, payable annually or semi-annually, and at such times as they may deem best: *Provided*, that the question of issuing the bonds authorized in this section shall be first submitted to the qualified voters of such school district at an election to be held upon the written petition or request of at least one-third of the resident electors and a like proportion of the resident free-holders of the age of twenty-one years, to determine whether said bonds shall be issued or not, as herein provided: *Provided, further*, that before any election is held hereunder it shall be the duty of the trustees of the school district to have a survey of said school district made by some competent surveyor, and a plat thereof made and filed in the office of the clerk of court, except in cases where surveys have already been made and plats filed, and even in that event if there has been any change in the boundary lines of such school district. *Provided, further*, that the maximum percentage of assessed valuation as fixed above shall not apply to Rosemary school district, in the county of Georgetown, but that in said school district the maximum percentage of assessed valuation of property shall be eight per cent: *Provided, further*, that the trustees of any school district of Fairfield County are hereby authorized and empowered to issue and sell coupon bonds of the said school district under the provisions of this section, and the laws of the state for not exceeding fifteen per cent of the

assessed valuation of the real and personal property of said district: *Provided, further*, that the trustees of any school district in Darlington County are hereby authorized and empowered to issue and sell coupon bonds of the said school district under the provisions of this section and the laws of the state for not exceeding eight per cent. of the assessed valuation of the real and personal property of said district: *Provided, further*, that any school district now organized or hereafter organized in Chesterfield County may issue such bonds in an amount not to exceed eight per cent. of the assessed valuation of all the property in such district. *Provided, further*, that in school district Laurens No. 11, of Laurens County, and school district Hunter No. 5, of Laurens County, the trustees are authorized and empowered to issue and sell coupon bonds of said school districts in such amounts as they may deem necessary, not to exceed twelve per cent. of the assessed valuation of the property of said school districts. 1935 (39) 294.

(1) *Provided*, that no bonds for school purposes shall be issued by Greenville County or by any school district within said county pursuant to the provisions of this section unless and until the question of issuing bonds, authorized in this section, shall first be submitted to the qualified voters of such school district who return real or personal property for taxation within said district and no such election shall be held except upon the written petition or request of at least a majority of the resident electors, and a like proportion of the resident free holders of the age of twenty-one (21) years to determine whether said bonds shall be issued or not. 1933 (38) 114.

(2) *Provided, further*, that the question of issuing bonds as above authorized by the trustees of Jordan High school district no. 13 M, in Greenville County, shall not be submitted to the qualified electors of said school district, except upon the written petition or request by a majority of the trustees of said school district being filed with the county board of education of said county, and it shall not be necessary to have any written petition or request of the resident electors and resident free holders as above provided for school districts generally; such petition or request, filed by such trustees, shall state the amount of bonds desired to be issued, and upon such petition or request by such trustees being so filed, the said county board of education shall, as soon as convenient, hold or cause to be held such election at which the question of the issuance of such bonds, of an amount designated in said petition or request, shall be submitted to the qualified electors of said school district. If at such election a majority of the voters voting therein shall vote for the issuance of said bonds, then such bonds, of the designated amount, shall be issued; without a majority of said voters voting therefor, such bonds shall not be issued. 1936 (39) 1631.

Paragraph 1 added by 1933/114. Paragraph 2 by 1936/1631. This section amended by 1935/294, which substituted "eight" for "four" on line 5; and added comma after "semi-annually" on line 7.

§ 5362. How bonds shall be sold—special tax levy.

County libraries, etc., see section 7347, this Supplement.

§ 5365. How money shall be deposited.

See section 4225-2 this Supplement, which provides for the investment of sinking funds, Colleton County. See this section in 1934 Supplement.

§ 5369. Appointment and election of school trustees.

For trustees of any particular county consult such county in general index, as well as looking under "schools and school districts" in the general index. This section was amended by 1933/493. For the changes made by the said 1933 act

a comparison of this section in the 1932 Code with this section in 1934 Supplement is suggested.

Provisos one and two, 1934 Supplement, come from this section in 1932 Code, and were not repealed by 1933/493.

The provisos to this section in 1932 Code

§ 5384. Powers and duties of school trustees.

See § 5478, this Supplement.

§ 5388. County boards of education set aside funds to aid in construction of school buildings.—*Repealed by 1934 acts, page 1600.*

§ 5402. Employment of teachers, bus drivers and other employees in Berkeley County.—*Superseded by 1932 acts, page 1197.*

§ 5403. Contractual rights of school trustees, Spartanburg County.

Payment of bond interest and insurance due by school districts, 1936/1709.

§ 5404. Age of attendance.—* * * *Provided further, that where a pupil is in the graduating class and becomes twenty-one (21) years of age before graduation, such pupil may be and is hereby permitted to complete the said term if otherwise qualified to do so. 1935 (39) 427.*

The above proviso added to this section, 1935/427.

§ 5413. Charleston County—school system.

§ 5413, subsection 14, amended by 1932/1482, the county board of education was authorized to promulgate its own teacher's salaries instead of having to follow those in 6-0-1 law; and the last proviso prior to 1932/1482 relating to district No. 10, Edisto Island, omitted.

Subsection 7, section 5413, amended by 1935/229, which permitted county board of education extend transportation contracts upon recommendation of trustees.

Subsection 3, section 5413 amended by 1936/1341, which fixed the maximum number of meetings each year for county board

of education. providing for election of school trustees in Chesterfield County superseded by 1933/239. See 1936/1637, 1933/239, and 1934/1430 (§ 5523) for election of school trustees in Chesterfield County.

See this section 1934 Supplement.

of education.

§ 5413, subsection 7, amended by 1936/1706 providing for the trustees of Cooper River school district No. 4.

By 1933/410, 1934/1259, the fifth year of the girls' high school of the city of Charleston (Memminger high school) was eliminated.

Penalties were provided upon delinquent taxes in the city of Charleston, 1933/255.

Trustees for McClellanville high school, 1934/1595, 1936/1395.

See also § § 5319 and 5437.

§ 5413-1. Chester County—school system.

See this section in 1934 Supplement and § 5319-2 this supplement.

§ 5413-3. Chesterfield County—school system.

See this section in 1934 Supplement.

§ 5414. Georgetown County—school system.

Subsection 18 was amended by 1932/1287. The changes made were the general levy of 8 mills for teachers' salaries was reduced to 6 mills; the second additional county levy was increased from 2 to 4 mills. The following proviso was added to the said subsection: "Provided, These funds shall be used solely for the purpose of assisting weak schools, and then only when written approval shall have been obtained from a majority of the legislative delegation." Subsection 2 of this section was amended by 1933/458. All of the members of the

county board of education for Georgetown County by the said act were to be appointed by the Governor upon the recommendation of the senator and at least one member of the house from said county. The terms of office of the appointed members were to be designated by the Governor. The regular term of office was fixed at four years. The board as constituted before the 1933 amendment was abolished.

1936/1411 amending subsection 5, 12 and 20 enlarged the powers of the county board of education.

§ 5431. Students of schools to observe Arbor Day.—*Repealed by 1934 acts, page 1422.*

§ 5437. Powers and duties of school board of city of Charleston.

The fifth year of girls' high school, city of Charleston, eliminated by 1933/410; 1934/1259.

See 1933/255 which provides penalties on

delinquent school taxes in the city of Charleston.

See also § § 5413 and 5319.

§ 5438. Additional school tax in city of Charleston.

See this section in 1934 Supplement and also §§ 5319 and 5413 herein.

§ 5441. Board to appoint beneficiaries in state university.—*Repealed by 1934 acts, page 1686.*

§ 5472. State public library association.—(1) **DIRECTORS.**—There is hereby created an association, to be known as the state public library association. A board of directors of five members shall be appointed by the Governor, upon the recommendation of the state superintendent of education, one for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years, one for the term of five years and thereafter one shall be appointed each year for a term of five years. The basis, conditions, classifications and qualifications for membership in said association shall be fixed by the above board.

(2) **DUTY.**—It shall be the duty of the said state public library association to create public libraries over the entire state, and, acting through the board of directors, it shall have the right to devise and carry into effect methods by which public libraries may be extended to the rural districts of the State.

(3) **OFFICERS—AGENTS—COMPENSATION.**—The board of directors shall elect a chairman and secretary annually. The secretary, if possible, shall be an experienced librarian of administrative ability, and shall be chosen either from within or without the said board. Such other officers and agents as may be required may from time to time be chosen by the board. No member of the board shall receive compensation for services.

(4) **FINANCES—DISTRICTS—STANDARDS FOR SERVICE—LIBRARIANS, ETC.**—The board of directors shall have power and authority to receive funds derived from gifts to the association, or membership fees, or from any private or public source, and administer and disburse such funds in such manner as may in its judgment best advance the objects above stated; to create districts of the state, having such area as the board may deem proper, said districts being created for the purpose of facilitating the establishment and maintenance of public libraries; to allocate funds at its disposal between the districts so or otherwise created; to set standards for the library service rendered therein; to issue certificates to librarians, or those desiring to become librarians, in accordance with standards and under conditions prescribed by the board; and to take such other action as may be deemed by it to be advisable or necessary to foster and encourage the establishment and maintenance of adequate public library service within the state of South Carolina.

(5) **PUBLIC LIBRARIES FURNISH INFORMATION.**—All public libraries shall furnish the board with such statistics of conditions and growth as the board shall from time to time request.

(6) **ESTABLISH AND MAINTAIN LIBRARIES.**—Within the districts determined by the state library board of directors, the library board, by whatever name the same may be designated, of any public county, township, school district or municipal library may contract, in behalf of the political unit represented by such local library board, to and with the state library board of directors and/or to and with the library board of any other political unit, or any governmental agency or instrumentality, in connection with matters touching the establishment and maintenance of public libraries upon such terms as may be agreed upon by the several contracting parties. Where there is no existing public library, the power to contract shall vest, as to a county, in the county board of commissioners and, as to a municipality, in the city or town council. Included in

the power conferred is the determination of basis and personnel of representation of the local political unit on such district library board as may be created. If such shall be created, the said district library board shall have the same power of contract in behalf of the district as is herein conferred upon the local political unit: *Provided, however,* that in making such contracts the parties thereto shall not exceed in obligation assumed the funds available or to become available for the accomplishment of the objects sought, nor shall the credit of the state or any political subdivision be pledged in the absence of statutory authority. 1935 (39) 220.

See notes to § 7347 for certain libraries.

§ 5473. State census of children of school age.

See this section in 1934 Supplement.

§ 5474. Transportation of school children.

See this section in 1934 Supplement.

Transportation of school children in:
 Abbeville County, 1935/91; Bamberg County, 1936/1335; Chester County, 1933/407, 1936/1470, 1769; Hampton County, 1935/83; Horry County, 1935/284; Lancelot

ter County, 1936/1658; Sumter County, 1936/1330.

See § 1626, 1932 Code; § 1626-1, 1934 Supplement; and § 1626-2, this supplement, for regulations of school buses.

§ 5477-1. Places teachers board.—(1) SCHOOL OFFICIALS NOT DESIGNATE.—It shall be unlawful for any trustee of any public school or any superintendent or other official thereof to require any teacher to board or live at any teacherage or specified place. *Provided* that provisions of this bill shall not apply to the trustees and superintendents of any public schools in Newberry County.

(2) TEACHERS CHOOSE.—Each individual teacher shall have the right to choose his or her boarding place, and in so doing his rights to teach shall not be voided by the trustees of any such school board or superintendent or other official.

(3) PENALTY.—Any school trustee or superintendent who shall violate the above provisions shall be guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five (\$25.00) dollars, nor more than one hundred (\$100.00) dollars, or be imprisoned for not less than ten (10) days nor more than thirty (30) days, in the discretion of the court. 1936 (39) 1693.

This section added by 1936/1693.

§ 5478. State aid for public schools.—(1) PAY SALARIES SCHOOL TEACHERS FOR SEVEN MONTHS—REQUIREMENTS OF SCHOOLS RECEIVE.—The General Assembly shall make sufficient appropriation to pay the salaries of all school teachers in the public schools on the basis and for the length of term of seven (7) months in the elementary and high schools in the state. *Provided, However,* That no school in any school district shall continue open for a longer period of time than that fixed by the board of trustees in the district where such school is located, or the county board of education in any county which may operate under a county unit plan. No school shall receive any benefits under the provisions hereof which does not have the minimum enrollment and average daily attendance, for the previous scholastic year, fixed in the schedules below. In two teacher high school the minimum enrollment shall be 32, with an average daily attendance of 28; in a three teacher high school the minimum enrollment shall be 50, with an average daily attendance of 44; in four teacher high schools the minimum enrollment shall be 83, with an average daily attendance of 66; in five teacher high schools the minimum enrollment shall be 110, with an average daily attendance of 88; in six teacher high schools the minimum enrollment shall be 138, with an average daily attendance of 110; in seven teacher high schools the minimum en-

rollment shall be 168, with an average daily attendance of 134; in eight teacher high schools, the minimum enrollment shall be 200, with an average daily attendance of 160; in nine teacher high schools the minimum enrollment shall be 234, with an average daily attendance of 187; in ten teacher high schools the minimum enrollment shall be 270, with an average daily attendance of 216; in eleven teacher high schools the minimum enrollment shall be 308, with an average daily attendance of 246; in twelve teacher high schools the minimum enrollment shall be 348, with an average daily attendance of 278; in all high schools with more than twelve teachers the minimum enrollment shall be thirty (30) pupils for each teacher and have an average daily attendance of twenty-five (25) pupils for each teacher. In a one teacher elementary school the minimum enrollment shall be 20, with an average daily attendance of 15; in a two teacher elementary school the minimum enrollment shall be 40, with an average daily attendance of 32; in a three teacher elementary school the minimum enrollment shall be 75, with an average daily attendance of 60; in four teacher elementary schools the minimum enrollment shall be 105, with an average daily attendance of 84; in five teacher elementary schools the minimum enrollment shall be 140, with an average daily attendance of 112; in six teacher elementary schools the minimum enrollment shall be 175, with an average daily attendance of 140; in seven teacher elementary schools the minimum enrollment shall be 210, with an average daily attendance of 168; in eight teacher elementary schools the minimum enrollment shall be 248, with an average daily attendance of 200; in nine teacher elementary schools the minimum enrollment shall be 288, with an average daily attendance of 230; in ten teacher elementary schools the minimum enrollment shall be 330; with an average daily attendance of 264; in eleven teacher elementary schools the minimum enrollment shall be 374, with an average daily attendance of 300; in twelve teacher elementary schools the minimum enrollment shall be 420, with an average daily attendance of 366; in all elementary schools with more than twelve teachers the minimum enrollment shall be 36 pupils for each teacher, and have an average daily attendance of 30 pupils per teacher. The enrollment and average daily attendance for state aid for the school year shall be based on any seven successive months of the previous school year: *Provided*, That if any one and/or two teacher school fails to maintain the minimum schedule herein provided, it shall participate only in proportion to the enrollment and average daily attendance maintained: *Provided, Further*, That no one teacher school shall be deprived of the benefits hereof where such school fails to meet the minimum requirements of enrollment and average daily attendance, and it is impractical to consolidate the said school with some other school because of mountains, rivers, islands, swamps, or other natural causes. The county board of education in which said school is located to be the competent judge in such case. *Provided, Further*, That no person who teaches less than four periods daily of forty-five minutes each shall receive any pay under the provisions hereof, except the superintendent of a school system employing more than ten (10) teachers.

(2) "SCHOOL" DEFINED.—For the purpose hereof a school shall be construed to mean all pupils of a race legally enrolled within a school district; *Provided*, that in rural districts where more than one school for any one race is established the enrollment for each school shall be considered a separate unit when such school has been approved by the state board of education. 1935 (39) 243.

(3) **MAXIMUM SALARY SCHEDULE—ALLOWANCE FOR SUPERVISION OR INCIDENTALS.**—The maximum annual salaries of teachers paid by the state shall not exceed the respective amounts specified below :

Teachers holding first grade certificates, \$588.00; *Provided*, that in no school shall the average salary exceed \$525.00 per annum for teachers in this class.

Teachers holding second grade certificates, \$350.00; *Provided*, that in no school shall the average salary exceed \$315.00 per annum for teachers in this class.

Teachers holding third grade certificates, \$210.00; *Provided*, that in no school shall the average salary exceed \$175.00 per annum, for teachers in this class. *Provided, further*, that in no case shall the monthly salary paid by the state exceed the monthly salary paid by the county or local school district from county or school district tax funds for any month beyond the state-supported term. *Provided, further*, that it shall be unlawful for a board of trustees or any teacher, to enter into a contract or agreement directly, or by subterfuge, or any indirect means, to use any portion of the money appropriated for paying salaries pursuant to the terms of this section, for the purpose of extending the term herein provided. The state treasurer and comptroller general, on request of the state superintendent of education, shall withhold all state aid, for the scholastic year in which such violation occurs, from any school district whose trustees wilfully violate the terms of these provisions. *Provided*, a school district may appeal from the decision of the state superintendent of education to the state board of education.

Each school is also allowed for supervision or incidentals seven (7%) per cent of the amount payable to it for salaries under the terms of this section: *Provided, further*, That in any school the board of trustees, or the county board of education in all counties which operate under the unit plan, in their discretion may run the schools for a period of time longer than provided for herein, employ additional teachers and pay salaries in excess of the amount fixed in the above schedule, but the money required to prolong the school session and/or to provide for excess salaries or other expenses shall be provided either by the district or the county in which the same is situated or by both.

(4) **THREE MILL LEVY—APPORTIONMENT—DISBURSEMENT.**—The existing county board of commissioners of the several counties, or such officer or officers, as may hereafter be vested with the same or similar powers and duties, shall levy an annual tax of three mills on the dollar upon the taxable property in their respective counties, which tax shall be collected at the same time and by the same officers as the other taxes for the same year, and shall be held in the county treasuries of the respective counties; and the said funds shall be apportioned annually among the school districts of the counties in proportion to the number of pupils enrolled in the public schools of the respective districts for the preceding school year; and the trustees, or county board of education, as the case may be, shall expend and disburse the same in the respective districts for educational purposes. For the purpose of this subsection an "enrolled pupil" shall be one who has attended a public school in this State for at least ten school days.

(5) **ADDITIONAL TAXES—SPECIAL LEVIES.**—Before any additional tax is levied in any school district or counties for school purposes, the question of levying such tax shall first be submitted to the qualified electors of such school district or county as now provided by law: *Provided, however*, That nothing herein contained shall be construed to prevent any county delegation to the General Assembly from providing special levies for school purposes by legislative enactment.

So much of section 5479, Code of Laws of South Carolina, 1932, providing for a levy of four mills for the purpose of paying teachers' salaries is hereby repealed; and all existing special tax levies in all counties and all school districts within the state, for the purpose of paying teachers' salaries and other expenses may be reduced as deemed advisable by local boards of trustees and the county boards of education and by the senator and half of the members of the house of representatives of the respective counties: *Provided*, that no tax levy for retiring any bonds or other indebtedness of such school district shall be affected hereby: *Provided*, that in the county of Charleston the following levies shall be retained and levied annually for county and school district purposes, to wit: in the school district comprising the city of Charleston, known as school district No. 20, all present special and district school levies shall be retained, and in place of the four mill levy repealed herein there shall be annually levied hereafter four mills in said district for the school purposes of said district, and in all other school districts in the county of Charleston all present special and district school levies shall be retained, and in place of the four mill levy repealed herein there shall be annually levied hereafter four mills in said district for the school purposes of the said district: *And, provided, further*, that in the county of Dorchester any present special and district school levies shall be retained and in place of the four mill levy repealed herein there shall be annually levied hereafter four mills in all school districts in said county of Dorchester for the school purposes of said district: *Provided*, that one mill school levy in Chester County shall be levied annually and retained for county and school district purposes: *Provided*, that the provisions of this section shall in no way repeal, interfere with or affect the provisions of act No. 890 of the acts of the General Assembly of 1928, relating to Fairfield County: *Provided, further*, that in the counties of Bamberg, Berkeley, Calhoun, Chesterfield, Colleton, Darlington, Dillon, Edgefield, Laurens, Oconee, Marion, Pickens, Williamsburg and York the senator and at least half of the members of the house shall have power to regulate special district levies the method of handling school funds, and to provide a uniform millage for financing the school in said counties.

(6) APPROPRIATIONS.—There is hereby appropriated annually in addition to the amounts appropriated for public schools in the state appropriation bill each year the sum of \$893,000.00 from the income taxes; all of the revenues yielded by the imposition of additional corporation license fees imposed by § 2690-1; all of the revenues derived from the sale of permits to sell beverages as provided in section 2557-1.

(7) DISBURSEMENT TO COUNTIES.—The comptroller general shall issue his warrants monthly to the county treasurers of the respective counties for such amount of state school aid as may be on hand, available for, and applicable to, the payment for state school aid due the respective counties, under the provisions hereof, and said warrants shall be paid by the state treasurer upon presentation of same. In making the payments provided herein there shall be deducted from the amount accruing to the respective counties a sum of money equal to the amount to be raised in the county under the three mill constitutional school levy as provided in subsection 5 hereof.

(8) COUNTY SUPERINTENDENTS MAKE MONTHLY REPORTS.—Each county superintendent of education shall, at the end of each school month, report to the state superintendent of education the enrollment and average attendance attained in each school of the respective counties for the month just preceding; and the state superintendent of education and comptroller general are hereby

authorized and directed to withhold state aid funds from any school until such report has been received by the state superintendent of education. On or before May 1st of each year the state superintendent of education, from the monthly reports, shall determine the number of teachers for which state aid shall be supplied in the respective counties for the succeeding school year.

(9) STATE FINANCE COMMITTEE BORROW IN ANTICIPATION OF REVENUE.—The state finance committee, composed of the Governor, comptroller general and the state treasurer are hereby authorized and empowered to borrow in each year in anticipation of the receipt of revenues provided herein for school aid, such sum or sums as may be necessary to pay any portion of the amounts appropriated herein and becoming due to the respective counties of the state prior to the collection thereof, said notes shall be issued in such form and manner as the state finance committee may elect, and, when issued, are hereby declared to be current obligations of the state of South Carolina: *Provided*, That in lieu of borrowing as provided herein, the comptroller general may issue his warrant against the general fund in the treasury when it appears that sufficient funds are available therein, and the state treasurer shall pay the same as provided in subsection 7. Said withdrawals from the general fund, if made, shall constitute a loan to the school aid fund from the general fund, the same to be repaid when revenues provided for school aid are collected. The proceeds of said loan or loans shall be paid to the respective counties for school aid to the respective counties as provided in subsection 7. 1933 (38) 567; 1934 (38) 1562, 1651, 1442, 1221, 1340; 1935 (39) 133, 243, 467.

Section 5478, 1932 Code, repealed by 1933/567.

The present section 5478 comes from the 1933 repealing act, and 1934/1562, 1651; 1442, 1221, 1340; 1935/133, 243, 467.

1935/133 amending subsection 7 of act 406, 1933 acts (second paragraph, subsection 5, present § 5478), made no reference to 1934/1442 (school levies in certain districts, Anderson County) and

1934/1340 (which repealed four mill school levy, Dorchester County) and consequently the proviso relating to Dorchester County, which was repealed by 1934/1340, was reenacted, and the provisions relating to school levies in certain school districts, Anderson County, were omitted. Subsection 5 hereof appears as it was enacted by 1935/133.

§ 5479. Tax—use of constitutional tax—local tax for additional month.

See this section in 1934 Supplement.

§ 5480. Salary schedules in accredited schools.—Repealed by 1933 acts, page 567.

§ 5481. Salary schedules in schools not accredited.—Repealed by 1933 acts, page 567.

§ 5482. Excess salaries.—Repealed by 1933 acts, page 567.

§ 5483. Requirements for accredited high schools.—Repealed by 1933 acts, page 567.

§ 5484. Requirements for other schools.—Repealed by 1933 acts, page 567.

§ 5485. Operation period of grammar school.

See this section in 1934 Supplement.

§ 5486. Pupils from other districts.

See this section in 1934 Supplement.

§ 5487. Forms and blanks.

See this section in 1934 Supplement.

§ 5488. Powers of state board of education.

See this section in 1934 Supplement.

§ 5489. Annual appropriation—disbursements—reports—local levies.

See this section in 1934 Supplement.

§ 5490. Pupils from other districts—payments for extra term.

See this section in 1934 Supplement.

§ 5491. Local bond issues or tax levies not affected.

See this section in 1934 Supplement.

§ 5491-1. High schools running 900 school hours in not less than 160 school days entitled to benefits of § 5478.

See this section in 1934 Supplement.

§ 5496. School trustees, Abbeville County.

See this section in 1934 Supplement.

§ 5501. Election of school trustees in school district no. 49, Aiken County.

County board of education appoint vacancies, 1936/1654.
trustees when there are no candidates for

§ 5502. Election of school trustees in school districts nos. 30 and 45 of Aiken County.

See notes to § 5508.

§ 5503. Election of school trustees in school district no. 29, Aiken County.

See notes to § 5508.

§ 5504. Number of trustees in Windsor school district, Aiken County.

See notes to § 5508.

§ 5505. Election of trustees in school district no. 11, Aiken County.

See notes to § 5508.

§ 5506. Election of trustees for Monetto school district no. 34 and Schultz school district 48, Aiken County.

See notes to § 5508.

§ 5507. McTier school district no. 40, Aiken County, to elect trustees.

See notes to § 5508.

§ 5508. School trustees, Aiken County.

Trustees, Aiken school district No. 1, point trustees when there are no candidates
1935/411. County board of education ap- for vacancies, 1936/1654.

§ 5508-1. School trustees, Allendale County.

See this section in 1934 Supplement.

§ 5511-1. School trustees, Bamberg County.

Number of school trustees for Ehrhardt school district number 22 increased, 1935/457.

§ 5513-1. Trustees for New Forest school district, Barnwell County.

See this section in 1934 Supplement.

§ 5514-1. School trustees, Barnwell County.

Trustees, Tinker Creek school district, Election of certain school trustees,
election, 1936/1392. 1935/92.

§ 5517. School trustees in school district no. 4, Calhoun County.

See this section in 1934 Supplement.

§ 5520. School trustees, Cherokee County.

See this section in 1934 Supplement.

§ 5523. School trustees, Chesterfield County.

Election of school trustees, 1935/239; See this section, 1934 Supplement.
1934/1430; 1936/1637.

§ 5524. Trustees in school district no. 20, of Clarendon County.

See this section in 1934 Supplement.

§ 5525. Trustees in Midway school district no. 14, Clarendon County.

See this section in 1934 Supplement.

§ 5527. Trustees in Gable school district, Clarendon County.

See this section in 1934 Supplement.

§ 5528. School trustees, Colleton County.

School trustees, election, 1935/347. 1936/1577.

Trustees, Ruffin school district No. 26, See this section, 1934 Supplement.

§ 5531. School trustees, Darlington County.

Selection of certain school trustees, 1935/377, 1936/1598.

§ 5533. School trustees, Dorchester County.

See this section in 1934 Supplement.

§ 5537-1. Special school district no. 14, Fairfield County.

See this section in 1934 Supplement.

§ 5538. Consolidation of Mitford school district no. 20 and Buck Lick school district no. 5, Fairfield County—appointment of trustees.

See this section in 1934 Supplement.

§ 5539. School trustees, Florence County.

See this section in 1934 Supplement.

Trustees, Gaskin school district No. 50, 1936/1383.
Trustees, Scranton school district No. 49 and Othello school district No. 27, 1935/419. Trustees, Sardis school district No. 12, 1936/1344.
Trustees, Johnsonville school district No. 55, 1936/1347.

§ 5542. Election of school trustees in school district 12, Florence County.—

Repealed by 1936 acts, page 1344.

See § 5539 hereof.

§ 5545. School trustees, Georgetown County.

See this section in 1934 Supplement.

§ 5546. School trustees in Rosemary school district no. 8-A, Georgetown County.

See this section in 1934 Supplement.

§ 5547. Consolidated Parker school district no. 8-A, Greenville County.

See 1934/1506 and 1935/132 which amended subsection 2 hereof.

§ 5550. School trustees, Greenville County.

Each candidate for school trustee give notice of candidacy, 1936/1613.

§ 5551. School trustees, Greenwood County.

Trustees, Ninety-Six school district No. 13, 1936/1664.

§ 5552-1. School trustees, Hampton County.

Trustees, Hugging Oak school district No. 20, 1936/1394. of trustees for Cleland School District. See this section in 1934 Supplement.

See 1933/535 which provides for election

§ 5557. School trustees, Horry County.

This section amended by 1934/1387; 1936/1765.

§ 5561. Trustees, school district no. 22, Kershaw County.

See 1936/1606, 1753 for trustees, school district No. 22, Kershaw County.

§ 5562. Trustees, school district no. 40, Kershaw and Lancaster Counties.

See notes to § 5562-1.

§ 5562-1. School trustees, Lancaster County.

Trustees, Buford high school district No. 13, 1935/223. 1936/1658 provides for ap- pointment and election of trustees, Lancaster County.

§ 5563. Election of school trustees in district no. 15 Lancaster County.

See notes to § 5562-1.

§ 5564. Election of trustees for Pleasant Hill school district no. 31, Lancaster County.

See notes to § 5562-1.

§ 5565. Election of trustees in school districts no. 5 and no. 22, Lancaster County.

See notes to § 5562-1.

§ 5566. Election of school trustees, school district no. 11, Lancaster County.

See notes to § 5562-1.

§ 5567. School trustees, Laurens County.

See 1935/408 which reenacts portions of this section and provides for trustees, Hunter school district No. 5. Trustees, Cross Hill school district, 1935/102. See this section, 1934 Supplement.

§ 5571. School trustees, Lexington County.

This section, 5571, as it appeared in the 1932 Code was superseded by 1932/1157, 1933/226. The said 1932 act was amended by 1933/161. The section number is retained for convenience. § 5572, providing for trustees for Irmo School District No.

45 and Fairview School District No. 27, Lexington County, was also superseded by 1932/1157; 1933/226.

See 1933/226 and 1935/127 for appointment, term, powers, duties, etc., of school trustees in Lexington County.

§ 5572. School trustees, Lexington County.

This section as it appeared in 1932 Code was superseded by 1932/1157, 1933/226.

The said 1932 act was amended by 1933/161. See 1933/226 and 1935/127 for appointment, term, powers, etc., of school trustees

in Lexington County. See also 1933/132 which amended this section.

See this section in 1934 Supplement and preceding section herein.

§ 5573. School district no. 45, Lexington County.

See § 5571, this Supplement.

See this section in 1934 Supplement.

§ 5575. School trustees, Marion County.

See this section in 1934 Supplement.

§ 5575-A. Marlboro graded school district, Marlboro County.

See this section in 1934 Supplement.

§ 5576. School trustees, Newberry County.

See this section in 1934 Supplement.

§ 5577. School trustees, Oconee County.

See this section in 1934 Supplement.

§ 5579. School trustees, Orangeburg County.

See this section in 1934 Supplement.

§ 5581. Claims against school districts of Orangeburg County.

See this section in 1934 Supplement.

§ 5582. School trustees, Pickens County.

1933/83 providing for term, etc., for trustees for Pickens County repealed by 1935/58. See 1935/58, 1936/1403 for appointment, election, etc., of school trustees.

§ 5587. School trustees, Spartanburg County.

See this section in 1934 Supplement.

§ 5587-1. School district of the city of Sumter, Sumter County.

See this section in 1934 Supplement.

§ 5588. Election of school trustees in Jonesville school district of Union County.

See this section in 1934 Supplement.

§ 5589-1. School trustees, Williamsburg County.

See this section in 1934 Supplement.

§ 5591. Appointment of trustees, Kingstree school district no. 16, Williamsburg County.

For trustees, Kingstree school district No. 16, see 1935/64.

§ 5593. School trustees, York County.

§ 5993, 1932 Code, superseded by 1932/1338, which provides for Clover school district No. 37, York County. This section number is retained for convenience.

See 1932/1157 for election of school trustees in York County. §§ 5594 and 5595 should be consulted in connection with the said 1932 act.

By 1933/433 the number of trustees for Bethel school district No. 3 was increased to five. The 1932 act (1932/1157) was amended by 1933/161; however it did not affect the trustees in York County.

Trustees, Fort Mill school district No. 28, 1935/350.

§ 5594. Trustees in school district no. 21, York County.

See this section in 1934 Supplement.

§ 5595. Election of trustees in school district no. 15, York County.—Repealed by 1936 acts, page 1424.

See § 5593, this Supplement.

§ 5598. Establishment.

See this section in 1934 Supplement.

§ 5608. Area of districts.

See notes to section 5350 hercof.

§ 5624. Capital charge and regulation of the attendance of non-resident high school pupils attending the accredited high schools of Colleton County.—
Repealed by 1932 acts, page 1491.

§ 5628. Cross Hill high school district, Berkeley County.—(3) TRUSTEES.

See § 5318 which provides the number Berkeley County.
and manner of electing school trustees in

§ 5629. Bonneau high school district, Berkeley County.—(2) TRUSTEES.

See § 5318 which gives the number and in Berkeley County.
provides for the election of school trustees

§ 5630. Macedonia high school district, Berkeley County.—(2) TRUSTEES.

See § 5318 which provides the number Berkeley County.
and manner of electing school trustees in

§ 5632. St. Stephens high school district, Berkeley County.—(2) TRUSTEES.

See § 5318 which gives the number and in Berkeley County.
provides for the election of school trustees

§ 5635. Pageland centralized high school district, Chesterfield County.

See this section in 1934 Supplement.

§ 5636. Area of Jefferson centralized high school district, Chesterfield County, extended.

See this section in 1934 Supplement.

§ 5638. Lower Colleton high school district, Colleton County.—*Repealed by 1932 acts, page 1491.*

§ 5643. High school districts, Horry County.

1934/1420 authorizing taxes for needy schools repealed by 1935/146.

§ 5648. Buford high school district, Lancaster County.

Trustees, Buford high school district No. ment, 1935/223.
13, Lancaster County, nomination, appoint-

§ 5651. Centralized high school district at Swansea, Lexington County.—

This section was superseded by 1932 acts, page 1157.

See § 5571, which provides for election of trustees.

§ 5661. Trustees for Bethany high school district no. 2, York County.—
Superseded by 1932 acts, page 1157.

ARTICLE 10—JUNIOR COLLEGE COURSES

§ 5696-1. Junior college courses in public schools.—(1) DISTRICT SCHOOL BOARDS ESTABLISH AND MAINTAIN JUNIOR COLLEGE COURSES ON FAVORABLE ELECTION THEREFOR.—The school board of any independent or special school district, when authorized by a three-fourths vote of the district so to do, may establish and maintain a department of junior college work, to consist of not more than two years' work beyond a four-year high school course.

(2) EXISTING JUNIOR COLLEGES.—Where a junior college has been heretofore established and is now being maintained in any independent or special school district, the same is hereby legalized and made effective as fully as if established under and pursuant to the provisions hereof.

(3) POWERS OF STATE DEPARTMENT OF EDUCATION OVER.—The state department of education shall have the same supervision, control and powers over a junior college when established hereunder as it now has over other departments of the public school system.

(4) ESTABLISH, MAINTAIN OR DISCONTINUE JUNIOR COLLEGE IN SCHOOL DISTRICTS, WHOSE LIMITS ARE COEXTENSIVE WITH LIMITS OF CITY OF 5,000—ELECTION—TUITION.—In any school district in this state, whose limits are coextensive with the limits of any city of five thousand inhabitants or more, the school board, when authorized to do so by the majority vote of the electors of any such school district voting on the proposition, may establish, maintain or discontinue a junior college, to consist of not more than two years' of college work beyond a four-year high school course, and may charge such tuition fees for instruction in such junior college as shall be fixed by any such school board.

(5) POWERS OF STATE DEPARTMENT OF EDUCATION OVER SUCH COLLEGES—PHYSICAL EQUIPMENT.—The state department of education shall have the same supervision, control and powers over any such junior college, when established hereunder, as it now has over other departments of the public school system of this state. Any such school board shall have authority to make use of any existing school buildings, or school equipment, or may provide any necessary building or buildings or equipment, for the establishment and maintenance of any such junior college.

(6) ESTABLISHMENT AND MAINTENANCE.—In the establishment and maintenance of such junior college courses, the following provisions shall be observed:

(a) Application on the part of any school to be classified as a junior college shall be made by the school board to the state department of education not later than July first, of the first year for which a school seeks such classification and shall be accompanied by the curricula to be maintained.

(b) Each applicant shall be visited by a representative of the state department of education, who shall make a report to the state board of education as a basis for its action upon the application at the next regular meeting.

(c) Each applicant will be notified promptly as to the action taken by the state board.

(d) A junior college shall be a public school providing one or more two-year courses beyond the eleventh year of the public school course. It shall be located in a school district which maintains an accredited high school, and such district shall employ a junior college dean, and at least the equivalent of two junior college teachers who, together with the superintendent, shall constitute the faculty of the junior college.

(e) A junior college shall be maintained only when the district assessed valuation exceeds one million (\$1,000,000.00) dollars.

(f) The superintendent shall administer and exercise general supervision over the junior college and shall make such reports as the superintendent of education may require.

(g) The superintendent shall examine the certification of all persons under consideration as teachers in the junior college, and recommend for employment only such persons as are found to be fully qualified in accordance with the standards established by the state board of education. He shall also keep a record of such certification and, on or before October first of each year, shall transmit a copy of this record to the state department of education.

(h) The building space available for this use shall be modern, adequate and well adapted to the needs of the work to be undertaken.

(i) There shall be provided a general and reference library, well chosen and adequate for the course offered and for the enrollment in the junior college.

(j) Suitable laboratory space and equipment shall be provided for such advanced work in the natural sciences as is included in the courses offered.

(k) The superintendent shall prescribe the duties of the dean and such duties may be made to include instruction, organization, classification, discipline and management of the junior college.

(l) The junior college year shall consist of at least nine months, or thirty-six weeks.

(m) Students shall be limited to the two following classes: (1) Regular students, who have completed, in a satisfactory manner, a full high school course or its equivalent. (2) Special students, who wish to pursue special courses of college rank, and who are deemed by the local authority fully qualified to do so.

(n) No school board shall, under any conditions, issue to any person a certificate or diploma showing the completion of a junior college course except upon recommendation of the superintendent; and a two-year certificate or diploma shall be recommended only; upon the completion in a creditable manner of at least sixty semester hours, or its equivalent, in a course approved by the state department of education.

(o) The minimum length of a recitation period shall be fifty minutes.

(p) The dean and instructors in a junior college shall have the following qualifications: (1) Scholastic training, at least an A.B. or B.S. degree, or its equivalent, from a college recognized as fully entitled to confer such degree. (2) Professional training, at least eighteen semester hours in education. (3) These qualification standards are not to be interpreted as retroactive in their application to present instructors in any school district heretofore maintaining a junior college.

Provisions of this section shall not apply to Greenville County or to any school district or districts therein.

(7) NOT TO RECEIVE STATE AID.—No state aid for public schools shall be allocated to any junior colleges to be established hereunder. 1935 (39) 490.

This section added by 1935/490.

§ 5710. Tuition fees—scholarships—student activities fees.

See this section in 1934 Supplement.

§ 5711. Orphan children whose fathers were soldiers and died in the world war exempted from payment of tuition in state supported schools—appropriation.

See this section in 1934 Supplement.

§ 5712. Tax commission to examine financial condition of persons liable for support of applicants for free tuition.—*Repealed by 1933 acts, page 650.*

§ 5712-1. Broadcast by radio athletic events participated in by state institutions of higher learning.

See this section in 1934 Supplement.

§ 5712-2. Charge for diplomas.

See this section in 1934 Supplement

§ 5713. Trustees—election—term—compensation.—The board of trustees of the University of South Carolina shall be composed of the Governor of the state, state superintendent of education, and the chairmen of the committees on education of the Senate and House of Representatives, who shall be members *ex officio* of said board, and fourteen other members, one from each judicial circuit in this State, to be elected by the general vote of the General Assembly as hereinafter provided. In the first election, the terms of office of those elected shall be as follows: those elected from the 1st, 3rd, 5th, 7th, 9th, 11th, and 13th judicial circuits shall be for a term of two years; and those elected from the 2nd, 4th, 6th, 8th, 10th, 12th and 14th judicial circuits shall be for a term of

four years. In all subsequent elections, the regular terms of office of all elective members of the aforesaid board of trustees shall be for a term of four years. The terms of elective members of said board shall date from the 1st day of April, 1936, and the General Assembly shall hold elections every two years to fill vacancies as they occur. In case a vacancy or vacancies should occur in said board, the Governor is hereby empowered to fill same by appointment until the next session of the General Assembly. Each member of said board shall receive as compensation for his services when in attendance upon the meetings of the board his actual expenses. 1935 (39) 381.

The elective members of the board in- tricts provided for each of said members, creased from seven to fourteen; and dis- 1935/381.

§ 5724. Room rent—use of library—property damage.

See this section in 1934 Supplement.

§ 5725. Courses.

See this section in 1934 Supplement.

§ 5728. Women students.

See this section in 1934 Supplement.

§ 5732. Board of trustees—election—term—compensation—powers and duties—tuition.

See this section in 1934 Supplement.

§ 5744-1. Legislature gives assent to act of Congress providing for agricultural research; development of cooperative agricultural extension work; and endowment and support of land-grant colleges—use of grants.—The assent of the Legislature of the state of South Carolina, required by "An Act to provide for research into basic laws and principles relating to agriculture and to provide for the further development of cooperative agricultural extension work and the more complete endowment and support of land-grant colleges," approved June 29, 1935 (Public No. 182—74th Congress), is hereby given to the provisions and requirements of said act, and the trustees of the Clemson Agricultural College are hereby authorized and empowered to receive the grants and to use them for the benefit of the state of South Carolina in accordance with the terms and conditions expressed in the act of Congress aforesaid: *Provided*, that the grants for the more complete endowment and support of land-grant colleges shall be equally divided between the Clemson Agricultural College and the Colored Normal, Industrial and Agricultural College as now provided by law. 1936 (39) 1448.

§ 5744-2. Legislature assent to "Soil conservation and domestic allotment act"—Clemson Agricultural College carry out provisions thereof in presenting state plans, administering, receiving and disbursing grants thereunder.—The assent of the legislature of the state of South Carolina, required by "An Act to promote the conservation and profitable use of agricultural land resources by temporary federal aid to farmers and by providing for a permanent policy of federal aid to states for such purposes"; (Public No. 461, 74th Congress), approved by the President, February 29, 1936, is hereby given to the provisions and requirements of said act, and the trustees of the Clemson Agricultural College are hereby authorized and empowered; (1) to receive the grants and use them for the benefit of the state of South Carolina in accordance with the terms and conditions expressed in the act of Congress and as it may be hereafter amended by Congress, and in accordance with such rules and regulations as may be prescribed by the secretary of agriculture under the authority delegated to him by Congress in the act; (2) to submit to the secretary of agriculture prior to such time and in such manner and form as the secretary prescribes a state

plan to effectuate the purposes of the soil conservation and domestic allotment act for the year to which such plan is applicable; (3) to provide for such methods of administration and such participation in the administration of the plan by county and community committees or associations of agricultural producers organized for such purpose as the secretary of agriculture finds necessary for the effective administration of the plan; (4) to provide for the submission to the secretary of agriculture of such reports as he finds necessary to ascertain whether the plan is being carried out according to its terms and for compliance with such requirements as the secretary may prescribe to assure the correctness of and make possible the verification of such reports; (5) to submit to the General Assembly of the state of South Carolina an annual report for each year covering the administration and operation of such plan. 1936 (39) 1531.

§ 5765. **One hundred and sixty-seven scholarships created in Clemson College.**—*Repealed by 1934 acts, page 1686.*

§ 5766. **How scholarships awarded.**—*Repealed by 1934 acts, page 1686.*

§ 5767. **Manner of conducting examinations.**—*Repealed by 1934 acts, page 1686.*

§ 5768. **How scholarships paid.**—*Repealed by 1934 acts, page 1686.*

§ 5769. **One year beneficiary scholarships for Clemson College.**—*Repealed by 1934 acts, page 1686.*

§ 5770. **Who eligible.**—*Repealed by 1934 acts, page 1686.*

§ 5771. **Board of education to appoint.**—*Repealed by 1934 acts, page 1686.*

§ 5772. **How scholarships to be paid—term of scholarship.**—*Repealed by 1934 acts, page 1686.*

§ 5773-1. **Agricultural boards.**

Agricultural boards: Cherokee County, 913; 1936/2328; Newberry County, 1935/1936/1467; Fairfield County, 1936/1686; 913; Spartanburg County, 1935/913; 1936/ York County, 1936/1459; Greenwood County, 2629.
County, 1935/913; Greenville County, 1935/

§ 5776. **Powers of board of visitors.**

See this section in 1934 Supplement.

§ 5777. **Quorum at special meeting of board of visitors of The Citadel.**—At any special meeting of the board of visitors of The Citadel, the Military College of South Carolina, where at least five (5) days' notice in writing has been given by mail or otherwise, to all of the members of the said board, of the time and place of the meeting, any four (4) or more of the members so notified who shall attend the said special meeting shall constitute a quorum for the transaction of business. 1936 (39) 1340.

Section 5777, 1932 Code repealed by 1934/1686. Present section comes from 1936/1340.

§ 5778. **Proof of financial standing.**—*Repealed by 1934 acts, page 1686.*

§ 5779. **Beneficiary cadets.**—*Repealed by 1934 acts, page 1686.*

§ 5780. **Copy of matriculation obligation to be filed.**—*Repealed by 1934 acts, page 1686.*

§ 5781. **Cadets to file bond.**—*Repealed by 1934 acts, page 1686.*

§ 5782. **Duty of board of visitors to report graduations.**—*Repealed by 1934 acts, page 1686.*

§ 5783. **Certificate of release.**—*Repealed by 1934 acts, page 1686.*

§ 5789. **Incorporation—name—corporate powers—property rights—no male students.**

See this section in 1934 Supplement.

§ 5791. **Tuition fees.**—*Repealed by 1933 acts, page 650.*

§ 5793. **Scholarships in Winthrop College.**—*Repealed by 1934 acts, page 1686.*

§ 5796. **Board of trustees.**

See this section in 1934 Supplement.

§ 5797. **Scholarships.**—*Repealed by 1934 acts, page 1686.*

§ 5829. **Obstruction of roads.**

Obstruction of highway by freight train. S. C., 508; 178 S. E., 136.
Spiers v. Atlantic Coast Line R. Co., 174

§ 5832. **Railroad crossings over public roads.**

See this section in 1934 Supplement.

§ 5856. **Damages from defective highways—action against county.**

See this section in 1934 Supplement.

§ 5860. **Commutation or road tax.**—* * * No person residing in Anderson County shall be subject to road duty or commutation or road tax. This provision regarding Anderson County applies to road or commutation tax for the year 1936 as well as subsequent years. The provisions herein relating to Anderson County shall in no way be construed to affect or prohibit municipalities in said county from requiring the payment of street taxes. 1936 (39) 1370.

1936/1370 eliminated last sentence in this in lieu thereof.
section in 1932 Code, and inserted the above

§ 5864-A. **Age limits for road duty in counties containing cities of 50,000 inhabitants.**—*Repealed by 1933 acts, page 86.*

§ 5866-1. **Counties acquire rights of way for roads state highway department construct with federal funds.**—(1) **PROCEDURE.**—Whenever the state highway department shall hereafter, with federal funds, undertake the construction of any county road, or shall, in anticipation of federal funds becoming available for such purpose, establish the location of any such road, it shall be the duty of the lawfully authorized officials of the county concerned to provide, without cost to the said department, all necessary rights of way for the said construction, including lands for borrow and material pits. In order to secure the said rights of way and other necessary lands the said county officials may exercise any or all of the usual powers of condemnation lawfully authorized to be exercised by them in the case of other county roads.

(2) **STATE HIGHWAY COMMISSION MAY ACT FOR COUNTIES—COUNTIES LIABLE FOR DAMAGES.**—With the approval of the state highway commission, the said county officials may designate the state highway department, acting through its agents and employees, as agents of the county in securing necessary rights of way and other lands. In case of such designation, the state highway commission, or any three members thereof, may exercise the powers of condemnation for and on behalf of the county, following the procedure established by law to govern the condemnation of property for state highway purposes; provided that any and all payments to be made or obligated, on account of rights of way and other lands acquired for the purposes herein contemplated, shall be made by the county on order of the state highway department; *Provided further*, that any person, firm or corporation having any claim on account of damages to property, injuries to person or death, growing out of any such construction as is herein contemplated, shall have such right of action against the county concerned as is now authorized by law and the remedy thus afforded shall be exclusive. 1936 (39) 1309.

This section added by 1936/1309.

§ 5867. **State highway department.**—A highway department for the state of South Carolina is hereby created and established, the same to consist of a state highway commission and a state highway engineer. 1936 (39) 1557.

The remainder of this section repealed by 1936/1557. See § 5867-1 herein.

§ 5867, 1932 Code, prior to its repeal was construed in *Heyward v. Long*, 178 S. C., 351; 183 S. E., 145, as follows: 1. Commissioner, whose term has expired, becomes an officer *de facto*, may continue to hold

and occupy such office until his successor is duly appointed, qualified, commissioned, and confirmed by the senate. 2. Governor has no authority to make a recess appointment thereunder. 3. Commissioner appointed to fill a vacancy may hold only for remainder of the term of four years.

§ 5867-1. **State highway commission.**—(1) **HIGHWAY DISTRICTS—DISTRICT HIGHWAY COMMISSIONERS—DUTIES AND POWERS.**—The several judicial circuits of the state as now or hereafter constituted are for the purposes of this section hereby constituted and created highway districts of the state of South Carolina, to be designated by numbers corresponding to the numbers of the respective judicial circuits. For each of said highway districts there shall be chosen in the manner and for the terms of office hereinafter provided a highway commissioner to be known as district highway commissioner. The several commissioners so chosen shall as a body constitute the state highway commission of South Carolina. The state highway commission thus constituted shall succeed, replace and supersede the state highway commission created and established under the provisions of section 5867, Code of Laws of 1932, and is hereby vested with all the power and authority and is charged with all the duties and shall assume and discharge all the obligations of the said state highway commission created by section 5867, Code of Laws of 1932, and all other laws relating thereto.

(2) **ELECTION—TERM—COMPENSATION.**—The district highway commissioners provided for in section 1 hereof shall be chosen after the following manner for the terms herein provided for. Within fifteen (15) days after May 14, 1936, the legislative delegations representing the counties of each highway district herein created shall meet upon written call of a majority of the members of the delegations of each highway district at a time and place to be designated for the purpose of electing a highway commissioner to represent each highway district. A majority present, either in person or by written proxy, of the members of the legislative delegations representing in the General Assembly a given highway district shall constitute a quorum for the purpose of electing a district highway commissioner, but no person shall be declared elected district highway commissioner who shall fail to receive a majority vote of all the members of the legislative delegations from the highway district affected. The joint legislative delegations of each highway district shall be organized by the election of a chairman and a secretary and such joint legislative delegations, in meeting assembled, shall adopt such rules as they deem proper to govern the election. Any absentee may vote by written proxy. When the election is completed the chairman and secretary of joint legislative delegations of each highway district shall immediately transmit the name of the person elected to the secretary of state, who shall forthwith issue to such person, after he has taken the usual oath of office, a certificate of election as district highway commissioner. The Governor shall thereupon forthwith issue a commission to such person and pending such issuance the aforementioned certificate of election shall be a sufficient warrant to such person to perform all of the duties and functions of his office as commissioner. Each district highway commissioner shall serve until his successor shall have been elected and qualified. Each district highway commissioner shall receive compensation in the amount of one hundred (\$100.00) dollars per annum and official expenses as heretofore provided by law for members of the state highway commission.

In the event that the legislative delegations from any given district or circuit shall fail to meet and elect a district highway commissioner within fifteen days as required by this section, then and in such event, the secretary of state within fifteen days shall call a meeting, by written notice, to the legislative delegations of such district or circuit for the purpose of electing a district highway commissioner to represent the district or circuit affected: *Provided*, that in case a district highway commissioner shall not be elected within thirty days after May 14, 1936, the office of highway commissioner for that district shall be vacant until a commissioner is elected and qualified.

(3) **TERMS—VACANCIES.**—The district highway commissioner from each of the second, ninth, tenth, twelfth and fourteenth highway districts shall be elected for a term of office to expire on the fifteenth day of April, 1938; the district highway commissioner from each of the third, eighth, eleventh, and thirteenth highway districts shall be elected for a term of office to expire on the fifteenth day of April, 1939; and the district highway commissioner from each of the first, fourth, fifth, sixth and seventh highway districts shall be elected for a term of office to expire on the fifteenth day of April, 1940. Any vacancy as district highway commissioner occurring by death, resignation or removal shall be filled by election in the same manner as provided in subsection (2) hereof and for the unexpired term. Upon the expiration of the terms of office provided in this section the district highway commissioner from each of the fourteen highway districts shall be elected for a term of four years. The term of office of each district highway commissioner shall expire on the fifteenth day of April of the appropriate year. Any vacancy as district highway commissioner occurring, or approaching on account of the expiration of the term of office may be filled by election as provided in subsection (2) hereof any time within sixty days prior to the expiration of said term of office, or afterwards, but the incumbent shall continue in office until the expiration of his term and a successor shall have been elected and qualified.

(4) **OFFICE ROTATE—NOMINATION.**—In order to provide for rotation in office as district highway commissioner it is hereby provided that no district highway commissioner elected under the provisions of this section shall succeed himself in office and no county within a given highway district shall have a district highway commissioner for two successive terms. No county shall twice have a commissioner until there shall have been a complete rotation of the office among the counties of a district. After the expiration of the first terms of office herein provided for, the legislative delegations of any county entitled to a district highway commissioner under the provisions of this section shall nominate three suitable persons for the office, one of whom shall be elected district highway commissioner by a majority vote of all of the members of the legislative delegations representing the highway district affected. *Provided, further*, that in the event a district highway commissioner shall not be elected within thirty days after the expiration of the term of office to be filled, the office of highway commissioner for that district shall be vacant until a commissioner is elected and qualified. 1936 (39) 1557.

This section added by 1936/1557.

§ 5868. Chief highway commissioner.

Actions of state highway commissioners in voting to pay salary of chief highway commissioner did not warrant Governor's suspension of highway commissioners from office. *Dacus v. Johnston*, S. C.,; 185 S. E., 491.

§ 5872. Purpose, powers and duties of state highway commission—system of highways—construction—reports.

See this section in 1934 Supplement.

§ 5873. State highway commission add additional roads to state highway system.—The state highway commission of South Carolina is hereby authorized and empowered to add to the state highway system additional highways by taking over county roads not to exceed two hundred (200) miles during any one year; *Provided*, that not more than fifteen (15) miles shall be added in any given county in a given year and that each addition made under the provisions of this section shall serve to connect state highways, or centers of population with state highways. All roads taken over by the state highway commission hereunder shall be so designated by a majority of the legislative delegation from the respective counties in which such roads are located. 1935 (39) 264.

This subsection replaces former § 5873, 1932 Code, 1935/264.

§ 5882. State highway construction contracts—employment of state laborers and ex-service men.—The highway department and highway commission are directed to require that all construction contracts shall contain a clause requiring that not less than ninety (90%) per cent. of the laborers employed shall be *bona fide* residents of South Carolina. *Provided*, this section shall not in any way affect the rules and law governing federal aid. *Provided, further*, that all construction contracts shall also contain a clause giving preference in employment (other things being equal) to all ex-service men of the World War, Spanish American War and the Philippine Insurrection. 1936 (39) 1619.

§ 5887. State highway department may be sued.

Action for damages alleged to have been sustained by stepping into a hole on the shoulder of the highway containing broken glass should be decided by jury. *Livingston v. South Carolina State Highway Department*, 178 S. C., 323; 183 S. E., 8.

§ 5891. Construction and maintenance of highways in municipalities.

See this section in 1934 Supplement.

§ 5894. Motor vehicle licenses.—(1) PASSENGER MOTOR VEHICLES, MOTORCYCLES, TRUCKS AND TRUCK TRAILERS NOT OVER 1½ TONS—(a) FEES.—For the license year beginning on the first day of November, 1936, and annually thereafter, each resident owner of a motor vehicle, as hereinafter specified, shall pay to the state highway department, in lieu of all other state, county and municipal licenses, an annual license fee as follows:

(1) For each passenger motor vehicle weighing not over two thousand (2,000) pounds, the sum of one (\$1.00) dollar; and for each additional five hundred (500 lbs.) pounds of weight, or fraction thereof, the additional sum of one (\$1.00) dollar.

(2) For each motoreyele the sum of one (\$1.00) dollar.

(3) For each truck of a capacity of not exceeding one (1) ton, the sum of four (\$4.00) dollars.

(4) For each truck of a capacity of more than one (1) ton but not more than one and one-half (1-½) tons, the sum of seven and 50/100 (\$7.50) dollars.

(5) For each truck trailer of a capacity of not more than one (1) ton, the sum of four (\$4.00) dollars.

(6) For each truck trailer of a capacity of more than one (1) ton, but not more than one and one-half (1½) tons, the sum of seven and 50/100 (\$7.50) dollars.

Provided, that in case of solid tires used on any truck and/or trailer, the annual license fee herein imposed shall be doubled.

(b) ANNUAL LICENSES ONLY—LICENSES SOLD IN OCTOBER.—The annual license fee imposed by this subsection shall in each case be payable as a whole and shall not be payable in installments for any portion of any license year: *Provided*, that during the month of October of any license year any motor vehicle included in the terms and provisions of this subsection and being registered for the first time may be registered for the remaining portion of the then current license year upon the payment of a license fee of one (\$1.00) dollar.

(c) NO EFFECT ON CHAPTERS 128 AND 162.—This subsection shall not repeal or affect in any way the provisions of chapter 162 (motor bus and truck lines) and/or the provisions of chapter 128 (license drive motor vehicles).

(d) PENALTIES, ETC.—The provisions of law now in effect as to the collection of motor vehicle license fees and penalties for non-payment thereof shall apply to the license fees imposed by this subsection.

(e) USE MANUFACTURER'S WEIGHTS AND CAPACITIES FIX FEES—PAY NO OTHER FEES.—The manufacturer's weights and capacities for said vehicles shall be accepted in fixing said license fees. Said license fees shall be in lieu of all other state, municipal or county license fees. 1936 (39) 1557.

(2) FEES FOR TRUCKS MORE THAN 1½ TONS AND CERTAIN TRAILERS.—Every resident owner of a motor vehicle hereinafter described in this subsection in the state of South Carolina shall pay to the state highway commission in lieu of all other state, municipal or county licenses, an annual license as follows: Trucks of a capacity of more than one and one-half tons but not more than two tons, thirty (\$30.00) dollars. Trucks exceeding two tons and up to and including three tons, one hundred and twenty (\$120.00) dollars. Trucks exceeding three tons and up to and including four tons, two hundred (\$200.00) dollars. Trucks exceeding four tons and up to and including five tons, four hundred (\$400.00) dollars. Trucks exceeding five tons and up to and including six tons, six hundred (\$600.00) dollars. Trucks exceeding six tons and up to and including seven and over, eight hundred (\$800.00) dollars: *Provided*, that a reduction of fifty (50%) per cent. on the license be allowed on all such trucks using pneumatic tires on all the wheels. Lumber trucks and other trucks with trailer attached of a capacity of over one and one-half tons (1½) shall pay an annual license of twenty (\$20.00) dollars for each trailer so operated and an additional sum of eight (\$8.00) dollars for every 1,000 pounds or part thereof of ordinary loading capacity of such trailer over its capacity of one and one-half tons: *Provided*, that where pneumatic tires are used on such trailers a reduction of fifty per cent. shall be allowed. 1933 (38) 341; 1934 (38) 1348; 1936 (39) 1557.

(3) ADDITIONAL FEES FOR MOTOR VEHICLE CARRIERS LICENSED UNDER CHAPTER 162.—Every owner of a motor vehicle carrier licensed under chapter 162 shall pay to the state highway commission in addition to the fees to be paid under said chapter, an annual license as follows:

For each automobile weighing not over 2,000 pounds, the sum of nine (\$9.00) dollars; for each additional 500 pounds of weight, or fraction thereof, the additional sum of three (\$3.00) dollars. The manufacturer's weight of automobiles shall be accepted as the weight for the purpose of registration hereunder. And for trucks the license fees shall be as follows: trucks of a capacity of not exceeding one ton, thirty (\$30.00) dollars; trucks exceeding one ton and up to and including two tons, sixty (\$60.00) dollars. Trucks exceeding two tons

and up to and including three tons, one hundred and twenty (\$120.00) dollars. Trucks exceeding three tons and up to and including four tons, two hundred (\$200.00) dollars. Trucks exceeding four tons and up to and including five tons, four hundred (\$400.00) dollars. Trucks exceeding five tons and up to and including six tons, six hundred (\$600.00) dollars. Trucks exceeding six tons and up to and including seven and over, eight hundred (\$800.00) dollars: *Provided*, that a reduction of fifty (50%) per cent. on the license be allowed on all trucks using pneumatic tires on all the wheels. Lumber trucks and other trucks with trailer attached shall pay an annual license of twenty (\$20.00) dollars for each trailer so operated, and an additional sum of eight (\$8.00) dollars for every 1,000 pounds or part thereof of ordinary loading capacity of such trailer: *Provided*, that where pneumatic tires are used on trailers a reduction of fifty per cent. shall be allowed. For every motorcycle, five (\$5.00) dollars per annum.

(4) FURNISH CLERKS OF COURT WITH APPLICATION BLANKS.—State highway commission shall furnish the clerk of court of each county with a sufficient supply of application blanks for licenses for use of the people of the county.

(5) "MOTOR VEHICLE DEFINED.—The term "motor vehicle", as used in this section, shall be construed to mean and include all automobiles and vehicles, whether propelled by steam, gasoline, electricity or other such sources of energy other than muscular power, except farming implements, or as operated only upon rail or tracks therefor.

(6) PROCURE ANNUALLY—DISPLAY—LICENSE YEAR—REFUNDS.—Annually on or before the thirty-first day of October every owner of a motor vehicle, trailer, or semi-trailer shall procure from the state highway department motor vehicle licenses for the next succeeding license year beginning on the first day of November. The highway department is hereby authorized and directed to issue licenses during the months of September and October for the next succeeding license year. License plates for the ensuing license year beginning the first day of November may be displayed on a motor vehicle during the months of September and October preceding, provided that all license fees due have been paid to the highway department. Any person who shall operate any motor vehicle on or after the first day of November of each and every license year without current license shall be subject to the penalties now provided by law. After a license plate has been issued for a particular motor vehicle no refund of license fees shall be made, nor shall any license plate be transferred to any other motor vehicle: *Provided*, that the highway department is hereby authorized to promulgate regulations providing for the refund of any overpayment made in the purchase price of any license and to refund the purchase price of any license which has not been used and to make license refund for a motor vehicle which may have been destroyed before any substantial use of the license was had.

(7) TIME TO MAKE APPLICATION.—Applications for licenses shall be filed with the state highway department on or before the thirty-first day of October of each license year and any person, firm or corporation who shall fail to file such applications before such date, except for a car which had been in his, her or its possession less than ten days shall pay an additional fee of fifty (50c) cents, and all funds arising from such additional fees shall go to the law enforcement funds of the highway department.

(8) EXPIRATION—SEMI-ANNUAL LICENSES.—All annual licenses shall expire on the thirty-first day of October of the license year for which such licenses were issued. In the case of motor vehicles registered under subsections 2 and 3 hereof for the first time during any license year the full annual license fee shall be paid for licenses issued prior to February first; three-fourths of the annual license fee shall be paid for licenses issued between February first and May first; one-half of the annual license fee shall be paid for licenses issued between May first and August first; and one-fourth of the annual license fee shall be paid for licenses issued for the last quarter of the license year ending on the thirty-first day of October. Prior to the first day of February of each license year the highway department is hereby authorized and empowered to sell semi-annual or six months' licenses for motor vehicles registered under subsections 2 and 3 hereof and all such semi-annual or six months' licenses may be renewed for the last half of the license year ending on the thirty-first day of October. All semi-annual or six months' licenses shall expire on the thirtieth day of April and all renewal six months' licenses shall expire on the thirty-first day of October. For each renewal six months' license issued there shall be charged and collected an additional fee of twenty-five (25c) cents.

(9) PAY HIGHWAY SAFETY FUND FEE ONE TIME PER YEAR ON EACH MOTOR VEHICLE.—The additional license fee of fifty (50c) cents imposed annually upon each motor vehicle under the provisions of section 5984 shall not be imposed upon and collected for the same motor vehicle but one time for each license year or part thereof.

(10) OWNERS PAY MOTOR VEHICLE AND DRIVER'S LICENSES.—All motor vehicle owners shall pay to the state highway department all licenses and fees required by chapters 125 and 128, volume III, Code of Laws of 1932.

(11) RULES AND REGULATIONS.—The state highway department is hereby authorized to promulgate rules and regulations for the enforcement and administration of subsections 6 to 12 and all such rules and regulations not inconsistent with the provisions hereof shall have the full force and effect of law.

(12) PENALTY.—Any person violating any provisions of subsections 6 to 12 shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than ten (\$10.00) dollars, nor more than one hundred (\$100.00) dollars, or imprisonment for not more than thirty (30) days. 1933 (38) 541; 1934 (38) 1309.

(13) FURNISH MOTOR VEHICLE LICENSEES TRAFFIC LAWS.—It is made the duty of the state highway department, wherever any motor vehicle is licensed for the first time, to furnish the licensee with a printed copy of the traffic laws of the state and all such additional instructions as, in the judgment of the department, would be of helpful use to the operators of motor vehicles; and likewise to furnish licensees of motor vehicles which have been heretofore registered with a like copy of such instructions but whenever any motor vehicle has been once registered and licensed and the owner thereof furnished a copy of such laws and regulations, it is not required to furnish the owner of such motor vehicle a copy of such regulations each and every year but it is sufficient that such owner be furnished a copy at least once in every five years. 1934 (38) 1363.

(14) MISREPRESENTING FACT IN APPLYING FOR LICENSE—OPERATION OF MOTOR VEHICLE WITH LICENSE OBTAINED BY MISREPRESENTING FACT.—It is declared to be unlawful for a person, acting for himself or as an agent for another, to make any wilful misrepresentation of facts to the state highway department

in the application for registration of a motor vehicle, under the laws of this state. It is also unlawful for any person to operate a motor vehicle registered under a wilful misrepresentation of any fact in connection therewith, during any portion of the period of time covered by such registration, provided such person has knowledge the registration was obtained through a wilful misrepresentation of facts, or reasonable cause to believe the registration was obtained in such manner. Any violation of the provisions of this subsection is declared to be a misdemeanor and punishable by a fine of not less than ten (\$10.00) dollars nor more than one hundred (\$100.00) dollars or imprisonment for not less than ten (10) days nor more than thirty (30) days. 1934 (38) 1282.

(15) APPLICATION SHOW TRUE NAME AND RESIDENCE OF APPLICANT—LIABILITY OF AGENTS.—Each and every application for a motor vehicle license in this state shall show the true name of the applicant, and the county in which said applicant resides. Any person or persons violating the hereinabove provisions of subsection 15 shall be deemed guilty of a misdemeanor, and shall, on conviction, be fined in a sum not less than ten (\$10.00) dollars nor more than twenty-five (\$25.00) dollars, or imprisonment for a period not less than five nor more than fifteen days; and in addition thereto, shall forfeit any license issued upon such information in violation of the terms hereof. Any dealer, auto salesman, or agency, procuring, or assisting with the application for any license, and knowingly failing to correctly give the name of the county in which the applicant resides, or knowingly failing to give the true name of the applicant, shall be deemed guilty of a misdemeanor, and on conviction shall be fined in the sum of one hundred dollars (\$100.00), or imprisonment for the space of thirty days. This subsection shall not be deemed to relieve any applicant from giving information now required by law or by regulation of the state highway department, but shall be in addition thereto. 1935 (39) 62.

(16) APPLICANT FOR LICENSES STATE SCHOOL DISTRICT AND COUNTY IN WHICH HE RESIDES.—In all applications for motor vehicle licenses in the state of South Carolina there shall be stated therein the school district and the county in which the applicant resides. 1936 (39) 1611.

In order that all laws relating to licensing and providing fees for motor vehicles be kept together provisions in section 5903 have been incorporated in this section. It is to be noted that subsection 3 hereof provides only for the fees to be paid by common carriers as provided in section 8525, 1932 Code. Subsection 1 comes from 1936/1557. Subsection 2 comes from 1933/341, 541; 1934/1348; 1936/1557. Subsection 3, as heretofore stated, provides the fees payable by common carriers in addition to those

provided for in section 8525 and is taken from section 5894, 1932 Code. Subsections 4 and 5 come from former section 5894. Subsections 6 to 12 come from 1933/541; 1934/1309. Subsection 13 comes from 1934/1363. Subsection 14 comes from 1934/1282. Subsection 15 comes from 1935/62. Subsection 16 comes from 1936/1611.

1933/341 and 1934/1311 repealed part of this section, 1932 Code, providing for operation of trucks larger than four-ton trucks.

§ 5895. Cities of 55,000 or more cannot require licenses, or inspection or registration fees for motor vehicles.

Municipal driver's license.—Ordinance requiring resident automobile operator to have municipal driver's license does not

conflict with this section and is valid. State v. Moseley, 174 S. C., 187; 177 S. E., 156.

§ 5896. Non-residents required to pay license fees on motor vehicles operated in this state—schedule.

See this section in 1934 Supplement.

§ 5901. Annual license fees by dealers in motor vehicles, and use of motor vehicles owned by dealers.

See this section in 1934 Supplement.

§ 5903. Time for making application for licenses.

The provisions of this section now in supplement effect are incorporated in section 5894, this

§ 5908. Liability of owners and operators of airships and motor vehicles for injuries to nonpaying guests.—(1) No person transported by the owner or operator of a motor vehicle or airship as his guest without payment for such transportation shall have a cause of action for damages against such automobile or airship, its owner or operator for injury, death or loss, in case of accident unless such accident shall have been intentional on the part of said owner or operator or caused by his heedlessness or his reckless disregard of the rights of others. 1935 (39) 356.

In action for wrongful death of deceased, allegation that defendant's agent, with whom deceased was riding at the time of his death, in defendant's truck, was operating such truck in violation of statute governing speed at which trucks may be driven and operated in conjunction with allegation that truck was driven off highway and into a ditch, razing the growth thereon and crashing into a small side road bridge, stated a cause of action. *Fulghum v. Bleakley*, 177 S. C., 286, 181 S. E., 30. *Ralls v. Saleeby*, 178 S. C., 431; 182 S. E., 750.

Hereunder, automobile guest cannot recover for injuries, unless act causing accident was intentional or accident was

caused by heedless and reckless disregard of rights of others by owner or operator. *Lee v. Lott*, 177 S. E., 92.

"Or" in "heedlessness or reckless disregard of rights of others," interpreted as "and." *Fulghum v. Bleakley*, 177 S. C., 286; 181 S. E., 30.

"Act or conduct in reckless disregard of rights of others," authorizing recovery hereunder, is improper or wrongful conduct, and constitutes "wanton misconduct" evincing reckless indifference to consequences, to life, limb, health, reputation, or property rights of another and is more than gross negligence. *Lee v. Lott*, 177 S. E., 92.

§ 5925-1. State highway department license trackless trolley cars in and about city of Greenville.

See this section in 1934 Supplement.

*** § 5926. State highway system.**—(1) **ABBEVILLE COUNTY**—* * * **LOCATION OF 82 BETWEEN IVA AND LOWNDESVILLE.**—The location of state highway No. 82, between Iva in Anderson County and Lowndesville in Abbeville County, is hereby established to follow such route as the state highway department may determine, and the said department is hereby specifically authorized to make such relocations in the said route as in its judgment may be in the interest of highway traffic between Iva and Lowndesville. 1935 (39) 61.

(2) **AIKEN COUNTY**—* * * **ROAD FROM NORTH AUGUSTA TO SHULTZS HILL IN SYSTEM.**—There is hereby placed in the state highway system for construction and maintenance the following highway in Aiken County, to wit: That certain road beginning at its intersection with state highway no. 25 in the town of North Augusta, county of Aiken, and ending at its intersection with United States highway no. 1 at Shultzs Hill, the same being a distance of about one and one-half (1½) miles and connecting state highway no. 25 with United States highway no. 1 at said points. The road described hereinabove shall be taken over by the state highway department and constructed and maintained as are other highways in the state highway system. 1936 (39) 1751.

(3) **ALLENDALE COUNTY**—* * * **ROAD CONNECTING 331 AND 641 IN SYSTEM.**—The state highway commission is hereby authorized, empowered and directed forthwith to take over and add to the state system of highways the road running from Sycamore to a point at or near Wesley Chapel church so as to connect route no. 331 with route no. 641, approximately thirteen (13) miles in length, to wit, approximately nine (9) miles in Allendale County and four (4) miles in Bamberg County: *Provided*, that the said mileage shall be de-

*Roads added to state highway system by state highway commission not included herein.

ducted from the mileage which the said highway commission is authorized to add in the counties of Allendale and Bamberg under the existing law. 1936 (39) 1457.

(4) ANDERSON COUNTY—* * * LOCATION 76 BETWEEN HONEA PATH AND PRINCETON.—The location of State Highway No. 76, between Honea Path in Anderson County and Princeton in Laurens County, is hereby established to follow such route as the state highway department may determine. 1935 (39) 200; 1936 (39) 1624.

See also subsection 1 under this section. See this section in 1934 Supplement.

(5) BAMBERG COUNTY.—See subsection 3 hereof.

See this section in 1934 Supplement.

(6) BARNWELL COUNTY.

See this section in 1934 Supplement.

(7) BEAUFORT COUNTY—* * * LOCATION OF 17, 21 AND 28 TOWN OF YEMASSEE.—The highway department is hereby prohibited from changing or relocating highways nos. 17, 21 and 28 through the town of Yemassee or constructing an alternate route around said town. 1936 (39) 1303, 1402.

(8) BERKELEY COUNTY—* * * ROAD RUNNING FROM U. S. HIGHWAY 52 TOWARD CYPRESS GARDENS ADDED TO STATE HIGHWAY SYSTEM.—That certain road in Berkeley County, of approximately two and six-tenths (2.6) miles in length, commencing at the intersection of U. S. highway no. 52 and road known as Strawberry Ferry road, and running in the direction of Cypress Gardens, along the said Strawberry Ferry road and road leading from said Strawberry Ferry road to Cypress Gardens, and terminating at or near the Seaboard Air Line Railroad right of way and the Dean Hall Plantation is hereby made a part of the state highway system of this state.

Provided, that this paragraph shall not serve to increase the mileage of roads authorized to be added to the state highway system under the provisions of act no. 195 of the Acts of 1935, approved April 25, 1935, and Berkeley County shall be charged under act with this addition. The state highway department of this state is hereby authorized and directed to take over the said road above described as a part of the state highway system and have general control and supervision over same, in like manner as other roads in the state highway system. 1936 (39) 1643.

See this section 1934 Supplement.

(9) CALHOUN COUNTY—* * * 45 FROM ST. MATTHEWS TO U. S. ROUTE 15 AT PARLER SYSTEM FOR HARDSURFACE TREATMENT.—There is hereby placed in the state highway system for hard-surface treatment that portion of state highway no. 45, extending from the town limits of St. Matthews in Calhoun County by way of Creston, South Carolina, and on to Elloree in Orangeburg County, South Carolina, and from Elloree to U. S. route 15 at Parler. 1936 (39) 1497.

(10) CHARLESTON COUNTY—* * * TAKE CERTAIN ROADS OUT OF SYSTEM AND SUBSTITUTE OTHERS.—Portion of state highway no. 62 in Charleston County from route 61 at Fort Bull to route 17 at Red Top and that portion of the loop road to route 17 via Riverside Beach near Mt. Pleasant, aggregating 9.12 miles in length, are hereby taken out of the state highway system and the state highway department is hereby authorized and directed to take over as a part of the state highway system in lieu thereof the same mileage of some other road or roads in Charleston County to be determined by the state highway commission. 1936 (39) 1712.

See this section 1934 Supplement.

(12) CHESTER COUNTY.

1936/2094 provided for abandonment of portion of State highway 9, and for removal of steel bridge over Fishing Creek, Chester County.

(13) CHESTERFIELD COUNTY—* * * LOCATION OF 95.—The location of state highway no. 95, in Chesterfield County, is hereby established to follow such route from McBee through Chesterfield to the North Carolina line as the state highway department may determine. 1935 (39) 47.

LOCATION OF 601 BETWEEN CHERAW AND N. C. LINE.—The location of state highway No. 601 in Chesterfield County is hereby established to follow such route as the state highway department may determine between Cheraw and the North Carolina line in the direction of Morven. 1935 (39) 476.

STATE HIGHWAY DEPARTMENT TAKE OVER BRIDGE ACROSS GREAT PEE DEE RIVER AT CHERAW AND ASSUME INDEBTEDNESS THEREON.—The state highway commission is authorized and directed to take over, as a part of its highway system, the bridge across the Great Pee Dee River at Cheraw, S. C., on U. S. highway no. 1 and state highway no. 9, and assume the payment of all outstanding bonds, principal and interest, of the town of Cheraw issued by said town for the construction of said bridge, the said bonds being as follows, four thousand (\$4,000.00) dollars of six (6) per cent. per annum bonds now due, and twenty thousand (\$20,000.00) dollars of five (5) per cent. per annum bonds due in 1949, the total amount of the principal of said outstanding bonds to be assumed and paid by the state highway commission aggregating the sum of twenty-four thousand (\$24,000.00) dollars.

Provided, that if, and when a new river crossing is provided at Cheraw the present bridge, with its approaches, shall be abandoned as a part of the state highway system. 1936 (39) 1370.

(17) DILLON COUNTY.

See this section 1934 Supplement.

(21) FLORENCE COUNTY.

State highway commission purchase Mars Bluff bridge and Allison's ferry bridge, 1934/2264.

(22) GEORGETOWN COUNTY.

See this section 1934 Supplement.

(23) GREENVILLE COUNTY—* * * LOCATION OF 29 ENTERING GREENVILLE FROM SPARTANBURG.—The location of state highway No. 29 entering Greenville from the direction of Spartanburg is hereby established to follow such route as the state highway department may determine, and the said department is hereby specifically authorized to relocate, as in its discretion may appear desirable, the whole or any part of the said road as now laid out between the city of Greenville and the town of Taylors, in Greenville County. 1935 (39) 58.

(24) GREENWOOD COUNTY.

State highway department construct overhead bridge in city of Greenwood, 1935/917. supplement, which provides for substitution of Callison highway for portion of state highway 10, 1934/1541.
See subsection 31 of this section in 1934

(26) HORRY COUNTY—* * * ROAD FROM CONWAY TO 175 BETWEEN CENTENARY AND JOHNSONVILLE ADDED TO SYSTEM.—There is hereby incorporated in the state highway system a road in Marion and Horry counties leading from Conway by way of the Potato Bed Ferry bridge over the Little Pee Dee river to connect with state route no. 175 between Centenary and Johnsonville at a point to be determined by the state highway department: *Provided*, that this joint resolution shall not serve to increase the mileage of roads authorized to be added to the state highway system under the provisions of Act No. 195

of the Acts of 1935, approved April 25, 1935. The state highway department is hereby authorized to relocate any section or sections of the road added to the state highway system, as provided for in section 1 hereof, to follow such route as the state highway department may determine. 1936 (39) 1620.

See this section 1934 Supplement.

See subsection 21 hereunder.

(28) KERSHAW COUNTY.

See this section 1934 Supplement.

erec river toll bridge, 1934/2268.

State highway department purchase Wat-

(30) LAURENS COUNTY—* * * ROAD CONNECTING U. S. 25 AND 221 ADDED TO SYSTEM IN LIEU OF PORTION OF 10.—That portion of state highway no. 10 lying between Waterloo and Saluda river in Laurens County is hereby taken out of the state highway system and the state highway department in lieu thereof is hereby authorized and drected to take over as part of the state highway system a road or route leading from or near what is known as the Beeks Place in Sullivan township in Laurens County on U. S. highway No. 25; thence as may be deemed practicable by the state highway department along what is known as the old Augusta road to Jones' store in Waterloo township; thence from that point either to or near Cold Point on U. S. highway no. 221 in said county or to or near Waterloo on U. S. highway No. 221 in said county as might seem best in the discretion of the state highway commissioner. 1936 (39) 1469.

See subsection 4 hereof.

See this section 1934 Supplement.

(33) MARION COUNTY.

See this section 1934 Supplement.

State highway commission purchase bridge over Potato Bed ferry, 1934/2264.

See subsections 21 and 26 hereunder.

(34) MARLBORO COUNTY.

See this section 1934 Supplement.

See subsection 13 hereof.

(37) OCONEE COUNTY—* * * TWO ROADS PLACED IN SYSTEM FOR MAINTENANCE.—For the purpose of maintenance only the following described stretches of road in Oconee County are placed in the state highway system, to-wit:

(a) A road about one and one-fourth (1¼) miles in length leading from Newry cotton mill to Courtney where it intersects with state highway no. 13; and

(b) A road about one and one-fourth miles in length leading from Lonsdale cotton mill to Seneca. *Provided*, the above mileage shall be charged against the annual quota of roads to be added to the state highway system in Oconee County. 1936 (39) 1636.

(38) ORANGEBURG COUNTY.

See subsection 9 hereof.

See this section 1934 Supplement.

(40) RICHLAND COUNTY—* * * LOCATION OF 26 BETWEEN ACTON AND U. S. 76 BETWEEN COLUMBIA AND SUMTER.—The location of state highway no. 26, between Acton and U. S. highway no. 76 between Columbia and Sumter, in Richland County, is hereby established to follow such route as the state highway department may determine: *Provided*, that in the event the said department shall determine upon a location of route 26 by passing the town of Eastover, then in that event the said department shall construct and maintain a loop road from route 26 through the town of Eastover. 1936 (39) 1777.

1933/1063 provided for abandonment of portions of old Bluff road, state highway 48.

(43) SUMTER COUNTY—* * * SHILOH PAVED ROAD INCLUDED IN SYSTEM FOR MAINTENANCE.—That for the purpose of maintenance and supervision there

is hereby included in the state highway system of roads a stretch of road, commonly known as the Shiloh Paved road, and commencing on the Sumter-Turbeville road, at a point thereon about thirteen miles east of Sumter and leading in a north-easterly direction to the point of its intersection with the Lynchburg-Lake City highway, no. 341, a distance of about twelve miles, and being situate in Sumter County. 1936 (39) 1444.

See this section 1934 Supplement.

(45) WILLIAMSBURG COUNTY—* * * LOCATION OF 261.—The location of highway 261 in Williamsburg County between its intersection with highway 521 and its intersection with highway 17 is hereby established to follow such route as the state highway department may determine by way of Lane and Gourdin. 1935 (39) 147.

(46) YORK COUNTY.—ROAD FROM INTERSECTION 16 AND 5 TO INTERSECT WITH 5 AT OR NEAR SMYRNA IN SYSTEM FOR MAINTENANCE.—Upon the completion of the state highway beginning at the intersection of South Carolina highways nos. 16 and 5 at York court house and running thence in a westerly direction via A. L. Black's store, to intersect with state highway no. 5 at or near Smyrna. The state highway commission is hereby authorized, empowered and directed to receive the same in the state highway system for maintenance. *Provided*, that the length of the said highway shall not exceed approximately ten (10) miles, as provided in Act No. 331 of the General Assembly, 1935. The said distance, which is to be calculated from the town limits of York to the town limits of Smyrna and not to include the streets within the said towns, shall be maintained under the general law pertaining to state highways. 1936 (39) 1601.

CONSTRUCT AND MAINTAIN HIGHWAYS LEADING TO KING'S MOUNTAIN BATTLE GROUND PARK.—There shall be established and built by the South Carolina highway department, the Colonel James Willams memorial highway running from South Carolina highway no. 5 at or near York by way of A. L. Black's store and thence by the most direct and practical route to King's Mountain battle ground park or area, together with a spur road connecting the said battleground area with S. C. highway no. 161 near Bethany Church, and with South Carolina highway no. 5 at Smyrna, S. C., which roads shall be built in the order above enumerated, and which highways shall be placed in the said South Carolina highway system as surface treated federal aid highways, for construction and maintenance, in order to give access to the King's Mountain battleground from different directions so that same may be accessible to visitors from every section. *Provided*, that the aggregate length of said highways shall not exceed ten miles. 1935 (39) 475.

§ 5926-1. **Guide or travel signs near state highways.**—(1) STATE HIGHWAY DEPARTMENT APPROVE GUIDE SIGNS ERECTED IN VICINITY OF STATE HIGHWAYS.—It shall be unlawful for any person, firm, or corporation to erect any sign on, along, or in the vicinity of any state highway, purporting to furnish travel information, unless such sign shall have been previously approved by the state highway department both as to the information furnished and as to the design and location of the said sign. It shall also be unlawful for any person, firm or corporation owning property along, or in the vicinity of any state highway, to permit the erection or maintenance on such property of any sign prohibited by this section.

(2) REMOVAL OF OBJECTIONABLE SIGNS—NOTIFY OWNERS, AND OWNERS OF PROPERTY ON WHICH SUCH SIGNS ARE.—The state highway department is hereby directed to give notice in writing to any person, firm, or corporation owning

any sign prohibited by subsection 1 hereof, and to any property owner on whose land such sign may be erected, specifying the said objectionable sign and its location. It shall be the duty of each the owner of the sign and the property owner concerned, upon receipt of such notice, to remove, or cause to be removed, the said objectionable sign within not exceeding ten days from receipt of notice.

(3) PENALTY.—Any person, firm, or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not exceeding ten (\$10.00) dollars for each offense. *Provided, however,* any person, firm or corporation erecting any travel sign upon his or its property that is true and correct information, shall upon the establishment of the truth of such information be exempted from the penalty hereinabove proposed.

(4) DEPARTMENT PLACE TRAVEL SIGNS ON STATE HIGHWAYS.—It is hereby directed that the state highway department shall cause to be placed on all state highways of the state at suitable points travel signs for the information and convenience of the traveling public. 1935 (39) 355.

This section added by 1935/355.

§ 5928. Reimburse counties and certain municipalities for hard surface constructions.—* * * (2) REIMBURSE TOWNS OF 2,500 AND LESS FOR HARD SURFACE CONSTRUCTION.—The state highway department is hereby authorized and directed to reimburse any town or municipality of a population of two thousand five hundred (2,500) or less for the appraised value, as determined by said department, of the hard surface construction of any street where the said construction was done by and at the expense of any such town or municipality and where said street is a part of the state highway system. *Provided,* that in no case shall the highway department make any reimbursement on account of any width greater than twenty (20) feet nor shall any reimbursement be made to any municipality for any hard surface construction provided by such municipality as street width additional to any twenty feet constructed by the state highway department. * * * 1936 (39) 1443.

1936/1443 superseded the first sentence of the second paragraph of this section, 1932 Code. The above sentence and proviso added to second paragraph of this section by 1936/1443. The section otherwise remains as it is in the 1932 Code.

§ 5931. Road construction by counties.

Actions of state highway commissioners in voting to enter into reimbursement agreements with counties did not warrant Governor's suspension of highway commissioners from office. *Dacus v. Johnston*, _____ S. C., _____; 185 S. E., 491.

§ 5946-1. Levy tax on property of any county to pay certain highway reimbursement obligations paid by state highway department.

See this section 1934 Supplement.

§ 5947. Limit of indebtedness—conditions.

§ 5973-4 this supplement should be construed herewith. certificates of indebtedness issued pursuant to § 5973-1, and the written evidence of obligation issued pursuant to 1932/1123.

State highway bond act authorizes issuance of certificates of indebtedness of state to refund or pay short term highway notes issued pursuant to § 5948, callable *State v. Stevens et al.*, 175 S. E., 213, 173 S. C., 149.

§ 5948. Governor and state treasurer may borrow under stated conditions.

See notes under § 5947.

§ 5951. Use of proceeds of sale.

See notes under § 5947.

§ 5964. Contents of certificate of indebtedness.

See notes under § 5947.

§ 5970. Use of funds.—* * * (a) * * * *Provided, however,* the state highway commission is hereby authorized and directed to reimburse, upon a valuation being made as hereinafter provided, Myrtle Beach estates, incorporated for about three and 8/10 (3-8/10) miles, or whatever distance said road shall measure, of concrete road and culvert-bridge constructed by it through its property during the years of 1927 and 1928 in Horry County, and taken over by said state highway department as a part of state highway number 49, said reimbursements to be made upon the value of said road to the state at the time it was taken over by the state highway department, and said reimbursement to be in full and final settlement of all claims or demands existing in favor of Myrtle Beach estates incorporated against the state highway department from the construction of said road, *Provided, however,* that the value fixed for said section of road, exclusive of said concrete culvert bridge, shall not exceed what it would have cost the state highway department to have built said section out of material similar to the material used on said highway at either end of said section. 1935 (39) 260.

The above proviso added to paragraph (a) of this section by 1935/260. The section otherwise remains unchanged.

§ 5973-1. Refinance certain state highway obligations—limitations.

See this section in 1934 Supplement.

Sections 5973-2, 5973-3, 5973-4 and 5973-5 should be consulted in connection with this section.

Editor's note: The state highway commissioner advises that the obligations issued hereunder have been paid.

This section intended to supply an additional and alternative method of issuing notes or certificates of indebtedness. State v. Stevens, 175 S. E., 213; 173 S. C., 149.

See notes under § 5947.

§ 5973-2. Issuance of certificates of indebtedness retire certain obligations of state highway department.

See this section in 1934 Supplement.

Sections 5973-1, 5973-3, 5973-4 and 5973-5 should be consulted in connection with this section.

Editor's note: The state highway commissioner advises that the obligations issued hereunder have been paid.

See notes under § 5947.

§§ 5973-2 and 5973-3 do not repeal the authority to issue certificates of indebtedness in accordance with the terms provided in the state highway bond act, particularly § 5964. State v. Stevens, 175 S. E., 213; 173 S. C., 149.

§ 5973-3. Issuance of certificates of indebtedness and reimbursement obligations by state highway department restricted—duration.

See this section in 1934 Supplement.

Sections 5973-1, 5973-2, 5973-4 and 5973-5 should be consulted in connection with this section.

See notes under §§ 5947 and 5973-2.

§ 5973-4. Issuance and sale of state highway certificates of indebtedness and reimbursement obligations—amount limited—use of funds therefrom—aggregate principal indebtedness of state highway department limited—construction program.—(1) WHEN SELL—AGGREGATE PRINCIPAL INDEBTEDNESS FOR CONSTRUCTION OF SYSTEM LIMITED—“REIMBURSEMENT OBLIGATIONS” DEFINED.—To the end that the aggregate principal indebtedness of the state highway department on account of the construction of the state highway system may be reduced from year to year and funds be provided for the continuance of the construction of the state highway system, neither state highway certificates of indebtedness nor reimbursement obligations pursuant to reimbursement agreements with counties or road districts shall hereafter be issued or sold in any calendar year under the terms and provisions of existing laws as amended, limited or qualified by the terms and provisions hereof, unless the aggregate principal of any such certificates of indebtedness and/or reimbursement obligations shall be less by five hundred thousand (\$500,000.00) dollars than the total aggregate principal indebtedness retired during the calendar

year next preceding of like obligations issued or assumed before the passage hereof; *Provided*, that in no event shall the aggregate principal indebtedness of the state highway department on account of the construction of the state highway system be greater than the said indebtedness of said department as of the first day of January, nineteen hundred and thirty-four. The term "reimbursement obligations" as used in this section includes all payments made or to be made by the state highway commission to or on behalf of counties, road or bridge districts, on account of the construction of the state highway system, under the provisions of chapters 126 and 127, Volume III, Code of Laws of 1932, and any other laws requiring the state highway commission to reimburse counties, road or bridge districts, or municipalities, on account of the construction of the state highway system, including obligations hereafter created pursuant to reimbursement agreements with counties or road districts. The limitations or restrictions imposed by this section shall not apply to certificates of indebtedness which may be issued for the purpose of paying the principal of outstanding notes or certificates of indebtedness or reimbursement obligations.

(2) **SALE OF CERTIFICATES—DUTY OF STATE TREASURER AND COMMISSION.**—No state highway certificate of indebtedness shall be issued or sold unless the same shall be within the limitations of the powers conferred herein, nor shall any said certificates of indebtedness be issued and sold unless and until the conditions prescribed in chapter 127, volume III, Code of Laws of 1932, as heretofore and hereby amended, changed or modified, shall have been complied with. The duty is hereby imposed solely upon the state treasurer to issue, sell and sign said certificates of indebtedness in the name of the state when the conditions prescribed herein and by chapter 127, volume III, Code of Laws of 1932, as heretofore and hereby amended, changed or modified have been fully complied with and the state highway commission shall have transmitted to the state treasurer a written request for the issuance of such certificates of indebtedness embodying a statement showing compliance with the terms hereof, and the information required by sub-divisions (a), (b), (c) and (d) of section 5947, volume III, Code of Laws of 1932. The power and authority to find and determine the sufficiency of the motor vehicle revenues (the five cents gasoline tax and the motor vehicle license tax) for the purposes of this section are hereby imposed solely upon the state highway commission. The said certificates of indebtedness herein authorized shall be signed by the state treasurer and the great seal of the state shall be affixed to or impressed upon them and attested by the secretary of state. No provision hereof shall be held or construed to affect the legality of existing or now outstanding obligations of the state highway department on account of the construction of the state highway system.

(3) **USE OF FUNDS—"HIGHWAY" DEFINED.**—Funds derived from the sale of certificates of indebtedness herein authorized or funds derived from the sale of reimbursement obligations shall be used by the state highway department for the construction of the state highway system, including matching federal aid. The state highway department shall within the next two years, or as soon as practicable, construct or let to contract the highways designated for construction herein. The term "highway" includes bridges, drainage structures, rights-of-way and borrow pits.

(4) **HIGHWAYS CONSTRUCT.**—The highways herein authorized and directed to be constructed are as follows: (See 1936 acts, page 1562, for such highways.)

(5) **CERTIFICATES SELL—CONSTRUCT HIGHWAYS IN SUBSECTION 4 HEREOF.**—The aggregate amount of state highway certificates of indebtedness herein authorized and directed to be issued and sold by the state treasurer for the purpose of financing the construction of the highway projects enumerated in subsection (4) hereof, is hereby limited to the estimated cost of said projects, as determined by the state highway department, less the amount of federal aid funds available for such projects, as determined by the state highway department. This subsection shall not apply to the issuance of state highway certificates of indebtedness for the purpose of paying the principal of state highway certificates of indebtedness or notes previously issued or for the purpose of making reimbursements to counties or road districts as required by law.

(6) **SALE OF CERTIFICATES TO REFINANCE, ETC.—DUTY OF STATE TREASURER UNDER CHAPTER 127.**—For the purpose or refinancing outstanding obligations of the state highway department on account of the construction of the state highway system and for raising monies necessary to retire and pay state highway certificates of indebtedness or reimbursement obligations as they mature or become due, the duty is hereby imposed solely upon the state treasurer to issue and sell state highway certificates of indebtedness under the terms and conditions prescribed in chapter 127, volume III, Code of Laws of 1932, as heretofore and hereby amended, changed or modified. The amount of said certificates of indebtedness which shall be issued and sold by the state treasurer during any calendar year for the purpose of this section shall be determined by the state highway commission, but in no event shall the aggregate principal indebtedness of the state highway department, on account of the construction of the state highway system, be greater than the said aggregate principal indebtedness of said department as of the first day of January, nineteen hundred and thirty-four.

(7) **INTENTION.**—It is not the intention of this section to restrict or limit the state highway department in its duty and authority to co-operate with the federal highway authorities under the provisions of the applicable statutes.

(8) **SAVING CLAUSE.**—If any section, subsection, paragraph, sentence, clause or provision of this section shall be held unconstitutional or invalid for any reason the same shall not affect, impair or invalidate any of the remaining sections, subsections, paragraphs, sentences, clauses or provisions.

(9) **REPEAL—CUMULATIVE.**—All acts or parts of acts inconsistent with the provisions of this section are hereby repealed to the extent of such inconsistency. This section shall not be construed as repealing any other act or acts authorizing the issuance and sale of bonds or other obligations for the construction of the state highway system but shall be held and construed to be cumulative thereto. 1936 (39) 1557.

Sections 5973-1, 5973-2, 5973-3 and 5973-4 should be consulted in connection with this section. This section added by 1936/1557.

§ 5973-5. Bonded indebtedness state highway department and state highway commission incur or assume.—The provisions of the various acts of the General Assembly of 1936 to the contrary notwithstanding, the state highway commission and/or state highway department is hereby expressly prohibited from incurring or assuming bonded indebtedness in excess of the aggregate principal indebtedness of the said commission or department as of the first day of January, 1934. The state highway commission and/or department is hereby authorized and empowered to incur or assume bonded indebtedness

under the provisions of laws heretofore enacted up to the amount of aggregate principal indebtedness of the said commission or department as of the first day of January, 1934, but under no condition or circumstance shall the state highway commission or the state highway department incur or assume any bonded indebtedness in excess of the aggregate principal indebtedness of the said commission or department as of the first day of January, 1934. 1936 (39) 1793.

Sections 5973-1, 5973-2, 5973-3, and 5973-4 should be consulted in connection with this section, 1936/1793. This section added by 1936/1793.

§ 5974. Authority of highway commission as to construction.

See notes under § 5947.

§ 5975. Advertisement of letting of contract or purchase.

See notes under § 5947.

§ 5981-1. Notes not used to finance new or proposed construction contracts—sale—interest.

See this section in 1934 Supplement.

§ 5989. Applications of minors.

See this section in 1934 Supplement.

§ 5995. Lost or destroyed license—fee for duplicate.

See this section in 1934 Supplement.

§ 5996. Cause or causes to revoke license—investigation—procedure—admission as evidence—report revoked licenses.

See this section in 1934 Supplement.

§ 5997-1. Unlawful for owner cause or permit any of certain persons to operate motor vehicle without license—non-residents.

See this section in 1934 Supplement.

§ 6004. Enforcement.

Highway patrolman act as state constable—power to arrest.—Highway patrolman being also state constable has right to arrest anywhere without a warrant any person committing a misdemeanor in his

presence. Homicide is not justified by one resisting arrest from such highway patrolman, although the patrolman did not advise he was state constable also. State v. Luster, 182 S. E., 427; 178 S. C., 199.

§ 6005. Uniforms—equipment.—* * * (2) MOTOR VEHICLE EQUIPMENT.

—As the motorcycles now used by the highway patrol of the state highway department become unfit for use, or in cases where the use of motorcycles is impractical, the said highway department is hereby authorized and empowered to purchase automobiles for use in state highway patrol work. All funds necessary for additional motor vehicle law enforcement shall be paid from the state highway fund. It is hereby provided that the highway department may change no more than 50% of its present motorcycle equipment to automobile equipment. 1935 (39) 289.

Subsection 2 added by 1935/289.

§ 6010-1. Rural electrification under state control.

See this section in 1934 Supplement.

§ 6010-2. State rural electrification authority law.—(1) SHORT TITLE.—This section may be cited as the "State Rural Electrification Authority Law."

(2) DEFINITIONS.—The following terms, whenever used in this section shall have the following meanings, unless a different meaning clearly appears from the context:

(a) "authority" shall mean the corporation created by this section.

(b) "board" shall mean the board of directors of the authority.

(c) "bonds" shall mean and include negotiable bonds, interim certificates or receipts, notes, debentures and all other evidences of indebtedness either issued or the payment thereof assumed by the authority.

(d) "acquire" shall mean and include construct, acquire by purchase, lease, devise, gift or the exercise of the right of eminent domain, or other mode of acquisition.

(e) "person" or "inhabitant" shall mean and include natural persons, firms, associations, corporations, business trusts, partnerships and bodies politic.

(f) "energy" shall mean and include any and all electric energy no matter how or where generated or produced.

(g) "system" shall mean and include any plant, works, system, facilities, properties, or parts thereof, together with all appurtenances thereto, used or useful in connection with the generation, production, transmission or distribution of energy.

(h) "law" shall mean any act or statute, general, special or local of the state.

(i) "state" shall mean the state of South Carolina.

(j) "legislature" shall mean the legislature of the state.

(k) "municipality" shall mean any city, county, town, or board or commission of the state.

(l) "federal agency" shall mean and include the United States of America, the President of the United States of America, the federal emergency administrator of public works, and any and all other authorities, agencies, and instrumentalities of the United States of America, heretofore or hereafter created.

(m) "improve" shall mean and include construct, reconstruct, improve, replace, repair, extend, enlarge, alter or better.

(n) "service" shall mean and include the sale or other disposition of energy at the lowest cost consistent with sound economy, public advantage and the prudent management of the business of the authority.

(3) STATE RURAL ELECTRIFICATION AUTHORITY—DIRECTORS.—A corporation to be known as the state rural electrification authority is hereby created. Said authority shall be a public corporation in perpetuity under its corporate name, and shall under that name be a body politic and corporate. The authority shall have a board of directors and the powers of the authority shall be vested in and exercised by a majority of the members of the board then in office. The members of the board shall be the Governor of the state, the comptroller general, the state treasurer, the president of the State University, the president of Clemson College, the president of The Citadel, the president of Winthrop College and their successors in office, and two members to be appointed by the Governor for a term of two years from the first day of February in the year in which such appointments are made, or until their successors are appointed, one such member to be appointed upon the recommendation of the state Senate and the other such member upon the recommendation of the state House of Representatives. The chairman of the board shall be the Governor of the state and the comptroller general shall be the secretary-treasurer of the board. The members of the board shall exercise their duties as members of such board as an incident to the offices they hold and shall receive no compensation for their services as members of the board, but shall be entitled to reimbursement for all expenses incurred in connection with the exercise of their powers and duties as members of the board.

(4) POWERS OF BOARD.—The board shall have power to do all things necessary or convenient in conducting the business of the authority, including, but not limited to:

(a) To adopt and amend by-laws for the management and regulation of its affairs and the business in which it is engaged;

(b) To use, with the consent of a municipality, the agents, employees or facilities of such municipality and to provide for payment of the agreed proportion of the cost thereof;

(c) To appoint officers, agents and employees and to fix their compensation;

(d) To inquire into any matter relating to the affairs of the authority, to compel by subpoena the attendance of witnesses and the production of books and papers material to any such inquiry, to administer oaths to witnesses and to examine witnesses and such books and papers;

(e) To appoint an advisory board to assist in the formation of proper policies in respect to the business of the authority;

(f) To execute instruments;

(g) To delegate to one or more of its members, or to its agents and employees, such powers and duties as it may deem proper.

(5) CORPORATE PURPOSE OF AUTHORITY.—The corporate purpose of the authority is to encourage and promote the fullest possible use of energy by all of the inhabitants of the state by rendering service to said inhabitants to whom energy is not available or, in the opinion of the board, is not available at reasonable rates.

(6) EXTENT OF POWERS OF AUTHORITY.—The authority is hereby vested with all powers necessary or requisite for the accomplishment of its corporate purpose and capable of being delegated by the legislature of the state; and no enumeration of particular powers hereby granted shall be construed to impair any general grant of power herein contained, nor to limit any such grant to a power or powers of the same class or classes as those so enumerated.

(7) GENERAL POWERS OF AUTHORITY.—Subject only to the constitution of the state, the authority shall have power:

(1) To sue and be sued, claim and defend, in its own name; provided that the liability of the authority in tort for injury to property shall be limited to \$1,500.00, and for injury to person shall be limited to \$4,000.00, and the procedure for filing and enforcing such tort claims shall be the same as that now provided by law for claims in tort against the highway department. (2) To have a seal and alter the same at pleasure. (3) To render service to the inhabitants of the state and by contract or contracts with any person, federal agency or municipality or by its own employees, to acquire, own, operate, maintain, and improve a system or systems. (4) To acquire, hold and dispose of property, real and personal, tangible and intangible, or interests therein, in its own name, subject to mortgages or other liens or otherwise and to pay therefor in cash, property or on credit, and to secure and procure payment of all or any part of the purchase price thereof on such terms and conditions as the board shall determine. (5) To cause surveys to be made of areas throughout the state for the purpose of determining the economic soundness of the acquisition of a system or systems therein, to make plans and estimates of the cost of such system or systems and in connection therewith to enter on any lands, waters and premises for the purpose of making such surveys, soundings and examinations. (6) To have complete control and supervision of the system or systems and to make such rules and regulations governing the rendering of service thereby as, in the judgment of the board, may be just and equitable. (7) To fix, maintain and collect rates and charges for services. (8) To construct or place any part or parts of a system or systems across, in or along any street or public highway, over any lands which are now or may hereafter be the property of the state or

any political subdivision thereof without obtaining any franchise or other permit therefor. The authority shall, however, restore any such street or highway to its former condition or state as near as may be and shall not use the same in a manner to impair unnecessarily its usefulness; provided that the liability of the state highway department shall in no case be increased or extended by reason of anything authorized or done under the authority of this provision. (9) To execute all instruments necessary or convenient, including, but not limited to, indentures of trust, leases, and bonds. (10) To borrow money and issue negotiable bonds and to provide for the rights of the holders thereof. (11) To accept gifts or grants of money or property, real or personal, and voluntary and uncompensated services from any person, federal agency or municipality. (12) To make any and all contracts necessary or convenient for the full exercise of the powers herein granted, including, but not limited to, (a) contracts with any person, federal agency or municipality for the purchase or sale of energy and (b) contracts with any person, federal agency, or municipality for the management and conduct of the business of the authority or any part thereof. (13) To condemn either the fee or such right, title, interest, or easement in property as the authority may deem necessary for any of the purposes mentioned in this section, and such property or interest in such property may be so acquired whether or not the same is owned or held for public use by corporations, associations or persons having the power of eminent domain, or otherwise held or used for public purposes, including lands held and used for cemetery purposes; and such power of condemnation may be exercised in the mode or method of procedure prescribed by sections 8454 to 8466, or in the mode or method of procedure prescribed by any other applicable statutory provisions now in force or hereafter enacted for the exercise of the power of eminent domain. (14) To do any and all acts and things herein authorized or necessary or convenient to carry out the powers expressly given in this section under, through or by means of its own offices, agents and employees, or by contracts with any person, federal agency or municipality. (15) To subscribe to and comply with any rules or regulations made by any federal agency with regard to any grants or loans from any federal agency.

(8) **AUTHORITY ISSUE BONDS.**—The authority shall have power and is hereby authorized from time to time to issue its bonds in anticipation of its revenues for any corporate purpose. Said bonds may be authorized by resolution or resolutions of the board, and may be issued in one or more series, may bear such date or dates, mature at such time or times not exceeding forty years from their respective dates, bear interest at such rate or rates, not exceeding six per centum per annum, payable semi-annually, be in such denominations, be in such form, either coupon or registered, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, with or without premium, be declared or become due before the maturity date thereof, as such resolution or resolutions may provide. Said bonds may be issued for money or property (at public or private sale for such price or prices) as the board shall determine, provided, that the interest cost to maturity of the money or property (at its value as determined by the board, the determination of which shall be conclusive) received for any issue of said bonds, shall not exceed six per centum per annum, payable semi-annually. Said bonds may be repurchased by the authority out of any available funds at a price not to exceed the principal amount thereof and accrued interest, and all bonds so repurchased shall be cancelled. Pending the preparation or execution

of definite bonds, interim receipts or certificates or temporary bonds may be delivered to the purchaser or purchasers of said bonds.

(9) **VALIDITY OF BONDS.**—Said bonds bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding obligations notwithstanding that before the delivery thereof and payment therefor any or all the persons whose signatures appear thereon shall have ceased to be such officers. The validity of said bonds shall not be dependent on or affected by the validity or regularity of any proceeding relating to the acquisition or improvement of the system or systems for which said bonds are issued. The resolution or resolutions authorizing said bonds may provide that the bonds shall contain a recital that they are issued pursuant to this section, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

(10) **BONDS NOT STATE DEBT.**—No holder or holders of any bonds issued under this section shall ever have the right to compel any exercise of taxing power of the state or of any political subdivision thereof to pay said bonds or the interest thereon. Each bond issued under this section shall recite in substance that said bond, including the interest thereon, is payable from the revenues pledged to the payment thereof, and that said bond does not constitute a debt of the state.

(11) **OPERATION OF AUTHORITY—RATES FOR SERVICES, ETC.**—The authority shall not be operated for gain or profit or primarily as a source of revenue to the state. The authority shall, however, prescribe and collect reasonable rates, fees or charges for the services, facilities and commodities made available by it, and shall revise such rates, fees or charges from time to time whenever necessary so that the authority shall be and always remain self-supporting, and shall not require appropriations by the state to enable it to carry out its purpose. The rates, fees or charges prescribed shall be such as will produce revenue at least sufficient (a) to pay when due all bonds and interest thereon, for the payment of which such revenue is or shall have been pledged, charged or otherwise encumbered, including reserves therefor, and (b) to provide for all expenses of operation, maintenance or improvement of the system or systems acquired by the authority including reserves therefor.

(12) **STATE NOT ALTER AGREEMENTS BETWEEN AUTHORITY AND BOND HOLDERS.**—The state does pledge to and agree with the holders of bonds issued by the authority that the state will not limit or alter the rights and powers hereby vested in the authority to fix and collect such rates, fees and charges as may be necessary or advisable in order to produce sufficient revenue to meet all expenses of maintenance and operation of its system or systems and to fulfill the terms of any agreements made with the holders of such bonds, or in any way impair the rights and remedies of the holders of such bonds, until such bonds together with interest thereon, and interest on any unpaid installments of interest, and all costs and expenses in connection with any suits, actions or proceedings by or on behalf of such bondholders are fully paid and discharged.

(13) **POWERS OF AUTHORITY IN ISSUING AND SECURING PAYMENT OF BONDS.**—In connection with the issuance of bonds or in order to secure the payment of its bonds, the authority incorporated under this section shall have power:

(1) To pledge all or any part of its revenues.

(2) To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay, or in relation to its bonds, to provide for the powers and duties of such trustee or trustees, to limit the liabilities thereof, and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any amount or proportion of them may enforce any such covenant.

(3) To take such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds or which, in the absolute discretion of the board, tend to make the bonds more marketable, notwithstanding that such covenants, acts and things may restrict or interfere with the exercise of the powers herein granted; it being the intention hereof to give the authority power to do all things in the issuance of bonds, and for their security, that a private business corporation can do under the general laws of the state.

(14) **ADDITIONAL RIGHTS OF BOND HOLDERS.**—In addition to all other rights and all other remedies, any holders of bonds of the authority, including a trustee for bondholders, shall have the right by mandamus or other suit, action or proceeding, at law or in equity, to enforce his rights against the authority, including the right to require the authority to fix and collect rates and charges adequate to carry out any agreement as to, or pledge of, the revenues produced by such rates or charges, and to require the authority and such board to carry out any other covenants and agreements with such bondholder and to perform its and their duties under this section.

(15) **STATE AGENCIES CANNOT REGULATE RATES FOR SERVICES, ETC.**—Rates charged for the service and facilities afforded by the authority or of any receiver, if any, appointed by a court of competent jurisdiction shall not be subject to supervision or regulation by any other state bureau, board, commission or other like instrumentality or agency thereof; and it shall not be necessary for the authority or any such receiver to obtain any franchise or other permit from any such bureau, board, commission or other instrumentality of the state in order to carry out the powers authorized by the provisions of this section.

(16) **PROPERTY EXEMPT FROM TAXES.**—The effectuation of its authorized purposes by the authority is and will be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity and for the improvement of their health and living conditions, and since the authority will be performing essential governmental functions in effectuating said purposes, said authority shall not be required to pay any taxes or assessments upon any property acquired or used by it for such purposes, and any bonds or other obligations issued by the authority, their transfer and the income therefrom shall be at all times free from taxation within the state.

(17) **ENERGY—PERSONS GENERATING, TRANSMITTING OR DISTRIBUTING—FURNISH—RATES—TERMS.**—Any person engaged in the business of generating, transmitting or distributing energy shall furnish energy to the authority at points on their generation, transmission or distributional system at such rates and upon such terms and conditions as may be prescribed by the South Carolina public service commission. All bills of any person furnishing energy to the authority, and the rates to be applied thereto, shall be computed on the basis of the monthly aggregate meter readings on all lines of the authority served by such person. Any such person shall, for the purpose of such delivery, install at a fair and reasonable cost to the authority, on its demand, suitable substations, switches, transformers and other like and unlike apparatus. Nothing herein shall be construed to limit the power of the authority itself to generate, transmit or distribute energy pursuant to this section.

(18) **RATES TO STATE.**—If the state or any agency, department or instrumentality thereof elects to avail itself of the service or facilities rendered by the authority, the state or such agency, department or instrumentality shall pay therefor at the regularly established rates.

(19) APPROPRIATION.—The sum of twenty-five thousand dollars (\$25,000.00) or so much thereof as may be necessary, is hereby appropriated to pay for the surveys herein authorized and other preliminary expenses of the authority until funds shall be obtained from the sale of bonds provided for under this section, and the state of South Carolina shall be reimbursed by the authority for any advances made for such purposes.

(20) ON CESSATION OF AUTHORITY STATE RECEIVE ITS PROPERTY.—In the event that the authority shall cease to exist, all of its assets remaining after all of its obligations and liabilities have been satisfied or discharged shall pass to and become the property of the state.

(21) APPLICATION OF LAWS TO SECTION.—This section is complete in itself and shall be controlling. The provisions of any other law, general, special, except as provided in this section, shall not apply to the authority created by this section.

(22) SAVING CLAUSE.—If any provision of this section, or the application of such provision to any person, body, or circumstance shall be held invalid, the remainder of this section, or the application of such provisions to persons, bodies, or circumstances other than those as to which it shall have been held invalid, shall not be affected thereby. 1935 (39) 71.

This section added by 1935/71.

§ 6042-1. Savannah River navigation commission.

See this section in 1934 Supplement.

§ 6042-2. South Carolina intracoastal waterway commission.

1934/1314; 1935/120 provide for South Carolina intracoastal waterway commission and for right-of-way for intracoastal waterway from Winyah Bay to Charleston and from Charleston to Beaufort.

§ 6079. Persons exempt from toll.

See this section in 1934 Supplement.

§ 6129. Bond issue.

See § 6210-1 for refunding outstanding bonds issued by drainage districts.

§ 6157. Formation of drainage districts—petition.

See this section in 1934 Supplement.

§ 6173. Levy of assessments—payment of assessments on lands of the state—drainage tax record.

See this section in 1934 Supplement.

§ 6175. Collection of drainage tax—duties of county treasurer—bond.—It shall be the duty of the county treasurer of each county in which lands of any drainage district organized under this article are situated, to receive the "Drainage tax book" each year, and he is hereby empowered, and it shall be his duty to promptly and faithfully collect the taxes therein set out and to exercise all due diligence in so doing: *Provided, that upon the request of the taxpayer it shall be the duty of the county treasurer to segregate state, county and school taxes from the drainage taxes or assessments and permit said taxes or assessments to be paid at different times.* Where any tract or part thereof has been divided and sold or transferred, the county treasurer shall receive taxes on any part of any tract, piece or parcel of land, charged with such taxes and give his receipt accordingly; *Provided, that in Darlington County the drainage taxes or assessments shall not be segregated from state, county and school taxes, but in said county drainage taxes shall be collected at the same time as other taxes; Provided,* the board of supervisors shall ascertain and determine the amount of such taxes to be paid by each of such owners. The above and foregoing "drainage tax book", shall be the warrant and authority of the county treasurer for

making such demand and collection. The said county treasurer shall make due return of all "Drainage tax book" immediately after the 31st day of December of each year to the secretary of the board of supervisors of the aforesaid drainage district and shall pay over and account for all moneys collected thereon each year to the treasurer of said district. Said county treasurer shall in said "Drainage tax book" verify by affidavit his said return. The said secretary shall each year, within ten days after the return of said county treasurer is delivered to him, prepare and certify to said county treasurer a "Drainage tax book" containing the list of lands so returned by said county treasurer as delinquent, deliver the same to him and take his receipt therefor, and said county treasurer shall proceed to collect such delinquent drainage taxes and demand payment therefor in the manner as herein provided for the collection of current drainage taxes. Before receiving the aforesaid "Drainage tax book" the county treasurer of each county in which lands of the drainage district are located, shall execute to the board of supervisors of the district a bond, with at least two good and sufficient sureties, or some surety or bonding company approved by said board, in the sum that is double the probable amount of any annual installment of said tax to be collected by him during any one year, conditioned that said county treasurer shall pay over and account for all taxes so collected by him according to law. Said bond after approval by the said board of supervisors, shall be deposited with the secretary of the board of supervisors, who shall be custodian thereof and who shall produce the same for inspection and use as evidence whenever and wherever lawfully requested so to do. 1933 (38) 360; 1936 (39) 1747.

The above words in italics added; and the following sentence omitted, "He is further directed and ordered to demand and collect such taxes at the same time that he

demands and collects state and county taxes due on the same lands," 1933/360; 1936/1747.

§ 6176. Delinquent drainage taxes—penalty.

See this section in 1934 Supplement.

§ 6196. Issue bonds — denominations — interest—maturities—execution—sale—payment.

See this section in 1934 Supplement.

See § 6210-1, this supplement.

§ 6204. Pay assessments in full—pay drainage taxes with obligations of district.—* * * *Provided*, that any person, firm or corporation owning land in Darlington, Dillon, Florence, Marion, Clarendon and Williamsburg Counties or any drainage district in one or more of said counties, against which drainage taxes have been assessed or levied, may pay and discharge such taxes with bonds, notes or other written obligations issued by the board of supervisors of the same drainage district in which such land is located, pursuant to the provisions of this article; and the treasurer of either of said counties is authorized and directed to accept in payment of drainage taxes such bonds or obligations of the drainage district in which the land is located, as may have matured at the time they are offered in payment of drainage taxes. 1935 (39) 44.

The above proviso added by 1935/44; 1934/1463.

§ 6210-1. Drainage districts refund outstanding bonds.—Any and all drainage districts in South Carolina, organized by or under the laws of said state, hereby are authorized and empowered to refund all or any part of their outstanding bonds. In each of such drainage districts, the same officers thereof, heretofore authorized and empowered to issue bonds for such drainage district or districts, hereby are empowered and authorized to execute and deliver such refunding bonds as are authorized under this section. The bonds so issued may

mature serially over a period of years not exceeding forty (40) years, as may be determined by the said officers of such district, the first maturing installment not to be more than ten (10) years from the date said bonds bear and the rate of interest shall not exceed six per centum (6%) per annum, payable semi-annually. Said bonds may be sold at either public or private sale, as may be determined by the said officers of such district, provided if sold at public sale, notice of such sale shall be published at least once in a newspaper published in the county in which such district is situated, at least ten (10) days before opening of bids, and if sold at private sale, such sale shall be at not less than par and accrued interest. In lieu of the sale of all or any part of said bonds the said officers shall have the right to exchange all or any part thereof, bond for bond, with the holders of any of the outstanding bonds of said district which the issue is to refund, the bonds of the issue not exchanged may be sold as hereinabove provided for the sale of said bonds. Said bonds shall be secured by the same lien on all lands and other property benefitted in the district and the tax for the payment of said bonds and interest shall be levied in the same manner and times as was provided in the issuance of the bonds for the purpose of refunding which the issue is made, and the provisions of law applicable to drainage districts and drainage district bonds, as well as any special acts relating to and applicable to special drainage districts, shall be of full force and effect as to such issue, except as herein modified as to maturities. 1934 (39) 2259.

This section added by 1934/2259.

§ 6221-1. Electric lighting districts, water supply districts, fire protection districts, and sewer districts in unincorporated communities.

See this section in 1934 Supplement.

§ 6229. Proceedings before probate judge for commitment—duties of superintendent as to applications, etc.—* * * *Provided, however,* that in Lexington County before the judge of probate shall summon any physician to examine the patient there shall be filed with him affidavits of three reliable citizens not related within the third degree to the patient to the effect that the affiant is well acquainted with the patient and his habits, has had opportunity to observe him, and that in his opinion it is generally thought that the said patient is insane and is a fit person to be committed to the state hospital, and that his condition is not attributable to excessive use of alcoholic liquors or to the use of narcotics; or if the condition found to exist in the opinion of affiants is attributable to alcoholic liquors or narcotics, that the same is not of a temporary, but of a permanent character. 1932 (37) 1471; 1935 (39) 85.

The above proviso added by 1932/1471; scians performing lunacy examinations in Clarendon County. 1935/85.

See 1933/220, 1934/1434, for pay of phy-

§ 6232. Admittance of residents and non-residents.

See this section in 1934 Supplement.

§ 6241. Paroles.

See this section in 1934 Supplement.

§ 6272. Time advertise estrays.—At the same time such magistrate shall cause the stray to be advertised at three or more public places in the county, one of which shall be on the court house door, for twenty days or by advertising in a gazette published within the county. 1935 (39) 227.

Time to advertise estrays changed, 1935/227.

§ 6287. Proceedings when owner unknown.

See section 6272 this Supplement.

§ 6326. **Cities between 5,000 and 6,500 grant exclusive franchises to operators of motion pictures, etc.**—City councils of cities in this state having a population as shown by the last census taken by the United States government of between five thousand and sixty-five hundred inhabitants, are authorized and empowered to grant exclusive franchises to operators of motion pictures and to other like forms of public amusements and entertainment under such regulation ordinances as may be adopted by the municipal authorities of such cities, but such franchises shall not be for longer than twenty years. 1935 (39) 406.

Cities from 5,000 to 6,000 included in this section, 1935/406.

§ 6327. **Circuses or other traveling shows exhibiting under canvas or outdoors for gain—license.**—* * * (1) *Provided*, that in Marlboro County the following license shall be paid: truck traveling shows with ten motor driven vehicles, or less, five (\$5.00) Dollars per day, and for each additional ten motor driven vehicles, or part thereof, five (\$5.00) dollars per day; railroad circuses with not over twenty-five cars fifty (\$50.00) dollars per day, and railroad circuses with more than twenty-five cars, one hundred (\$100.00) dollars per day. *Provided, further*, that no county license shall be required where any of the above named traveling shows and circuses shall pay a town or city license of the amount or amounts set forth above. 1935 (39) 288.

(2) *Provided*, that no circus, carnival or traveling show of any kind exhibiting under canvas shall be licensed, or allowed to exhibit or do business in Laurens County, under any auspices or condition for a longer period than thirty (30) days prior to the opening of the county fair. This provision, however, shall not apply to carnivals or traveling shows exhibiting under the auspices of Laurens County fair during the particular week of such fair. 1936 (39) 1619.

Proviso (1) added by 1935/288.

Proviso (2) added by 1936/1619.

Comma added after "county" line 3 of this section, 1932 Code, by 1935/288.

§ 6333. **Carnivals and traveling tent shows.**—(1) UNLAWFUL EXHIBIT—EXCEPTIONS—* * * (1) Be it further *provided*, that the provisions of this section shall not apply to the city and county of Beaufort and counties of Bamberg and Orangeburg during the time that any celebration, fairs or amusements are held in said city or county under the sponsorship of the volunteer fire department of the city of Beaufort, or under the sponsorship of the American Legion and volunteer fire department in the counties of Bamberg and Orangeburg. 1935 (39) 421.

(2) *Provided, further*, that the provisions of this section shall not apply in the county of Greenville when any such carnival or traveling show exhibiting under tents shall be under the auspices of the American Legion or other eleemosynary associations: *Provided*, that no such organization shall have the right to exhibit any such carnival or show during the time or within 30 days immediately preceding the opening of a county fair, and for a period of three days after the closing of any such fair. Only carnivals to which no games of chance or gambling devices attached shall be allowed to exhibit in the county of Greenville; *Provided, further*, that any carnival exhibiting annually in Greenville County under the auspices of the Greenville County fair association incorporated, during the actual showing of said county fair, shall be exempt from paying any license imposed upon carnivals by the said county of Greenville. 1935 (39) 266.

(3) *Provided*, that the prohibition of carnivals and tent shows provided by the terms of this section as now or hereafter amended, shall not apply within

the limits of Aiken, Allendale, Barnwell, Berkeley, Calhoun, Chester, Clarendon, Florence, Greenville, Greenwood, Hampton, Marlboro, Newberry, Orangeburg, Pickens, Richland, Saluda, Spartanburg, Sumter, and Union Counties; and carnivals and tent shows shall be permitted to therein exhibit without license (except the license tax upon admissions provided by section 2531) when such exhibitions are under the auspices of a regularly established post of the American Legion in the county in which such exhibitions are had; *provided* that the arrangement between such carnivals and tent shows and the legion posts under whose auspices they exhibit shall have been made at least three days before the commencement of any exhibition. 1935 (39) 388.

(4) *Provided, however*, that not more than one carnival or traveling show may exhibit under the auspices of the Darlington county fair, and one at the Hartsville fair, and one under the auspices of the American Legion at Darlington and one under auspices of the American Legion at Hartsville, during any calendar year. It shall be the duty of the sheriff and/or his deputies to enforce the provisions of this proviso, and failure to do same shall constitute cause for removal from office. No games of chance of any nature shall be permitted at any carnival or traveling show in Darlington County. 1936 (39) 1653.

Proviso (1) added by 1935/421.

Proviso (2) added by 1935/266.

Proviso (3) added by 1935/388.

Proviso (4) added by 1936/1653.

1934/1484 amended this section as to

Horry County; however 1935/266, 421 did not take notice of such amendment, and each of the said 1935 acts reenacted section 6333 as it was prior to the said 1934 act.

§ 6350. Tables exempt.

See this section in 1934 Supplement.

§ 6367. **Materials.**—(1) CLASSIFICATION—LABELING—SUBSTITUTION—SPECIAL CONTRACTS—DAMAGES AND PENALTY.—(a) The materials used in the manufacture and mixing of all fertilizers supplying nitrogen or ammonia, and offered for sale in this state, shall be divided into two classes, namely, water-soluble and available water-insoluble; and the percentage of nitrogen or ammonia coming from either of these two classes shall be guaranteed, but allowing a variability of one-fourth of one per cent, for goods containing two per cent. of ammonia or under, and a variability of one-third of one per cent. for goods containing two and three per cent ammonia, and a variability of one-half of one per cent. for goods containing over three per cent. ammonia, and the several materials in each of these two classes shall be named on the bag or on a tag attached thereto, and it shall be permissible for the manufacturer to substitute one or more materials in either class of approximately equal agricultural value for other materials of the same class: *Provided*, that where there is a contract of agreement between a manufacturer and a purchaser of fertilizer that the fertilizer will be manufactured by the use of certain definite sources and amounts of ammonia and potash, the fertilizer must be manufactured from these materials without substitution of other materials and failure on the part of the manufacturer to comply with this requirement shall render the manufacturer liable to the purchaser for damages as it is now prescribed by law, and in addition thereto the manufacturer shall pay to the purchaser a penalty equal to one-fourth of the purchase price of such fertilizer.

(b) MANUFACTURERS AND MIXERS STATE AMOUNT AND ANALYSIS OF EACH MATERIAL, OR SOURCE, OF EACH PLANT FOOD ELEMENT USED IN MANUFACTURE.—The amount of analysis of each material, or source, of each plant food element used in manufacture, of a fertilizer mixture containing two or more plant food elements be stated on a tag attached to each sack or container, such amount of

material to be stated in pounds per hundred pounds of mixture contained in the sack or other container. This statement of pounds of materials used in the manufacture, of a fertilizer mixture shall be in addition to the statement of chemical analysis as required by section 6366. 1933 (38) 292; 1936 (39) 1401.

1933/292, generally, in paragraph (a) "mineral and organic" to "water soluble changed the classes of materials used in manufacture and mixture of fertilizers and available water-insoluble." 1936/1401 added paragraph (b).
supplying nitrogen or ammonia from

§ 6394. Traffic in unpacked lint cotton regulated—license—hours of sale.

See this section in 1934 Supplement.

§ 6402. When public cotton weighers may be elected.

See this section in 1934 Supplement.

§ 6412. Cotton weighers, Calhoun County.

See this section in 1934 Supplement.

§ 6418. Cotton weighers, Chester County.

See this section in 1934 Supplement.

§ 6424. Cotton weigher for Johnston, Edgefield County.

See this section in 1934 Supplement.

§ 6425. Compensation for cotton weighers in Edgefield County.

See this section in 1934 Supplement.

§ 6426. Compensation of cotton weighers, York and Florence Counties—amount charge on truck sold for maintenance of truck market, Florence County.—The public cotton weighers of York County shall receive as compensation for their services twenty (20) cents for each bale of cotton weighed by them, ten (10) cents of which shall be paid by the seller and ten (10) cents by the buyer thereof. The governing board of Florence County shall fix the compensation of the respective cotton weighers for Florence County, *Provided* that in the county of Florence there shall be charged not exceeding two cents (2c) per hamper on all truck sold in said county as expenses for the maintenance of the truck market, and that such amount so collected for said expenses shall be equally divided and one-half of said amount shall be paid by the buyer and one-half by the seller. 1936 (39) 1304, 1608.

§ 6428. Cotton weigher for town of Kershaw.

See this section in 1934 Supplement.

§ 6429. Cotton weigher for Dekalb township, Kershaw County.

See 1932/1535 and 1935/110, which super- tion, fees, duties, etc., of the cotton weigher, sede this section, 1932 Code, for the elec- DeKalb township, Kershaw County.

§ 6430. Cotton weigher for Bethune, Kershaw County.

See this section in 1934 Supplement.

§ 6434. Cotton weigher, town of Batesburg.—Repealed by 1936 Acts, page 1393.

§ 6437. Election for cotton weigher at Swansea:

See this section in 1934 Supplement.

§ 6466. Cotton warehouse system abolished.

See this section in 1934 Supplement.

§ 6467. Standard grades.

See this section in 1934 Supplement.

§ 6469. Suits by or against commissioner—warehouse receipts—inspection of warehouses.

See this section in 1934 Supplement.

§ 6470. Export license.

See this section in 1934 Supplement.

§ 6473. Commissioner to make reports.

See this section in 1934 Supplement.

§ 6475. Bond of commissioner.

See this section in 1934 Supplement.

§ 6476. Warehouse receipts.

See this section in 1934 Supplement.

§ 6478. Penalty for issuing duplicate receipt.

See this section in 1934 Supplement.

§ 6484. Appropriation for revolving fund for purchase of cotton seed and/or fertilizer by commissioner.

See this section in 1934 Supplement.

§ 6485. Expenses.

See this section in 1934 Supplement.

§ 6488. Revolving fund for purchase of farm seeds, fertilizers and/or calcium arsenic by the commissioner.

See this section in 1934 Supplement.

§ 6489. Commissioner may purchase and distribute fertilizer, etc.

See this section in 1934 Supplement.

§ 6490. Close warehouse not paying insurance.

See this section in 1934 Supplement.

§ 6491. "Cotton" defined.

See this section in 1934 Supplement.

§ 6498. Duties of commissioner in collection of premiums.

See this section in 1934 Supplement.

§ 6502. Objects for which associations may be formed.

See this section in 1934 Supplement.

§ 6504. Powers.—Each association incorporated under this article shall have the following powers:

(a) To engage in any activity in connection with the producing, marketing, selling, harvesting, preserving, drying, processing, canning, packing, storing, handling or utilization of any agricultural products produced or delivered to it by its members; or the manufacturing or marketing of the by-products thereof; or in connection with the purchase, hiring or use by its members of supplies, machinery or equipment; or in the financing of any such activities, or in any one or more of the activities specified in this section. No such association, during any fiscal year thereof, shall deal in or handle products, machinery equipment, supplies and/or perform services for and on behalf of non-members to an amount greater in value than such as are dealt in, handled and/or performed by it for and on behalf of members during the same period.

(b) To borrow money and to make advances to members.

(c) To act as agent or representative of any member or members in any of the above-mentioned activities.

(d) To purchase or otherwise acquire, and to hold, own and exercise all rights of ownership, in, and to sell, transfer or pledge shares of the capital stock or bonds of any corporation or association engaged in any related activity or in the handling or marketing of any of the products handled by the association.

(e) To establish reserves and to invest the funds thereof in bonds or such other property as may be provided in the by-laws.

(f) To buy, hold and exercise all privileges of ownership over such real or personal property as may be necessary or convenient for the conducting and operation of any of the business of the association or incidental thereto.

(g) To do each and every thing necessary, suitable or proper for the accomplishment of any one of the purposes or the attainment of any one or more of the objects herein enumerated, or conducive to or expedient for the interest or benefit of the association, and to contract accordingly; and in addition to exercise and possess all powers, rights and privileges necessary or incidental to the purposes for which the association is organized or to the activities in which it is engaged; and in addition, any other rights, powers and privileges granted by the laws of this state to ordinary corporations, except such as are inconsistent with the express provisions of this article; and to do any such thing anywhere. 1935 (39) 163.

§ 6506. **Articles of incorporation.**—Each association formed under this article must prepare and file articles of incorporation, setting forth:

- (a) Name of the association.
- (b) The purpose for which it is formed.
- (c) The place where its principal business will be transacted.
- (d) The term for which it is to exist, not exceeding fifty (50) years.
- (e) The names and addresses (not less than five) of those who are to serve as directors for the first term or until the election of their successors.
- (f) If organized without capital stock, whether the property rights and interest of each member shall be equal or unequal; and if unequal, the articles shall set forth the general rule or rules applicable to all members by which the property rights and interests, respectively, of each member may and shall be determined and fixed; and the association shall have the power to admit new members who shall be entitled to share in the property of the association with the old members, in accordance with such general rule or rules. This provision of the articles of incorporation shall not be altered, amended, or repealed except by the written consent or the vote of three-fourths of the members.

(g) If organized with capital stock, the amount of such stock and the number of shares into which it is divided and the par value thereof. The capital stock may be divided into preferred and common stock. If so divided, the articles of incorporation must contain a statement of the number of shares of stock to which preference is granted and the number of shares of stock to which no preference is granted and the nature and extent of the preference and privileges granted to each.

In addition to the foregoing, the articles of incorporation may contain any provision consistent with law with respect to management, regulation, government, financing, indebtedness, membership, the establishment of voting districts and the election of delegates for representative purposes, the issuance, retirement and transfer of its stock, if formed with capital stock, or any provisions relative to the way or manner in which it shall operate with respect to its members, officers, or directors and any other provisions relating to its affairs: *Provided*, that nothing set forth in this paragraph shall be construed as limiting any of the rights or powers otherwise given to such associations.

The articles must be subscribed by the incorporators and acknowledged by one of them before an officer authorized by the law of this state to take and certify acknowledgments of deeds and conveyances; and shall be filed in accordance with the provisions of the general corporation law of this state and when so filed, shall be received in all of the courts of this state and other places as *prima facie* evidence of the facts contained therein, and of the due incorporation of such association. A certified copy of the articles of incorporation shall also be filed with the director of the state extension service of Clem-

son College (and the director of the cotton market bureau of this state). 1935 (39) 163.

§ 6507. Amendment of articles of incorporation.—The articles of incorporation may be altered or amended at any regular meeting or at any special meeting called for that purpose. An amendment must first be approved by two-thirds of the directors and then adopted by a vote representing a majority of a quorum of the members attending a meeting of which notice of the proposed amendment shall have been given. Amendments to the articles of incorporation when so adopted shall be filed in accordance with the provisions of the general corporation law of this state. 1935 (39) 163.

Vote to adopt amendment to articles of incorporation changed, 1935/163.

§ 6508. By-laws.—Each association incorporated under this article must, within thirty (30) days after its incorporation, adopt for its government and management, a code of by-laws, not inconsistent with the powers granted by this article. *A majority vote of a quorum of the members or stockholders attending a meeting, of which notice of the proposed by-law or by-laws shall have been given, is sufficient to adopt or amend the by-laws.* Each association under its by-laws may also provide for any or all of the following matters:

* * *

(i) The number and qualification of members or stockholders of the association and the conditions precedent to membership or ownership of common stock; the method, time and manner of permitting members to withdraw or the holders of common stock to transfer their stock; the manner of assignment and transfer of the interest of members, and of the shares of common stock, the conditions upon which, and time when, membership of any member shall cease. The automatic suspension of the rights of a member when he ceases to be eligible to membership in the association, and mode, manner and effect of the expulsion of a member; manner of determining the value of a member's interest and provision for its purchase by the association upon the death or withdrawal of a member or stockholder or upon the expulsion of a member or forfeiture of his membership, or, at the option of the association, by conclusive appraisal by the board of directors. In case of the withdrawal or expulsion of a member, the board of directors shall equitably and conclusively appraise his property interest in the association and shall fix the amount thereof in money, which shall be paid to him within one year after such expulsion or withdrawal. 1935 (39) 163.

The second sentence of the first paragraph was eliminated and the second sentence of the present paragraph substituted therefor by 1935/163. Comma

omitted after the word "stockholders," paragraph (i). This section otherwise remains unchanged.

§ 6512. Membership and stock—liability of members—voting.—When a member of an association established without capital stock has paid his membership fee in full, he shall receive a certificate of membership. No association shall issue stock to a member until it has been fully paid for. The promissory notes of the members may be accepted by the association as full or partial payment. The association shall hold the stock as security for the payment of the note, but such retention as security shall not affect the members' right to vote. Except for debts lawfully contracted between him and the association no member shall be liable for the debts of the association to an amount exceeding the sum remaining unpaid on his membership fee or his subscription to the capital stock, including any unpaid balance on any promissory notes given in payment thereof. No stockholder of a cooperative association shall own more than one-half

of the issued common stock of the association; and an association, in its by-laws, may limit the amount of common stock which one member may own to any amount less than one-twentieth of the issued common stock.

There shall be three methods of voting, each organization determining and stating in their by-laws which method of voting shall be used, the methods of voting to be one of the three methods as outlined herewith. First, each owner of common stock to be allowed to vote his holdings of common stock, provided however that he shall not have a vote exceeding that which corresponds to twenty (20%) per cent of the total stock issued and outstanding by the organization; or second, any cooperative association may allow its members to vote according to their volume of business in proportion to the total volume transacted by the member through or with the organization during the fiscal year immediately preceding the annual or special meeting at which the vote shall be taken, and each organization may determine the unit of volume which shall be used as a basis of computing the votes, such volume to be calculated as a basis of voting by units of value which each organization may determine in its by-laws; or, third, each member or common stockholder shall be entitled to one vote. Any association organized with stock under this article may issue preferred stock, with or without the right to vote. Such stock may be redeemable or retirable by the association on such terms and conditions as may be provided for by the articles of incorporation and printed on the face of the certificate. The by-laws shall prohibit the transfer of the common stock of the association to persons not engaged in the production of the agricultural products handled by the association, and such restrictions must be printed upon every certificate of stock subject thereto.

The association may, at any time, except when the debts of the association exceed fifty (50%) per cent of the assets thereof, buy in or purchase its common stock at book value thereof as conclusively determined by the board of directors and pay for it in cash within one year thereafter. 1935 (39) 205.

§ 6575. Inspection of illuminating oils, gasoline, etc.

See this section in 1934 Supplement.

§ 6585. Inspection of petroleum products—enforcement of requirements.

See this section in 1934 Supplement.

§ 6587. Labeling of concentrated commercial feeds.—Every lot or parcel of concentrated commercial feeding stuff sold, offered or exposed for sale within this state shall have affixed thereto, or printed thereon in a conspicuous place on the outside thereof, a legible and plainly printed statement, in the English language, clearly and truly certifying the weight of the package (provided that all concentrated commercial feeding stuffs shall be in standard weight bags or packages of 25, 50, 75, 100, 125, 150, 175, or 200 pounds); the name, brand or trademark under which the article is sold; the name and address of the manufacturer, jobber or importer; the name of each and all ingredients of which the article is composed; a statement of the maximum percentage it contains of crude fiber, and the percentage of crude fat, and percentage of crude protein; all three constituents to be determined by the methods in use at the time by the association of official agricultural chemists of the United States. 1936 (39) 1592.

“and the percentage of carbohydrates, al- eliminated from statement of contents,
lowing one per cent. of nitrogen to equal 1936/1592.
six and one-fourth per cent. of protein”

§ 6589. File statement with commissioner of agriculture and commerce.—Each and every manufacturer, importer, jobber, agent or seller, before sell-

ing, offering or exposing for sale in this state any concentrated commercial feeding stuff, shall, for each and every feeding stuff bearing a distinguished name or trademark, file for registration with the commissioner of agriculture and commerce a copy of the statement required in section 6587, and accompany said statement, on request, by a sealed glass jar or bottle containing at least one pound of such feeding stuff to be sold, exposed or offered for sale, which sample shall correspond within reasonable limits to the feeding stuff which it represents, in the percentage of crude protein, crude fat, and crude fiber which it contains. 1936 (39) 1592.

"Carbohydrates" omitted before the word 1592.
 "which" on last line of this section, 1936/

§ 6592. Inspection tax stamp—sales in bulk—exemptions.—Each and every manufacturer, importer, jobber, agent or seller of any concentrated commercial feeding stuff, as defined in section 6588, shall pay to the commissioner of agriculture and commerce, who shall deposit same in the state treasury on or before the tenth day of each month, as other funds, an inspection tax of 25 cents per ton for each ton of such commercial feeding stuff sold, offered or exposed for sale or distributed in this state, and shall affix to, or accompany each car shipped in bulk and to each bag, barrel or other package of such concentrated commercial feeding stuff, a stamp to be furnished by the commissioner of agriculture and commerce, stating that all charges specified in this section have been paid: *Provided*, whenever any concentrated commercial feeding stuff, as defined in section 6588, is kept for sale in bulk, stored in bins or otherwise, the manufacturer, dealer, jobber or importer keeping the same for sale shall keep on cards of proper size, upon which the statement or statements in section 6587 is, or are plainly printed; and if the feeding stuff is sold at retail in bulk, or if it is put up in packages belonging to the purchaser, the manufacturer, dealer, jobber or importer shall furnish the purchaser with one of said cards upon which is, or are, printed the statement, or statements, described in this section, together with sufficient tax stamps to cover same: *Provided*, that the inspection tax of 25 cents per ton shall not apply to whole seeds and grains when not mixed with other seeds or materials: *Provided, further*, that upon demand said inspection stamps shall be redeemed by the department issuing said stamps upon surrender of same, accompanied by an affidavit that the same have not been used: *Provided*, that nothing in this article shall be construed to restrict or prohibit the sale of concentrated commercial feeding stuff in bulk to each other by importers, manufacturers or manipulators who mix concentrated commercial feeding stuff for sale; but importers, manufacturers and manipulators shall attach to such feeding stuff a tax stating that it is to be used for mixing purposes only, and this tag shall give the number of pounds in bulk or package, the name of the manufacturer, the name of the stuff and its analysis, showing crude protein, crude fat, and crude fiber, and a duplicate of said tag shall be sent to the commissioner of agriculture and commerce, together with a request for inspection. The commissioners of agriculture and commerce is hereby empowered to prescribe the form of such tag stamps. 1936 (39) 1592.

"hand" omitted after the word "on," line 21; and "and carbohydrates," omitted 13; comma omitted after word "demand" after the word "fiber" line 31, 1936/1592.

§ 6681-1. South Carolina board for promotion of external trade.—(1) **CREATED—MEMBERS.**—There is hereby created the South Carolina board for promotion of external trade. Such board shall be composed of:

The Governor of the state, the commissioner of agriculture, commerce and industry, the chairman of the port utilities commission of Charleston, the presi-

dent of the South Carolina federation of labor, the president of the state federation of womans clubs, the president of the South Carolina press association, the president of Clemson College, the president of the South Carolina bankers association, the chairman of the South Carolina forestry commission, the president of the cotton manufacturers association of South Carolina, the president of the South Carolina economics association, the president of the South Carolina education association and a citizen of the state, appointed by the Governor to represent the public. Each named official shall be a member of said board by virtue of his office. The citizens appointed by the Governor shall hold office for a term of four years, and until his successor is appointed and qualified. The Governor of the state shall be the general chairman of the board, the commissioner of agriculture, commerce and industry shall be executive chairman, the chairman of the port utilities commission of Charleston vice-chairman thereof and the president of the South Carolina home economics association executive secretary.

(2) ORGANIZATION.—The said board shall have the right to organize itself into such divisions and subdivisions as may be necessary or convenient for carrying out the purposes for which it is created, may designate sub-chairman and other officers as may be found necessary; and generally make such rules and regulations as in its judgment are necessary or proper.

(3) MEETINGS.—Meetings of the board shall be held at the call of the general chairman, or the executive chairman, at such time and place as may be designated.

(4) DUTIES.—It shall be the duty of the board hereby created to compile surveys showing the nature and extent of the natural resources, and of the manufactured products and raw materials found or produced in the state which may move in domestic or foreign commerce; and such surveys, upon completion, shall be public documents and distributed within and without the state as the board sees proper to promote interest in the industrial opportunities offered in South Carolina and to develop a greater interchange of commodities between the people of this state and other states and counties. It shall be the duty of the board to determine the areas throughout the world where commodities and products of this state may find advantageous markets and to secure perfection of arrangements between citizens of this state and producers and consumers in other areas whereby there may be carried on greater interchange of commerce. 1935 (39) 397.

This section added by 1935/397.

§ 6681-2. Interstate cooperation.—(1) SOUTH CAROLINA COMMISSION ON INTERSTATE COOPERATION.—There is hereby established the South Carolina commission on interstate cooperation, which shall encourage and arrange conferences with officials of other states and of other units of government; carry forward the participation of this state as a member of the council of state governments, both regionally and nationally; and formulate proposals for cooperation between this state and other states.

(2) COMMITTEE ON INTERSTATE COOPERATION OF SENATE.—There is hereby established a standing committee on interstate cooperation of the Senate, to consist of five Senators. The members and chairman of this committee shall be designated in the same manner as is customary in the case of the members and chairmen of other standing committees of the Senate. The Lieutenant-Governor may serve ex-officio as one of the five members of this committee.

(3) **COMMITTEE ON INTERSTATE COOPERATION OF HOUSE OF REPRESENTATIVES.**—There is hereby established a similar standing committee on interstate cooperation of the House of Representatives, also to consist of five members; and the members and chairman of this committee shall be designated in the same manner as is customary in the case of the members and chairmen of other standing committees of the House of Representatives.

(4) **MEMBERS OF COMMISSION.**—The said commission on interstate cooperation shall be composed of fifteen members, namely:

The five members of the committee on interstate cooperation of the Senate, the five members of the committee on interstate cooperation of the House of Representatives, and five officials of the state government, named by the Governor, one of whom shall be designated by him as the chairman of the commission, the said state officials, when so named, to serve ex-officio. The Governor shall be an honorary member of the commission.

(5) **BOARDS AND COMMITTEES.**—The commission shall establish such committees as it deems advisable, to conduct conferences and to formulate proposals concerning subjects of intergovernmental cooperation. Subject to the approval of the commission, the members of every such committee shall be appointed by the chairman of the commission. State officials who are not members of the commission on interstate cooperation may be appointed as members of any such committee, but at least one member of the commission shall be a member of every such committee. The commission may provide such rules as it considers appropriate concerning the membership and the functioning of any committee which it establishes. The commission may provide for advisory boards for itself and for its various committees, and for the service of private citizens on such boards.

(6) **REPORTS—COMPENSATION—POWERS.**—The commission shall report to the Governor and to the legislature within fifteen days after the convening of each regular legislative session, and at such other times as it deems appropriate. Its members and the members of all committees which it establishes shall serve without compensation, but they shall be paid their necessary expenses in carrying out their obligations under this section. The commission may employ a secretary and a stenographer; it may incur such other expenses as may be necessary for the proper performance of its duties; and it may, by contributions to the council of state governments, participate with other states in maintaining the said council's regional and central secretariats, and its other governmental service.

(7) **TERMS.**—The said standing committee of the senate and the said standing committee of the House of Representatives, shall function during the regular sessions of the legislature and also during the interim periods between such sessions; their members shall serve until their successors are designated; and they shall respectively constitute the senate and house councils of the American legislators' association for this state. The terms of each administration member of the commission appointed by the Governor shall extend until the next gubernatorial inauguration and thereafter until his successor is appointed. 1936 (39) 1322.

This section added by 1936/1322.

§ 6683. **Composition and qualification.**

See this section in 1934 Supplement.

§ 6688. **Apprentices for ports other than Charleston.**

See this section in 1934 Supplement.

§ 6693. Number of pilots limited.—The number of pilots for the bar and harbor of Charleston shall not exceed twelve: *Provided*, that no pilot now licensed shall hereby lose his license, but no other person shall be licensed until the number of pilots is less than twelve. The number of pilots for the port of Beaufort shall be limited to twelve, and for the bar and harbor of Georgetown to eleven, with power to the said commissioners of pilotage to increase the number for the port of Beaufort to fifteen and for Georgetown to fifteen, if in their judgment the commerce of either of said ports shall require such increase. The number of pilots for the other ports shall be fixed by the commissioners of pilotage at such ports; but such limit in number shall not operate as an exclusion of any pilot who now holds a regularly issued license. The said board shall make no distinction in the selection of pilots on account of race, color or previous condition. 1935 (39) 202.

The number of pilots for bar and harbor of Charleston decreased from fifteen to twelve, 1935/202.

§ 6738. Interest regulated.

See this section in 1934 Supplement.
See § 2854.

installments.

See section 2854 hereof for interest rate on property bid in at tax sales.

See section 7829-1 hereof for interest rate on loans made by banks payable in

§ 6740. Usury.

Collection of interest in advance is lawful provided written obligation contains provision permitting collection of interest in advance, but in absence of such provision, collection of interest in advance is not lawful and may violate usury law. *Johnson v. Groce*, 175 S. C., 312; 179 S. E., 39.

held violation of usury law where note provided only for collection of interest annually in advance after maturity. *Johnson v. Groce*, 175 S. C., 312; 179 S. E., 39.

Conservator-receiver of bank liable for usurious interest collected by him but not for usurious interest collected by bank before his appointment. *Johnson v. Groce*, 175 S. C., 312; 179 S. E., 39.

Collection of interest semi-annually and quarter-annually in advance after maturity

§ 6752. Negotiable instruments in general.

Relation between bank and depositor is that of debtor and creditor, and contract is that bank will pay check of depositor on

presentation. *Wilson v. Bank of Camden*, _____ S. C., _____; 185 S. E., 617.

§ 6871. When secondary liability discharged.

Provision in note that indorsers waived any benefit which might accrue to them because of "any extension" of time granted to principal held to contemplate only single extension, so that subsequent ex-

tensions after one extension for definite time without indorser's consent discharged indorser. *Tuten v. Bowden*, 173 S. C., 256; 175 S. E., 510.

§ 6949. Bank is agent for collection.

See this section in 1934 Supplement.

§ 6960. * * *

Acceptance of unconditional credit makes this section inapplicable. *Lindsay v. Elliott*, 77 F. (2nd), 95.

§ 7034. Certificates for wages due—negotiable—redemption—employers with regular pay days—exceptions.

See this section in 1934 Supplement.

§ 7035. Penalty for violation of provisions.

See this section in 1934 Supplement.

ARTICLE 4.—WORKMEN'S COMPENSATION

§ 7035-1. Short title.—This article shall be known and cited as "The South Carolina workmen's compensation law." 1936 (39) 1231

This article, § 7035-1 thru § 7035-76, added by 1936/1231.

§ 7035-2. Definitions.—When used in this article, unless the context otherwise requires:

(a) The term "employment" includes employment by the state and all political subdivisions thereof, and all public and quasi-public corporations therein

and all private employments in which fifteen or more employees are regularly employed in the same business or establishment, except agriculture and domestic service.

(b) The term "employee" means every person engaged in an employment under any appointment or contract of hire or apprenticeship, express or implied, oral or written, including aliens, and also including minors, whether lawfully or unlawfully employed, but excluding persons whose employment is both casual and not in the course of the trade, business, profession or occupation of his employer, and as relating to those so employed by the state, the term "employee" shall include all officers and employees of the state, except only such as are elected by the people, or by the General Assembly, or appointed by the Governor, either with or without the confirmation of the Senate; as relating to municipal corporations and political subdivisions of the state, the term "employee" shall include all officers and employees thereof, except such as are elected by the people or elected by the council or other governing body of said municipal corporation or political subdivision, who act in purely administrative capacities, and to serve for a definite term of office. Any reference to an employee who has been injured shall, when the employee is dead, include also his legal representative, dependents, and other persons to whom compensation may be payable.

(c) The term "employer" means the state and all political subdivisions thereof, all public and quasi-public corporations therein, every person carrying on any employment and the legal representative of a deceased person or the receiver or trustee of any person.

(d) The term "person" means individual, partnership, association or corporation.

(e) "Average weekly wages" shall mean the earnings of the injured employee in the employment in which he was working at the time of the injury during the period of fifty-two weeks immediately preceding the date of the injury, divided by fifty-two, but if the injured employee lost more than seven consecutive calendar days at one or more times during such period, although not in the same week, then the earnings for the remainder of such fifty-two weeks shall be divided by the number of weeks remaining after the time so lost has been deducted. Where the employment prior to the injury extended over a period of less than fifty-two weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed; provided results fair and just to both parties will be thereby obtained. Where, by reason of a shortness of time during which the employee has been in the employment of his employer or the casual nature or terms of his employment, it is impracticable to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which during the fifty-two weeks previous to the injury was being earned by a person of the same grade and character employed in the same class of employment in the same locality or community.

But where for exceptional reasons the foregoing would be unfair, either to the employer or employee, such other method of computing average weekly wages may be resorted to as will most nearly approximate the amount which the injured employee would be earning were it not for the injury.

Wherever allowances of any character made to an employee in lieu of wages are specified part of the wage contract they shall be deemed a part of his earnings.

(f) "Injury and "personal injury" shall mean only injury by accident arising out of and in the course of the employment, and shall not include a disease in any form, except where it results naturally and unavoidably from the accident.

(g) The term "carrier" or "insurer" means any person or fund authorized under § 7035-67 to insure this article, and includes self-insurers.

(h) The term "commission" means the South Carolina industrial commission, to be created under the provisions of this article.

(i) The term "disability" means incapacity because of injury to earn the wages which the employee was receiving at the time of injury in the same or any other employment.

(j) The term "death" as a basis for right to compensation means only death resulting from an injury.

(k) The term "compensation" means the money allowance payable to an employee or to his dependents as provided for in this article, and includes funeral benefits provided herein.

(l) The term "child" shall include a posthumous child, a child legally adopted prior to the injury of the employer, and a stepchild or acknowledged illegitimate child dependent upon the deceased, but does not include married children unless wholly dependent upon him. "Grandchild" means a child as above defined of a child as above defined. "Brother" and "sister" include stepbrothers and stepsisters, half-brothers and half-sisters, and brothers and sisters by adoption, but does not include married brothers nor married sisters unless wholly dependent on the employee. "Child", "grandchild", "brother", and "sister" include only persons who at the time of the death of the deceased employee are under eighteen years of age, or wholly dependent upon the employee.

(m) The term "parent" includes step-parents and parents by adoption, parents-in-law, and any person who for more than three years prior to the death of the deceased employee stood in the place of a parent to him, if dependent on the injured employee.

(n) The term "widow" includes only the decedent's wife living with or dependent for support upon him at the time of his death; or living apart for justifiable cause or by reason of his desertion at such time.

(o) The term "widower" includes only the decedent's husband who at the time of her death lived with her and was dependent for support upon her.

(p) The term "adoption" or "adopted" means legal adoption prior to the time of the injury.

(q) The singular includes the plural and the masculine includes the feminine and neuter.

(r) In all claims for compensation for hernia or rupture, resulting from injury by accident arising out of and in the course of the employee's employment, it must be definitely proven to the satisfaction of the industrial commission:

First. That there was an injury resulting in hernia or rupture.

Second. That the hernia or rupture appeared suddenly.

Third. That it was accompanied by pain.

Fourth. That the hernia or rupture immediately followed an accident.

Fifth. That the hernia or rupture did not exist prior to the accident for which compensation is claimed.

All hernia or rupture, inguinal, femoral or otherwise, so proven to be the result of an injury by accident arising out of and in the course of the employment, shall be treated in a surgical manner by a radical operation. If death results from such operation, the death shall be considered as a result of the injury, and compensation paid in accordance with the provisions of § 7035-38. In non-fatal cases, if it is shown by special examination, as provided in § 7035-27, that the injured employee has a disability resulting after the operation, compensation for such disability shall be paid in accordance with the provisions of this article.

In case the injured employee refuses to undergo the radical operation for the cure of said hernia or rupture, no compensation will be allowed during the time such refusal continues. If, however, it is shown that the employee has some chronic disease or is otherwise in such physical condition that the commission considers it unsafe for the employee to undergo said operation, the employee shall be paid compensation in accordance with the provisions of this article. 1936 (39) 1231.

§ 7035-3. Pending litigation.—The provisions of this article shall not affect pending litigation. 1936 (39) 1231.

§ 7035-4. Acceptance of provisions—must give notice of contrary.—Every employer and employee, except as herein stated, shall be presumed to have accepted the provisions of this article respectively to pay and accept compensation for personal injury or death by accident arising out of and in the course of the employment, and shall be bound thereby, unless he shall have given, prior to any accident resulting in injury or death, notice to the contrary in the manner herein provided. 1936 (39) 1231.

§ 7035-5. Employers and employees waive exemptions—giving notice of non-acceptance and notice of waiver of exemption.—(1) WAIVE EXEMPTION—NOTICE OF NON-ACCEPTANCE—NOTICE OF WAIVER OF EXEMPTION—GIVING—FILE WITH COMMISSION—ADMISSIBLE EVIDENCE.—Either an employer or employee, who has exempted himself by proper notice from the operation of this article, may at any time waive such exemption, and thereby accept the provisions of this article by giving notice as herein provided.

The notice of non-acceptance of the provisions of this article and notice of waiver of exemption heretofore referred to shall be given thirty days prior to any accident resulting in injury or death: *Provided*, that if any such accident occurred less than thirty days after the date of employment, notice of such exemption or acceptance given at the time of employment shall be sufficient notice thereof. The notice shall be in writing or print, in substantially the form prescribed by the industrial commission, and shall be given by the employer by posting the same in a conspicuous place in the shop, plant, office, room, or place where the employee is employed, or by serving it personally upon him; and shall be given by the employee by sending the same in registered letter, addressed to the employer at his last known residence or place of business, or by giving it personally to the employer or any of his agents upon whom summons in civil action may be served under the laws of the state.

A copy of the notice in prescribed form shall also be filed with the industrial commission. In any suit by an employer or an employee who has exempted himself by proper notice from the application of this article, a copy of such notice duly certified by the industrial commission shall be admissible in evidence as proof of such exemption.

(2) **EMPLOYERS EXEMPTED MAY WAIVE SUCH EXEMPTION.**—Any person, firm or corporation employing employees in the state of South Carolina and exempted from the mandatory provisions of this article may come in under the terms of this article and receive the benefits hereof and be subject to liabilities hereof by filing with the industrial commission a written notice of their desire to be subject to the terms and provisions of this article. Should said notice be given before August 1, 1935, then the said person, firm, or corporation shall come under the terms of this article on its effective date, that is, September 1, 1935, but should the said notice be given after August 1, 1935, then they shall come under the provisions of this article and be affected thereby thirty days after the date of said notice. 1936 (39) 1231.

§ 7035-6. **Effect on contracts of service by employer and employee.**—Every contract of service between any employer and employee covered by this article, written or implied, now in operation or made or implied prior to the taking effect of this article, shall after the article has taken effect, be presumed to continue, subject to the provisions of this article; and every such contract made subsequent to the taking effect of this article shall be presumed to have been made subject to the provisions of this article, unless either party shall give notice, as provided in section 7035-5, to the other party to such contract that the provisions of this article other than sections 7035-15, 7035-16, 7035-17, 7035-66, are not intended to apply.

A like presumption shall exist equally in the case of all minors, unless notice of the same character be given by or to the parent or guardian of the minor. 1936 (39) 1231.

§ 7035-7. **Employer cannot relieve liability.**—No contract or agreement, written or implied, no rule, regulation, or other device shall in any manner operate to relieve any employer, in whole or in part, of any obligation created by this article, except as herein otherwise expressly provided. 1936 (39) 1231.

§ 7035-8. **Public divisions and their employees cannot reject payment and acceptance of compensation.**—Neither the state nor any municipal corporation within the state, nor any political subdivision thereof, nor any employee of the state or of any such corporation or subdivision, shall have the right to reject the provisions of this article relative to payment and acceptance of compensation, and the provisions of sections 7035-5, 7035-6, 7035-15, 7035-16, and 7035-17 shall not apply to them. 1936 (39) 1231.

§ 7035-9. **Injuries, deaths, and accidents occurring prior to effectiveness of article.**—The provisions of this article shall not apply to injuries or deaths, nor to accidents which occurred prior to the taking effect of this article. 1936 (39) 1231.

§ 7035-10. **Employer secure payment of compensation—extent of liability.**—Every employer who accepts the compensation provisions of this article shall secure the payment of compensation to his employees in the manner hereinafter provided; and while such security remains in force, he or those conducting his business shall only be liable to any employee who elects to come under this article for personal injury or death by accident to the extent and in the manner herein specified. 1936 (39) 1231.

§ 7035-11. **Employee cannot get relief from employer hereunder and third person—relief from one bars alternate remedy—compensation of minors injured while unlawfully employed—employer, on filing claim by employee, pursue rights of such employee against others—employee entitled to sums re-**

covered by employer over compensation received from employer—insurance carrier may be subrogated to, and enforce, rights of employer.—The rights and remedies herein granted to an employee where he and his employer have accepted the provisions of this article respectively, to pay and accept compensation on account of personal injury or death by accident, shall exclude all other rights and remedies of such employees, his personal representative, parents, dependents or next of kin, as against employer at common law, or otherwise, on account of such injury, loss of service, or death: *Provided, however,* that when such employee, his personal representative or other person may have a right to recover damages for such injury, loss of service, or death from any person other than such employer, he may institute an action at law against such third person or persons before an award is made under this article, and prosecute the same to its final determination; but either the acceptance of an award hereunder, or the procurement and collection of a judgment in an action at law, shall be a bar to proceeding further with the alternate remedy. In all cases where an employer and employee have accepted the workmen's compensation article, as hereinbefore provided, any injury to a minor while employed contrary to the laws of this state shall be compensable under this article the same and to the same extent as if said minor employee was an adult.

The acceptance of an award under this article against an employer for compensation for the injury or death of an employee shall operate as an assignment to the employer of any right to recover damages which the injured employee or his personal representative or other person may have against any other party for such injury or death; and such employer shall be subrogated to any such right, and may enforce, in his own name or in the name of the injured employee or his personal representative the legal liability of such other party. If the injured employee, his personal representative or other person entitled so to do, has made a claim under this article against his employer, and has not proceeded against such other party, the employer may, in order to prevent the loss of his rights by the passage of time, institute such action prior to the making of an award hereunder.

The amount of compensation paid by the employer, or the amount of compensation to which the injured employee or his dependents are entitled, shall not be admissible as evidence in any action brought to recover damages, but any amount collected by the employer under the provisions of this section in excess of the amount paid by the employer, or for which he is liable, shall be held by the employer for the benefit of the injured employee or other person entitled thereto, less such amounts as are paid by the employer for reasonable expenses and attorney's fees when approved by the commission: *Provided,* that no compromise settlement shall be made by the employer or insurance carrier in the exercise of such right of subrogation without the approval of the industrial commission being first had and obtained.

When any employer is insured against liability for compensation with any insurance carrier, and such insurance carrier shall have paid any compensation for which the employer is liable or shall have assumed the liability of the employer therefor, it shall be subrogated to all the rights and duties of the employer, and may enforce any such rights in its own name or in the name of the injured employee or his personal representative: *Provided, however,* nothing herein shall be construed as conferring upon insurance carriers any other or further rights than those existing in the employer at the time of the injury to

his employee, anything in the policy of insurance to the contrary notwithstanding. 1936 (39) 1231.

§ 7035-12. Performance of statutory duty.—Nothing in this article shall be construed to relieve any employer or employee from penalty for failure or neglect to perform any statutory duty.

§ 7035-13. Compensation when injury or death caused by intoxication or wilfulness.—No compensation shall be payable if the injury or death was occasioned by the intoxication of the employee or by the wilful intention of the employee to injure or kill himself or another. When the injury or death is caused by the wilful failure of the employer to comply with any statutory requirement or any lawful order of the commission, compensation shall be increased ten per cent. When the injury or death is caused by the wilful failure of the employee to use a safety appliance or perform a statutory duty or by the wilful breach of any rule or regulation adopted by the employer and approved by the commission and brought to the knowledge of the employee prior to the injury, compensation shall be reduced ten per cent. The burden of proof shall be upon him who claims an exemption of forfeiture under this section. 1936 (39) 1231.

§ 7035-14. Exemptions—not to admit article as evidence, or argue, in tort actions not arising hereunder.—(a) This article shall not apply to railroads or railroad employees nor in any way repeal, amend, alter or affect the laws of this state, relating to the liability of railroads for injuries to employees; nor, upon the trial of any action in tort for injuries not coming under the provisions of this article, shall any provision herein be placed in evidence or be permitted to be argued to the jury.

(b) This article shall not apply to casual employees, farm laborers, Federal employees in South Carolina and domestic servants; nor to any person that has regularly employed in service less than fifteen employees in the same business within this state, nor to employees or employers principally engaged in the business of operating a saw mill, planing mill, and/or manufacturing of shipping containers, nor to logging operations and work incident thereto, nor to employees or employers engaged in the production of turpentine, nor to steam laundries, rock quarries, sand mines, and oil mills, unless such employees and employers voluntarily elect to be bound by this article, as provided for in § 7035-5, subdivision 2.

(c) This article shall not apply to state, county or municipal prisoners and convicts.

(d) This article shall not apply to persons, firms, or corporations engaged in selling agricultural products for the producers thereof on commission or for other compensation, paid by the producers, provided the product is prepared for sale by the producer. 1936 (39) 1231.

§ 7035-15. Action by employee working hereunder against employer not operating hereunder—defenses not allowed.—An employer who elects not to operate under this article shall not, in any suit at law instituted by an employee subject to this article to recover damages for personal injury or death by accident, be permitted to defend any such suit at law upon any or all of the following grounds:

(a) That the employee was negligent.

(b) That the injury was caused by the negligence of a fellow employee.

(c) That the employee has assumed the risk of the injury. 1936 (39) 1231.

§ 7035-16. Action by employee not operating hereunder against employer operating hereunder—procedure—defenses allowed.—An employee who elects not to operate under this article shall, in any action to recover damages for personal injury or death brought against an employer accepting the compensation provisions of this article, proceed at common law, and the employer may avail himself of the defenses of contributory negligence, negligence of a fellow servant, and assumption of risk, as such defenses exist at common law. 1936 (39) 1231.

§ 7035-17. Action by employee not operating hereunder against employer not operating hereunder—defenses not allowed.—When both the employer and the employee elect not to operate under this article, the liability of the employer shall be the same as though he alone rejected the terms of this article, and in any suit brought against him by such employee the employer shall not be permitted to avail himself of any of the common law defenses cited in § 7035-15. 1936 (39) 1231.

§ 7035-18. Settlements.—Nothing herein contained shall be construed so as to prevent settlements made by and between the employee and employer so long as the amount of compensation and the time and manner of payment are in accordance with the provisions of this article. A copy of such settlement agreement shall be filed by employer with and approved by the industrial commission. 1936 (39) 1231.

§ 7035-18½. Payment of compensation—penalties for failure to pay or send proper notices to commission.—Compensation under this article shall be paid periodically, promptly, and directly to the person entitled thereto, unless otherwise specifically provided.

(a) The first installment of compensation payable under the terms of an agreement shall become due on the fourteenth day after the employer has knowledge of the injury or death, on which date all compensation then due shall be paid. Thereafter compensation shall be paid in installments weekly, except where the commission determines that payment in installments should be made monthly or at some other period.

(b) The first installment of compensation payable under the terms of an award by the commission, or under the terms of a judgment of the court upon an appeal from such an award, shall become due seven days from the date of such an award or from the date of such a judgment of the court, on which date all compensation then due shall be paid. Thereafter compensation shall be paid in installments weekly, except where the commission determines that payment in installments shall be made monthly or in some other manner.

(c) Upon making the first payment, and upon suspension of payment for any cause, the employer shall immediately notify the commission, in accordance with a form prescribed by the commission, that payment of compensation has begun or has been suspended, as the case may be.

(d) If any installment of compensation payable in accordance with the terms of an agreement approved by the commission without an award is not paid within fourteen days after it becomes due, as provided in subdivision (a) of this section, or if any installment of compensation payable in accordance with the terms of an award by the commission is not paid within fourteen days after it becomes due, as provided in subdivision (b) of this section, there shall be added to such unpaid installment an amount equal to 10 per centum thereof, which shall be paid at the same time as, but in addition to, such installment, un-

less such non-payment is excused by the commission after a showing by the employer that owing to conditions over which he had no control such installment could not be paid within the period prescribed for the payment.

(e) Within sixteen days after final payment of compensation has been made, the employer shall send to the commission a notice, in accordance with a form prescribed by the commission, stating that such final payment has been made, the total amount of compensation paid, the name of the employee and of any other person to whom compensation has been paid, the date of the injury or death, and the date to which compensation has been paid. If the employer fails to so notify the commission within such time, the commission shall assess against such employer a civil penalty in the amount of \$25.00. 1936 (39) 1231.

§ 7035-19. Rights of employees of sub-contractors—rights and liability of contractor and sub-contractors.—(a) Where any person (in this section referred to as “owner”), undertakes to perform or execute any work which is a part of his trade, business or occupation and contracts with any other person (in this section referred to as “subcontractor”) for the execution or performance by or under such subcontractor of the whole or any part of the work undertaken by such owner, the owner shall be liable to pay to any workman employed in the work any compensation under this article which he would have been liable to pay if the workman had been immediately employed by him.

Where any person (in this section referred to as “contractor”) contracts to perform or execute any work for another person, which work or undertaking is not a part of the trade, business or occupation of such other person and contracts with any other person (in this section referred to as “subcontractor”) for the execution or performance by or under the subcontractor of the whole or any part of the work undertaken by such contractor, then the contractor shall be liable to pay to any workman employed in the work any compensation under this article which he would have been liable to pay if that workman had been immediately employed by him.

Where the subcontractor, as the term is hereinbefore used, in turn contracts with still another person (in this section also referred to as “subcontractor”) for the performance or execution by or under such last subcontractor of the whole or any part of the work undertaken by the first subcontractor, then the liability of the owner or contractor, as those terms are hereinbefore used, shall be the same as the liability imposed by the preceding paragraphs of this subsection.

Where compensation is claimed from or proceedings are taken against the owner or contractor, as those terms are hereinbefore used, then, in the application of this article reference to the owner or contractor shall be substituted for reference to the subcontractor, except that the amount of compensation shall be calculated with reference to the earnings of the workman under the subcontractor by whom he is immediately employed.

(b) Where the principal contractor is liable to pay compensation under this section, he shall be entitled to indemnity from any person who would have been liable to pay compensation to the workmen independently of this section or from an intermediate contractor, and have a cause of action therefor.

(c) Nothing in this section shall be construed as preventing a workman from recovering compensation under this article from a subcontractor instead of from the principal contractor, but he shall not collect from both.

(d) A principal contractor when sued by a workman of a subcontractor shall have the right to call in that subcontractor or any intermediate contractor or contractors as defendant or co-defendant. 1936 (39) 1231.

§ 7035-20. Priority of rights of compensation.—All rights of compensation granted by this article shall have the same preference or priority for the whole thereof against the assets of the employer as is allowed by law for any unpaid wages for labor. 1936 (39) 1231.

§ 7035-21. Claims for compensation not assignable—compensation exempt from creditors' claims and taxes—employee not to pay for benefits hereunder—penalty for employer deduct funds for benefits—employee cannot waive benefits.—No claim for compensation under this article shall be assignable, and all compensation and claims therefor shall be exempt from all claims of creditors and from taxes.

No agreement by an employee to pay any portion of premium paid by his employer to a carrier or to contribute to a benefit fund or department maintained by such employer for the purpose of providing compensation or medical services and supplies as required by this article shall be valid, and any employer who makes a deduction for such purpose from the pay of any employee entitled to the benefits of this article shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$500.00.

No agreement by an employee to waive his rights to compensation under this article shall be valid. 1936 (39) 1231.

§ 7035-22. Accidents—injured employee, or representative give notice.—Every injured employee or his representative shall immediately on the occurrence of an accident, or as soon thereafter as practicable, give or cause to be given to the employer a written notice of the accident, and the employee shall not be entitled to physician's fees nor to any compensation which may have accrued under the terms of this article prior to the giving of such notice, unless it can be shown that the employer, his agent or representative, had knowledge of the accident, or that the party required to give such notice had been prevented from doing so by reason of physical or mental incapacity, or the fraud or deceit of some third person; but no compensation shall be payable unless such written notice is given within thirty days after the occurrence of the accident or death, unless reasonable excuse is made to the satisfaction of the industrial commission for not giving such notice, and the commission is satisfied that the employer has not been prejudiced thereby. 1936 (39) 1231.

§ 7035-23. Notice of accident—content—service.—The notice provided in the foregoing section shall state in ordinary language the name and address of the employee, the time, place, nature, and cause of the accident, and of the resulting injury or death; and shall be signed by the employee or by a person on his behalf, or in the event of his death, by any one or more of his dependents, or by a person in their behalf.

No defect or inaccuracy in the notice shall be a bar to compensation unless the employer shall prove that his interest was prejudiced thereby, and then only to such extent as the prejudice.

Said notice shall be given personally to the employer or any of his agents upon whom a summons in civil action may be served under the laws of the state, or may be sent by registered letter addressed to the employer at his last known residence or place of business. 1936 (39) 1231.

§ 7035-24. Claims.—(1) **FILE WITHIN ONE YEAR OF ACCIDENT OR DEATH.**—The right to compensation under this article shall be forever barred unless a claim is filed with the industrial commission within one year after the accident, and if death results from the accident, unless a claim be filed with the commission within one year thereafter.

(2) **SUE CLAIMS ADJUDGED WITHOUT JURISDICTION OF COMMISSION WITHIN ONE YEAR AFTER FINAL JUDGMENT.**—If any claim for compensation is hereafter made upon the theory that such claim, or the injury upon which said claim is based, is within the jurisdiction of the industrial commission under the provisions of this article and if the commission, or the Supreme Court on appeal, shall adjudge that such claim is not within the article, claimant, or if he dies his personal representative, shall have one year after the rendition of a final judgment in the case within which to commence an action at law. 1936 (39) 1231.

§ 7035-25. Medical, hospital, surgical, etc., treatment and supplies—artificial members.—Medical, surgical, hospital, and other treatment, including medical and surgical supplies as may reasonably be required, from a period not exceeding ten weeks from date of injury to effect a cure or give relief and for such additional time as in the judgment of the commission will tend to lessen the period of disability, and in addition thereto such original artificial members as may be reasonably necessary at the end of the healing period shall be provided by the employer. In case of a controversy arising between employer and employee, the industrial commission may order such further medical, surgical, hospital, or other treatment as may in the discretion of the commission be necessary. During the whole or any part of the remainder of disability resulting from the injury the employer may, at his own option, continue to furnish or cause to be furnished, free of charge to the employee, and the employee shall accept an attending physician, unless otherwise ordered by the industrial commission, and in addition such surgical and hospital service and supplies as may be deemed necessary by said attending physician or the industrial commission. The refusal of the employee to accept any medical, hospital, surgical or other treatment when provided by the employer, or ordered by the industrial commission, shall bar said employee from further compensation until such refusal ceases, and no compensation shall at any time be paid for the period of suspension unless in the opinion of the industrial commission the circumstances justified the refusal, in which case the industrial commission may order a change in the medical or hospital service. If in an emergency on account of the employer's failure to provide the medical care as herein specified a physician other than provided by the employer is called to treat the injured employee, the reasonable cost of such service shall be paid by the employer if ordered so to do by the industrial commission. 1936 (39) 1231.

§ 7035-26. Liability of employer for such treatment—malpractice.—The pecuniary liability of the employer for medical, surgical, hospital service or other treatment required, when ordered by the commission, shall be limited to such charges as prevail in the same community for similar treatment of injured persons of a like standard of living when such treatment is paid for by the injured person, and the employer shall not be liable in damages for malpractice by a physician or surgeon furnished by him pursuant to the provisions of this section, but the consequences of any such malpractice shall be deemed part of the injury resulting from the accident and shall be compensated for as such. 1936 (39) 1231.

§ 7035-27. Examination of injured—facts learned by doctors not privileged—autopsy.—After an inquiry, and so long as he claims compensation, the employee, if so requested by his employer or ordered by the industrial commission, shall submit himself to examination, at reasonable times and places, by a duly qualified physician or surgeon designated and paid by the employer or the industrial commission. The employee shall have the right to have present at such examination any duly qualified physician or surgeon provided and paid by him. No fact communicated to or otherwise learned by any physician or surgeon who may have attended or examined the employee, or who may have been present at any examination, shall be privileged, either in hearings provided for by this article or any action at law brought to recover damages against any employer who may have accepted the compensation provisions of this article. If the employee refuses to submit himself to or in any way obstructs such examination requested by and provided for by the employer, his right to compensation and his right to take or prosecute any proceedings under this article shall be suspended until such refusal or objection ceases, and no compensation shall at any time be payable for the period of compensation, unless in the opinion of the industrial commission the circumstances justify the refusal, or obstruction. The employer, or the industrial commission, shall have the right in any case of death to require an autopsy at the expense of the party requesting the same. 1936 (39) 1231.

§ 7035-28. Commencement of compensation.—No compensation shall be allowed for the first seven calendar days of disability resulting from an injury, except the benefits provided for in § 7035-25: *Provided, however*, that in case the injury results in disability of more than twenty-eight (28) days, the compensation shall be allowed from the date of the disability. 1936 (39) 1231.

§ 7035-29. Total disability—rate of compensation.—Where the incapacity for work resulting from the injury is total, the employer shall pay, or cause to be paid, as hereinafter provided, to the injured employee during such total disability, a weekly compensation equal to 50 per centum of his average weekly wages, but not more than twenty-five dollars, nor less than five dollars, a week; and in no case shall the period covered by such compensation be greater than five hundred weeks, nor shall the total amount of all compensation exceed five thousand five hundred (\$5,500.00) dollars. 1936 (39) 1231.

§ 7035-30. Partial disability—rate of compensation.—Except as otherwise provided in the next section hereafter, where the incapacity for work resulting from the injury is partial, the employer shall pay, or cause to be paid, as hereinafter provided, to the injured employee during such disability, a weekly compensation equal to 50 per centum of the difference between his average weekly wages before the injury and the average weekly wages which he is able to earn thereafter, but not more than twenty-five (\$25.00) dollars a week, and in no case shall the period covered by such compensation be greater than three hundred weeks from the date of injury. In case the partial disability begins after a period of total disability, the latter period shall be deducted from the maximum period herein allowed for partial disability. 1936 (39) 1231.

§ 7035-31. Schedule of disability for certain injuries.—In cases included by the following schedule, the disability in each case shall be deemed to continue for the period specified, and the compensation so paid for such injury shall be specified therein, to wit:

- (a) For the loss of a thumb, fifty per centum of the average weekly wages during sixty (60) weeks.
- (b) For the loss of a first finger, commonly called the index finger, fifty per centum of the average weekly wages during thirty-five (35) weeks.
- (c) For the loss of a second finger, fifty per centum of average weekly wages during thirty (30) weeks.
- (d) For the loss of a third finger, fifty per centum of the average weekly wages during twenty (20) weeks.
- (e) For the loss of a fourth finger, commonly called the little finger, fifty per centum of average weekly wages during fifteen (15) weeks.
- (f) The loss of the first phalange of the thumb or any finger shall be considered to be equal to the loss of one-half of such thumb or finger, and the compensation shall be for one-half the periods of time above specified.
- (g) The loss of more than one phalange shall be considered the loss of the entire finger or thumb; *Provided, however*, that in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.
- (h) For the loss of a great toe, fifty per centum of the average weekly wages during thirty (30) weeks.
- (i) For the loss of one of the toes other than a great toe, fifty per centum of the average weekly wages during ten (10) weeks.
- (k) The loss of the first phalange of any toe shall be considered to be equal to the loss of one-half of such toe, and the compensation shall be for one-half the periods of time above specified.
- (l) The loss of more than one phalange shall be considered as the loss of the entire toe.
- (m) For the loss of a hand, fifty per centum of the average weekly wages during one hundred and fifty (150) weeks.
- (n) For the loss of an arm, fifty per centum of average weekly wages during two hundred (200) weeks.
- (o) For the loss of a foot, fifty per centum of average weekly wages during one hundred twenty-five (125) weeks.
- (p) For the loss of a leg, fifty per centum of average weekly wages during one hundred and seventy-five (175) weeks.
- (q) For the loss of an eye, fifty per centum of average weekly wages during one hundred (100) weeks.
- (r) The loss of both hands, or both arms, or both feet, or both legs, or both eyes, or any two thereof shall constitute total and permanent disability, to be compensated according to the provisions of § 7035-29.
- (s) For the complete loss of hearing in one ear, fifty per centum of average weekly wages during seventy (70) weeks; for the complete loss of hearing in both ears, fifty per centum of average weekly wages during one hundred fifty (150) weeks.
- (t) Total loss of use of a member or loss of vision of an eye shall be considered as equivalent to the loss of such member or eye. The compensation for partial loss of or for partial loss of use of a member or for partial loss of vision of an eye shall be such proportion of the payments above provided for total loss as such partial loss bears to total loss. Loss of both arms, hands, legs, or vision in both eyes shall be deemed permanent total disability, and shall be compensated under § 7035-29.

In case of serious facial or head disfigurement, the industrial commission shall award proper and equitable compensation not to exceed \$2,500.00.

The weekly compensation payments referred to in this section shall all be subject to the same limitations as to maximum and minimum as set out in § 7035-29: *Provided, however*, that the foregoing schedule of compensation shall not be deemed to apply and compensate for serious disfigurement resulting from any injury to any employee received while in and about the duties of his employment. And *provided, further*, that the industrial commission created by this article shall have power and authority to make and award a reasonable compensation for any serious bodily disfigurement received by any employee within the meaning of this article, not to exceed twenty-five hundred (\$2,500.00) dollars.

§ 7035-32. Compensation of injured employee refusing employment.—If an injured employee refuses employment procured for him suitable to his capacity and approved by the industrial commission he shall not be entitled to any compensation at any time during the continuance of such refusal. 1936 (39) 1231.

§ 7035-33. Employees previously disabled.—If an employee has a permanent disability or has sustained a permanent injury in service in the army or navy of the United States, or in another employment other than that in which he received a subsequent permanent injury by accident, such as specified in § 7035-31, he shall be entitled to compensation only for the degree of disability which would have resulted from the later accident if the earlier disability or injury had not existed. 1936 (39) 1231.

§ 7035-34. Compensation of employee injured while drawing compensation for previous disability.—If an employee receives an injury for which compensation is payable, while he is still receiving or entitled to compensation for a previous injury in the same employment, he shall not at the same time be entitled to compensation for both injuries, unless the later injury be a permanent injury such as specified in § 7035-31; but he shall be entitled to compensation for that injury and from the time of that injury which will cover the longest period and the largest amount payable under this article. 1936 (39) 1231.

§ 7035-35. Compensation of employee receiving permanent injury after sustaining another permanent injury in same employment—compensation for total permanent disability incurred after previous permanent partial disability.—If any employee receives a permanent injury as specified in section 7035-31, after having sustained another permanent injury in the same employment, he shall be entitled to compensation for both injuries, but the total compensation shall be paid by extending the period and not by increasing the amount of weekly compensation, and in no case exceeding five hundred weeks.

If an employee has previously incurred permanent partial disability through the loss of a hand, arm, foot, leg or eye, and by subsequent accident incurs total permanent disability through the loss of another member, the employer's liability is for the subsequent injury only. 1936 (39) 1231.

§ 7035-36. Certain employees injured while employed out of state receive compensation.—Where an accident happens while the employee is employed elsewhere than in this state which would entitle him or his dependents to compensation if it had happened in this state, the employee or his dependents shall be entitled to compensation, if the contract of employment was made in this state, if the employer's place of business is in this state, and if the residence of the employee is in this state; provided his contract of employment was not

expressly for service exclusively outside of the state: *Provided, however*, if an employee shall receive compensation or damages under the laws of any other state nothing herein contained shall be construed so as to permit a total compensation for the same injury greater than is provided for in this article. 1936 (39) 1231.

§ 7035-37. Payment of compensation when employee injured dies.—When an employee receives or is entitled to compensation under this article for an injury covered by § 7035-31, and dies from any other cause than the injury for which he was entitled to compensation, payment of the unpaid balance of compensation shall be made to his next of kin dependent upon him for support, in lieu of the compensation the employee would have been entitled to had he lived: *Provided, however*, that if the death is due to a cause that is compensable under this article, and the dependents of such employee are awarded compensation therefor, all right to unpaid compensation provided by this section shall cease and determine. 1936 (39) 1231.

§ 7035-38. Methods of paying compensation when employee's death results proximately from accident.—If death results proximately from the accident and within two years thereafter, or while total disability still continues, and within six years after the accident, the employer shall pay for or cause to be paid, subject, however, to the provisions of the other sections of this article in one of the methods hereinafter provided, to the dependents of the employee, wholly dependent upon his earnings for support at the time of accident, a weekly payment equal to fifty (50%) per cent of his weekly wages, but not more than twenty-five (\$25.00) dollars, nor less than five (\$5.00) dollars, a week for a period of three hundred and fifty weeks from the date of the injury, and burial expenses not exceeding two hundred (\$200.00) dollars. If the employee leaves dependents only partly dependent upon his earnings for support at time of the injury, the weekly compensation to be paid, as aforesaid, shall equal the same proportion of the weekly payments for the benefit of persons wholly dependent as the amount contributed by the employee to such partial dependents bears to the annual earnings of the deceased at the time of his injury. When weekly payments have been made to an injured employee before his death, the compensation to dependents shall begin from the date of the last of such payments, but shall not continue more than three hundred and fifty weeks from the date of the injury. Compensation under this article to aliens not residents (or about to become nonresidents) of the United States or Canada shall be the same in amount as provided for residents, except that dependents in any foreign country shall be limited to surviving wife and child or children, or if there be no surviving wife or child, or children, to surviving father or mother whom the employee has supported, either wholly or in part for the period of three years prior to the date of the injury, and except that the commission, may at its option, or upon the application of the insurance carrier shall, commute all future installments of compensation to be paid to such aliens by paying or causing to be paid to them one-half of the commuted amount of such future installments of compensation as determined by the commission. 1936 (39) 1231.

§ 7035-39. Dependents—partial dependents.—A widow, a widower, and/or a child shall be conclusively presumed to be wholly dependent for support upon the deceased employee. In all other cases questions of dependency, in whole or in part, shall be determined in accordance with the facts as the facts may be

at the time of the accident; but no allowance shall be made for any payment in lieu of board and lodging or services, and no compensation shall be allowed unless dependency existed for a period of three months or more prior to the accident. If there is more than one person wholly dependent, the death benefit shall be divided among them; the persons partly dependent, if any, shall receive no part thereof. If there is no one wholly dependent, and more than one person partially dependent, the death benefit shall be divided among them according to the relative extent of their dependency. The widow or widower, and all children of deceased employees, shall be conclusively presumed to be dependents of deceased and shall be entitled to receive the benefits of this article for the full periods specified in the article. 1936 (39) 1231.

§ 7035-40. Distribution of compensation when deceased employee leaves no dependents—"next of kin" defined—second injury fund.—If a deceased employee leaves no dependents, the employer shall pay to the next of kin as herein defined the commuted amount provided for in § 7035-38 of this article for whole dependents, less burial expenses which shall be deducted therefrom but if the deceased left no next of kin as herein defined, then one-half of said commuted amount shall be paid to the industrial commission to be held and disbursed by it in the manner hereinafter provided. One-half of said amount shall be retained by the industrial commission and the other one-half paid to the personal representative of the deceased to be by him distributed to the next of kin as defined in the statutes of distribution, but if there be no next of kin as defined in the statutes of distribution, then the personal representative shall pay the same to the industrial commission after payment of costs of administration. For the purpose of this section the term "next of kin" shall include only the father, mother, widow, child, brother or sister of the deceased. Amounts paid to the industrial commission under this section shall constitute a second injury fund to be held by the commission and disbursed by it in unusual cases of second injury as follow: (1) To provide additional compensation in case of second injuries referred to in § 7035-33: *Provided, however*, such additional compensation when added to the compensation awarded under said section shall not exceed the amount which would have been payable for both injuries had both been sustained in the subsequent accident; (2) to provide for the injured employee who has sustained permanent total disability in the manner referred to in § 7035-31 compensation in addition to the compensation which shall be awarded under said section, such additional compensation, however, when added to the compensation awarded under said section shall not exceed the compensation for permanent total disability as provided in § 7035-29. The additional compensation herein provided for is to be paid out of the second injury fund exclusively and only to the extent which the assets of said fund shall permit. 1936 (39) 1231.

§ 7035-41. Total compensation.—The total compensation payable under this article shall in no case exceed five thousand five hundred (\$5,500.00) dollars. 1936 (39) 1231.

§ 7035-42. Payments made by employer when not due and payable.—Any payments made by the employer to the injured employee during the period of his disability, or to his dependents, which by the terms of this article were not due and payable when made may, subject to the approval of the industrial commission, be deducted from the amount to be paid as compensation: *Provided*, that in the case of disability such deductions shall be made by shortening the

period during which compensation must be paid, and not by reducing the amount of the weekly payment. 1936 (39) 1231.

§ 7035-43. Pay compensation monthly or quarterly instead of weekly.—The industrial commission, upon application of either party, may in its discretion, having regard to the welfare of the employee and the convenience of the employer, authorize compensation to be paid monthly or quarterly instead of weekly. 1936 (39) 1231.

§ 7035-44. Accelerate payment of compensation.—Whenever any weekly payment has been continued for not less than six weeks, the liability therefor may, in unusual cases, where the parties agree and the industrial commission deems it to be to the best interests of the employee or his dependents, or where it will prevent undue hardships on the employer or his insurance carrier, without prejudicing the interest of the employee or his dependents, be redeemed, in whole or in part, by the payment by the employer of a lump sum which shall be fixed by the commission, but in no case to be less than ninety (90%) per cent of, nor to exceed the commutable value of the future installments commuted at six (6%) per cent. per annum which may be due under this article. The commission, however, in its discretion, may at any time in the case of a minor who has received permanently disabling injuries, either partial or total, provide that he be compensated, in whole or in part, by the payment of a lump sum, the amount of which shall be fixed by the commission but in no case to be less than ninety (90%) per cent. of, nor to exceed the commutable value of the future installments which may be due under this article. 1936 (39) 1231.

§ 7035-45. Trustees administer lump sum settlements.—Whenever the industrial commission deems it expedient, any lump sum, subject to the provisions of the foregoing section, shall be paid by the employer to some suitable person or corporation appointed by a court of competent jurisdiction in the county wherein the accident occurred, as trustee, to administer the same for the benefit of the person entitled thereto, in the manner provided by the commission. When the amount to be paid hereunder is in excess of one hundred (\$100.00) dollars, said trustee shall be required to give sufficient bond approved by the probate court or clerk of the court of common pleas. The receipt of such trustee for the amount as paid shall discharge the employer or any one else who is liable therefor. 1936 (39) 1231.

§ 7035-46. Commission review awards.—Upon its own motion or upon the application of any party in interest on the ground of a change in condition, the industrial commission may review any award, and on such review may make an award ending, diminishing, or increasing the compensation previously awarded, subject to the maximum or minimum provided in this article, and shall immediately send to the parties a copy of the order of the award. No such review shall affect such award as regards any moneys paid, but no such review shall be made after twelve months from the date of the last payment of compensation pursuant to an award under this article. 1936 (39) 1231.

§ 7035-47. Payment of compensation by employer—persons who may receive—liability of employer.—(a) Whenever payment of compensation is made to a widow or widower for her or his use or for her or his use and the use of the child or children, the written receipt thereof of such widow or widower shall acquit the employer.

(b) Whenever payment is made to any person eighteen years of age or over, the written receipt of such person shall acquit the employer. In case where an

infant or minor under the age of eighteen shall be entitled to receive a sum or sums amounting in the aggregate to not more than three hundred (\$300.00) dollars as compensation for injuries, or as a distributive share by virtue of this article, the father, mother, or natural guardian upon whom such infant or minor shall be dependent for support shall be authorized and empowered to receive and receipt for such moneys to the same extent as a guardian of the person and property of such infant or minor duly appointed by proper court, and the release or discharge of such father, mother, or natural guardian shall be full and complete discharge of all claims or demands of such infant or minor thereunder.

(c) Whenever any payment of over three hundred (\$300.00) dollars is made to a minor under eighteen years of age, or to a dependent child over the age of eighteen years, the same shall be made to some person or corporation appointed by the probate court as a guardian and the receipt of such guardian shall acquit the employer.

(d) Payment of death benefits by an employer in good faith to a dependent subsequent in right to another or other dependents shall protect and discharge the employer, unless and until such dependent or dependents prior in right shall have given notice of his or their claims. In case the employer is in doubt as to the respective rights of rival claimants, he may apply to the industrial commission to decide between them. 1936 (39) 1231.

§ 7035-48. Injured employee incompetent or under 18 years of age.—If an injured employee is mentally incompetent or is under eighteen years of age at the time when any right of privilege accrues to him under this article, his guardian, trustee, or committee may in his behalf claim and exercise such right or privilege. 1936 (39) 1231.

§ 7035-49. Giving of notice of claim by person mentally incompetent or minor.—No limitation of time provided in this article for the giving of notice or making claim under this article shall run against any person who is mentally incompetent, or a minor dependent, as long as he has no guardian, trustee, or committee. 1936 (39) 1231.

§ 7035-50. Payment of compensation to employee working for several employers at time of injury.—Whenever an employee, for whose injury or death compensation is payable under this article, shall at the time of the injury be in joint service of two or more employers subject to this article, such employers shall contribute to the payment of such compensation in proportion to their wages liability to such employee: *Provided, however,* that nothing in this section shall prevent any reasonable arrangement between such employers for a different distribution as between themselves of the ultimate burden of compensation. 1936 (39) 1231.

§ 7035-51. South Carolina industrial commission—appointment—terms—qualifications—chairman.—There is hereby created a commission, to be known as the South Carolina industrial commission, consisting of five commissioners who shall devote their entire time to the duties of the commission. The Governor, by and with the advice and consent of the Senate, shall appoint the members of the commission—two for a term of two years, two for a term of four years, and one for a term of six years. Upon the expiration of each term as above mentioned, the Governor shall, by and with the advice and consent of the Senate, appoint a successor for a term of six years, and thereafter the term of office of each commissioner shall be six years. Not more than two appointees shall be persons

who, on account of their previous vocation, employment, or affiliation can be classed as representatives of employers; and not more than two appointees shall be persons who, on account of their previous vocation, employment, or affiliations, can be classed as representatives of employees, covered by this article. One member, to be designated by the Governor, shall act as chairman, and such member so selected as chairman shall not be one who, on account of his previous vocation, employment, or affiliation, can be classed either as representative of employers or as representative of employees. 1936 (39) 1231.

§ 7035-52. Commission—salaries—secretary—clerical help—expenses—annual report.—(a) The salary of the chairman of said industrial commission shall be three thousand (\$3,000.00) dollars a year, and the salary of each of the other commissioners shall be three thousand (\$3,000.00) dollars a year, such salaries to be payable in monthly installments.

(b) The commission may appoint a secretary whose duties shall be prescribed by the commission, and whose salary shall be not more than three thousand (\$3,000.00) dollars a year, and who, upon entering upon his duties, shall give bond in such sum as may be fixed by the commission, and who may be removed at the will of the commission. The commission may also employ such clerical or other assistance as it may deem necessary, and fix the compensation of all persons so employed, such compensation to be in keeping with the compensation paid to persons employed to do similar work in other state departments.

(c) The members of the commission and its assistants shall be entitled to receive from the state their actual and necessary expenses while traveling on the business of the commission, but such expenses shall be sworn to by the person who incurred the same, and shall be approved by the chairman of the commission before payment is made.

(d) All salaries and expenses of the commission shall be audited and paid out of the state treasury, in the manner prescribed for similar expenses in other departments or branches of the state service; and to defray such salaries and expenses a sufficient appropriation shall be made under the general appropriation article as made to other departments, commissions, and agencies of the state government.

(e) The commission shall publish annually for free distribution a report of the administration of this article, together with such recommendations as the commission deems advisable. 1936 (39) 1231.

§ 7035-53. Commission—offices—deputies—sessions—hearings.—(a) The commission shall be provided with adequate offices in the capitol, or some other suitable building in the city of Columbia, in which the records shall be kept and its official business transacted during regular business hours; it shall also be provided with necessary office furniture, stationery, and other supplies.

(b) The commission may appoint deputies, who shall have the power to subpoena witnesses and administer oaths, and who may take testimony in such cases as the commission may deem proper. Such testimony shall be transmitted in writing to the commission, and the commission shall fix the compensation of such deputies.

(c) The commission or any member thereof may hold sessions at any place within the state as may be deemed necessary by the commission.

(d) Hearings before the commission shall be open to the public and shall be stenographically reported, and the commission is authorized to contract for the reporting of such hearings. The commission shall by regulation provide for

the preparation of a record of the hearings and other proceedings. 1936 (39) 1231.

§ 7035-54. Commission—rules—process and procedure—issuance and service of subpoenas—subpoena and examine witnesses and records—depositions—pay of witnesses.—(a) The commission may make rules, not inconsistent with this article, for carrying out the provisions of this article. Processes and procedure under this article shall be as summary and simple as reasonably may be. The commission or any member thereof, or any person deputized by it, shall have the power, for the purpose of this article, to subpoena witnesses, administer or cause to have administered oaths, and to examine or cause to be examined such parts of the books and records of the parties to a proceeding as relate to questions in dispute. Any party to a proceeding under this article may, upon application to the commission, which application shall set forth the materiality of the evidence to be given, cause the depositions of witnesses residing within or without the state to be taken, the costs to be taxed as other costs by commission. Such depositions shall be taken after giving the notice and in the manner prescribed by law for depositions in actions at law, except that they shall be directed to the commission, the commissioner, or the deputy commissioner before whom the proceedings may be pending.

(b) The county sheriffs and their respective deputies shall serve all subpoenas of the commission or its deputies, and shall receive the same fees as are now provided by law for like services; each witness who appears in obedience to such subpoena of the commission shall receive for attendance the fees and mileage for witnesses in civil cases in courts of the county where the hearing is held.

(c) The court of common pleas shall, on application of the commission or any member or deputy thereof, enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and records. 1936 (39) 1231.

§ 7035-55. Commission—print and distribute forms—report accidents—study, investigate and report injuries and means of preventing injuries.—(a) The commission shall prepare and cause to be printed, and upon request furnish, free of charge to any employee or employer, such blank forms and literature as it shall deem requisite to facilitate or prompt the efficient administration of this article.

(b) The commission shall tabulate the accident reports received from employers in accordance with § 7035-66, and shall publish the same in the annual report of the commission and as often as it may deem advisable, in such detailed or aggregated form as it may deem best. The name of the employer or employee shall not appear in such publications, and the employers' reports shall be private records of the commission, and shall not be open for public inspection except for the inspection of the parties directly involved, and only to the extent of such interest. These reports shall not be used as evidence by or against any employer in any suit at law brought by any employee for the recovery of damages.

(c) The commission shall make studies and investigations with respect to safety provisions and the causes of injuries in employments covered by this article, and shall from time to time make to the General Assembly and to employers and carriers such recommendations as it may deem proper as to the best means of preventing such injuries.

(d) In making such studies and investigations the commission is authorized (1) to cooperate with any agency of the United States charged with the duty

of enforcing any law securing safety against injury in any employment covered by this article, or with any state agency engaged in enforcing any laws to assure safety for employees and (2) to permit any such agency to have access to the records of the commission. In carrying out the provisions of this section the commission or any officer or employee of the commission is authorized to enter at any reasonable time upon any premises, tracks, wharf, dock, or other landing place, or to enter any building, where an employment covered by this article is being carried on and to examine any tool, appliance, or machinery used in such employment. 1936 (39) 1231.

§ 7035-56. Compromises—voidable unless reported to and approved by commission.—If after seven days after the date of the injury or at any time in case of death, the employer and the injured employee or his dependents reach an agreement, in regard to compensation under this article, a memorandum of the agreement in the form prescribed by the industrial commission, accompanied by a full and complete medical report, shall be filed with and approved by the commission; otherwise such agreement shall be voidable by the employee or his dependents. If approved by the commission, thereupon the memorandum shall for all purposes be enforceable by the court's decree as hereinafter specified. 1936 (39) 1231.

§ 7035-57. Failure of employer and injured employee to agree—disagreement after agreement—have hearing—notify parties—place.—If the employer and the injured employee or his dependents fail to reach an agreement in regard to compensation under this article within fourteen days after the employee has knowledge of the injury or death, or if they have reached such an agreement which has been signed and filed with the commission, and compensation has been paid or is due in accordance therewith, and the parties thereto then disagree as to the continuance of any weekly payment under such agreement, either party may make application to the industrial commission for a hearing in regard to the matters at issue, and for a ruling thereon. Immediately after such application has been received the commission shall set the date for a hearing, which shall be held as soon as practicable, and shall notify the parties at issue of the time and place of such hearing. The hearing shall be held in the city or county where the injury occurred, unless otherwise agreed to by the parties and authorized by the industrial commission. 1936 (39) 1231.

§ 7035-58. Hearing.—The commission or any of its members shall hear the parties at issue and their representatives and witnesses, and shall determine the dispute in a summary manner. The award, together with a statement of the findings of fact, rulings of law, and other matters pertinent to the questions at issue shall be filed with the record of the proceedings, and a copy of the award shall immediately be sent to the parties in dispute. The parties may be heard by a deputy, in which event he shall swear or cause the witnesses to be sworn, and shall transmit all testimony to the commission for its determination and award. 1936 (39) 1231.

§ 7035-59. Review award.—If application for review is made to the commission within fourteen days from the date when notice of the award shall have been given, the commission shall review the award, and, if good grounds be shown therefor, reconsider the evidence, receive further evidence, rehear the parties or their representatives, and, if proper, amend the award. 1936 (39) 1231.

§ 7035-60. Award—effect—appeal—payment of compensation during appeal.—The award of the commission, as provided in section 7035-58, if not reviewed in due time, or an award of the commission upon such review, as provided in § 7035-59, shall be conclusive and binding as to all questions of fact; but either party to the dispute may, within thirty days from the date of such award, or within thirty days after receipt of notice to be sent by registered mail of such award, but not thereafter appeal from the decision of said commission to the court of common pleas of the county in which the alleged accident happened, or in which the employer resides or has his principal office, for errors of law under the same terms and conditions as govern appeals in ordinary civil actions. In case of an appeal from the decision of the commission, on questions of law, said appeal shall operate as a supersedeas for thirty days only, and thereafter employer shall be required to make payment of the award involved in said appeal or certification until the questions at issue therein shall have been fully determined in accordance with the provisions of this article. 1936 (39) 1231.

§ 7035-61. Judgment—lien—default in payments—execution.—Any party in interest may file in the court of common pleas of the county in which the injury occurred a certified copy of a memorandum of agreement approved by the commission, or of an order or decision of the commission, or of an award of the commission unappealed from or of an award of the commission affirmed upon appeal; whereupon said court shall render judgment in accordance therewith, and notify the parties. Such judgment shall have the same effect and all proceedings in relation thereto shall thereafter be the same, as though said judgment had been rendered in a suit duly heard and determined by said court: *Provided*, if the judgment debtor shall file a certificate duly issued by the industrial commission, showing compliance with section 7035-67 of this article, with the clerk of the court in the county or counties where such judgment is docketed, then such clerk shall make upon the judgment roll an entry showing the filing of such certificate, which shall operate as a discharge of the lien of the said judgment, and no execution shall be issued thereon: *Provided, further*, that if at any time there is default in the payment of any installment due under the award set forth in said judgment the court may, upon application for cause and after ten days' notice to judgment debtor, order the lien of such judgment restored, and execution or other proper process may be immediately issued thereon for past due installments and for future installments as they may become due. 1936 (39) 1231.

§ 7035-62. Cost—payment.—If the industrial commission or any court before whom any proceedings are brought under this article shall determine that such proceedings have been brought, prosecuted, or defended without reasonable grounds, it may assess the whole cost of the proceedings upon the party who has brought or defended them. 1936 (39) 1231.

§ 7035-63. Commission appoint doctor to examine injured employee—compensation.—The commission or any member thereof may, upon the application of either party, or upon its own motion, appoint a disinterested and duly qualified physician or surgeon to make any necessary medical examination of the employee, and to testify in respect thereto. Said physician or surgeon shall be allowed traveling expenses and a reasonable fee to be fixed by the commission, not exceeding ten (\$10.00) dollars for each examination and report, but the commission may allow additional reasonable amounts in extraordinary cases.

The fees and expenses of such physician or surgeon shall be paid by the state. 1936 (39) 1231.

§ 7035-64. Commission approve fees of attorneys, physicians and hospitals—penalty for receiving unapproved fee or soliciting employment.—(a) Fees for attorneys and physicians and charges of hospitals for services under this article shall be subject to the approval of the commission; but no physician shall be entitled to collect fees from an employer or insurance carrier until he has made the reports required by the industrial commission in connection with the case.

(b) Any person (1) who receives any fee, other consideration, or any gratuity on account of services so rendered, unless such consideration or gratuity is approved by the commission or such court, or (2) who makes it a business to solicit employment for a lawyer or for himself in respect of any claim or award for compensation, shall be guilty of a misdemeanor, and, upon conviction thereof, shall, for each offense, be punished by a fine of not more than five hundred (\$500.00) dollars or by imprisonment not to exceed one year, or by both such fine and imprisonment. 1936 (39) 1231.

§ 7035-65. Commission determine unsettled matters.—All questions arising under this article, if not settled by agreements of the parties interested therein, with the approval of the commission, shall be determined by the commission, except as otherwise herein provided. 1936 (39) 1231.

§ 7035-66. Employers keep record of injuries—report certain to commission—penalty.—(a) Every employer shall hereafter keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment on blanks approved by the commission. Within ten days after the occurrence and knowledge thereof, as provided in § 7035-22, of an injury to an employee, causing his absence from work for more than three days, a report thereof shall be made in writing and mailed to the industrial commission on blanks to be procured from the commission for this purpose.

(b) The records of the commission, insofar as they refer to accidents, injuries, and settlements, shall not be open to the public, but only to the parties satisfying the commission of their interest in such records and for the right to inspect them.

(c) Upon the termination of the disability of the injured employee, or if the disability extends beyond a period of sixty days, then, also, at the expiration of such period the employer shall make a supplementary report to the commission on blanks to be procured from the commission for the purpose.

(d) The said report shall contain the name, nature, and location of the business of the employer, and name, age, sex, and wages and occupation of the injured employee; and shall state the date and hour of the accident causing injury, the nature and cause of the injury, and such other information as may be required by the commission.

(e) Any employer who refuses or neglects to make the report required by this section shall be liable for a penalty of not less than five (\$5.00) dollars and not more than twenty-five (\$25.00) dollars for each refusal or neglect. The fine herein provided may be assessed by the commission in an open hearing, with the right of review and appeal as in other cases. In the event the employer has transmitted the report to the insurance carrier for transmission by such insurance carrier to the industrial commission, the insurance carrier willfully neglecting or failing to transmit the report shall be liable for the said penalty. 1936 (39) 1231.

§ 7035-67. Employer insure liability hereunder or make arrangement therefor.—Every employer who accepts the provisions of this article relative to the payment of compensation shall insure and keep insured his liability thereunder in any authorized corporation, association, organization, or in any mutual insurance association formed by a group of employers so authorized, or shall furnish to the industrial commission satisfactory proof of his financial ability to pay direct the compensation in the amount and manner and when due, as provided for in this article. In the latter case the commission may require the deposit of an acceptable security, indemnity or bond to secure the payment of the compensation liabilities as they are incurred. 1936 (39) 1231.

§ 7035-68. Employer file with commission evidence of compliance with § 7035-67—penalty for failure to secure payment of compensation.—(a) Every employer accepting the compensation provisions of this article shall, within thirty days after July 17, 1935, file with the commission, in form prescribed by it, and thereafter annually or as often as may be necessary, evidence of his compliance with the provisions of § 7035-67, and all others relating thereto.

(b) Any employer required to secure the payment of compensation under this article who refuses or neglects to secure such compensation shall be punished by a fine of ten cents for each employee at the time of the insurance becoming due, but not less than one dollar nor more than fifty dollars for each day of such refusal or neglect, and until the same ceases; and he shall be liable during continuance of such refusal or neglect to an employee either for compensation under this article or at law in the same manner as provided in § 7035-15.

The fine herein provided may be assessed by the commission in an open hearing with the right of review and appeal as in other cases. 1936 (39) 1231.

§ 7035-69. Certificate of compliance with § 7035-67—issuance—revocation.—Whenever an employer has complied with the provisions of section 7035-67, relating to self-insurance, the industrial commission shall issue to such employer a certificate, which shall remain in force for a period fixed by the commission, but the commission may, upon at least sixty days' notice and a hearing to the employer, revoke the certificate upon satisfactory evidence for such revocation having been presented. At any time after such revocation the commission may grant a new certificate to the employer upon his petition. 1936 (39) 1231.

§ 7035-70. Insurer—notice to—jurisdiction of—bound by awards—liability when employers insolvent.—All policies insuring the payment of compensation under this article must contain a clause to the effect that, as between the employer and the insurer, the notice to or acknowledgment of the occurrence of the injury on the part of the insured employer shall be deemed notice or knowledge, as the case may be, on the part of the insurer; that jurisdiction of the insured for the purpose of this article shall be jurisdiction of the insurer, that the insurer shall in all things be bound by and subject to the awards, judgments, or decrees rendered against such insured employer, and that insolvency or bankruptcy of the employer and/or discharge therein shall not relieve the insurer from the payment of compensation for disability or death sustained by an employee during the life of such policy or contract. 1936 (39) 1231.

§ 7035-71. Payment of compensation by insurer.—No policy of insurance against liability arising under this article shall be issued unless it contains the agreement of the insurer that it will promptly pay to the person entitled to same all benefits conferred by this article, and all installments of the compensa-

tion that may be awarded or agreed upon, and that the obligation shall not be affected by any default of the insured after the injury or by any default in giving notice required by such policy, or otherwise. Such agreement shall be construed to be a direct promise by the insurer to the person entitled to compensation enforceable in his name. 1936 (39) 1231.

§ 7035-72. Policy insuring payment of compensation—terms—form.—(a) Every policy for the insurance of the compensation herein provided, or against liability therefor, shall be deemed to be made subject to the provisions of this article. No corporation, association, or organization shall enter into any such policy of insurance unless its form shall have been approved by the insurance commissioner.

(b) This article shall not apply to policies of insurance against loss from explosion of boilers or fly-wheels or other similar single catastrophe hazards: *Provided*, that nothing herein contained shall be construed to relieve the employer from liability for injury or death of an employee as a result of such explosion or catastrophe. 1936 (39) 1231.

§ 7035-73. Insurance commissioner approve rates for policies insuring payment of compensation—insurance carriers—tax on premiums—report and pay tax semi-annually—collection of tax—penalty for violating section—giving notice to carriers—withdrawal of carrier from state.—(a) To secure fair, reasonable, adequate and non-discriminatory rates for workmen's compensation insurance in this state the commissioner of insurance shall approve the rate for each classification under which such business is written, which rate and classification shall be the same for all insurers. The commissioner of insurance shall, in approving such rates, make use of the experience data which, from time to time, may be available and of such other helpful information as may be obtainable. For the purpose of uniformity and equality the department shall approve a system of merit rating for use in the writing of such insurance in this state. No system of merit rating except the one so approved shall be used in this state.

Every carrier of insurance, including the parties to any mutual insurance association, shall be members of a non-partisan rating bureau. The stock and non-stock carriers which are members of such bureau shall be represented in the bureau management and on all committees of such bureau. One-half of the members of each committee shall be chosen by the stock companies and one-half by the non-stock companies. In case of a tie vote on any committee, the commissioner of insurance shall cast the deciding vote.

(b) Each such insurance carrier shall report to the state insurance commissioner in accordance with such reasonable rules as the insurance commissioner may at any time prescribe, for the purpose of determining the solvency of the carrier and the adequacy of its rates; for such purpose the commissioner of insurance may inspect the books and records of such insurance carrier, and examine its agents, officers, and directors under oath.

(c) Every person, partnership, association, corporation, whether organized under the laws of this or any other state or country, every mutual company or association and every other insurance carrier insuring employers in this state against liability for personal injuries to their employees, or death caused thereby, under the provisions of this article, shall as hereinafter provided, pay a tax upon the premium received whether in cash or notes, in this state, or on account of business done in this state, for such insurance in this state, at the rate of

2 1/2 per cent. of the amount of such premium, which tax shall be in lieu of all other taxes on said premiums, which tax shall be assessed and collected as hereinafter provided: *Provided, however*, that such insurance carriers shall be credited with all canceled or returned premiums actually refunded during the year on such insurance, including any unused premiums refunded or credited to policy-holders as dividends.

(d) Every such insurance carrier shall, for the six months ending December thirty-first, nineteen hundred and thirty-five, and semiannually thereafter, make a return, verified by the affidavit of its president and secretary, or other chief officers or agent, to the commissioner of insurance, stating the amount of all such premiums and credits during the period covered by such return. Every insurance carrier required to make such return shall file the same with the commissioner of insurance within thirty days after the close of the period covered thereby, and shall at the same time pay to the state insurance commissioner a tax of \$2.50 on each one hundred dollars of such premiums ascertained, as provided in sub-section (c) hereof, less returned premium on canceled policies including any unused premium refunded or credited to policyholders as dividends.

(e) If any such insurance carrier shall fail or refuse to make the return required by this article, the said commissioner of insurance shall assess the tax against such insurance carrier at the rate herein provided for, on such amount of premium as he may deem just, and the proceedings thereon shall be the same as if the return had been made.

(f) If any such insurance carrier shall withdraw from business in this state before the tax shall fall due, as herein provided, or shall fail or neglect to pay such tax, the commissioner of insurance shall at once proceed to collect the same; and he is hereby empowered and authorized to employ such legal process as may be necessary for that purpose, and when so collected he shall pay the same into the state treasury. The suit may be brought by the commissioner of insurance, in his official capacity, in any court of this state having jurisdiction. Reasonable attorney's fees may be taxed as costs therein, and process may issue to any county of the state, and may be served as in civil actions, or in case of unincorporated associations, partnerships, inter-indemnity contracts, upon any agent of the parties thereto upon whom process may be served under the laws of this state.

(g) Any person or persons who shall in this state act or assume to act as agent for any such insurance carrier whose authority to do business in this state has been suspended, while such suspension remains in force, or shall neglect or refuse to comply with any of the provisions of this section obligatory upon such persons or party, or who shall wilfully make a false or fraudulent statement of the business or conditions of any such insurance carrier, or false or fraudulent return as herein provided, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment for not less than ten nor more than ninety days, or both such fine and imprisonment in the discretion of the court.

(h) Whenever by this article, or the terms of any policy contract, any officer is required to give any notice to an insurance carrier, the same may be given by delivery, or by mailing by registered letter properly addressed and stamped, to the principal office or general agent of such insurance carrier within this state,

or to its home office or to the secretary, general agent, or chief officer thereof in the United States, or the state insurance commissioner.

(i) Any insurance carrier liable to pay a tax upon premiums under this article shall not be liable to pay any other or further tax upon such premiums under any other law of this state.

(j) Upon the withdrawal of any insurance carrier from doing business in the state that has any outstanding liability under the workmen's compensation law, the insurance commissioner shall immediately notify the South Carolina industrial commission and thereupon the said South Carolina industrial commission shall issue an award against said insurance carrier and commute the installments due injured employee or employees and immediately have said award docketed in the court of common pleas of the county in which the claimant resides and the said South Carolina industrial commission shall then cause suit to be brought on said judgment in the state of the residence of any such insurance carrier and the proceeds from said judgment, after deducting costs, if any, of the proceeding, shall be turned over to the injured employee or employees, taking from such employee or employees the proper receipt in satisfaction of his claim. 1936 (39) 1231.

§ 7035-74. Saving clause.—If any section of the provisions of this article be decided by the courts to be unconstitutional or invalid, the same shall not affect the validity of this article as a whole or any part thereof other than the part so decided to be unconstitutional or invalid. 1936 (39) 1231.

§ 7035-75. Collection of fines and penalties.—The industrial commission shall have the power by civil action brought in its own name to enforce the collection of any fines or penalties provided by this article and fines or penalties collected by the commission shall become a part of the fund referred to in § 7035-76. 1936 (39) 1231.

§ 7035-76. Appropriation.—For the purpose of paying salaries and expenses of the commission and its necessary employees in making preparations and putting this article into operation, the sum of forty thousand dollars, if so much be necessary, is hereby appropriated. 1936 (39) 1231.

ARTICLE 5—UNEMPLOYMENT COMPENSATION

§ 7035-81. Short title.—This article shall be known and may be cited as the "South Carolina unemployment compensation law". 1936 (39) 1716.

§ 7035-81 thru § 7035-102 added by 1936/1716.

§ 7035-82. Declaration of state public policy.—As a guide to the interpretation and application of this article, the public policy of this state is declared to be as follows: economic insecurity due to unemployment is a serious menace to the health, morals and welfare of the people of this state. Involuntary unemployment is therefore a subject of general interest and concern which requires appropriate action by the General Assembly to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and his family. The achievement of social security requires protection against this greatest hazard of our economic life. This can be provided by encouraging employers to provide more stable employment and by the systematic accumulation of funds during periods of employment to provide benefits for periods of unemployment, thus maintaining purchasing power and limiting the serious social consequences of poor relief assistance. The General Assembly, therefore, declares that in its considered judgment the public good, and the gen-

eral welfare of the citizens of this state require the enactment of this measure, under the police powers of the state, for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own. 1936 (39) 1716.

§ 7035-83. Benefits.—(a) **PAYMENT OF BENEFITS.** Twenty-four months after the date when contributions first accrue under this act from any employer, benefits shall become payable from the fund to any individual who thereafter is or becomes unemployed and eligible for benefits. All benefits shall be paid through the employment offices, at such times and in such manner as the commission may prescribe.

(b) **WEEKLY BENEFIT AMOUNT FOR TOTAL UNEMPLOYMENT.** Each eligible individual who is totally unemployed in any week shall be paid with respect to such week, benefits (computed to the next highest multiple of twenty cents) at the rate of fifty per centum of his full-time weekly wages but not more than \$15.00 per week, nor less than either \$5.00 or three-fourths of his full-time weekly wage, whichever is the lesser.

(c) **WEEKLY BENEFITS FOR PARTIAL UNEMPLOYMENT.** Each eligible individual who is partially unemployed in any week shall be paid a partial benefit. Such partial benefit shall be an amount (computed to the next highest multiple of twenty cents) which if added to his wages for such week, would exceed his weekly benefit amount by the sum received for such partial employment, or two dollars, whichever is the lesser.

(d) **CHARGING OF BENEFITS AGAINST PAST WEEKS OF EMPLOYMENT.** Each individual's benefits shall be limited in accordance with the ratio provisions of subsection (e) of this section. In no event shall any one calendar week be chargeable as more than one week of employment. If during any one calendar week an individual has rendered services for more than one employer, his benefits shall be chargeable only against the week of employment for the employer by whom the plurality of his wages for such week was payable. An individual's benefit shall be charged against those of his weeks of employment, against which benefits have not previously been charged hereunder, in the inverse chronological order in which such weeks occurred.

(e) **RATIO PROVISIONS AND DURATION OF BENEFITS.** Benefits shall be paid each unemployed and eligible individual, with respect to his total or partial unemployment occurring within any period of fifty-two consecutive weeks:

(1) in the ratio of one-fourth of his weekly benefit amount to each uncharged week of employment occurring within the one hundred and four consecutive weeks preceding the close of his most recent week of employment, except that his aggregate benefits thus payable shall not exceed twelve times his weekly benefit amount during such fifty-two weeks period; and thereafter

(2) in the ratio of one-twentieth of his weekly benefit amount to each uncharged week of employment occurring within the two hundred and sixty consecutive weeks preceding the close of his most recent week of employment.

(f) **DETERMINATION OF FULL-TIME WEEKLY WAGE.** The "full-time weekly wage" of any individual means the product obtained by multiplying his "hourly rate of earnings" by his "full-time weekly hours", both of which shall be determined and redetermined at reasonable intervals in accordance with rules prescribed by the commission.

(1) An individual's "full-time weekly hours" shall be determined as follows: There shall be added together the hours worked by the individual in all those weeks of employment, occurring within the 52 weeks preceding the close

of his most recent week of employment, in which he worked thirty hours or more. Such total hours shall be divided by the number of such weeks, and the resulting weekly average shall constitute the employee's full-time weekly hours, until a subsequent determination is made. If the application of the above method would be unreasonable or arbitrary as applied to a particular individual, the "full-time weekly hours" for such individual shall be determined in accordance with fair and reasonable methods prescribed by the commission.

(2) An individual's "hourly rate of earnings" shall be determined by dividing his total wages for all his weeks of employment during which he was employed for at least his full-time weekly hours, occurring within the 52 weeks preceding the close of his most recent week of employment, by the total number of hours of employment within such weeks; the quotient so obtained shall be his hourly rate of earnings until a subsequent determination is made, provided that if the application of such method of determination would be unreasonable or arbitrary as applied to a particular individual, the "hourly rate of earnings" of such individual shall be determined in accordance with fair and reasonable methods prescribed by the commission.

(3) The commission may, after fair notice and opportunity to be heard, determine the full-time weekly hours customarily worked, or the hourly rate of earnings customarily received (or both), by employees in any trade or industry or any type of employment therein, in this state, in any part of this state, or in any establishment in this state. Such determination shall be made and published in accordance with the provisions of this article for general commission rules. Thereafter, until such determination is amended or rescinded, such weekly hours or such hourly rate of earnings, or both, shall be deemed to be the full-time weekly hours or the hourly rate of earnings, or both, of any individual employed in such trade or industry or type of employment or establishment for the greater part of his working time occurring within the 52 consecutive weeks preceding the close of his most recent week of employment, provided, that, upon showing of good cause therefor, the commission may exempt any such individual from the application of such determination if it finds that the application thereof to him would be impracticable or inequitable. 1936 (39) 1716.

§ 7035-84. Benefit eligibility conditions.—An unemployed individual shall be eligible to receive benefits with respect to any week only if it has been found by the commission that:

(a) He has made a claim for benefits in accordance with the provisions of section 7035-86 (a) of this article.

(b) He has registered for work at the employment office designated by the commission within such time limits and with such frequency and in such manner (such as in person or in writing) as the commission may by general rule prescribe, provided that failure to comply with this condition may be excused by the commission upon a showing of good cause therefor.

(c) He is physically and mentally able to work, and is available for work.

(d) Prior to any week for which he claims benefits for total unemployment, he has been totally unemployed for a waiting period of at least two weeks with respect to which he received no benefits but during which he was eligible for benefits in all other respects, except for the requirements of subsections (a) and (e) of this section, and was not ineligible for benefits under any provision of section 7035-85 of this article. Such two weeks of total unemployment need not be consecutive, but shall be accumulated over the period of thirteen consecutive weeks preceding any week for which he claims benefits, provided that

this requirement shall not interrupt the payment of benefits for consecutive weeks of total unemployment; and provided further that such two weeks of total unemployment occur after benefits first could become payable to any individual under this article, and after the unemployed individual has had at least one week of employment.

(e) He has had at least thirteen weeks of employment within the fifty-two consecutive weeks preceding the close of his most recent week of employment. 1936 (39) 1716.

§ 7035-85. Disqualification for benefits.—An individual shall be ineligible for benefits:

(a) For the week in which he has left work voluntarily without good cause, if so found by the commission, and for not less than one nor more than the five next following weeks, (in addition to the waiting period) as determined by the commission according to the circumstances in each case.

(b) For the week in which he has been discharged for misconduct, if so found by the commission, and for not less than one nor more than the nine next following weeks, (in addition to the waiting period) as determined by the commission in each case according to the seriousness of the misconduct.

(c) If the commission finds that, being totally unemployed and otherwise eligible for benefits, he has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the commission or to accept suitable work when offered him by the employment office or by an employer, or to return to his customary self-employment (if any) when so directed by the commission. Such ineligibility shall continue for the week in which such failure occurred and for not less than one nor more than the five next following weeks (in addition to the waiting period) as determined by the commission according to the circumstances in each case.

(1) Work or self-employment shall be deemed suitable only if the commission finds that it can reasonably be expected to yield the individual aggregate wages for the duration of such work or self-employment greater than his weekly benefit amount for one week. In determining whether or not any such work is suitable for an individual, the commission shall consider the degree of risk involved to his health, safety and morals, his physical fitness and prior training and experience, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence.

(2) Notwithstanding any other provisions of this article, no employment shall be deemed suitable, and benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (A) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (B) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (C) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any *bona fide* labor organization;

(d) For any week in which it is found by the commission that his total or partial unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment or other premises at which he is or was last employed.

Provided, further, that if in any case separate branches of work, which are commonly conducted as separate business in separate premises, are conducted

in separate departments of the same premises, each such department shall for the purposes of this subsection be deemed to be a separate factory, establishment of other premises.

(e) For any week with respect to which the individual is receiving or has received remuneration in the form of

1. Wages in lieu of notice, or any payment by way of compensation for the loss of wages;

2. Compensation for temporary partial disability under the workmen's compensation law of any state or under a similar law of the United States; or

3. Old age benefits under title II of the federal social security act, as amended; or under the railroad retirement act of 1935.

Provided, that if such remuneration is less than the benefits which would otherwise be due under this article, he shall be entitled to receive for such week if otherwise eligible, benefits reduced by the amount of such remuneration. 1936 (39) 1716.

§ 7035-86. Claim for benefits.—(a) **FILING.** Claims for benefits shall be made in accordance with such rules as the commission may prescribe, at the employment office nearest either to the individual's place of residence or to the place of his most recent employment. If the individual is partially unemployed, the commission may waive the filing of a claim directly by the individual himself if due notice of his unemployment is given to the commission by the employer, or is given to the employer by the commission, and such notice shall serve as a claim for benefits. An employer shall give to each of his employees at the time such employee becomes totally unemployed, a printed statement of the rules prescribed by the commission relating to the filing of claims for benefits. Such printed statement shall be supplied by the commission to each employer without cost to him.

(b) **INITIAL DETERMINATION.** A deputy or representative designated by the commission, and hereinafter referred to as a deputy, shall promptly examine the claim, and, on the basis of the facts found by him, may determine whether or not such claim is valid, and if valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and the maximum duration thereof, or may refer such claim to an appeal tribunal or to the commission, which shall make the same determinations with respect thereto in accordance with the procedure prescribed in subsection (c) of this section. He shall promptly notify the claimant and his most recent employer of the decision and the reasons therefor. Unless the claimant or his most recent employer, within five calendar days after the delivery of such notification, or within seven calendar days after such notification was mailed to his last known address, files an appeal from such decision and applies for a hearing, such decision shall be final and benefits shall be paid or denied in accordance therewith. In the event that a hearing is requested, the payment of any benefits with respect to the period prior to the final determination of the commission, shall be made only after such determination; provided that if an appeal tribunal affirms a decision of a deputy, or the commission affirms a decision of an appeal tribunal, allowing benefits, such benefits shall be paid regardless of any appeal which may thereafter be taken, but if such decision is finally reversed, no employer's account shall be charged with benefits so paid.

(c) **APPEALS.** Unless such appeal is withdrawn, an appeal tribunal, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the deputy. The parties shall be duly

notified of such tribunal's decision, which shall be deemed to be the final decision of the commission, unless within ten days after the date of such decision, the commission acts on its own motion, or permits any of the parties to initiate further appeal or review.

(d) **APPEAL TRIBUNALS.** To hear and decide disputed claims, the commission shall establish one or more impartial appeal tribunals consisting in each case of either a full-time salaried examiner, a commissioner, or a board consisting of three members, one of whom shall be a full-time salaried examiner or a commissioner, who shall serve as chairman, one of whom shall be an employer or representative of employers and the other an employee or representative of employees; each of the latter two members shall serve at the pleasure of the commission and be paid the per diem as fixed in the annual state appropriation bill for boards, commissions and committees for each day of active service on such tribunal plus necessary expenses, as likewise fixed in the appropriation bill. No person shall participate on behalf of the commission in the hearing of any case in which he is an interested party. The commission may designate an alternate to serve in the absence or disqualification of any member of an appeal tribunal. The chairman shall act alone in the absence or disqualification of any other member and his alternate. In no case shall the hearings proceed unless the chairman of the appeal tribunal is present. In the event that a commissioner serves as a member of any appeal tribunal, such service shall not disqualify him from participating in a decision in the same case by the commission as a body.

(e) **COMMISSION REVIEW.** The commission shall have the power to remove or transfer the proceedings on any claim pending before an appeal tribunal; and may on its own motion (within ten days after the date of any decision by an appeal tribunal) affirm, modify or set aside any such decision on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence.

(f) **CONTINUOUS JURISDICTION.** Jurisdiction over benefits shall be continuous. Upon its own initiative, or upon application of any party in interest, on the ground of a change in conditions, or because of a mistake as to fact, the commission may at any time review an award of benefits or the denial of a claim therefor, in accordance with the procedure prescribed in respect to claims, and in accordance with such review, issue a new decision which may award, terminate, continue, increase or decrease such benefits. Such new order shall not affect any benefits paid before the date thereof under authority of the prior order and shall be subject to review as provided in this section.

(g) **PROCEDURE.** The manner in which claims shall be presented, the reports thereon required from the claimant and from employers, and the conduct of hearings and appeals shall be in accordance with rules prescribed by the commission for determining the rights of the parties, whether or not such rules conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be reduced to writing, but need not be transcribed unless the disputed claim is further appealed.

(h) **OATHS AND WITNESSES.** In the discharge of the duties imposed by this article, the chairman of an appeal tribunal or duly authorized representative of the commission as designated by its rules shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, cor-

respondence, memoranda and other records deemed necessary as evidence in connection with the disputed claim or the administration of this article.

(i) **SUBPOENAS.** In case of contumacy by, or refusal to obey a subpoena issued to any person, any court of this state, or judge thereof, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the commission or its duly authorized representative, shall have jurisdiction to issue to such person an order requiring such person to appear before a commissioner, the commission, or its duly authorized representative, there to produce evidence if so ordered or there to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof. Any person who shall without just cause, fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda and other records, if it is in his power so to do, in obedience to a subpoena of the commission shall be punished by a fine of not less than two hundred dollars or by imprisonment for not longer than sixty days, or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

(j) **PROTECTION AGAINST SELF-INCRIMINATION.** No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before the commission or in obedience to the subpoena of the commission or any member thereof or any duly authorized representative of the commission in any cause or proceeding instituted by the commission, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(k) **WITNESS FEES.** Witnesses subpoenaed pursuant to this section shall be allowed fees and mileage at a rate fixed by the commission but not to exceed that allowed witnesses in the court of common pleas in such county. Such fees and all expenses of proceedings involving disputed claims shall be deemed a part of the expense of administering this article.

(l) **APPEAL TO COURTS.** Any decision, in the absence of an appeal therefrom as herein provided, shall become final ten days after the date thereof, and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his remedies before the commission as provided by this article. The commission shall be deemed to be a party to any judicial action involving any such decision, and may be represented in any such judicial action by any qualified attorney who is a regular salaried employee of the commission and has been designated by it for that purpose, or at the commission's request, by the attorney general.

(m) **COURT REVIEW.** Within ten days after the decision of the commission has become final, any party aggrieved thereby may secure judicial review thereof by commencing an action in the court of common pleas, either in the county in which the employee resides or the county in which he was last employed, against the commission for the review of its decision, in which action any other

party to the proceeding before the commission shall be made a defendant. In such action, a petition which need not be verified, but which shall state the grounds upon which a review is sought, shall be served upon a member of the commission or upon such person as the commission may designate and such service shall be deemed completed service on all parties, but there shall be left with the party so served as many copies of the petition as there are defendants and the commission shall forthwith mail one such copy to each such defendant. With its answer, the commission shall certify and file with said court all documents and papers and a transcript of all testimony taken in the matter together with its findings of fact and decision therein. The commission may also, in its discretion, certify to such court questions of law involved in any decision by it. In any judicial proceeding under this section, the findings of the commission as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of said court shall be confined to questions of law. Such actions, and the questions so certified, shall be heard in a summary manner and shall be given precedence over all other civil cases except cases arising under the workmen's compensation law of this state. An appeal may be taken from the decision of the court of common pleas to the supreme court, in the same manner, but not inconsistent with the provisions of this article, as is provided in civil cases. It shall not be necessary, in any judicial proceeding under this section to enter exceptions to the rulings of the commission and no bond shall be required for entering such appeal. Upon the final determination of such judicial proceeding, the commission shall enter an order in accordance with such determination. In no event shall a petition for judicial review act as a supersedeas. 1936 (39) 1716.

§ 7035-87. Contributions.—(a) **PAYMENT.** (1) On and after July 1, 1936, contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this article, with respect to wages payable for employment occurring during such calendar year except that for the six months' period beginning July 1, 1936, such contributions shall accrue and become payable with respect to wages payable for employment during the six consecutive calendar months beginning July 1, 1936. Such contributions shall become due and be paid to the commission at such times and in such manner as the commission may prescribe, and shall not be deducted, in whole or in part, from the wages of individuals in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(b) **RATE OF CONTRIBUTION.** Each employer shall pay contributions equal to the following percentages of wages payable by him with respect to employment:

(1) One and eight-tenths per centum with respect to employment for the six months' period beginning July 1, 1936, provided that if the total of such contributions at such one and eight-tenths per centum rate equals less than nine-tenths of one per centum of the annual payroll of any employer for the calendar year 1936, such employer shall pay, not later than January 15, 1937, an additional lump sum contribution with respect to employment for such six months' period beginning July 1, 1936, equal to the difference between nine-tenths of one per centum of his annual pay roll for the calendar year 1936 and the total of his contributions at such one and eight-tenths per centum rate for such six months' period beginning July 1, 1936.

(2) One and eight-tenths per centum with respect to employment during the calendar year 1937;

(3) Two and seven-tenths per centum with respect to employment during the calendar years 1938, 1939, 1940; and for the first six calendar months of the year 1941; and

(4) With respect to employment after June 30, 1941, the percentage determined pursuant to subsection (c) of this section.

(c) FUTURE RATES BASED ON BENEFIT EXPERIENCE. The commission shall maintain a separate account for each employer, crediting his account with all the contributions which he has paid on his own behalf during each calendar year, and charging his account with all amounts paid within such year as benefits which, under section 7035-83 of this article, were charged against weeks of employment in his service. But nothing in this article shall be construed to grant any employer or his employees prior claims or rights to the amount paid by him to the unemployment compensation fund either on his own behalf or on behalf of his employees. All contributions to the fund shall be pooled and available to pay benefits to any employee entitled thereto under this article irrespective of the source of such contributions. The commission shall, for the last six consecutive calendar months of the year 1941 and for each calendar year thereafter, classify employers in accordance with their actual experience in the payment of contributions on their own behalf and with respect to benefits charged against their accounts, with a view to fixing such contribution rates as will reflect such experience. The commission shall determine the contribution rate of each employer in accordance with the following requirements:

(1) Each employer's rate shall be two and seven-tenths per centum, unless and until there shall have been thirty-six consecutive calendar months as of July 1, 1941, or thereafter three calendar years throughout which an individual in his employ could have received benefits if unemployed and eligible.

(2) Each employer's rate for the six consecutive calendar months commencing July 1, 1941, or thereafter for the twelve months commencing January 1 of any calendar year, shall be determined on the basis of his record up to the beginning of such six months' period or of such calendar year, respectively. If, at the beginning of such six months' period or of such calendar year the total of all his contributions, paid on his own behalf for all past periods, exceeds the total benefits charged to his account for all such periods, his contribution rate shall be:

(a) One and eight-tenths per centum, if such excess equals or exceeds seven and one-half, but is less than ten per centum of his average annual payroll;

(b) Nine-tenths of one per centum, if such excess equals or exceeds ten per centum of his average annual pay roll.

If the total of his contributions, paid on his own behalf for all past periods or for the past 60 consecutive calendar months, whichever period is more advantageous to such employer for the purposes of this paragraph, is less than the total benefits charged against his account during the same period, his rate shall be three and six-tenths per centum, unless such employer shows to the satisfaction of the commission that such experience was due to an act of God, fire or other catastrophe or act of civil or military authority directly affecting the place in which individuals were employed by him, in which case his rate shall be two and seven-tenths per centum.

(3) No employer's rate for the period of six calendar months commencing July 1, 1941, or for the period of twelve months commencing January 1 of any

calendar year thereafter, shall be less than two and seven-tenths per centum unless the total assets of the fund excluding contributions not yet paid at the beginning of such six months' period or of such calendar year exceeds the total benefits paid from the fund within the last preceding twelve consecutive calendar months; and no employer's rate shall be less than one and eight-tenths per centum unless such assets at such time were at least twice the total benefits paid from the fund within such last preceding twelve consecutive calendar months. 1936 (39) 1716.

§ 7035-88. Period, election, and termination of employer's coverage.—(a) Any employing unit which is or becomes an employer subject to this article within any calendar year shall be subject to this article during the whole of such calendar year.

(b) Except as otherwise provided in subsection (c) of this section an employing unit shall cease to be an employer subject to this article only as of the first day of January of any calendar year, if it files with the commission, prior to the fifth day of January of such year, a written application for termination of coverage, and the commission finds that there were no twenty different weeks within the preceding calendar year, within which such employing unit employed eight or more individuals in employment subject to this article. For the purpose of this subsection, the two or more employing units mentioned in paragraphs (2) or (3) or (4) of section 7035-99 (f) shall be treated as a single employing unit.

(c) An employing unit, not otherwise subject to this article which files with the commission its written election to become an employer subject hereto for not less than two calendar years, shall, with the written approval of such election by the commission, become an employer subject hereto to the same extent as all other employers, as of the date stated in such approval, and shall cease to be subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if at least thirty days prior to such first day of January, it has filed with the commission a written notice to that effect. 1936 (39) 1716.

§ 7035-89. Unemployment compensation fund.—(a) **ESTABLISHMENT AND CONTROL.** There is hereby established a special fund to be known as the unemployment compensation fund which shall be administered separate and apart from all public monies or funds of the state. This fund shall consist of all contributions and monies paid into or received by it for the payment of benefits; of any property or securities acquired through the use of monies belonging to the fund, and of interest earned upon any monies paid into or received by it. All monies in such fund shall be mingled and undivided. Subject to the provisions of this article, the commission is hereby vested with full power, authority and jurisdiction over the fund, including all monies and property or securities belonging thereto, and may perform any and all acts, whether or not herein specifically designated, which are necessary or convenient in the administration thereof consistent with the provisions of this article.

(b) **WITHDRAWALS.** The fund shall be administered exclusively for the purposes of this article, and monies withdrawn therefrom, except for deposits in the unemployment trust fund as provided in this article, shall be used solely for the payment of benefits. Payment of benefits shall be made in accordance with the rules prescribed by the commission consistent with the provisions of this article. Withdrawals from the fund shall not be subject to any provisions of

law requiring specific appropriations or other formal release by state officers of monies in their custody.

(c) COLLECTION, DEPOSIT AND INVESTMENT. The state treasurer shall be *ex-officio* the treasurer and custodian of the fund, and he shall administer the fund in accordance with the provisions of this article and the directions of the commission and shall pay all warrants drawn upon it in accordance with such rules as the commission may prescribe. All contributions, upon receipt thereof by the commission, shall be forwarded to the treasurer, who shall immediately deposit them, together with any monies earned thereby while in his custody, and any other monies received by him for the payment of benefits from any source other than the unemployment trust fund, with the secretary of the treasury of the United States of America, to the credit of the unemployment trust fund established and maintained pursuant to section 904 of the social security act, as amended, any provisions of law in this state relating to the deposit, administration, release or disbursement of monies in the possession or custody of the state or monies deposited in any fund created by the state to the contrary notwithstanding. All monies belonging to the unemployment compensation fund, and not otherwise deposited, invested or paid over pursuant to the provisions of this article, may be deposited by the treasurer under the direction of the commission, in any banks or public depositories in which general funds of the state may be deposited, requiring the same security therefor as for general state funds, but no public deposit insurance charge or premium shall be paid out of monies in the unemployment compensation fund, any other provisions of the law to the contrary notwithstanding. The treasurer shall give a separate bond conditioned upon the faithful performance of his duties as custodian of the fund in an amount to be fixed by the commission, and in a form prescribed by law or approved by the attorney general. Premiums for the said bond shall be paid as provided in section 7035-93 of this article.

(d) WITHDRAWALS OF FUNDS FOR PAYMENT OF BENEFITS. The commission through the treasurer acting as its fiscal agent shall requisition from time to time from the unemployment trust fund such amounts, not exceeding the amount standing to its account therein, as it deems necessary for the payment of benefits for a reasonable future period, but for no other purpose. Upon receipt thereof the treasurer shall deposit such monies in the unemployment compensation fund in a special benefit account. The commission shall issue its requisition for payments to the comptroller general of South Carolina who shall draw his warrant in the usual form provided by law on the state treasurer who shall pay the same by check on the special benefit account of the unemployment compensation fund. Any balance of monies so requisitioned which remains unclaimed or unpaid in the special benefit account of the unemployment compensation fund after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the commission, shall be re-deposited with the secretary of the treasury of the United States of America, to the credit of the unemployment trust fund, as provided in subsection (c) of this section.

(e) MANAGEMENT OF FUNDS UPON DISCONTINUANCE OF UNEMPLOYMENT TRUST FUND. The provisions of subsections (a), (b), (c), and (d), to the extent that they relate to the unemployment trust fund, shall be operative only so long as such unemployment trust fund continues to exist and so long as the secretary of the treasury of the United States of America continues to maintain for this

state a separate book account of all funds deposited therein by this state for benefit purposes, together with this state's proportionate share of the earnings of such unemployment trust fund, from which no other state is permitted to make withdrawals. If and when such unemployment trust fund ceases to exist, or such separate book account is no longer maintained, all monies, properties or securities therein, belonging to the unemployment compensation fund of this state shall be transferred to the treasurer of the unemployment compensation fund, who shall hold, invest, transfer, sell, deposit and release such monies, properties or securities in a manner approved by the commission, in accordance with the provisions of this article, provided that such monies shall be invested in the following readily marketable classes of securities: bonds or other interest-bearing obligations of the United States of America or of South Carolina or any political subdivision thereof; and *provided, further*, that such investment shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The treasurer shall dispose of securities or other properties belonging to the unemployment compensation fund only under the direction of the commission in accordance with the purposes and provisions of this article. 1936 (39) 1716.

§ 7035-90. Administrative organization.—(a) COMMISSION. This article shall be administered by the South Carolina unemployment compensation commission. The said commission shall consist of three members to be elected by the General Assembly, in joint session, for terms of four (4) years and until their successors have been elected and qualified. Any vacancy occurring shall be filled by appointment by the Governor for the temporary period until the next session of the General Assembly, whereupon the General Assembly shall elect a commissioner to fill the unexpired term. The terms of office for the original commissioners shall commence upon their election and qualification and shall continue until the first day of July, 1940, and thereafter the terms of commissioners elected shall be for four years as above provided. Each commissioner shall receive an annual salary of thirty-six hundred (\$3,600.00) dollars, payable in monthly installments. The commission shall elect one of its members as chairman, and any two commissioners shall constitute a quorum and no vacancy shall impair the right of the remaining commissioners to exercise all of the powers of the commission through action of a quorum.

(b) UNEMPLOYMENT COMPENSATION AND EMPLOYMENT SERVICE DIVISIONS.—There is hereby created under the South Carolina unemployment compensation commission two coordinate divisions, the South Carolina state employment service division created pursuant to section 7035-92 of this article, and a division to be known as the unemployment compensation division, each of which shall be administered by a full-time salaried director, who shall be subject to the supervision and direction of the commission. Each division shall be responsible for the discharge of its distinctive functions. Each division shall be a separate administrative unit with respect to personnel, budget, and duties, except in so far as the commission may find that such separation in the local offices is impracticable because of the small size of the territory served or of the volume of work performed. The commission is authorized to appoint, fix the compensation of, and prescribe the duties of the director of the unemployment compensation division, provided that such appointment shall be made on a non-partisan merit basis, and to appoint, fix the compensation of and prescribe the duties of the director of the South Carolina state employment service division in accordance with the provisions of section 7035-92 of this article. The salary of each

director shall be not more than three thousand (\$3,000.00) dollars a year, such salaries to be payable in monthly installments. The director of each division shall be responsible to the commission for the administration of his particular division and shall have such powers and authority as may be vested in him by the commission. 1936 (39) 1716.

§ 7035-91. Administration.—(a) DUTIES AND POWERS OF COMMISSION. It shall be the duty of the commission to administer this article; and it shall have power and authority to adopt, amend or rescind such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as it deems necessary or suitable to that end. Such rules and regulations shall be effective upon publication in the manner, not inconsistent with the provisions of this article, which the commission shall prescribe. The commission shall determine its own organization and methods of procedure in accordance with the provisions of this article, and shall have an official seal which shall be judicially noticed. Not later than the first day of February of each year, the commission shall submit to the Governor and to the General Assembly a report covering the administration and operation of this article during the preceding calendar year and shall make such recommendations for amendments to this article as the commission deems proper. Whenever the commission believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly so inform the Governor and the General Assembly and make recommendations with respect thereto.

(b) GENERAL COMMISSION RULES. General commission rules which apply to all, or classes of, employing units, employees, or other persons or agencies, may be adopted, amended or rescinded by the commission only after public hearing or opportunity to be heard thereon, of which appropriate notice has been given through the press. Such rules shall become effective ten days after filing with the secretary of state and publication in one or more newspapers of general circulation in this state.

(c) PUBLICATION. The commission shall cause to be printed for distribution to the public the text of this article, the commission's general rules and its annual reports to the Governor, and any other material the commission deems relevant and suitable and shall furnish the same to any person upon application therefor.

(d) PERSONNEL. Subject to other provisions of this article, the commission is authorized to appoint, fix the compensation (subject to the approval of the state budget commission unless otherwise fixed by the General Assembly), and prescribe the duties and powers of such officers, accountants, attorneys, experts and other persons as may be necessary in the performance of its duties. All positions shall be filled by persons selected and appointed on a nonpartisan merit basis. The commission shall not employ or pay any person who is an officer or committee member of any political party organization. The commission may delegate to any such person so appointed such power and authority as it deems reasonable and proper for the effective administration of this article, and may in its discretion bond any person handling monies or signing checks hereunder.

(e) ADVISORY COUNCILS. The commission may appoint a state advisory council and local advisory councils, composed in each case of equal numbers of employer representatives and employee representatives who may fairly be regarded as representative because of their vocation, employment or affiliations,

and of such members representing the general public as the commission may designate. Such councils shall aid the commission in formulating policies and discussing problems related to the administration of this article and in assuring impartiality and freedom from political influence in the solution of such problems. Such advisory councils shall serve without compensation, but shall be reimbursed for actual traveling expenses.

(f) **EMPLOYMENT STABILIZATION.** The commission with the advice and aid of its advisory councils, and through its appropriate divisions, shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise and assist in the establishment and operation, by municipalities, counties, school districts and the state, of reserves for public works to be used in times of business depression and unemployment; to promote the reemployment of unemployed workers throughout the state in every other way that may be feasible; and to these ends to carry on and publish the results of investigations and research studies.

(g) **RECORDS AND REPORTS.** Each employing unit shall keep true and accurate employment records, containing such information as the commission may prescribe. Such records shall be open to inspection and be subject to being copied by the commission or its authorized representatives at any reasonable time and as often as may be necessary. The commission may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the commission deems necessary for the effective administration of this article. Information thus obtained shall not be published or be open to public inspection (other than to public employees in the performance of their public duties) in any manner revealing the employing unit's identity, but any claimant at a hearing before an appeal tribunal or the commission shall be supplied with information from such records, to the extent necessary for the proper presentation of his claim. Any employee of the commission who violates any provision of this section shall be fined not less than \$20 nor more than \$200 or imprisoned for not longer than ninety days, or both.

(h) **STATE-FEDERAL COOPERATION.** In the administration of this article, the commission shall cooperate to the fullest extent consistent with the provisions of this article, with the social security board, created by the federal social security act, approved August 14, 1935, as amended; shall make such reports, in such form and containing such information as the social security board may from time to time require and shall comply with such provisions as the social security board may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations prescribed by the social security board governing the expenditures of such sums as may be allotted and paid to this state under title 111 of the social security act for the purpose of assisting in the administration of this article.

Upon request therefor the commission shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation and employment status of each recipient of benefits and such recipient's rights to further benefits under this article. 1936 (39) 1716.

§ 7035-92. Employment service.—(a) **STATE EMPLOYMENT SERVICE.** The commission shall create a division to be known as the South Carolina state employment service which shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper

administration of this article and for the purpose of performing such duties as are within the purview of the act of Congress, entitled "An act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system, and for other purposes," approved June 6, 1933, (48 Stat. 113, U. S. Code, title 29, section 49 (c)) as amended. Any existing free public employment offices maintained by the state but not heretofore under the jurisdiction of the commission shall be transferred to the jurisdiction of such division by July 1, 1936, and upon such transfer all duties and powers conferred upon any other department, agency, or officer of this state relating to the establishment, maintenance and operation of free public employment offices shall be vested in said division. The said division shall be administered by a full-time salaried director, who shall be charged with the duty to cooperate with any official or agency of the United States having powers or duties under the provisions of the said act of Congress, as amended, and to do and perform all things necessary to secure to this state the benefits of the said act of Congress, as amended, in the promotion and maintenance of a system of public employment offices. The provisions of the said act of Congress, as amended, are hereby accepted by this state, in conformity with section 4 of said act, and this state will observe and comply with the requirements thereof. The South Carolina state employment service division is hereby designated and constituted the agency of this state for the purposes of said act. The commission is directed to appoint the director, other officers and employees of the South Carolina state employment service. Such appointments shall be made in accordance with regulations prescribed by the director of the United States employment service.

(b) FINANCING. All monies received by this state under the said act of Congress, as amended, shall be paid into the special "employment service account" in the unemployment compensation administration fund, and said monies are hereby made available to the South Carolina state employment service to be expended as provided by this section and by said act of Congress. For the purpose of establishing and maintaining free public employment offices, said division is authorized to enter into agreements with any political sub-division of this state or with any private, non-profit organization, and as a part of any such agreement the commission may accept monies, services, or quarters as a contribution to the employment service account. 1936 (39) 1716.

§ 7035-93. Unemployment compensation administration fund.—(a) SPECIAL FUND. There is hereby created in the state treasury a special fund to be known as the unemployment compensation administration fund. All monies which are deposited or paid into this fund are hereby appropriated and made available to the commission. All monies in this fund shall be expended solely for the purpose of defraying the cost of the administration of this article, and for no other purpose whatsoever. The commission shall issue its requisition approved by the chairman for payment of such costs of administration to the comptroller general of South Carolina, who shall draw his warrant in the usual form provided by law on the State treasurer, who shall pay the same by check on the unemployment compensation administration fund. The fund shall consist of all monies appropriated by this state, and all monies received from the United States of America, or any agency thereof, including the social security board and the United States employment service, or from any other source, for such purpose. All fines and penalties collected pursuant to the administration of this

article are hereby appropriated to and shall be paid into this fund. All monies in this fund shall be deposited in the same manner and under the same conditions and requirements as is provided by law for other public funds in the state treasury, unless otherwise provided in this article. Any balances in this fund shall not lapse at any time but shall be continuously available to the commission for expenditure consistent with this article. The state treasurer shall give a separate and additional bond conditioned upon the faithful performance of his duties in connection with the unemployment compensation administration fund in an amount to be fixed by the commission and in a form prescribed by law or approved by the attorney general. The premiums for such bond and the premiums for the bond given by the treasurer of the unemployment compensation fund under section 7035-89 of this article, shall be paid from the monies in the unemployment compensation administration fund.

(b) **EMPLOYMENT SERVICE ACCOUNT.** A special "employment service account" shall be maintained as a part of the unemployment compensation administration fund for the purpose of maintaining the public employment offices established pursuant to section 7035-92 of this article and for the purpose of cooperating with the United States employment service. There is hereby appropriated to the employment service account of the unemployment compensation administration fund, from any money in the state treasury not otherwise appropriated, on July 1, 1936, the sum of thirty thousand (\$30,000.00) dollars. In addition, there shall be paid into such account the monies designated in section 7035-92 (b) of this article, and such monies as are apportioned for the purposes of this account from any monies received by this state under title 111 of the social security act, as amended. 1936 (39) 1716.

§ 7035-94. Collection of contributions.—(a) **INTEREST ON PAST DUE CONTRIBUTIONS.** Contributions unpaid on the date on which they are due and payable, as prescribed by the commission, shall bear interest at the rate of one per centum per month from and after such date until payment plus accrued interest is received by the commission or the South Carolina tax commission, provided that the commission may prescribe fair and reasonable general rules pursuant to which such interest shall not accrue during the first calendar year that any employer is subject to this article. Interest collected pursuant to this subsection shall be paid into the unemployment compensation administration fund.

(b) **COLLECTION.** If any employer defaults in any payment of contributions or interest thereon, the commission shall certify to the South Carolina tax commission the name of the employer, the amount of contributions and interest due together with other necessary information in such manner and form as may be approved by the commission, and the South Carolina tax commission shall proceed to collect all amounts due in accordance with the following procedure:

(1) Immediately upon receipt of such certification, the South Carolina tax commission shall notify the employer of the amount of contributions and interest due as certified by the commission. If such amount is not paid within ten days thereafter, the tax commission shall issue a warrant of execution, directed to the sheriff of the county of the state commanding him to levy upon and sell the real and personal property of the employer found within his county for the payment of the amount thereof, with interest, and the costs of executing the warrant, and to return such warrants to the tax commission and to pay it the money collected by virtue thereof. Upon receipt of such execution, the sheriff

shall file with the clerk of court of his county a copy thereof and thereupon the clerk of court shall enter in his abstract of judgments the name of the employer mentioned in the warrant and in proper columns the amount of the contribution, with interest and costs for which the warrant is issued and the date and hour when such copy is filed and shall index the warrant upon the index of judgments. The sheriff shall thereupon proceed upon the warrant in all respects with like effect and in the same manner prescribed by law in respect to executions issued against the property upon judgments of a court of record and shall be entitled to the same fees for services in executing the warrant to be collected in the same manner. The contributions, interest and costs prescribed herein shall be deemed a debt owing to the state by the party against whom the same shall be charged and shall be a lien upon all property of the party against whom the same shall be charged, but such lien shall be valid, so as to affect the rights of purchasers for value, mortgages or judgments or other lien creditors, only from the time when the warrant is entered upon the transcript of judgments in the county, in the case of real estate, where the real estate is situate, and, in the case of personal property, where the employer resides, if the employer be a resident of this state, or, if the employer be a non-resident in the county where the personal property is situate.

(2) The South Carolina tax commission shall certify to the commission all contributions collected and shall deposit all such contributions immediately with the state treasurer in accordance with the provisions of section 7035-89 (c).

(3) In case of suit to enjoin the collection of the contributions herein provided, to test the validity of this article, or for any other purpose, the commission shall be made a party thereto, and it shall be the duty of the attorney general, or special counsel for the commission, to defend such suit in accordance with the provisions of section 7035-97.

(c) PRIORITIES UNDER LEGAL DISSOLUTIONS OR DISTRIBUTIONS. In the event of any distribution of an employer's assets pursuant to an order of any court under the laws of this state, including any receivership, assignment for benefit of creditors, adjudicated insolvency, composition, or similar proceeding, contributions then or thereafter due shall be paid in full prior to all other claims except taxes but on a parity with claims for wages of not more than \$250.00 to each claimant, earned within six months of the commencement of the proceeding. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the federal bankruptcy act of 1898 as amended, contributions then or thereafter due shall be entitled to such priority as is provided in section 64 (b) of that act (U. S. Code, title 11, section 104 (b)) as amended.

(d) If more or less than the correct amount of contributions is paid with respect to employment during any period, and such error was without fraudulent intent, adjustments shall be made without interest and in accordance with regulations prescribed by the commission in computing contributions due and payable with respect to employment during subsequent contribution periods; or if such adjustments cannot be made, by collecting the amount of any deficient contributions in the manner prescribed in subsection (b) of this section, or by repaying the amount of any excessive contributions from interest collected pursuant to subsection (a) of this section, from fines and penalties collected pursuant to the administration of this article and from other monies made available by the state for this purpose. 1936 (39) 1716.

§ 7035-95. Protection of rights and benefits.—(a) **WAIVER OF RIGHTS VOID.** No agreement by an individual to waive, release or commute his rights to benefits or any other rights under this article shall be valid. No agreement by an employee or by employees to pay all or any portion of an employer's contributions, required under this act from such employer, shall be valid. No employer shall directly or indirectly make or require or accept any deduction from wages to finance the employer's contributions required from him, or require or accept any waiver by an employee of any right hereunder. Any employer or officer or agent of an employer who violates any provision of this subsection shall, for each offense, be fined not less than \$100.00 nor more than \$1,000.00 or be imprisoned for not more than six months or both.

(b) **LIMITATION OF FEES.** No employee shall be charged fees of any kind in any proceeding under this article by the commission or its representatives or by any court or any officer (except an attorney) thereof. Any individual claiming benefits in any proceeding before the commission or a court may be represented by an attorney or other duly authorized agent; but no such attorney or agents shall either charge or receive for such services more than an amount approved by the commission. Any person who violates any provision of this subsection shall, for each such offense, be fined not less than \$50.00 nor more than \$500.00 or imprisoned for not more than six months or both.

(c) **NO ASSIGNMENT OF BENEFITS, EXEMPTIONS.** No assignment, pledge or encumbrance of any right to benefits which are or may become due or payable under this article shall be valid; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt; and benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts except debts incurred for necessities furnished to such individual or his spouse or dependents during the time when such individual was unemployed. No waiver of any exemption provided for in this subsection shall be valid. 1936 (39) 1716.

§ 7035-96. Penalties.—(a) Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this article, either for himself or for any other person, shall be punished by a fine of not less than twenty nor more than fifty dollars, or by imprisonment for not longer than thirty days, or by both such fine and imprisonment; and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

(b) Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject hereto or to avoid or reduce any contribution or other payment required from any employing unit under this article, or who wilfully fails or refuses to make any such contribution or other payment or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be punished by a fine of not less than \$20.00 nor more than \$200.00, or by imprisonment for not longer than sixty days, or by both such fine and imprisonment; and each such false statement or represen-

tation or failure to disclose a material fact, and each day of such failure or refusal shall constitute a separate offense.

(c) Any person who shall wilfully violate any provision of this article or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this article, and for which a penalty is neither prescribed herein nor provided by any other applicable statute, shall be punished by a fine of not less than \$20.00 nor more than \$200.00, or by imprisonment for not longer than sixty days, or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

(d) Any person who, by reason of the non-disclosure or misrepresentation by him or by another, of a material fact, (irrespective of whether such non-disclosure or misrepresentation was known or fraudulent) has received any sum as benefits under this article while any conditions for the receipt of benefits imposed by this article were not fulfilled in his case, or while he was disqualified from receiving benefits, shall be liable to repay to the commission for the unemployment compensation fund, a sum equal to the amount so received by him, and such sum shall be collectible in the manner provided in section 7035-94 (b) of this article for the collection of past due contributions. 1936 (39) 1716.

§ 7035-97. Representation in court.—(a) In any civil action to enforce the provisions of this article the commission and the state may be represented by any qualified attorney who is a regular salaried employee of the commission and is designated by it for this purpose or at the commission's request, by the attorney-general. In case the attorney-general designates special counsel to defend, on behalf of the state, the validity of this article, the expenses and compensation of such special counsel and of any experts employed by the commission in connection with such proceedings, may be charged to the unemployment compensation administration fund.

(b) All criminal actions for violation of any provisions of this article, or of any rules or regulations issued pursuant thereto, shall be prosecuted by the attorney-general of the state; or by the solicitor of any circuit or any prosecuting attorney in any court of competent jurisdiction in the county in which the employer has a place of business or the violator resides. 1936 (39) 1716.

§ 7035-98. Non-liability of state.—Benefits shall be deemed to be due and payable under this article only to the extent provided in this article and to the extent that monies are available therefor to the credit of the unemployment compensation fund and neither the state nor the commission shall be liable for any amount in excess of such sums. 1936 (39) 1716.

§ 7035-99. Definitions.—As used in this article, unless the context clearly requires otherwise:

(a) (1) "*Annual Payroll*" means the total amount of wages payable by an employer (regardless of the time of payment) for employment during a calendar year.

(2) "*Average Annual Payroll*" means the average of the annual payrolls of any employer for the last three or five preceding calendar years, whichever average is higher; except that as of July 1, 1941, but not thereafter, the term "*average annual payroll*" shall mean the average of the total amount of wages payable by an employer, regardless of the time and payment, for employment during each of the three or five preceding twelve consecutive months' periods, whichever average is higher.

(b) "*Benefits*" means the money payments payable to an individual, as provided in this article, with respect to his unemployment.

(c) "*Commission*" means South Carolina unemployment compensation commission.

(d) "*Contributions*" means the money payments to the state unemployment compensation fund, required by this article.

(e) "*Employing Unit*" means any individual or type of organization, including any partnership, association, trust, estate, joint stock insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent of January 1, 1935, had in its employ one or more individuals performing services for it within this state. All individuals performing services within this state for any employing unit which maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this act. Whenever any employing unit contracts with or has under it any contractor or sub-contractor for any employment which is part of its usual trade, occupation, profession or business, unless the employing unit as well as each such contractor or sub-contractor is an employer by reason of section 7035-99 (f) or section 7035-88 (e) of this article, the employing unit shall for all the purposes of this act be deemed to employ each individual in the employ of each such contractor or sub-contractor for each day during which such individual is engaged solely in performing such employment; except that each contractor or sub-contractor who is an employer by reason of section 7035-99 or section 7035-88 (e) of this article shall alone be liable for the contributions measured by wages payable to individuals in his employ, and except that any employing unit who shall become liable for any pay contributions with respect to individuals in the employ of any such contractor or sub-contractor or who is not an employer by reason of section 7035-99 (f) or section 7035-88 (e) of this article may recover the same from such contractor or sub-contractor.

(f) "*Employer*" means:

(1) Any employing unit which in each of twenty different weeks within either the current or the preceding calendar year (whether or not such weeks are or were consecutive) has or had in employment, eight or more individuals (not necessarily simultaneously and irrespective of whether the same individuals are or were employed in each such week).

(2) Any employing unit which acquired its organization, trade or business, or substantially all the assets thereof from another which at the time of such acquisition was an employer subject to this article;

(3) Any employing unit which acquired its organization, trade or business, or substantially all the assets thereof from another employing unit and which, if treated as a single unit with such other employing unit would be an employer under paragraph (1) of this sub-section;

(4) Any employing unit which together with one or more other employing units, is owned or controlled (by legally enforceable means or otherwise) directly or indirectly by the same interests, or which owns or controls one or more other employing units (by legally enforceable means or otherwise), and which, if treated as a single unit with such other employing unit, would be an employer under paragraph (1) of this sub-section;

(5) Any employing unit which having become an employer under paragraphs (1), (2), (3), or (4), has not, under section 7035-88 ceased to be an employer subject to this article; or

(6) For the effective period of its election pursuant to section 7035-88 (c) any other employing unit which has elected to become fully to this article.

(g) "*Employment*" means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied, which service: (1) is performed in this state by an individual; or (2) is performed elsewhere, but is incidental to such service in this state, provided contributions are not required and paid with respect to such services performed elsewhere under an unemployment compensation law of any other state; or (3) is performed under a contract of hire made in this state, under which some service is performed in this state, provided that with respect to service performed without this state under such contract of hire contributions are not required and paid under an unemployment compensation law of any other state; but the term shall not include:

(1) Service performed in this state incidental to service performed elsewhere, with respect to which service performed in this state, contributions are required and paid under an unemployment compensation law of any other state;

(2) Service performed in the employ of this state, or of any political subdivision thereof, or of any instrumentality of this state or its political subdivisions;

(3) Service performed in the employ of any other state or its political subdivisions, or of the United States Government, or of an instrumentality of any other state or states or their political subdivisions or of the United States.

(4) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress, provided that the commission is hereby authorized and directed to enter into agreements with the proper agencies under such act of Congress, which agreements shall become effective ten days after publication thereof in the manner provided in section 7035-91 (b) of this article for general commission rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this article, acquired rights to unemployment compensation under such act of Congress, or who have, after acquiring potential rights to unemployment compensation under such act of Congress, acquired rights to benefits under this article.

(5) Agricultural labor:

(6) Domestic service in a private home:

(7) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States:

(8) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(9) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(10) Service performed in the employ of an insurance company by agents or representatives engaged in field work.

(h) "*Employment office*" means a free public employment office, or branch thereof, operated by this state or maintained as a part of a state controlled system of public employment offices:

(i) "*Fund*" means the unemployment compensation fund established by this article, to which all contributions required and from which all benefits provided under this article shall be paid.

(j) "*Partial unemployment.*" An individual shall be deemed "*partially unemployed*" in any week if his wages payable for such week fail to equal two dollars more than the weekly benefit amount he would be entitled to receive if totally unemployed and eligible.

(k) "*State*" includes Alaska, Hawaii and the District of Columbia.

(l) "*Total unemployment.*" An individual shall be deemed "*totally unemployed*" in any calendar week with respect to which no wages are payable to him.

(m) "*Unemployment compensation administration fund*" means the unemployment compensation administration fund established by this act, from which administrative expenses under this article shall be paid.

(n) "*Wages*" means all remuneration payable for personal services, including commissions and bonuses and the cash value of all remuneration payable in any medium other than cash. Gratuities customarily received by an individual in the course of his employment from persons other than his employing unit shall be treated as wages payable by his employing unit. The reasonable cash value of remuneration payable in any medium other than cash, and the reasonable average amount of gratuities, shall be estimated and determined in accordance with rules prescribed by the commission.

(o) "*Week*" means calendar week, ending at midnight Saturday, or the equivalent thereof as determined in accordance with general rules of the commission, provided that prior to the approval of any such general rule, the commission finds that such rule will be fair and reasonable with respect to all affected parties.

(p) "*Week of employment*" means each week occurring after December 31, 1936, and after an employer has become subject under section 7035-99 (f) of this article, within which the individual performs any employment for such an employer, but does not include any week in which the plurality of such individual's total working hours are performed without this state, with respect to which plurality of total working hours, contributions are required and paid under an unemployment compensation law of some other state, or compensation is payable under an unemployment compensation law of the United States.

(q) "*Weekly benefit amount.*" An individual's "*weekly benefit amount*" means the amount of benefits he would be entitled to receive for one week of total unemployment. 1936 (39) 1716.

§ 7035-100. **Saving clause.**—The General Assembly reserves the right to amend or repeal all or any part of this article at any time; and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this article or by acts done pursuant thereto shall exist subject to the power of the General Assembly to amend or repeal this article at any time. If the tax imposed by title IX of the federal social security act, or any amendments thereto, or any other federal tax against which contributions under this article may be credited shall for any cause become inoperative with the result that contributions under this article, or some portion thereof, may no longer be credited against such federal tax, then no further

contributions shall be levied against employers under the provisions of this article in this state, except any contribution which has already become due and has been unpaid; and any unobligated funds in the state unemployment compensation fund or returned by the United States treasurer because such federal social security act is inoperative shall be deposited in the general fund of the state treasurer. 1936 (39) 1716.

§ 7035-101. Separability of provisions.—If any provision of this article, or the application thereof to any person or circumstance, is held invalid the remainder of this article and the application of such provision to other persons or circumstances shall not be affected thereby. 1936 (39) 1716.

§ 7035-102. When article terminate.—Should the act or acts of Congress under which the federal government contributes funds to the state for unemployment compensation be repealed or declared unconstitutional, so as to deprive this state of such fund, then the provisions of this article shall immediately terminate. 1936 (39) 1716.

§ 7044. Promises and agreements by parol.

Contract for the sale of stock thereafter to be issued by a corporation is not within the statute of frauds. *Gadsden v. Lance, McMullan's Equity* 87, 37 Am. Dec., 548. *Florence Printing Co. v. Parnell*, 178 S. C., 119; 182 S. E., 313.

Agreement by two stockholders to equalize their stock holdings in corporation held not within statute of fraud. *Florence Printing Co. v. Parnell*, 178 S. C., 119; 182 S. E., 313.

Where a party to a contract within statute of fraud induces the other to waive

some provision thereof upon which he is entitled to insist and to change his position to his disadvantage with respect thereto, the party so acting will be estopped to claim the benefit of the statute. *Florence Printing Co. v. Parnell*, 178 S. C., 119; 182 S. E., 313.

The statute does not apply except in such cases where the contract cannot possibly be performed within the year. *Florence Printing Co. v. Parnell*, 178 S. C., 119; 182 S. E., 313.

§ 7048. Actions on promises as to contracts made during infancy.

Fertilizers sold to minors for benefit of father not "necessaries" under this section.

Virginia-Carolina Chemical Corp. v. Chandler, 167 S. E., 663.

§ 7054. Chester County officers close their offices on certain days at two o'clock p. m.—During the months of July and August of each year the county officers of Chester County, may in their discretion, close their respective offices during Thursday afternoons, or any afternoon during the week on which the banks are closed for half holiday beginning at two o'clock P. M. 1935 (39) 219.

§ 7054-1. General Pulaski's memorial day.

See this section in 1934 Supplement.

§ 7054-2. Arbor day.

See this section in 1934 Supplement.

§ 7054-3. Banks and cash depositories.

See this section in 1934 Supplement.

§ 7084-1. General contracting.—(1) DEFINITIONS.—For the purpose of this section a general contractor is defined to be one who, for a fixed price, commission, fee or wage, undertakes to construct or superintend the construction of any building, highway, sewer, grading or any improvement or structure where the cost of the undertaking is seven thousand five hundred (\$7,500.00) dollars or more; and anyone who shall engage in constructing or superintending the construction of any structures or any undertakings or improvements above mentioned in the state of South Carolina costing seven thousand five hundred (\$7,500.00) dollars or more, shall be deemed and held to have engaged in the business of general contracting in the state of South Carolina.

(2) STATE LICENSING BOARD FOR CONTRACTORS—(a) APPOINTMENT—TERMS—VACANCIES.—There shall be a state licensing board for contractors consisting of five members who shall be appointed by the Governor within thirty days after June 2, 1936. At least one member of such board shall have as a larger part of his business the construction of highways; at least one member of such board shall have as the larger part of his business the construction of public utilities; at least one member shall have as the larger part of his business the construction of buildings. The members of the first board shall be appointed for one, two, three, four and five years, respectively, their terms of office expiring on the thirty-first day of December of said years. Thereafter, in each year, the Governor in like manner shall appoint to fill the vacancy caused by the expiration of the term of office a member for the term of five years. Each member shall hold over after the expiration of his term until his successor shall be duly appointed and qualified. If vacancies shall occur in the board for any cause, the same shall be filled by the appointment of the Governor. The Governor may remove any member of the board for misconduct, incompetency or neglect of duty.

(b) OATH.—Each member of the board shall, before entering upon the discharge of the duties of his office, take and file with the secretary of state an oath in writing to properly perform the duties of his office as a member of said board and to uphold the constitution of South Carolina and the constitution of the United States.

(c) ORGANIZE—OFFICERS—POWERS.—The said board shall, within thirty days after its appointment by the Governor, meet in the city of Columbia, at a time and place to be designated by the Governor, and organize by electing a chairman, a vice-chairman and a treasurer, and they may employ a secretary, each to serve one year. Said board shall have power to make such by-laws, rules and regulations as it shall deem best, provided the same are not in conflict with the laws of South Carolina. The treasurer shall give bond in such sum as the board shall determine, with such surety as shall be approved by the board, said bond to be conditioned for the faithful performance of the duties of his office and for the faithful accounting of all moneys and other property as shall come into his hands.

(d) SEAL.—The board shall adopt a seal for its own use. The seal shall have the words "Licensing Board for Contractors, State of South Carolina", and the secretary shall have charge, care and custody thereof.

(e) MEETINGS.—The board shall meet twice each year, once in April and once in October, for the purpose of transacting such business as may properly come before it. At the April meeting in each year the board shall elect officers. Special meetings may be held at such times as the board may provide in the by-laws it shall adopt. Due notice of each meeting and the time and place thereof shall be given to each member in such manner as the by-laws may provide. Three members of the board shall constitute a quorum.

(f) DUTIES OF SECRETARY—USE OF FUNDS.—The secretary shall keep a record of the proceedings of the said board and shall receive and account for all moneys derived from the operation of this section. Any funds remaining in the hands of the treasurer to the credit of the board after the expenses of the board for the current year have been paid shall be paid over to the treasurer of the state of South Carolina. The board has the right, however, to retain at least ten per cent of the total expense it incurs for a year's operation to meet any emergencies that may arise.

(g) SECRETARY KEEP RECORDS OF BOARD—REGISTER OF APPLICANTS FOR LICENSES—ROSTER OF LICENSED GENERAL CONTRACTORS—BOARD REPORT ANNUALLY.—The secretary shall keep a record of the proceedings of the board, and a register of all applicants for licenses showing for each the date of application, name, qualifications, place of business, place of residence, and whether license was granted or refused. The books and register of this board shall be *prima facie* evidence of all matters recorded therein. A roster showing the names and places of business of all licensed general contractors shall be prepared by the secretary of the board during the month of January of each year; such roster shall be printed by the board out of funds of said board as provided in subdivision 2f, and a copy mailed to and placed on file with the clerk of each incorporated city, town and county in the state. On or before the first day of March of each year the board shall submit to the Governor a report of its transactions for the preceding year, and shall file with the secretary of state a copy of such report, together with a complete statement of the receipts and expenditures of the board, attested by the affidavits of the chairman and the secretary, and a copy of the said roster of licensed general contractors.

(3) LICENSES—(a) FILE APPLICATION—EXAMINATIONS.—Anyone hereafter desiring to be licensed as a general contractor in this state shall make and file with the board thirty days prior to any regular or special meeting thereof a written application on such form as may then be by the board prescribed for examination by the board, which application shall be accompanied by twenty (\$20.00) dollars. If said application is satisfactory to the board, then the applicant shall be entitled to an examination to determine his qualifications. If the result of the examination of any applicant shall be satisfactory to the board, then the board shall issue to the applicant a certificate to engage as a general contractor in the state of South Carolina. Anyone failing to pass such examination may be re-examined at any regular meeting of the board without additional fee. Certificate of license shall expire on the last day of December following the issuance or renewal, and shall become invalid on that date unless renewed. Renewal may be effective any time during the month of January, by the payment of a fee of ten (\$10.00) dollars to the secretary of the board. The board may classify and limit the certificate granted to any applicant and it shall be the responsibility of the board or the members of said board to ascertain from reliable sources, whether or not the past performance record of an applicant is good, and whether or not he has the reputation of paying his labor and material bills as well as carrying out other contracts that he may have entered into: *Provided*, that any person, firm or corporation that is legally engaged in the business of general contracting in the state of South Carolina on June 2, 1936, shall be entitled to a certificate of license as provided for in this section, upon making application and paying the fee of twenty (\$20.00) dollars as herein prescribed, without submitting to an examination, if such application and payment of fee be made within ninety days after June 2, 1936.

(b) REVOKE—RE-ISSUE—LOST—PROSECUTE FOR OPERATING OR BIDDING WITHOUT LICENSE.—The board shall have the power to revoke the certificate or license of any general contractor licensed hereunder who is found guilty of any fraud or deceit in obtaining a license, or gross negligence, incompetence or misconduct in the practice of his profession. Any person may prefer charges of such fraud, deceit, negligence, or misconduct against any general contractor

licensed hereunder. Such charges shall be in writing and sworn to by the complainant and submitted to the secretary of the board. Such charges, unless dismissed without hearing by the board as unfounded or trivial, shall be heard and determined by the board within three months after the date in which they were preferred. A time and place for such hearing shall be fixed by the board. A copy of the charges, together with the notice of the time and place of hearing, shall be legally served on the accused at least fifteen days before the fixed date for the hearing, and in the event that such service cannot be effected fifteen days before such hearing, then the date of hearing and determination shall be postponed as may be necessary to permit the carrying out of this condition. At said hearing the accused shall have the right to appear personally and by counsel and to cross-examine witnesses against him, her or them, and to produce evidence of witnesses in his, her or their defense. If after said hearing the board unanimously votes in favor of finding the accused guilty of any fraud or deceit in obtaining license, or of gross negligence, incompetency or misconduct in practice, the board shall revoke the license of the accused. The board is further authorized to prosecute anyone accused as above prescribed for operating, bidding or attempting to operate or bid, without having first been granted a certificate of license authorizing him or them to practice general contracting in South Carolina.

The board may re-issue a license to any person, firm or corporation whose license has been revoked: *Provided*, that three or more members of the board vote in favor of such re-issuance for reasons the board may deem sufficient.

A certificate of license to replace any certificate lost, destroyed, or mutilated may be issued subject to the rules and regulations of the board.

(4) VIOLATIONS—PENALTY.—Any person, firm or corporation not being duly authorized who shall attempt to practice general contracting in this state, except as provided for in this section, and any person, firm or corporation presenting or attempting to file as his own the license certificate of another or who shall give false or forged evidence of any kind to the board or to any member thereof in maintaining a certificate of license or who falsely shall impersonate another or who shall use an expired or revoked certificate of license, and any architect, engineer, owner or others, who receives or considers a bid from anyone not properly licensed under this section, shall be deemed guilty of a misdemeanor and shall for each such offense of which he is convicted be punished by a fine of not more than five hundred (\$500.00) dollars, or imprisonment of three months, or both fine and imprisonment, in the discretion of the court.

(5) DUTIES OF ARCHITECTS AND ENGINEERS—SECRETARY FURNISH TAX COMMISSION NAMES OF CERTAIN CONTRACTORS.—All architects and engineers preparing plans and specifications for work to be constructed in the state of South Carolina shall include in their invitations to bidders and in their specifications a copy of this section or such proportions thereof as are deemed necessary to convey to the invited bidder whether he be a resident or non-resident of this state, and whether a license has been issued to him or not, the information that it will be necessary for him to show evidence of license before his bid is opened or considered. It shall be the duty of the secretary of the board to make a monthly report from and after the ratification of this section to the South Carolina tax commission, setting out in detail the name of contractor, the location of the structure, or work, and the estimated cost of said structure or

work, where the same shall exceed in value seven thousand five hundred (\$7,500.00) dollars for all contracts let coming to his notice and not theretofore reported by him.

(6) **EXEMPTIONS.**—The provisions of this section shall not apply to contracts being performed on military reservation work, navy yard work and marine training station work. 1936 (39) 1675.

This section added by 1936/1675.

See § 2543, 1932 Code, for contractors' tax.

§ 7091. Issue certificate of certification to state auditor.—The South Carolina board of examiners of public accountants, upon petition of the state budget commission, is hereby authorized and directed to issue a certificate of certification to the person elected by the budget commission to the position of state auditor. *Provided*, such person shall have performed the duties of state auditor for five consecutive years just preceding the petition of the budget commission and, provided further, that the said certificate may be revoked by the board of examiners when he shall cease to occupy the position of state auditor. 1936 (39) 1360.

§ 7091, 1932 Code, repealed by 1936/1360. Present section 7091 comes from said act.

§ 7112. Uniform state aeronautical regulatory law.—(1) **DEFINITIONS.**—When used in this section:

(a) "Aeronautics" means the act or practice of the art and science of transportation by aircraft, and operation, construction, repair or maintenance of aircraft, airports, landing field, landing strips, air navigation facilities or air instruction.

(b) "Aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of, or flight in the air.

(c) "Public aircraft" means an aircraft, used exclusively in the governmental service, including military and naval aircraft, or of any state or territory thereof.

(d) "Civil aircraft" means any aircraft other than a public aircraft.

(e) "Airport" means any area, either of land or water, which is used or which is made available for the landing and take-off of aircraft, which may or which may not provide facilities for the shelter, supply, and repair of aircraft, and which meets the minimum requirements as to size, design, surface marking, equipment and management as may from time to time be provided by the South Carolina aeronautics commission.

(f) "Landing strip" means an area, either of land or water, which is available for the landing and take-off of aircraft, having not less than 100 feet of usable width and not less than 1,000 feet of usable length, the use of which shall, except in case of emergency, be only as provided from time to time by the regulations of the South Carolina aeronautics commission.

(g) "Person" means any individual, association, co-partnership, firm, company, corporation, or other association of individuals.

(h) "Air instruction" means the imparting of aeronautical information in any air school, flying club, or by any aviation instructor.

(i) Any person engaged in giving instruction, or offering to give instruction in aeronautics—either in flying or ground subjects, or both—for or without hire or reward, and advertising, representing or holding himself or itself out as giving or offering to give such instruction, shall be termed and considered an "air school".

(j) Any person (other than an individual) who, neither for profit nor reward, owns, leases, or uses one or more aircraft for the purpose of instruction, pleasure, or both, shall be termed and considered a "flying club".

(k) "Aviation instructor" means any individual engaged in giving instruction, or offering to give instruction, in aeronautics—either in flying or ground subjects, or both—for or without hire or reward, without advertising such occupation, without calling his facilities an "air school" or anything equivalent thereto, or without employing or using other instructors.

(l) "Aviation gasoline" means gasoline manufactured exclusively for use in airplanes, and sold for such purposes.

(2) AIRCRAFTS MUST BE LICENSED BY UNITED STATES—EXCEPTIONS.—The public safety requiring and the advantages of uniform regulation making it desirable in the interest of aeronautical progress that aircraft operating within this state should conform with respect to design, construction, and airworthiness to the standard prescribed by the United States government with respect to navigation of civil aircraft subject to its jurisdiction, it shall be unlawful for any person to operate, or pilot, or navigate, or cause or authorize to be operate, piloted, or navigated, any aircraft within the state unless such aircraft has an appropriate effective license, issued by the government of the United States: *Provided, however*, that this restriction shall not apply to public aircraft of the United States, or of any state, territory or possession thereof; or to aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operations of such licensed aircraft; and *Provided, further*, that the South Carolina aeronautics commission may, in its discretion, waive this provision in the interest of a non-passenger-carrying flight solely for inspection or test purposes.

(3) PILOTS MUST BE LICENSED BY UNITED STATES—EXCEPTIONS.—The public safety requiring and the advantages of uniform regulations making it desirable in the interest of aeronautical progress that a person engaging within this state in navigating aircraft in any form of navigation, shall have the qualifications necessary for obtaining and holding a pilot's license issued by the government of the United States, it shall be unlawful for any person to pilot any aircraft in this state, unless such person is the holder of a correct, effective pilot's license issued by the government of the United States: *Provided, however*, that this restriction shall not apply to those persons operating public aircraft of the United States, or public aircraft of any state, territory, or possession thereof, or operating any aircraft licenses by a foreign country with which the United States has a reciprocal agreement covering the operation of such licensed aircraft.

(4) PILOT'S LICENSE—AIRCRAFT LICENSE—DISPLAY—DUTY OF DEFENDANTS IN PROSECUTIONS.—The certificate of the license required for pilots shall be kept in the personal possession of the licensee when he is operating aircraft within this state, and must be presented for inspection upon the demand of any passenger, or any peace officer of this state, any authorized official or employee of the South Carolina aeronautics commission, or any official manager, or person in charge of any airport in this state upon which he shall land, or upon the reasonable request of any other person. The aircraft license must be carried in the aircraft at all times, and must be conspicuously posted therein where it may be readily seen by passengers or inspectors; and the license must be presented for inspection upon the demand of any passenger, any peace officer of this state, any authorized official or employee of the South Carolina aeronautics commission or

any official, manager, or person in charge of any airport in this state upon which it shall land, or upon the reasonable request of any other person. In any criminal prosecution under any of the provisions of this section a defendant who relies for his justification upon a license of any kind shall have the burden of proving that he is properly licensed, or is the possessor of a proper license, as the case may be, and the fact of non-issuance of such license may be evidenced by a certificate signed by the official having power of issuance, or his deputy, under seal of office, stating that he has made diligent search in the records of his office and that from the records it appears that no such license was issued up to the date of the making of such certificate.

(5) **SOUTH CAROLINA AERONAUTICS COMMISSION —APPOINTMENT—COMPENSATION—TERMS—VACANCY.**—There is hereby created an aeronautics commission to be known as the South Carolina aeronautics commission consisting of three persons to be appointed by the Governor and to serve without compensation other than traveling expenses and disbursements as provided in sub-section 7. The members of the commission shall elect a chairman who shall serve during the term of his appointment. The Governor shall appoint three members to serve two, four, and six years and upon the expiration of said terms said members shall be succeeded by their successors in office who shall be appointed by the Governor for a term of four years and until their successors shall have been appointed and shall have qualified. Said commissioners shall take the oath of office provided by the constitution and the oath prescribed by law for state officers. The Governor shall have the power to fill vacancies in the office of commission until successors in such office for a full term or an unexpired term, as the case may be, shall have been appointed by the Governor.

(6) **COMMISSION—ORGANIZE—ISSUE RULES AND REGULATIONS.**—The commission shall, within thirty days after its appointment, organize, adopt a seal for the commission, and make such rules and regulations for the administration of the commission, not inconsistent herewith, as it may deem expedient, and may from time to time amend such rules and regulations.

(7) **DIRECTOR OF AERONAUTICS—ADDITIONAL EMPLOYEES—COMPENSATION.**—The commission shall employ a director of aeronautics who, in order to qualify for the position, must hold a transport pilot's license, and an aeroplane and engine mechanic's license, issued by the United States government, and may employ such clerical and other employees and assistants as it may deem necessary for the proper transaction of its business, and shall fix their salaries. No salary shall exceed the sum of three hundred dollars per month. Each commissioner, director of aeronautics, and the employees of the commission shall be reimbursed for all actual and necessary traveling expenses and disbursements incurred by them in the discharge of their official duties.

(8) **OFFICES—EXPENSES.**—The sinking fund commission (or other state official who is charged with the duty of housing state commission or other similar state bodies) shall provide, as soon as practicable, suitable offices for the commission in the city of Columbia, and the commission may maintain offices in any other city in the state of South Carolina that the commission may designate, and may incur the necessary expense for the office furniture, stationery, printing, incidental expenses, and other expenses necessary for the enforcement of this section and the general promotion of aeronautics within the state.

(9) **DUTIES AND POWERS OF COMMISSION.**—It shall be the duty of the commission to foster air commerce within the state of South Carolina, and the commission shall have supervision over the aeronautical activities and the facilities

within the state, which authority shall include supervision and control over all airports, landing fields, landing strips, air instruction, air parking, air beacons, and all other air navigation facilities. Accordingly, the commission is empowered to prescribe such reasonable rules and regulations as it may deem necessary and advisable for the public safety and for the promotion of aeronautics governing the designing, laying out, location, building, equipping, operation and use, of all airports, landing fields, or landing strips. The commission is further empowered to prescribe such reasonable rules and regulations as it may deem necessary governing the curriculum, equipment, personnel and operation and management of all air instruction, for the purpose of protecting the health and safety of students receiving or to receive such instruction, and insuring, so far as may be, the public safety through the proper training and instruction of student aviators. The commission is further empowered to prescribe such reasonable rules and regulations as it may deem necessary and advisable for the public safety and safety of those engaged in aeronautics, and for the promotion of aeronautics, governing the establishment, location, maintenance and operation of all air markings, air beacons, and other air navigation facilities. The commission is further empowered to prescribe such reasonable air traffic rules and regulations as it shall deem necessary for public safety and the safety of those engaged in aeronautics, and for the promotion of aeronautics; *Provided, however*, that no rules or regulations prescribed by the commission under the authority of this subsection shall be inconsistent with the then current federal legislation governing aeronautics and the regulations duly promulgated thereunder.

(10) COMMISSION ASSIST IN DEVELOPMENT OF AVIATION—COOPERATE IN ESTABLISHMENT AND OPERATION OF AIRPORTS, ETC.—The commission shall assist in the development of aviation and aviation facilities within the state for the purpose of safeguarding the interest of those engaged in all phases of the industry and of the general public and of promoting aeronautics.

The commission is empowered to cooperate with any county or municipality in the establishment, maintenance and operation of airports, landing fields, or emergency landing strips, and may do so in cooperation with other states or with any federal agency; but this power and authority shall not include the right to purchase, lease or operate any airport, landing field, or emergency landing strip nor to contributing any of its funds thereto.

(11) COMMISSION APPROVE AIRPORTS, LANDING FIELDS, AIR SCHOOLS, FLYING CLUBS, AIR BEACONS, ETC.—RESIDENT PILOTS, OWNERS AND OPERATORS REGISTER THEIR FEDERAL LICENSES.—Within sixty days after the commission is created, all owners, and/or operators of all airports, landing fields, air schools, and flying clubs, and the owners and/or operators of all air beacons and air navigation facilities, shall make application to the commission for its approval of such airport, landing field, air school, flying club, air beacon, or other air navigation facility and the commission shall immediately consider and pass upon such applications. Within the same period all resident pilots and owners and/or operators of all aircraft shall register the federal licenses of said airman and of said aircraft in such manner as the commission may by regulation prescribe. All proposed airports, landing fields, air schools, flying clubs, air beacons, or other air navigation facilities shall first be approved by the commission before they or any of them shall be so used or operated. It shall be unlawful for any airport, landing field, air school, flying club, air beacon, or other air navigation facility to be used or operated without the approval of the commission. *Provided however*, that no license, rule, order, or regulation promulgated under the authority

of this subsection or of this entire section shall apply to airports, landing fields, air beacons, air markings, or other air navigation facilities owned or operated by the government of the United States, state, county or municipality. The commission is hereby authorized to issue a certificate of its approval in each case. For the issuance of each certificate of registration of each federal license for pilots and aircraft, no fee shall be charged. Provided, that unlicensed commercial aircraft shall be given a period of one year after May 21, 1935, in which to obtain a federal license and the South Carolina aviation commission shall have power to extend that time should it deem advisable.

(12) COMMISSION INVESTIGATE AND HOLD HEARINGS.—The commission or any commissioners, or officer designated by the commission, shall have power to hold investigations, inquiries, and hearings concerning matters covered by the provisions of this section, and all accidents in aeronautics within this state. All hearings conducted by the commission shall be open to the public. Each commission, and every officer of the commission designated by it to hold any inquiry, investigation or hearing, shall have the power to administer oaths and affirmations, certify to all official acts, issue subpoenas, compel the attendance and testimony of witnesses, and the production of papers, books, and documents. In case of failure to comply with any subpoena or order issued under authority of this section, the South Carolina aeronautics commission, or its authorized representatives, may invoke the aid of any circuit court in this state. The court may thereupon order the witness to comply with the requirements of the subpoena or order to give evidence touching the matter in question. Any failure to obey the order of said court may be punished by the court as a contempt thereof.

(13) USE OF REPORTS ON OR TESTIMONY OBTAINED DURING INVESTIGATIONS OR HEARINGS—COMMISSIONERS AND EMPLOYEES NOT REQUIRED TO TESTIFY.—In order to facilitate the making of investigations by the South Carolina aeronautics commission, in the interest of the public safety and the promotion of aeronautics, the public interest requires and it is therefore provided that the reports of investigations or hearings, or any part thereof, or any testimony given thereat, shall not be admitted in evidence or used for any purpose in any suit, action, or proceeding growing out of any matter referred to in said investigation, hearing, or report thereof, except in case of criminal or other proceedings instituted by or in behalf of the commission under the provisions of this section, nor shall any commissioner or employee of the South Carolina aeronautics commission be required to testify to any facts ascertained in, or information gained by reason of his official capacity, and, further, no commissioner or employee of the South Carolina aeronautics commission shall be required to testify as an expert witness in any suit, action, or proceeding involving any aircraft.

(14) RULES AND REGULATIONS—REPORT ANNUALLY.—The commission shall keep on file with the secretary of state, and at the principal office of the commission, a copy of all its rules and regulations for public inspection. On or before the thirty-first day of December, in each year, the commission shall make to the Governor a full report of its proceedings for the year ending the first day of December in each year, and may submit with such report such recommendations pertaining to its affairs as seem to it to be desirable.

(15) ENFORCEMENT—PUBLIC DEPARTMENTS COOPERATE.—It shall be the duty of the commission, its members, and employees, and every county and mu-

municipal officer charged with the enforcement of state and municipal laws, to enforce, and assist in the enforcement, of this section. The commission is further authorized in the name of the state of South Carolina to enforce the provisions of this section by injunction in the circuit courts of this state. Other departments and political subdivisions of this state are further authorized to cooperate with the South Carolina aeronautics commission in the development of aeronautics and aeronautic facilities within the state.

(16) **ORDERS—SERVICE—INSPECT PREMISES, BUILDINGS, ETC.**—In any case where the commission rejects an application for permission to operate or establish an airport, landing field, air school, flying club, air beacon, or other air navigation facility, or in any case where the commission shall issue any order requiring certain things to be done, it shall set forth its reasons therefor and shall state the requirements to be met before such approval will be given or such order modified or changed. In any case where the commission may deem it necessary it may order the closing of any airport, landing field, or order any air school, flying club, or air beacon, or other air navigation facility to cease operations until it shall have complied with the requirements laid down by the commission. To carry out the provisions of this section the South Carolina aeronautics commission and any officers, state or municipal, charged with the duty of enforcing this section, may inspect and examine at reasonable hours any premises, and the buildings and other structures thereof where such airports, landing fields, air school, flying clubs, air beacons, or other air navigation facilities are operated. Any order made by this commission pursuant to this section shall be served upon the interested person by registered mail or in person before such order shall become effective.

(17) **APPEAL FROM ORDERS.**—Any person against whom an order has been entered may within ten days after the service thereof appeal to the circuit court of the county in which the property affected by the order is located, for the purpose of having the reasonableness or lawfulness of the order inquired into and determined

(18) **PROCEDURE IN APPEALING.**—The party taking the appeal shall file notice of intention to appeal with the grounds thereof in the office of the clerk of the circuit court, and summons shall thereupon be issued by the clerk and shall be served upon the secretary of the South Carolina aeronautics commission. Upon the filing of the notice of intention to appeal with the grounds thereof, the appeal shall be docketed for trial no less than ten days or more than thirty days after the service of the summons and shall be tried by the circuit court without formal pleadings in term time or in vacation. Upon trial of the appeal the court shall hear evidence as to matters concerning the order in question, as to the condition of the property in question and the manner of its operation, and shall enter judgment either affirming or setting aside the order of the commission, or the court may remand the matter to the commission for further hearing. The filing of the notice of intention to appeal with the grounds thereof, shall operate as a supersedeas.

(19) **RIGHTS WAIVED IF NO APPEAL MADE.**—If no appeal is taken from the order of the commission within the period fixed, the party against whom the order was entered, shall be deemed to have waived the right to have the reasonableness or lawfulness of the order reviewed by a court and there shall be no trial of that issue in any court in which suit may be instituted for the penalty for failure to comply with the order.

(20) **PENALTY.**—Any person failing to comply with the requirements of, or violating any of the provisions of this section, or the rules and regulations for the enforcement of this section made by the South Carolina aeronautics commission, shall be guilty of a misdemeanor and punishable by a fine of not more than five hundred dollars or by imprisonment for not more than ninety days or both.

(21) **STATE AVIATION FUND.**—There is hereby created a fund to be known as the "State aviation fund". All moneys received from licensing of airports, landing fields, air schools, tax on aviation gasoline for a period of two years from May 21, 1935, and fifty (50%) per cent of said tax thereafter and other licenses issued under the provisions of this section, shall be paid into the state treasury and credited to such fund.

(22) **USE OF RECEIPTS TO DEFRAY EXPENSES.**—Any moneys or fees coming into the hands of the said commission may be used for the necessary expenses of the commission essential to the carrying out of this section but no overdraft shall be created by reason of any such expenditures.

(23) **SAVING CLAUSE.**—If any provision of this section is declared unconstitutional or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the section and the application of such provisions to other persons and circumstances shall not be affected thereby.

(24) **EXEMPTIONS.**—The term and provisions of this section shall not apply to unlicensed aircraft engaged entirely in private flying and which do not engage in flying for hire in any way.

(25) **SHORT TITLE.**—This section may be cited as "The uniform state aeronautical regulatory law." 1935 (39) 447.

This section added by 1935/447. § 7112, Florence, city of, 1932/1834. Greenville, 1932 Code, repealed by said act. city of, 1928/1898; 1929/857. Kershaw County, 1929/885. Sumter, city of, 1929/Beaufort, city of, 1932/1462. Camden, city of, 1929/885. Columbia, city of, 1929/974. 1012.

§ 7121. Term of license—fees—rolling stores.—* * * And no person, firm or corporation shall operate any motor trucks, motor cars, or any other vehicle of whatsoever kind, commonly called a "rolling store", upon and over the roads and highways in the counties of Allendale, Florence, Edgefield, Fairfield, Sumter, Darlington, Dorchester, Lancaster, Clarendon, Kershaw, Calhoun, Lee, Dillon, Bamberg, Berkeley, Jasper, Union, Laurens and Colleton and Chesterfield, for the purpose of selling, offering for sale, or causing to be sold or offered for sale therefrom, any groceries, food supplies, wares, or merchandise of whatever kind or nature, without first procuring a license therefor as is provided and required of hawkers and peddlers herein. The said county board of commissioners, or other governing bodies, of said counties, respectively, shall determine the amount to be paid for such license, which license shall specify the amount paid therefor and the privileges granted thereby. Should the county board of commissioners, or other governing body, of any county fail to fix said license fees at the designated meeting herein provided for, then such fees may be fixed at any subsequent, regular or specifically called, meeting of said board of commissioners, or other governing body. Any person, firm or corporation, violating the provisions of this section, upon conviction, shall be punished by a fine or imprisonment, in the discretion of the court, *Provided however*, the provisions of this section shall not apply

to the sale, by wagons and trucks or otherwise, of fruits, vegetables or feed stuffs, grown either in South Carolina, or elsewhere. 1935 (39) 472.

The above added to this section; and comma after "peddlers," line 1, this section, 1932 Code, omitted, 1935/472.

§ 7123. Articles exempt and articles not exempt.—* * * *Provided*, That in the counties of Edgefield, Fairfield and Greenwood all persons, firms or corporations, except those selling vegetables or products by him or it produced or made, operating any motor truck, motor car, or any other vehicle whatsoever, and selling or offering for sale as a hawkcr or peddler, tobacco, vegetables, fruit, produce, or any other perishable goods, shall be required to pay a license as provided under section 7121. 1935 (39) 392.

The above proviso added by 1935/392.

§ 7125. Unlawful to sell drugs from place to place without license—confederate veterans.

See this section in 1934 Supplement.

§ 7199. Tobacco warehousemen to make reports.

See this section in 1934 Supplement.

§ 7203. License required for operation of a warehouse when ungraded tobacco is handled.—*By 1932 acts, page 1147, an election was held on the repeal of this section. Official result of the election has not been declared.*

§ 7211. Railroad commission to fix storage charges on freight.

Public utilities appealing from rate 8292-1 hereof. decision file bond 1935/29. See section

§ 7219. Sale of property on account of repairs or storage for charges.

See this section in 1934 Supplement.

§ 7229-1. Municipalities incorporated under the general law and classified according to population may enter next highest class.

See this section in 1934 Supplement.

§ 7238. Town and city councils—election.

Election of aldermen, city of Georgetown, 1935/S56; 1936/2288.

§ 7243. Municipalities of more than 200 inhabitants required to publish itemized statement of receipts and disbursements.

See this section in 1934 Supplement.

§ 7246. Municipal courts in cities of certain population.

Defendant in recorder's court under warrant charging him with breach of peace and not vagrancy could not, while in said court, be orally charged with vagrancy and tried without warrant for same. State v. Praser, 173 S. C., 284; 175 S. E., 551.

§ 7251. Jury trial as in magistrates' courts.

See section 931-1 (1936/1435), which provides the testimony of witnesses in magistrate and recorder Court be taken in writing.

§ 7266-1. Real estate sold by municipalities for taxes may be redeemed in one year.

See this section in 1934 Supplement.

§ 7267-1. Forfeited land commissions for municipalities.

See this section in 1934 Supplement.

§ 7269. Municipalities may grant exclusive franchises for furnishing lights and water.

See this section in 1934 Supplement.

§ 7271-1. Cemetery commission for cities of 20,000 and above owning cemeteries.—(1) APPOINTMENT—TERMS.—Any incorporated city or town in this state having a population of twenty thousand (20,000) inhabitants or above, and owning a cemetery or burying ground is hereby authorized to create by ordinance a cemetery commission, to be composed of three discreet persons,

residents of such city, whose terms of office shall be six years from the date of their respective appointments, and at the creation of said commission, one shall be appointed for two years, one for four and the other for six, so that at the end of the terms of the first appointees their successors will each be appointed for a term of six years.

(2) **RECEIVE GIFTS, ETC.**—Said commission is hereby empowered to receive by gift, devise, bequest or settlement in trust, any sum or sums of money from persons, firms, corporations, and/or associations when same is turned over to it in trust to be invested and the income to be used in the upkeep and care of any grave or graves as may be then or thereafter designated by the person, firm, corporation or association turning said fund over to it.

(3) **INVESTMENTS—BONDS—PAY.**—It shall be the duty of the members of said commission to invest or handle such funds in the manner provided by law for investments or handling of funds by executors, administrators, guardians and trustees, and the income be collected annually and expended in the judgment of said commission as will meet the purpose for which such fund was delivered. Said commissioners shall each give bond in such sum as the city or town council shall fix, the premiums therefor to be paid out of the funds so left with them, each fund bearing its proportion of said expense. The commissioners shall receive no compensation except such as may be allowed the secretary and treasurer to be paid by the city or town, and the position of commissioner shall not be such office as defined or held in this state to prevent the holding of any office or position of honor, profit or trust.

(4) **CHAIRMAN—SECRETARY—DISBURSEMENTS—REPORTS.**—Said commission shall once in every two years elect from its number a chairman and a secretary and treasurer and all checks and vouchers shall be signed by the secretary and treasurer and one other member of the commission. No disbursement shall be made except by check and at the end of each calendar year it shall make up and file with said council a report showing all of its acts and doings and the funds received and disbursed during such year.

(5) **TRANSFER FUNDS TO COMMISSION.**—Any commission, committee, association, person, corporation, city or town now having, or that may hereafter have, funds in its hands for the upkeep and care of graves in such cemeteries may deliver same to said commission contemporaneously with a statement showing the sources, and the designation of graves to be cared for and amounts therefor, and a receipt from said commission shall operate as a discharge of liability for the amount so delivered.

(6) **CITIES AFFECTED.**—This section shall not affect any city or town where its charter or any statute has already conferred upon it the power and purpose hereof.

(7) **LIABILITY OF CITIES.**—No liability shall attach to said cities and towns for any such funds herein referred to or by reason of the handling or expenditure of same. 1935 (39) 97.

This section added by 1935/97. See § 7271, 1932 Code.

§ 7277. Cities and town may dispose of light or water plants—election on sale.

See this section in 1934 Supplement.

§ 7280-1. Acquire and operate waterworks on favorable election therefor.—

(1) **AUTHORIZED.**—Any city or town shall have power to acquire, by construction and/or purchase, and to operate, a water works system or water works systems, and to furnish water to individuals, firms and private corporations

for reasonable compensation; provided the question of construction and/or purchasing such water works system or systems shall have been submitted to the qualified voters of said city or town at an election called and held pursuant to this section and a majority of those voting at such election shall have voted in favor of such construction and/or purchase.

(2) **ELECTION.**—In the event that a petition, signed by a majority of the freeholders of said city or town, as shown by its tax books, requesting the submission of such question, shall be presented to and filed with the council or other governing body of any such city or town, such council or other governing body shall have power to order a special election to be held in such city or town for the purpose of submitting to the qualified voters of said city or town the question of construction and/or purchasing a water works system or systems. Any such election shall be held at the usual voting places or precincts in said city or town and the ballots used at such election shall be in such form as may be prescribed by the council or other governing body of said city or town. Any such election shall be called, conducted and the votes cast thereat shall be canvassed and the result thereof determined and declared, in accordance with the laws governing municipal elections held in such city or town for the purpose of submitting the question of constructing and/or purchasing and issuing bonds for water works pursuant to section 7280, Code of Laws of South Carolina, 1932.

(3) **STATEMENT OF QUESTIONS IN PETITION.**—Any question set forth in any petition presented and filed pursuant to this section may, but need not, state that the cost of construction and/or purchasing the water works system or systems described in such question shall be met by the issuance of bonds payable solely from the revenues derived from the operation of such system or systems.

(4) **CUMULATIVE—REPEAL.**—The powers granted by this section are granted in addition to and not in substitution for the existing powers of cities and towns. This section shall not be deemed to repeal or affect any other act conferring similar powers upon cities and towns. 1935 (39) 2.

This section added by 1935/2.

stitution, Acker v. Cooley, 177 S. C., 144; 181 S. E., 10.

This section is a condition added to provisions of section 5, article 8, state con-

§ 7281. Election of commissioners of public works—terms of office, etc.—

* * * There shall be no board of commissioners of public works for the town of Salley, in Aiken County, but all the duties, powers and responsibilities of the board of commissioners of public works of the said town of Salley are hereby devolved upon the mayor and town council of said town. 1936 (39) 1480.

The above proviso added, 1936/1480.

Board of commissioners abolished, and the powers and duties thereof devolved; town of Latta, Dillon County, 1932/1408; town of Kingstree, 1936/1368.

Election on abolishing office of commissioners in town of Fort Mill, York County,

1933/515.

Compensation of commissioners of public works for city of Spartanburg fixed at \$450.00 per annum, 1933/466; 1934/1473.

Election in town of Prosperity on abolishing office of commissioner of public works, 1934/1432.

§ 7283. Powers of commissioners of public works.

The last proviso of this section as it appeared in 1932 Code relating to town of Latta was repealed by 1932/1409.

See this section 1934 Supplement for this section as it was amended by 1933/277.

Duties, powers, and authority of the com-

missioners of Spartanburg metropolitan district devolved upon commissioners of public works of Spartanburg, 1932/1393.

Commissioner of public works of the town of Walhalla, Oconee County, furnished free water to its public schools, 1934/1258.

Commissioner of public works, city of Spartanburg, may borrow from Spartanburg metropolitan district, or lend to said district, 1934/1437.

Commissioners of public works, city of Beaufort, manage, control, and supervise public docks, wharves and piers of said city, 1935/300.

§ 7292. Disposition of sinking funds.

See this section in 1934 Supplement.

§ 7297. Condemnation proceedings by municipal authorities.

See article 1, § 17, state constitution.

Denial by city that there had been a taking of property, thereby denying land-owner's right to compensation, it was un-

necessary to offer evidence of the denial of right to compensation. *Sheriff v. City of Easley*, 178 S. C., 504; 183 S. E., 311.

§ 7298. Municipal or other corporation instituting condemnation proceedings to either pay award or pay expenses of owner—liquidation of expenses.

See this section in 1934 Supplement.

§ 7298-1. Necessary parties to condemnation proceedings.

See this section in 1934 Supplement.

§ 7300. Cities and towns may furnish light and water beyond city limits.—

* * * *Provided*, that in the town of Eau Claire, in Richland County, the town council shall have a right to contract for the sale of water for a period beyond the term of office of the town council not to exceed ten (10) years; *Provided*, the limitations imposed by this section shall not apply to cities or towns having a population of over 50,000 and not more than 60,000 as shown by U. S. government census of 1930. Said cities or towns having a population of over 50,000 and not more than 60,000 as shown by U. S. government census of 1930 are hereby given the express power to contract as set forth above, with persons, firms, corporations or other cities or towns without the corporate limits of said city, whether contiguous to the corporate limits or not, and are further given the right to contract for a period not exceeding twenty-five years. The limitation of two years imposed by this section shall not apply to cities and towns having a population of over 60,000, according to the 1930 United States census; and such cities and towns having a population of over 60,000 according to said census are hereby expressly authorized and empowered to enter into contract or contracts as set forth above, with persons, firms, corporations or other cities or towns without the corporate limits of said city, whether contiguous to the corporate limits or not, either for lighting or manufacturing or any other purposes, for any period or periods, not exceeding fifty (50) years. 1934 (38) 1206; 1936 (39) 1583.

The above added to this section by 1934/1206; 1936/1583.

§ 7307. Municipal corporations may purchase lands for use of corporation.

See notes to § 7431.

§ 7319. Issuance of bonds for certain purposes by cities, towns, townships, and other municipalities.

§§ 7319 and 7320 and act specifically authorizing city of Rock Hill to issue refunding bonds, do not violate constitutional

provision limiting bonded debt of municipality. *Williams v. City of Rock Hill*, 177 S. C., 82; 180 S. E., 799.

§ 7345. Causes of action for damages from defects in streets, mismanagement, etc.

Large water hose left lying across sidewalk from time to time without warning of any kind to those using sidewalk, after notice to city of danger in doing so, constituted "defect" in street rendering city liable to pedestrian tripping over hose. *Terrill v. City of Orangeburg*, 176 S. C., 518; 180 S. E., 670.

City not liable hereunder for mismanagement of its truck engaged during nighttime in keeping streets clean and sanitary, when there was no evidence showing defect in street or street was unsafe by accumulations thereon. *Jackson v. City of Columbia*, 174 S. C., 208; 177 S. E., 158.

§ 7347. Public libraries—tax levied.

Library commission, Aiken County, 1936/1440.

Court library commission, Greenville County, 1936/1405.

Circulating library, Darlington County, vote on establishing, 1936/1774; library for Hartsville township, Darlington County, 1936/1371.

Lancaster County public library, 1936/1660.

Richland county public library, 1934/2172.

§ 7349. Library trustees—appointment—number—terms—duties—levy.

See this section in 1934 Supplement.

§ 7357-1. Regional libraries.

See this section in 1934 Supplement.

§ 7374. Cities and towns may assess abutting property for permanent street improvements.

See this section in 1934 Supplement.

Assessments for street improvements: Anderson, city of, 1934/1748; Greer, city of, 1935/886.

Town of Marion make reimbursement agreements with abutting property owners on paving projects, 1936/1791.

§ 7378. Issue, sale and pledge of certificates of indebtedness.

See this section in 1934 Supplement.

§ 7381. Provisions not effective in any city or town until adopted at election.—The provisions of sections 7374 to 7379, both inclusive, shall not apply or become operative in any city or town until submitted to the qualified electors thereof by the city or town council for approval, and a majority of the qualified electors voting on the question of its approval vote in favor thereof at any general municipal election or at any special municipal election (whether called and held for that purpose only or not) when the question of the said approval of said section is submitted and voted on separately and the ballots thereon deposited in a separate box properly labeled and provided for that purpose: *Provided*, that such election shall not be necessary in the case of the city of Chester which may by ordinance of the city council adopt the provisions of sections 7374 to 7379, both inclusive, at any time after January 22, 1936. 1936 (39) 1288.

The words "both inclusive" added after "7379," line 1; and all after the word "purpose" in this section in 1932 Code was omitted; and the proviso to present section relating to city of Chester added, 1936/

1288. 1936/1288 in amending this section made no reference to 1932/1149, which amended this section relating to town of Due West. See this section, 1934 Supplement.

§ 7382-1. Municipal councils may investigate its departments and officers.

See this section in 1934 Supplement.

§ 7403. Officers—election—term, etc.—* * * *Provided*, that in the town of Hampton, in the county of Hampton, said officers shall be elected every two years and their terms of office shall be for two years and until their respective successors have been duly elected and qualified. *Provided, further*, that this proviso shall not be construed so as to increase the terms of office of those elected prior to its passage and approval. 1936 (39) 1314.

See this section 1934 Supplement.

the 1934 Supplement, the above proviso was added to this section, 1936/1314.

§ 7409-1. Borrow in anticipation of taxes—payment.

See this section in 1934 Supplement.

§ 7414. Council may impose tax.—The said town council shall also have power by ordinance to impose an annual tax upon all real and personal property within the corporate limits of said town, but such tax must not exceed fifty cents on the one hundred dollars: *Provided*, that the town council of the town of Prosperity, in the county of Newberry, shall have authority to levy such tax for ordinary purposes not to exceed one dollar on the one hundred

dollars: *Provided*, the town council of the towns of Moneks Corner and St. Stephens, in Berkeley County, South Carolina, shall have power by ordinance to impose an annual tax on all real and personal property within the corporate limits of said towns, but such tax must not exceed fourteen mills, provided no increase of said levy above five mills shall be made until the same is submitted to the qualified electors in said towns and approved by them, and it shall also have power, by ordinance, to levy an annual tax upon any business or occupation conducted within the corporate limits. The taxes so levied shall constitute a lien upon the property upon which it is levied paramount to all liens, except the lien for state and county taxes. For the purpose of collecting the same, said town council is hereby empowered to issue executions against all property on the hand of some officer for collection, who shall have all the rights as now conferred upon sheriffs for the enforcement of tax executions: *Provided*, that said licenses shall be granted according to the gross income of the persons, firms or corporations, required to pay such licenses, or upon the amount of capital invested in said business: *Provided, further*, in the town of Summerton, Clarendon County, the town council shall have power to impose by ordinance an annual tax for ordinary purposes not exceeding twenty (20) mills on all real and personal property within the corporate limits of said town. *Provided*, that the town council of the town of Hampton, in the county of Hampton, shall have the authority to levy such tax for ordinary purposes of the said town as said council may deem necessary, not exceeding one and 50/100 (\$1.50) dollars on one hundred dollars' property valuation. 1933 (38) 64, 259; 1936 (39) 1313, 1381.

First proviso relating to town of Prosperity and next to last proviso relating to town of Summerton added by 1936/1381. Last proviso relating to town of Hampton added by 1936/1313.

Attention is called to the fact that this section was amended by 1933/64 relating

to town of Port Royal; however the 1936 act (1936/1381) which reenacted this section did not refer to the said 1933 act, and consequently the proviso added to this section by the 1933 act relating to town of Port Royal was omitted. See this section in 1934 Supplement.

§ 7431. Corporate powers.

Power of city to sell ordinarily means to sell for cash and does not include the right to accept property in exchange; however, when the city has power both to buy and sell, then these powers include the right to exchange. 3 McQuillin, Municipal Corporations (2d. Ed.), § 1242. Carter v. City of Greenville, 175 S. C., 130; 178 S. E., 508.

City of Greenville has power under this section, and resolution adopted by its council, to dispose of its city hall property

in three way trade and acquire post office property for city hall. Residents protesting against such trade not entitled to injunction *pendente lite* nor permanent injunction. Carter v. City of Greenville, 175 S. C., 130; 178 S. E., 508.

The meaning of the word "use" in this section is identical with the word "benefit." Carter v. City of Greenville, 175 S. C., 130; 178 S. E., 508.

§ 7437. Municipal tax levy—penalty—tax executions.—The said town council shall have power to impose, by ordinance, published at least twenty days an annual tax not exceeding one and one-fourth (1 1/4) per cent in cities containing over five thousand inhabitants, and not over two (2) per cent in towns containing between one thousand and five thousand inhabitants, of the assessed value thereof on all real estate lying within the corporate limits of said city or town, and all personal property within the same including bonds and stocks of banks, and insurance companies and other corporations, the real estate of churches and school associations from which said churches and school associations draw a revenue, or which are intended to be rented out for such purpose, except such as is exempt from taxation under the constitution and laws of this state; *Provided*, that the city council of the city of Spartan-

burg shall have power to impose by such an additional annual tax of not exceeding ten and one-half ($10\frac{1}{2}$) mills, on the assessed value of such property within its limits. Such tax shall be levied by the city or town authorities on the property within the corporate limits, as assessed for taxation for county and state purposes. The said council shall also have power to provide for the payment of a penalty not exceeding fifteen (15) per cent of the taxes so levied for nonpayment of the said taxes when due, payable when the said taxes become delinquent; and the taxes so levied, and also the said penalties, shall constitute a lien upon the property upon which the said tax is levied until paid, paramount to all other liens, except the lien for county and state taxes; and for the purpose of collecting the same the said city or town council shall have the power to enforce the payment of all such taxes and penalties levied and provided for under the authority of this article against the property of defaulters, to the same extent, and substantially in the same manner as is provided by law for collection of state and county taxes and penalties; except that executions to enforce the payment of the said taxes and penalties due the said city or town shall be issued under the seal of the corporation by the clerk thereof, and directed to the chief of police, or any other officer designated by the city or town council for that purpose; and except further, that all sales under and by virtue of such execution shall take place in front of the city or town hall or other public place designated by ordinance in such city or town. The said clerk and the said chief of police, or other officer so designated as aforesaid, shall be allowed the same fees and costs in the enforcement of such executions, and for sales thereunder as are allowed, respectively, to the county treasurer and sheriff, which fees and costs shall be enforceable and collectible in the same manner as fees and costs under county and state tax executions, and on sale thereunder. In addition to the annual tax authorized under this section such city and town council shall have the right to levy such further annual tax as may be necessary to pay the interest on all outstanding bonds issued by said city or town and to create the necessary sinking funds for the redemption of said bonds at their respective maturities. All such additional taxes as have heretofore been levied for the purpose of paying interest on bonds and creating sinking funds are hereby validated in all respects: *Provided*, that the town of Bamberg shall include the levy for the health and drainage district, in the per cent allowed under the provisions of this section: *Provided, further*, that nothing in this section contained shall be so construed as to prevent any city or town, the fiscal year of which differs from the fiscal year of the state, from enforcing payment of its taxes and penalties and executions therefor, according to the fiscal year of such city or town: *Provided, further*, that the town council of the town of York may levy as provided herein an annual tax not exceeding three and one-half ($3\frac{1}{2}$) per cent of the assessed value of all taxable property lying within the corporate limits of said town: *Provided, further*, that the town council of the town of Dillon may levy as herein provided an annual tax not exceeding three and one-half ($3\frac{1}{2}$) per cent of the assessed value of all taxable property lying within the corporate limits of said town. *Provided, further*, that the town council of the town of Summerville may levy as herein provided an annual tax not exceeding three (3) per cent of the assessed value of all taxable property within the corporate limits of the said town. 1934 (38) 1576; 1935 (39), 39, 291; 1936 (39) 1290.

The above section 7437 comes from 1936/1290. The above section differs from section 7437, 1932 Code, principally in that the last proviso in the above section relating to town of Summerville was added by the said act. 1936/1290 did not refer to, nor did it reenact, 1934/1576, (which struck out pro-

viso relating to town of York and added another); 1935/39, (which added a proviso relating to town of Mount Pleasant); and 1935/291, (which added proviso relating to the town of Walterboro).

See this section in 1934 Supplement.

§ 7438. City council to keep in repair streets, ways and bridges—may require road duty.

Repair of streets and the collection of street taxes, city of Chester, 1932/1737.

City of Beaufort establish and maintain public dock and pier, 1935/653.

§ 7442. Powers of council of cities or towns.

Obligation given for past due indebtedness under seal of town in form of bond, no money dervied therefrom for current expenses; credit and taxes pledged for pay-

ment held to be bonded debt. *Tarver v. Town of Johnston*, 175 S. E., 821; 173 S. C., 333.

§ 7460. Jury commissioners in certain cities—jury boxes.—The mayor and alderman or councilmen in any city or town of the state of South Carolina, containing, by the last census, five thousand inhabitants or more, are hereby declared to be the jury commissioners for the municipal, police or recorder court for said city, and shall, within the first thirty days of each year, prepare a box to be known as the jury box, which box shall contain two apartments, designated as "A" and "B", respectively; and shall prepare and place within said times in apartment "A" of said box the names of not less than three hundred (300) residents, qualified electors residing within the limits of such municipality, of good moral character and eligible to jury duty; and after so placing such names in apartment "A" of said box, shall lock the box and place it in the custody of the city clerk of such city; *Provided, further*, in the event the jury commissioners fail to so prepare apartment "A" of said jury box within the time aforesaid, that it shall be prepared as aforesaid within ten days from discovery of the failure to so prepare the same, or on notice from any one in interest; *Provided*, that such jury box when so prepared shall be used until the next jury box is prepared; *Provided, further*, that in the cities of Spartanburg, Columbia and Charleston the said boxes shall be prepared as set forth, and the names of not less than one thousand (1,000) qualified electors, residing within the limits of such municipality of good moral character and eligible for jury duty shall be placed in said department designated as "A"; *Provided, further*, that in the city of Anderson said box shall be prepared and said names of not less than three hundred (300) residents placed in said apartment "A" thereof on or before the first day of April in each year; *Provided, further*, that in the city of Florence the said box shall be prepared as above set forth and the names of not less than five hundred (500) qualified electors residing within the limits of the city of Florence, of good moral character and eligible for jury duty, shall be placed in said apartment, designated as "A". 1936 (39) 1312.

1936/1312 eliminated city of Florence from the third proviso and added the last proviso. This section was amended by 1932/1465 providing for preparation of jury boxes in municipalities having less than three hundred qualified electors; however

the said 1936 act did not mention the said 1932 act and its amendment to this section when it reenacted this section. See this section, 1934 Supplement, for the 1932 amendment to this section. Comma after "electors," line 20 added.

§ 7470. Annual tax authorized for expenses and liabilities.

See this section in 1934 Supplement.

§ 7492. How construct buildings in fire limits.

City of Greenville provide by ordinance fire limits and regulations covering con-

struction, alteration, etc., of buildings, 1936/1641.

§ 7528-1. **Certain cities over 5,000 and less than 10,000 establish city hospital commission.**—(1) **AUTHORIZED—TRUSTEES.**—The city council of any municipal corporation in the state of South Carolina of more than five thousand inhabitants and less than ten thousand inhabitants, which has acquired, constructed or caused to be constructed a hospital, shall have the power and authority to establish a city hospital commission to operate and manage the same, and may appoint or elect the trustees thereof, and may fix by ordinance, establishing the city hospital commission, the number of trustees thereof, to be elected or appointed by the city council, and their respective terms of office, and shall so provide that the original trustees when appointed shall serve originally for varying terms in office so that the term or terms of office of the several members of the said commission may not expire at the same time, and upon the expiration of the term or terms of office of the trustees originally appointed, the city council may appoint or elect their successors; and in the event of any vacancy by death, resignation or otherwise in the membership of the said city hospital commission, the vacancy or vacancies may be filled by election or appointment by the city council for the unexpired term.

(2) **POWERS AND DUTIES.**—That the city hospital commission shall have control and management of the hospital and authority to select the employees and officers of the said hospital, including its medical and surgical staff, and may fix the charges and fees to be paid for the services of the hospital, and may adopt such rules and regulations concerning its management as it may see fit. The said commission shall select its chairman and secretary, and minutes of all meetings shall be kept and be subject to the inspection of the city council or its representatives, and shall submit annual reports to the city council, or oftener if desired. It may provide for such compensation as may be necessary or advisable for the payment of any of its employees and officers in the conduct and management of the said hospital, together with the expenses of the hospital, with authority to make such repairs or alterations from time to time as may be necessary, and construct or cause to be constructed or erected such additional buildings as may be necessary or advisable; all of which shall be paid for solely from the income of the hospital, which the commission shall have authority to use for such purposes; and it may accept gifts or legacies for the benefit of the said hospital; provided, however, that the city hospital commission shall not have authority to bind the city to any obligation for the payment of any expenses in connection with the management, operation or construction of the said hospital, or for repairs or for any new buildings or construction, or otherwise without first obtaining the consent and approval of the city council, and shall incur no obligations that shall bind the city or city council in any way without first obtaining the consent thereto of the said city council. 1936 (39) 1358, 1375.

This section added by 1936/1358, 1375.

§ 7545. **Civil service for full paid fire department, or fire and police department having paid members in certain cities of 28,000 to 29,000.**—(1) **CIVIL SERVICE COMMISSION—APPOINTMENT—SALARY—TERMS.**—There is hereby created in every city, town or municipality in the state of South Carolina having a population of not more than twenty-nine thousand and not less than twenty-eight thousand at the last federal census, A. D. 1930, having a full paid fire department, or a fire department and police department having paid members, a civil service commission which shall be composed of three persons, *Provided, however,* that this section shall not operate to create such commission

in any city, town, or other commission having a general jurisdiction over the service of the fire department and police department, and which existing commission substantially performs the same functions and duties and substantially exercises the same powers as those conferred upon the civil service commission by this section. The members of such commission shall be appointed by the person or group of persons, who, acting singly or in conjunction, as a mayor, city manager, council, common council, commission, or otherwise, is or are vested by the law with power and authority to select, appoint or employ the chief of a fire department or police in any such city prior to the enactment of this section. The members of this commission shall receive a salary not to exceed three hundred (\$300.00) dollars per annum. The term of office of such commissioners shall be for six years, except that the first three members of such commission shall be appointed for different terms, as follows: one to serve for a period of two years, one to serve for a period of four years and one to serve for a period of six years. Two members of such commission shall constitute a quorum.

(2) CITIES AFFECTED.—The provisions of this section shall apply to all cities, towns and municipalities of the state of South Carolina having a population of not more than twenty-nine thousand and not less than twenty-eight thousand at the last federal census, A. D. 1930, having a paid fire department or police, or a fire department having paid members, except such cities, towns or municipalities as having an existing commission having personnel jurisdiction over the fire department as set forth in subsection 1, and all present incumbents and future appointees shall be subject to civil service.

(3) INCLUDE PAID EMPLOYEES OF FIRE AND POLICE DEPARTMENTS—APPOINTMENTS, PROMOTIONS, SUSPENSIONS, ETC.—The classified civil service and provisions of this section shall include all paid employees of the fire department and police department of each city, town, or municipality coming within the purview of this section, including the chief of that department and police. All appointments to and promotions in said department shall be left to the discretion of the city council and chief of the department, with the exception of the office of chief which shall be elected by city council. No person shall be reinstated in, or transferred, suspended, or discharged from any such place, position, or employment contrary to the provisions of this section.

(4) COMMISSION—ORGANIZATION—DUTIES.—After appointment, the commission shall organize by electing one of its members chairman and hold meetings as may be required for the proper discharge of their duties. It shall be the duty of the civil service commission: (a) To make suitable rules and regulations not inconsistent with the provisions of this section. Such rules and regulations shall provide in detail the manner in which examinations may be held. (b) All tests shall be practical, and shall consist only of subjects which will fairly determine the capacity of persons examined to perform duties of the position to which appointment is to be made, and may include tests of physical fitness and/or of manual skill. (c) The rules and regulations adopted by the commission shall provide for a credit of 10 per cent in favor of all applicants for appointment under civil service, who, in time of war, or in any expedition of the armed forces of the United States, have served in and been honorably discharged from the armed forces of the United States, including the army, navy and marine corps, and the American Red Cross. These credits apply to entrance examinations only. (d) Provide for, formulate, and hold competitive

tests to determine the relative qualifications of persons who seek employment in any class or position, and as a result thereof establish eligible lists for the various classes of positions, and to provide that men laid off because of curtailment of expenditures, reduction in any part in force, and for like causes, shall be the last man or men, including probationers, that have been appointed to said fire department or police. Such removal shall be accomplished by suspending in numerical order, commencing with the last men appointed to said fire department and police department, all recent appointees to said fire department or police department, until such reductions necessary shall have been accomplished: *Provided, further*, that in the event the said fire department and police department shall again be increased in numbers and said firemen and policemen suspended under the terms of this section shall be reinstated before any new appointments to the said fire department or police department shall be made.

(5) **INCUMBENTS.**—For the benefit of the public service and to prevent delay, injure, or interruption therein by reason of the enactment of this section, all persons holding a position in the fire department or police department of any such including the chief thereof, when this section takes effect, who shall have served in such position for a period of at least six months last past continuously, are hereby declared eligible for appointment for a period of ten years (10) under civil service to the offices, places, position or employments which they shall then hold, respectively, without examination or other act on their part, and not on probation; and every such person is hereby automatically adopted and inducted for a period of ten (10) years into civil service, into such office, place, position, or employment which such person then holds as completely and effectively to all intents and purposes as if such person has been appointed for a period of ten (10) years thereto under civil service after examinations and investigation.

(6) **APPLICANTS—QUALIFICATIONS.**—(a) An applicant for a position of any kind under civil service, must be a citizen of the United States of America and an elector of the county in which he resides, who can read and write the English language, and must have been a resident of said city for at least one year.

(b) An applicant for a position of any kind under civil service must be of an age of not more than (35) thirty-five years and not less than (21) twenty-one years, in ordinary good health, of good moral character and of temperate habits; these facts to be ascertained in such manner as the commission may deem advisable.

(7) **TERMS OF EMPLOYMENT—CAUSE FOR SUSPENSION, DEMOTION, DISCHARGE, ETC.**—The tenure of every one holding an office, place, position or employment under the provisions of this section shall be only during good behavior, and any such person may be removed or discharged, suspended without pay, demoted, or reduced in rank, or deprived of vacation privileges for any of the following reasons:

(a) Incompetency, inefficiency or inattention to or dereliction of duty;

(b) Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public, or a fellow employee, or any other act of omission or commission tending to injure the public service; or any other wilful violation of the provisions of this section or the rules and regulation so adopted hereunder;

(c) Conviction of a felony, or a misdemeanor, involving moral turpitude;

(d) Any other act or failure to act which in the judgment of the civil service commissioners is sufficient to show the offender to be unsuitable and unfit person to be employed in the public service.

(8) PROCEDURE TO REMOVE, SUSPEND, DEMOTE OR DISCHARGE—APPEAL.—No person in the classified civil service who shall have been appointed for a period of ten years or inducted into civil service under provisions of this section, shall be removed, suspended, demoted or discharged except for cause, and only upon the written accusation of the appointing power, or any citizen or taxpayer, a written statement of which accusation, in general terms shall be served upon the accused, and a duplicate filed with the commission. The chief of the fire department and police may suspend a member pending the confirmation of the suspension by the regular appointing power under the section which must be within three days. Any person so removed, suspended, demoted or discharged may within ten days from time of his removal, suspension, demotion or discharge, file with the commission a written demand for an investigation. The investigation shall be confined to the determination of the question of whether such removal, suspension, demotion or discharge was or was not made for political or religious reasons and was or was not made in good faith or cause. After such investigation the commission may, if in its estimation the evidence is conclusive, affirm the removal, or if it shall find that the removal, suspension, or demotion was made for political or religious reasons, or was not made in good faith for cause, shall order the immediate reinstatement or reemployment of such person in the office, place, position or employment from which such person was removed, suspended, demoted or discharged, which reinstatement shall, if the commission so provided in its discretion, be retroactive, and entitle such person to pay or compensation from the time of such removal, suspension, demotion or discharge. The commission upon such investigation in lieu of affirming the removal, suspension, demotion or discharge may modify the order of removal, suspension, demotion or discharge by directing a suspension, without pay, for a given period, and subsequent restoration of duty, or demotion in classification, grade, or pay; the findings of the commission shall be certified, in writing to the appointing power, and shall be forthwith enforced by such officer.

All investigations made by the commission pursuant to the provisions of this subsection shall be by public hearing, after reasonable notice to the accused of the time and place of such hearing, at which hearing the accused shall be afforded an opportunity of appearing in person and by counsel, and presenting his defense. If such judgment or order be concurred by the commission or a majority thereof, the accused may appeal therefrom to the court of original and unlimited jurisdiction in civil suits of the county wherein he resides.

Such appeals shall be taken by serving the commission, within thirty days after the entry of such judgment or order, a written notice of appeal, stating the grounds thereof, and demand that a certified transcript of the record and all papers on file in the office of the commission affecting or relating to such judgment or order, be filed by the commission with such court. The commission shall, within ten days after the filing of such notice, make, certify and file such transcript with such court. The court of original and unlimited jurisdiction in civil suits shall thereupon proceed to hear and determine such appeal in a summary manner; *Provided, however*, that such hearing shall be to the determination of whether the judgment or order of removal, discharge, demotion

or suspension made by the commission, was or was not made in good faith for cause, and no appeal to such court shall be taken except upon such ground or grounds.

(9) **OFFICES AND EMPLOYEES HEREUNDER.**—All offices, places, positions and employments coming within the purview of this section, shall be created by the person or group of persons who, acting singly or in conjunction, as a mayor, city manager, and chief, common council, commission or otherwise, is or are vested by law at and prior to the taking effect of this section, with power and authority to select, appoint, or employ any person coming within the purview of this section, and nothing herein contained shall infringe upon the power and authority of any such person or group of persons, or appointing power, to fix the salaries and compensation of employees employed hereunder.

(10) **CIVIL SUITS—COUNSEL.**—It shall be the duty of the commission to begin and conduct all civil suits which may be necessary for the proper enforcement of this section and of the rules of the commission. The commission shall be represented in such suits by the chief legal officer of the city, but said commission may in any case be represented by special counsel appointed by it.

(11) **LIABILITY OF EMPLOYEES FOR POLITICAL SERVICE.**—No person in office, place, position or employment subject to civil service, is under any obligations to contribute to any political fund or to render any political service to any person or party whatsoever, and no person shall be removed, reduced, in grade or salary, or otherwise prejudiced for refusing so to do. No public officer, whether elected or appointed, shall discharge, promote, demote or in any manner change the official rank, employment or compensation of any person under civil service, or promise or threaten so to do, for giving or withholding or neglecting to make any contribution of money, or services, or any other valuable thing, for any political purpose.

(12) **CITIES AFFECTED ENACT PROPER LEGISLATION TO PUT THIS SECTION IN EFFECT.**—The various cities affected by the provisions of this section shall immediately upon taking effect thereof, enact appropriate legislation for carrying this section into effect, and the failure upon the part of the duly constituted authorities of any such cities so to do shall be considered a violation of this section and be punishable as such.

(13) **APPOINTMENT OF COMMISSION.**—Immediately after 1936, it shall be the duty of the duly constituted authorities in each city, subject to the provisions of this section, to appoint and create a civil service commission as provided for in subsection 1, hereof, and the failure upon the part of said duly constituted authorities, or any of them, so to do, shall be deemed a violation of this section, and shall be punishable as such.

(14) **COMMISSION TO ORGANIZE AND PUT IN EFFECT.**—It shall be the duty of each commission appointed subject to the provisions of this section, to immediately organize and see to it that the provisions thereof are carried into effect.

(15) **PENALTY.**—Any person who shall wilfully violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than \$100.00 nor more than \$1,000.00, or by imprisonment in the county jail for not longer than one year, or by both such fine and imprisonment. The court of original and unlimited jurisdiction in civil suits shall have jurisdiction of all such offenses defined by this section.

(16) DEFINITIONS.—As used in this section, the following mentioned terms shall have the following described meanings:

The term “Commission” means the civil service commission herein created, and the term “Commissioner” means any one of the three commissioners of that commission.

The term “Appointing Power” includes every person or group of persons who, acting singly or in conjunction, as a mayor, city manager, council, common council, commission, or otherwise, is or are, vested by law with power, and authority to select, appoint, or employ any person to hold any office, place, position or employment, subject to civil service.

The term “Appointment” includes all means of selecting, appointing, employing any person to hold any office, place, position or employment subject to civil service.

The term “City” includes all cities, town and municipalities having a full paid fire department, police department or a fire department having paid members.

The term “full paid fire department or police department or a fire department having paid members” means a fire department the officers and firemen employed in which are paid regularly by the city and devote their whole time to fire fighting.

(17) SAVING CLAUSE.—If any section, sub-section, subdivision, sentence, clause or phrase of this section, shall for any reason be held unconstitutional, such decision shall not affect the validity of the remaining portions of this section. 1936 (39) 1281.

§ 7545 was repealed by 1932 acts, page 1936 acts, page 1281.
1485. The present section 7545 comes from

§ 7546. Selection of members—terms.—*Repealed by 1932 acts, page 1485.*

§ 7547. Election of successors—vacancies—oath—organization.—*Repealed by 1932 acts, page 1485.*

§ 7548. Meetings—quorum.—*Repealed by 1932 acts, page 1485.*

§ 7549. Powers and duties—reports.—*Repealed by 1932 acts, page 1485.*

§ 7550. Attendance of witnesses at hearings—subpoenas—penalty for failure to attend.—*Repealed by 1932 acts, page 1485.*

§ 7581-1. Regulate erection of buildings in cities in counties containing a city over 60,000 inhabitants.

See this section in 1934 Supplement.

§ 7581-2. Cities over fifty thousand inhabitants may acquire property for parks, athletic grounds, etc.

See this section in 1934 Supplement.

§ 7581-3. Joint use of parks, amusement or recreation centers, and bathing beaches by white and colored races prohibited in counties with city over 60,000.

See this section in 1934 Supplement.

§ 7606-1. Term of civil service employees.

See this section in 1934 Supplement.

§ 7620. City council of Spartanburg.

Time mayor and council, city of Spartanburg, take office, 1935/234.

§ 7627. Adoption of form of government to be submitted to election—proclamation.

See this section in 1934 Supplement.

§ 7631. Primary elections—how conducted.—* * * *Provided, further,* that the following provisions shall apply to primary elections in cities with a population of not more than twenty-nine thousand and not less than twenty-five thousand according to the 1930 United States census, to wit: No person shall be allowed to vote in such primaries unless he shall at the time of voting make oath that he will support in the general election the nominees of his party. The board of commissioners of elections in cities with said population, of not more than twenty-nine thousand and not less than twenty-five thousand, shall be required to open the books of registration for registration in primary elections for a period of thirty days, the said period of registration shall close five days before the first election in any primary election. Notice of the opening of the books for registration in said primary elections shall be given, by advertising same in one or more newspapers in the county wherein such primary is to be held at a time prior to the opening of said books not exceeding ten days, and said notice shall give the time, date and place of the opening and closing of said books. Each primary registration book shall, during the period for which same is open for primary registration, be located within its respective voting precinct. The production of proof of payment of any tax and/or the payment of any tax shall not be a prerequisite to any person registering for or voting in such primaries, and the only registration that shall be required for such voting shall be the registration in the primary registration book." 1935 (39) 142.

The above proviso added to this section comma after the word "election," line 11 of 1935/142. The said act also omitted the of the 1932 Code.

§ 7635. Departments created—powers of council—salaries—meetings.
See this section in 1934 Supplement.

§ 7659. Change automatic on attaining requisite population.
See this section in 1934 Supplement.

§ 7661. Laws relating to cities between 35,000 and 45,000 applicable.
See this section in 1934 Supplement.

§ 7665-1. Primary elections in the city of Rock Hill.

For the provisions hereof, 1932/1139; Compensation of mayor and councilmen, 1934/1417 and 1936/1426 should be con- city of Rock Hill, 1936/1431. sulted.

§ 7665-2. Primary election of municipal officers, town of Brookland.
See 1936/1307 for provisions hereof.

§ 7677. Provisions attaching to all corporations except railroads and banks.
Stockholders, who held all stock in trust, made without objection from other stock- holders. Alderman et al. v. Alderman et al., 178 S. C., 9; 181 S. E., 897. except what they owned, not liable for certain *ultra vires* purchases which they

§ 7679. Stockholders' meetings.
Conveyance by stockholders of their in- operate corporation is valid. Bethea v. Allen, 178 S. C., 9; 181 S. E., 897. terest in corporation to other stockholders in trust for a certain time to manage and

§ 7680. Cumulative voting.
See notes under section 7679.

§ 7694. Notice of meetings on attaching conditions, etc., to stock.
Statutory power of holders of two-thirds 305. of any class of corporation stock to attach thereto additional conditions or penalties, not contemplated at time of its issuance, cannot be abdicated or bargained away, and is coextensive with corporation's life. King v. Ligon, S. C.,; 185 S. E., 305. Conditions and provisions in preferred stock certificates can never be contract im- mune to change by valid corporate action. King v. Ligon, S. C.,; 185 S. E., 305.

§ 7697. Two-thirds vote necessary to attach conditions to stock.

The provisions hereof impliedly incorporated in preferred stock certificates payable in ten years on stockholders'

written demand. *King v. Ligon*, _____ S. C., _____; 185 S. E., 305.
See notes under § 7694 hereof.

§ 7704-1. Cancel charters of defunct corporations—clerks of court record cancellations.—The secretary of state is hereby authorized and directed to forthwith cancel all charters of corporations which, after investigation by the tax commission, are found to be defunct and to have discontinued business and to have no assets, such cancellation to be made upon the advice of the tax commission and without notice to any such corporation, *Provided*, That the provisions of this section shall not be construed to alter the manner of cancellation of active corporations as provided for in section 7704. *Providing, further*, that when any charter is cancelled by the secretary of state under the provisions of this or any other law providing for cancellation of charters, the secretary of state shall within ten days after such cancellation certify such cancellation to the clerk of court of the county in which the principal place of business of the corporation is located and the clerk of court is hereby directed to enter such cancellation upon his record of charters. 1935 (39) 354.

This section (1934/1322), 1934 Supplement, repealed by 1935/354. Present section 7704-1 comes from said act.

§ 7704-2. Secretary of state notify tax commission when charters issued, amended or cancelled—also keep files of active and cancelled charters.—The secretary of state shall immediately notify the tax commission when a new charter is issued or when any charter is cancelled or amended, such notification to be on forms prescribed by the tax commission. The secretary of state shall maintain two card files of all charters of corporations, one shall contain a record of the charters of live corporations and the other a record of charters of corporations which have been cancelled. 1935 (39) 354.

This section added by 1935/354.

§ 7726. Secretary of state issue charters—requisites.—The charter for every corporation, except railroad, railway, turnpike, and canal and steamboat corporations, shall be issued by the secretary of state, two or more persons desiring to form a corporation for any purpose or purposes whatsoever or two or more combined (except for municipal purposes, and except also for railroad, railway, turnpike, canal, and steamboat corporations), may, after having given three days' public notice *in a newspaper published and circulated in the county where the principal place of business is to be located*, of their intention to do so, file with the secretary of state a written declaration signed by themselves, setting forth (1) the names and residences of the declarants; (2) the name of the proposed corporation, which shall be different from the name of any previously chartered corporation; (3) the place at which it proposes to have its principal place of business, if any, or be located; (4) the general nature of the business, if any, which it proposes to do; (5) the amount of capital stock, if any, and how and when payable; (6) the number of shares into which the capital stock is divided and the par value, if such there be, of each share; (7) that not less than fifty per cent. of the proposed capital stock has been subscribed by *bona fide* subscribers. That, after due notice, at a meeting of the subscribers, a majority of whom in value was present in person or by proxy, the organization of the company had been completed by the election from themselves of a board of directors, trustees, or managers, giving the names of said directors, which

board shall manage the affairs of the corporation until their successors shall have been elected and shall have qualified according to the constitution and by-laws of the corporation; that the board of directors, trustees, or managers, have secured the payment of the subscription to the capital stock, either in whole or in such installments as it shall see fit: *Provided*, the said amount shall not be less than twenty per cent. of the amount subscribed by each stockholder. That the said board of directors, trustees, or managers, have elected from their number a president, and that they have elected such other person or persons as they may see fit as secretary and treasurer, the latter of which officers shall be named in the declaration: *Provided, further*, that in case of continuing building loan associations and other corporations of a like nature issuing stock in monthly series, the declaration may name an amount as the initial capital stock and a larger amount as the ultimate capital stock, to which the issue of the monthly series may extend according to the by-laws of said corporation; and when not less than fifty per cent of the initial capital stock shall have been subscribed by *bona fide* subscribers, the meeting of the stockholders and other proceedings provided for in sections 7726 to 7756, inclusive, may be had: *Provided, further*, that the stockholders of such corporation shall have the power at their meeting to adopt a by-law providing for the issuing of preferred stock, having such special privileges and to be issued in such amounts and in such manner as they shall establish by their said by-laws: *Provided further*, that in the event that a newspaper is not published and circulated in the county where the principal place of business of the proposed corporation is to be located, it will be sufficient to publish the notice hereinabove required in any newspaper generally circulated in such county. 1936 (39) 1337.

Words in italics in second sentence and act omitted the comma after the word last proviso added by 1936/1337. The said "elected," line 23.

§ 7730. How secure charter—record—admit in evidence.—Upon the payment to the treasurer of the corporation, or to some other officer designated for the purpose by the subscribers, of at least twenty per cent. of the aggregate amount of the capital subscribed, payable in money, or upon the delivery to such officers of at least twenty per cent. of the property subscribed to the aggregate amount of the capital stock, or upon its delivery being secured by such obligations of the subscribers as the board of directors, trustees or managers may approve, the board of corporators, or a majority of them, shall over their signatures certify to the secretary of state that the requirements of this article have been complied with, which certificate shall be known as the declaration of the corporation. Upon the filing of the said declaration, and the receipt of the charter fee hereinafter provided for, and upon the payment to him of the fee of \$2.50 for the recording of the declaration, the secretary of state shall issue to the board of corporations a certified copy of their declaration, which shall constitute the charter of said corporation, authorizing the same to begin business under the name and for the purpose indicated in the written declaration, a copy of which charter shall be recorded in the office of the register of mesne conveyances or clerk of court of each county where such corporation shall have an office or place of business, *said copy shall be recorded thirty days after date of issuance of the same*. A copy of the certificate issued by the secretary of state to the board of corporations, and known as the charter, when attested and certified by the secretary of state or the register of mesne conveyances or the clerk of the court of the county where such certificate is recorded, or by the deputy of either of them, shall in all courts and places be evidence of the due

organization and existence of the corporation and of the matters specified in such incorporation. 1936 (39) 1320.

Words in italics added; and "certificate line, 1936/1320.
of" omitted before "incorporation" last

§ 7745. Powers of corporations under this article.

See this section in 1934 Supplement.

§ 7746. When stock shall be issued.

This section merely defines who stock- 283; 184 S. E., 574.
holders are. *Brice v. Cleveland*, 179 S. C.,

§ 7765. Stipulation to be filed by foreign corporations doing business in this state.

See this section in 1934 Supplement.

Being engaged exclusively in interstate business in this state does not exempt foreign corporation from being served hereunder. *Garrett Engineering Co. v. Auburn Foundry, Inc.*, 176 S. C., 59; 179 S. E., 693.

It is not necessary that foreign corporations be engaged in business in this state at time of commencement of action if it theretofore did business in this state. *Garrett Engineering Co. v. Auburn Foundry, Inc.*, 176 S. C., 59; 179 S. E., 693.

Foreign corporation, which planned to organize and build up a selling force in this state through its state representative present here for that purpose, sent its

representatives into this state to negotiate adjustments and make contracts of settlement here, and after its machinery arrived in this state installed same, held to be "doing" business in this state. *Garrett Engineering Co. v. Auburn Foundry, Inc.*, 176 S. C., 59; 179 S. E., 693.

Serve process at other than designated places. Beside place designated where papers may be served on domesticated foreign corporation; such corporation may be served wherever it has a place of business or owns property. *Tunstall v. Lerner Shops, Inc.*, 160 S. C., 557; 159 S. E., 386, *McLaughlin v. International Harvester Co.*, 175 S. E., 810; 173 S. C., 338.

§ 7767. Fees payable by certain foreign corporations—filing of annual statements.

See this section in 1934 Supplement.

§ 7768. Fees for filing annual statements—penalties.—*Repealed by 1934 acts, page 1304.*

§ 7771. Fees payable by foreign corporations upon increase of capital stock.—*Repealed by 1934 acts, page 1304.*

§ 7773. Condition precedent to doing business in this state.

See U. S. Constitution, 14th amendment.

§ 7829-1. Banks and other lending agencies make loans payable in installments—interest rate.—Banks, banking institutions, and other lending agencies doing business in this state are hereby authorized to make loans and advances of credit to persons in amounts of not less than ten (\$10.00) dollars and not more than one thousand (\$1,000.00) dollars, payable in installments, for the financing of purchases and for other desirable purposes, over a period of not less than six months; and on all such loans are allowed to make interest or discount charges as herein provided. Interest or discount at the rate of not exceeding seven (7%) per cent per annum just as if the entire amount of the debt matured on the date the last installment becomes due. For example, if the amount of the debt is one hundred (\$100.00) dollars, payable in installments as aforesaid, maturing over a period of twelve months, and the rate seven (7%) per cent. per annum, the amount of such interest or discount shall be seven (\$7.00) dollars.

Interest rates on all other loans shall remain as set forth in act No. 688 of the Acts of 1934, except that a minimum charge of one dollar may be made in lieu of interest. 1935 (39) 382.

This section added by 1935/382.

§ 7830. May invest in state or United States stocks.

See sections 9049 through 9051-3.

§ 7835. Regulation of state banks as to charters and stock according to population.

Sections 7843 and 7836-1, this supplement, should be consulted in connection with this section. should not be given preferred status over other debts of the bank. *Poole v. Elliott*, 76 F. (2nd.), 772.

Deposits in unauthorized branch bank

§ 7835-1. Banks issue and sell capital notes or debentures—retirement—exempt from assessment—liability of holders—“capital” relating to banking defined—when capital stock unimpaired.—With the approval of the chief bank examiner, any banking institution may at any time through action of its board of directors and without requiring any action of its stockholders issue and sell its capital notes or debentures. Such capital notes or debentures shall be subordinate and subject to the claims of depositors and may be subordinated and subjected to the claims of other creditors.

The term “capital” as used in the laws of this state relating to banking shall be construed to embrace the amount of outstanding capital notes and debentures legally issued by any banking institution and sold by it to the reconstruction finance corporation. The capital stock of any such banking institution may be deemed to be unimpaired when the amount of such capital notes and debentures as represented by cash or sound assets exceeds the impairment as found by the chief bank examiner. Before any such capital notes or debentures as represented by cash or sound assets exceeds the impairment as found by the chief bank examiner. Before any such capital notes or debentures are retired or paid by the bank, any existing deficiency of its capital (disregarding the notes or debentures to be retired) must be paid in cash, to the end that the sound capital assets shall at least equal the capital stock of the bank. Such capital notes or debentures shall in no case be subject to any assessment. The holders of such capital notes or debentures shall not be held individually responsible as such holders for any debts, contracts, or engagements of such institution, and shall not be held liable for assessments to restore impairments in the capital of such institution. 1935 (39) 465.

This section added by 1935/465.

§ 7835-2. Banks issue preferred stock of several classes.—(1) **AUTHORIZED—WHEN VALID.**—Notwithstanding any other provisions of law, any banking institution organized under the laws of this state may, with the approval of the chief bank examiner and by vote of stockholders owning a majority of the stock of such institution, upon not less than ten days’ notice, given by registered mail pursuant to action taken by its board of directors, issue preferred stock of one or more classes, in such amount and with such par value as shall be approved by said chief bank examiner, and make such amendments to its articles of association as may be necessary for this purpose; but, in the case of any newly organized banking institution which has not yet issued common stock, the requirement of notice to and vote of stockholders shall not apply. No issue of preferred stock shall be valid until the par value of all stock so issued shall be paid in.

(2) **INCLUDE IN DETERMINING IF BANKS COMPLIED WITH CAPITAL AND STOCK REQUIREMENTS.**—Any preferred stock lawfully issued by a banking institution organized under the laws of this state shall be included in determining whether such banking institution has complied with the minimum capital and/or capital stock requirements provided by law for banking institutions in this state.

(3) **NOT SUBJECT TO ASSESSMENT—LIABILITY OF HOLDERS.**—Such preferred stock shall in no case be subject to any assessment. The holders of such preferred

stock shall not be held individually responsible as such holders for any debts, contracts, or engagements of such institution, and shall not be held liable for assessments to restore impairments in the capital and/or capital stock of such institution. 1935 (39) 493.

This section added by 1935/493.

§ 7836. Required capital stock of branch banks.

Sections 7843 and 7836-1, this supplement, section.
should be consulted in connection with this See notes under § 7835.

§ 7836-1. Banks with paid in minimum capital stock.—(2) REAL ESTATE OWN—DIVIDENDS.—In addition to the regulations and restrictions now imposed by law upon banks and banking institutions organized under the provisions of this section, no such bank shall own real estate except its banking house and such real estate as may be acquired by the foreclosure of securities for loans by such bank, or banking institution; and no dividend shall be declared or paid on the capital stock until said bank shall first increase its unimpaired surplus fund to an amount equal to its capital stock. 1936 (39) 1766.

For subsections 1, 3, and 4 see this section in 1934 Supplement. See § 7843 this supplement, also.

§ 7843. State board of bank control.—(1) APPOINTMENT—TERMS—VACANCIES—COMPENSATION—DEFINITIONS.—A state board of bank control is hereby created and established, which shall be composed of five members, one of whom shall be the state treasurer as an *ex-officio* member, who shall be chairman. The remaining four members shall be appointed by the Governor, two of whom shall be engaged in commercial banking and recommended by the state bankers' association, one shall be engaged in building and loan association business and recommended by the said associations and one shall be in the cash depositories business and recommended by the representatives of the cash depositories affiliated with the state bankers' association. The Governor shall appoint four members of the said board, one to serve for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years, such terms to become effective the first of July, 1936, and upon the expiration of these terms of office, successors of the same classification shall be appointed for a term of four years. All appointed members of said board shall serve for the term indicated or until their successors are appointed and have qualified, and all vacancies shall be filled in the same manner as regular appointments. The members of the board, other than the state treasurer, shall each receive a per diem of \$5.00 for every day they are engaged in the business of the board, not exceeding forty days per annum, and all of the members of the board shall also be paid their actual necessary traveling and subsistence expenses incurred in the discharge of their duties under the provisions of this section. The said state board of bank control is hereinafter referred to in this section as the board. And except where otherwise specifically provided, the term "bank" or "banks" as used in this section shall be construed to include cash depositories and all institutions doing any kind of banking business, and the term "building and loan association" or "building and loan associations" as used in this section shall be construed to include all institutions doing any kind of building and loan business.

(2) SUPERVISE, REGULATE, AND PROTECT BANKS AND BUILDING AND LOAN ASSOCIATIONS.—The board is hereby vested with power of supervision over all banks and building and loan associations now or hereafter authorized to do business, and to provide regulations and instructions for the direction, control and protection of all such institutions, the conservation of their assets

and the liquidation thereof, as may be necessary or proper to effectuate the purposes of this section, and all such rules, regulations and instructions shall have like force and effect as if promulgated under the existing banking laws.

(3) APPROVE APPLICATIONS FOR CHARTERS OF BANKS AND BUILDING AND LOAN ASSOCIATIONS AND ESTABLISHMENT OF BRANCH BANKS.—No bank or building and loan association hereafter incorporated shall be granted a charter by the secretary of state, unless and until the board has approved such application in writing; nor shall any branch bank be established without the approval in writing by the board. Before any such application for the incorporation of a bank or building and loan association, or the establishment of a branch bank shall be approved, the board shall make an investigation to determine whether or not the applicants have complied with all the provisions of law and whether in the discretion of the board, they are qualified to operate such institution and whether the establishment of such bank or building and loan association or of such branch bank would serve the public interest, taking into consideration local circumstances and conditions at the place where such bank or building and loan association or branch bank, proposes to do business.

(4) EXAMINING DEPARTMENT—CHIEF EXAMINER.—The board is authorized and directed to set up an examining department, appointing a chief examiner in charge and with such assistants, to be appointed by him, subject to the consent of the board, as may be necessary to perform the duties incidental to the work of the board. The term of office of the chief examiner and his assistants shall be at the pleasure of the board.

(5) COMPENSATION OF CHIEF EXAMINER AND ASSISTANTS.—The salaries of the chief examiner and his assistants shall be fixed by the board, provided the salary of the chief examiner shall not exceed the sum of \$3,600.00 per annum, and the salaries of his assistants shall not exceed the sum of \$2,750.00 per annum, each, plus necessary travel and subsistence expenses.

(6) EXAMINATIONS.—The board shall have made at least two examinations every year of all banks and for each examination, it shall collect and pay over to the state treasurer the following fees, to-wit: For the examination of each bank or branch bank (not including cash depositories) \$40.00 for the first \$25,000.00 of resources, plus three cents for each additional \$1,000.00 of resources, determined at the time of such examination. The fees for examination of cash depositories shall be as follows: for those depositories with resources of less than \$50,000.00, the sum of \$15.00; for those with resources of over \$50,000.00, the sum of \$25.00. Building and loan associations shall be examined once each year and for each such examination the board shall collect and pay over to the state treasurer the following fees, to wit: twenty-five (\$25.00) dollars for the first \$25,000.00 of resources, plus three cents for each additional one thousand (\$1,000.00) dollars of resources, determined at the time of such examination. *Provided*, that any examination made under the authority of any agency of the federal government may be accepted by the board, in its discretion, as equivalent to an examination made under the terms of this section. *Provided, further*, that any bank with a capital of five thousand (\$5,000.00) dollars, shall be examined for a fee of twenty (\$20.00) dollars.

(7) TAKE OVER RECORDS OF PRESENT STATE BOARD OF BANK CONTROL—OFFICES.—The board shall take over all the records of the present state board of bank control; and shall arrange for such office space as may be necessary to carry out the provisions of this section, but such office space shall be in the state office building if the same is available.

(8) CONSERVE ASSETS OF BANKS AND BUILDING AND LOAN ASSOCIATIONS—CONSERVATORS—POWERS AND DUTIES—EXAMINATIONS—TERMINATE—DEPOSITS—REORGANIZE.—(a) Whenever it shall deem it necessary in order to conserve the assets of any bank for the benefit of the depositors and other creditors thereof, the board may appoint a conservator for any bank and require of him such bond and security as the board deems proper. The conservator, who shall serve at the pleasure of and under the direction of the board, shall take possession of the books, records, and assets of every description of such bank, and take such action as may be necessary to conserve the assets thereof, pending further disposition of its business as provided by law. Such conservator shall have all rights, powers, and privileges now possessed by or hereafter given receivers of insolvent banks and shall be subject to the obligations and penalties not inconsistent with the provisions of this section, to which receivers are now or may hereafter become subject. During the time that such conservator remains in possession of such bank, the rights of all parties with respect thereto, shall, subject to the other provisions of this subdivision, be the same as if a receiver had been appointed therefor. All expenses of any such conservatorship shall be paid out of the assets of such bank and shall be a lien thereon which shall be prior to any other lien. The conservator shall receive as salary, an amount to be fixed by the board. The conservator may employ an attorney or attorneys at such reasonable compensation as may be agreed upon. *Provided*, the same shall be subject to the written approval of the board.

(b) The board may cause to be made at any time such examination of the affairs of any bank as it may deem necessary to inform it as to the financial condition of such bank, and the examiner shall make a report thereon to the board at the earliest practicable date.

(c) If the board becomes satisfied it may safely be done and that it would be in the public interest, it may, in its discretion terminate the conservatorship and permit such bank to resume the transaction of its business subject to such terms, conditions, restrictions and limitations as it may prescribe.

(d) While such bank is in the hands of a conservator, the board may require the conservator to set aside and make available for withdrawal by depositors and payment to other creditors, on a ratable basis, such amounts as in the opinion of the board may safely be used for this purpose; and the board may, in its discretion, but only if local conditions render it advisable, permit the conservator to receive deposits, but deposits received while the bank is in the hands of a conservator shall not be subject to any limitation as to payment or withdrawal, and such deposits shall be segregated and shall not be used to liquidate any indebtedness of such bank existing at the time that a conservator was appointed for it, or any subsequent indebtedness incurred for the purpose of liquidating any indebtedness of such bank existing at the time such conservator was appointed. Such deposits received while the bank is in the hands of a conservator, shall be kept on hand in cash, invested in the direct obligations of the United States, or of the state of South Carolina, either or both, or deposited with such bank or banks as may be designated by the board.

(e) Any bank in the hands of a conservator may be reorganized: (1) When the board shall be satisfied that the plan of reorganization is fair and equitable as to all depositors, other creditors and stockholders, and is in the public interest, and shall have approved the plan subject to such conditions, restrictions and limitations as it may prescribe, and (2) When, after reasonable notice of such reorganization, both depositors and other creditors representing at least

seventy-five (75%) per cent in amount of the total deposits and other liabilities, and stockholders owning at least two-thirds of its outstanding capital stock as shown by the books of the bank, shall have consented in writing to the plan of reorganization; *Provided, however*, that claims of depositors or other creditors which will be satisfied in full under the provisions of the plan of reorganization shall not be included among the total deposits and other liabilities of the bank in determining the seventy-five (75%) per cent thereof as above provided. When such reorganization becomes effective, all books, records and assets of the bank shall be disposed of in accordance with the provisions of the plan and the affairs of the bank shall be conducted by its board of directors in the manner provided by the plan and under the conditions, restrictions and limitations, which may have been prescribed by the board. In any reorganization which shall have been approved and shall have become effective as provided herein, all depositors and other creditors and stockholders of such bank, whether or not they shall have consented to such plan of reorganization, shall be fully and in all respects subject to and bound by its provisions, and claims of all depositors and other creditors shall be treated as if they had consented to such plan of reorganization.

(f) After fifteen days have elapsed from the time the affairs of the bank shall have been returned to its directors by the conservator either with or without a reorganization as provided in sub-division (e) hereof, the provisions of sub-division (d) hereof with respect to the segregation of deposits received while it is in the hands of a conservator and with respect to the use of such deposits to liquidate the indebtedness of such bank shall no longer be effective: *Provided*, that before the conservator shall return the affairs of the bank to its directors, he shall cause to be published in a newspaper in the city, town or county in which such bank is located, and if no newspaper is published in such city, town or county, in a newspaper to be selected by the board, published in this state, a notice in form approved by the board, stating the date on which the affairs of the bank will be returned to its directors and that the said provisions of sub-section (d) will not be effective after the expiration of fifteen days from such date; and on the date of the publication of such notice, the conservator shall immediately send to every person who is a depositor in such bank under sub-section (d) a copy of such notice by registered mail addressed to the last known address of such person as shown by the records of the bank, and the conservator shall send a similar notice in like manner to every person making deposits in such bank under sub-division (d) after the date of such newspaper publication and before the time when the affairs of the bank are returned to its directors.

(g) The foregoing provisions of this sub-section shall apply *mutatis mutandis* to building and loan associations.

(9) LIQUIDATE CERTAIN BANKS AND BUILDING AND LOAN ASSOCIATIONS.—(a) When the board shall conclude that any bank for which a conservator has been or hereafter shall be appointed, is insolvent, or in imminent danger of insolvency, and it is necessary in order to protect the interests of depositors and creditors to liquidate such bank, it shall order the liquidation thereof; and when liquidation shall have been so ordered the same shall be under and by the conservator appointed for such bank and shall continue until the liquidation of such bank has been completed. Any such conservator shall be vested with the same powers and duties as receivers of banks under existing laws, except as in its discretion the board shall fix or limit the liquidation expenses of such

bank. The liquidation of all such banks shall be under such rules and regulations as may be prescribed by the board, and the conservator shall have the right to apply to a court of competent jurisdiction for direction and instruction on questions of law arising in the liquidation of any such bank. The foregoing provisions of this subsection shall apply *mutatis mutandis* to building and loan associations.

(b) The terms hereof shall not be applicable to banks at present in liquidation under a receivership appointed by the order of court and this section shall not annul, invalidate or remove any receiver engaged at present in the liquidation of any bank.

(c) Nothing herein contained shall be construed to prevent the board from appointing the federal deposit insurance corporation conservator or receiver of any closed bank and the board is hereby expressly authorized in its discretion to so appoint the federal deposit insurance corporation as conservator or receiver of any closed bank as provided for under the terms of section 264, title 12, United States Code Annotated. (49 Statute 684), and the provisions of § 7853-3 of this supplement.

(10) CONSERVATORS—QUALIFICATIONS.—No person shall be appointed conservator of any institution under the provisions of this section who was an officer, director, or attorney of such institution at the time the board determined to create such conservatorship, or who within two years prior to that time had been such officer, director or attorney.

(11) PENALTY.—Any violation of the provisions of this section or of any of the duly promulgated rules and regulations issued by the board under the authority of this section shall be deemed a misdemeanor and shall be punishable by a fine of not exceeding \$5,000.00, or imprisonment not exceeding one year or both.

(12) SAVING CLAUSE.—If any provisions of this section are declared unconstitutional or the applicability thereof to any person or circumstances is held invalid, the constitutionality or validity of the remainder of the section and the applicability of such provisions otherwise shall not be affected thereby.

(13) SUCCEED BOARD CREATED UNDER ACT 1209, 1934 ACTS.—The board hereby created together with the powers and duties herein devolved upon it shall succeed to the board created under the provisions of act 1209 of the acts of the General Assembly of the state of South Carolina of the year 1934. 1936 (39) 1484, 1713.

The office of state bank examiner abolished by 1933/297.
Present section 7843 comes from 1936/

1484, 1713.
Generally.—Boykin v. Zemp, 179 S. C., 257; 184 S. E., 573.

§ 7844. Liquidation of banks after appointment of conservators.

See this section in 1934 Supplement and § 7843 this Supplement.
See generally.—Dunbar v. Fant, 174 S. C., 49; 176 S. E., 866.

with regard to matters connected with liquidation of failed bank; then jurisdiction of state court was to the exclusion of other courts in so far as such matters were concerned. Reconstruction Finance Corporation v. Zimmerman, 76 F. (2nd), 313.

Where non-resident secured creditor recognized conservator of closed state bank and submitted to jurisdiction of state court

§ 7844-1. Board of bank control may authorize conservators under its control to borrow to pay dividends or to reopen.

See this section in 1934 Supplement and § 7843 this Supplement.

§ 7845. State bank examiner to publish audit of closed bank.

Section 7843 hereof and notes thereunder should be consulted.

§ 7846. Bank examiner examine financial affairs state and county officers.

Section 7843 hereof and notes thereunder should be consulted. Also see section 3222-1, 1934 Supplement, which provides for the state auditor to audit state institutions, departments, etc.

§ 7847. Examination.

Section 7843 hereof and notes thereunder should be consulted. Also see section 3222-1, 1934 Supplement, which provides for the state auditor to audit state institutions, departments, etc.

§ 7848. Bank examiner may take control of bank for thirty days upon request of directors.

Section 7843 hereof and notes thereunder should be consulted. See notes to § 7855 hereof. See notes under § 7844.

§ 7849. Bank examiner, associate and assistant examiners.

Section 7843 hereof and notes thereunder should be consulted.

§ 7850. Fees for examination.

Section 7843 hereof and notes thereunder should be consulted.

§ 7851. Bank examiner to examine branch banks.

Section 7843 hereof and notes thereunder should be consulted.

§ 7852. Duty in case of unsound banks.

Section 7843 hereof and notes thereunder should be consulted. See notes to § 7855 hereof. See notes under § 7844.

§ 7853. Special examinations.

Section 7843 hereof and notes thereunder should be consulted.

§ 7853-3. Banks, trust companies, etc., contract to secure advantages of acts and resolutions of Congress to aid, regulate or safeguard banking institutions and their depositors—duties and powers of federal agencies.—(1) "BANKING INSTITUTION" DEFINED.—The term "banking institution", as used in this section shall be construed to mean any bank, trust company, bank and trust company, stock savings bank, mutual savings bank or cash depository which is now or may hereafter be organized under the laws of this state.

(2) **AUTHORIZED—SUBSCRIBE AND ACQUIRE STOCK OF FDIC AND COMPLY WITH ITS REGULATIONS.—**Any banking institution now or hereafter organized under the laws of this state hereby is empowered, on the authority of its board of directors, or a majority thereof, and upon approval of the state banking department, to enter into such contracts, incur such obligations and generally to do and perform any and all such acts and things whatsoever as may be necessary or appropriate in order to take advantage of any and all memberships, loans, subscriptions, contracts, grants, rights, or privileges, which may at any time be available or enure to banking institutions or to their depositors, creditors, stockholders, conservators, receivers or liquidators, by virtue of those provisions of section 8 of the federal "banking act of 1933" (sec. 12B of the federal reserve act, as amended), which establish the federal deposit insurance corporation and provide for the insurance of deposits, or of any other provisions of that or of any other act or resolution of Congress to aid, regulate or safeguard banking institutions and their depositors, including any amendments of the same or any substitutions therefor; also upon approval of the state banking department, to subscribe for and acquire any stock, debentures, bonds or other types of securities of the federal deposit insurance corporation and to comply with the lawful regulations and requirements from time to time issued or made by such corporation.

(3) **FDIC ACT AS RECEIVER OR LIQUIDATOR OF CERTAIN STATE BANKING INSTITUTIONS.—**The federal deposit insurance corporation created by section eight of the federal "banking act of 1933" (section 12B of the federal reserve act,

as amended), is hereby, with the approval of the state banking department, authorized and empowered to be and act without bond as receiver or liquidator of any banking institution, the deposits in which are to any extent insured by said corporation, and which shall have been closed on account of inability to meet the demands of its depositors.

The appropriate state authority, having the right to appoint a receiver or liquidator of a banking institution, may in the event of such closing tender to said corporation the appointment as receiver or liquidator of such banking institution, and if the corporation accepts said appointment, the corporation shall have and possess all the powers and privileges provided by the laws of this state with respect to a receiver or liquidator respectively of a banking institution, its depositors and other creditors, and be subject to all the duties of such receiver or liquidator.

(4) ON PAYMENT OF INSURED DEPOSITS FDIC SUBROGATED TO RIGHTS OF SUCH DEPOSITORS.—Whenever any banking institution shall have been closed as aforesaid, and said federal deposit insurance corporation shall pay or make available for payment the insured deposit liabilities of such closed institution, the corporation, whether or not it shall become receiver or liquidator of such closed banking institution, as herein provided shall be subrogated to all rights against such closed banking institution of the owners of such deposits in the same manner and to the same extent as subrogation of the corporation is provided for in subsection (1) of section 12B of said federal reserve act, as amended (being section 8 of said “banking act of 1933” or in any amendments of same or any substitutions therefor) in the case of the closing of a national bank: *Provided*, that the rights of depositors and other creditors of such closed institutions shall be determined in accordance with the applicable provisions of the laws of this state.

(5) REPORTS AND EXAMINATIONS OF BANKING INSTITUTIONS.—* * *

(6) CLOSED BANKING INSTITUTIONS BORROW OR SELL ASSETS TO FDIC.—With respect to any banking institution, which is now or may hereafter be closed on account of inability to meet the demands of its depositors or by action of the chief bank examiner or of a court or by action of its directors or in the event of its insolvency or suspension, the chief bank examiner and/or the receiver or liquidator of such institution with the permission of said chief bank examiner may borrow from said corporation and furnish any part or all of the assets of said institution to said corporation as security for a loan from same: *Provided*, that where said corporation is acting as such receiver or liquidator, the order of a court of record of competent jurisdiction shall be first obtained approving such loan. Upon an order of a court of record of competent jurisdiction, and with the permission of said chief bank examiner, the receiver or liquidator of any such institution may sell to said corporation any part or all of the assets of such an institution. The provisions of this subsection shall not be construed to limit the power of any banking institution, the chief bank examiner or receivers or liquidators to pledge or sell assets in accordance with any existing state law.

(7) ASSETS PASS TO FDIC ON ACCEPTANCE OF APPOINTMENT AS RECEIVER OR LIQUIDATOR.—Upon the acceptance of the appointment as receiver or liquidator as aforesaid by said corporation, the possession of and title to all the assets, business and property of such banking institution of every kind and nature, shall, with the consent of the chief bank examiner, pass to and vest in said corporation.

(8) **SAVING CLAUSE.**—The validity of any provision or part of this section shall not be dependent upon any other provision or part thereof. If any provision or part thereof should for any reason be held unconstitutional or invalid, such decision shall not affect the validity of any of the remaining provisions or parts of this section. 1935 (39) 482; 1936 (39) 1484.

This section added by 1935/482.

§ 7854. Liquidation and disposition of banks closed by examiner.

Section 7843 hereof and notes thereunder should be consulted.

See notes under § 7844.

§ 7855. Receivers.

Section 7843 hereof and notes thereunder and section 7868 hereof should be consulted.

See this section in 1934 Supplement.

Receivers of closed bank not entitled to commission on offsets made against mutually existing debts between bank and its special creditors. Spartanburg County v. Arthur, _____ S. C., _____; 185 S. E., 486.

Receivers of closed bank not entitled to commissions on collections received and applied to their claims by secured creditors of bank. Spartanburg County v. Arthur, _____ S. C., _____; 185 S. E., 486.

Court appointing receivers for closed bank without power to award compensation

in excess of that fixed by statute. Spartanburg County v. Arthur, _____ S. C., _____; 185 S. E., 486.

§§ 7848 and 7852 provide two modes of liquidating insolvent banks, one through a receiver, and the other through state bank examiner, and under both the same agency that liquidates the bank must liquidate stockholders' liability. Branchville Motor Co. v. Adden, 158 S. C., 90, 155 S. E., 277; Shaw v. Fairey, 160 S. C., 110, 153 S. E., 159; Sharkey v. Ehrich, 160 S. C., 489, 159 S. E., 371; Bethea v. Allen, 177 S. C., 534; 181 S. E., 893.

See notes under § 7844.

§ 7856. Condition of appointment of debtor of bank as receiver, etc.

Section 7843 hereof and notes thereunder should be consulted.

§ 7856-1. Reorganization of banks in hands of bank examiner, receiver, or adjudged insolvent.

See this section in 1934 Supplement and § 7843 hereof.

§ 7857. Qualifications of bank examiner.

Section 7843 hereof and notes thereunder should be consulted.

§ 7860. Publishing statements by banks.

Section 7843 hereof and notes thereunder should be consulted.

§ 7862. Banking and other powers of corporation.

Section 7869 should be consulted.

§ 7863. Banks to set aside funds for surplus.

Section 7836 should be consulted.

§ 7864. Banking corporations authorized to act as guardian, administrator, trustee, etc.

See this section in 1934 Supplement.

§ 7868. Liability of stockholders in insolvent banks.—*This section repealed by 1935 acts, page 46.* This repeal shall not apply to or affect stockholders' liability in banks or banking institutions coming within the terms of the aforementioned section, which have heretofore been adjudged insolvent.

§ 7869. Amount borrow from.—The total liabilities to any such bank or any person other than a director or officer thereof, or of any company, corporation or firm, for money borrowed, including in the liabilities of a company or firm the liabilities of the several members thereof, shall at no time exceed one-tenth part of the amount of the capital stock of any such bank actually paid in and its surplus, except by a two-thirds vote of the directors of the bank, in which case they may be extended to fifteen (15) per cent. of the capital stock actually paid in and the surplus of said bank; but the discount of bills of exchange drawn in good faith against existing values and the discount of commercial or business papers shall not be considered as money borrowed: *Provided*, that the obligations of any person, copartnership, asso-

ciation, or corporation in the form of notes or drafts secured by shipping documents, warehouse receipts or other such documents transferring or securing title covering readily marketable, nonperishable staples when such property is fully covered by insurance, if it is customary to insure such staples, shall be subject under this section to a limitation of fifteen (15) per centum of such capital and surplus in addition to such ten (10) per centum of such capital and surplus when the market value of such staples securing such obligations is not at any time less than one hundred and fifteen (115) per centum of the face amount of such obligation and to an additional increase of limitation of five (5) per centum of such capital and surplus when the market value of such staples securing such additional obligation is not at any time less than one hundred and twenty (120) per centum of the face amount of such additional obligation and to further increase of limitation of five (5) per centum of such capital and surplus in addition to such thirty (30) per centum of such capital and surplus for each and every additional five (5) per centum of the market value of such staples securing such additional obligations to a total limitation of fifty (50) per centum of such capital and surplus, but this exception shall not apply to obligations of any one person, copartnership, association, or corporation arising from the same transaction or secured upon the identical staples for more than ten months. In no case, shall a loan be made by any state bank which added to the then existing total loans, would increase the total to more than twenty-five (25) per cent., in excess of the capital, surplus and deposits of said bank, less the amount invested in real estate, bonds or other securities: *Provided*, that the restriction of this section shall not apply to existing loans now in the process of liquidation. 1936 (39) 1495.

"Actual" omitted before "existing" line of the last sentence added; and comma 9; first proviso down to the beginning added after "per cent" line 34, 1936/1495.

§ 7870. Payment of deposits made in name of two persons.—When any deposit has been made, or shall hereafter be made, in any bank, banking institution or depository transacting business in this state in the names of two persons, payable to either, or payable to either or the survivor, such deposit, or any part thereof, may be paid to either of said persons, whether one be living or not; and the receipt or acquittance of the person so paid shall be a valid and sufficient release and discharge, for any or all payments so made.

The term deposit shall include a certificate of deposit. 1935 (39) 236.

This section replaces former § 7870, 1932 Code.

§ 7871-1. Security required for deposits of public funds or trust funds.

See this section in 1934 Supplement.

§ 7877. Directors of state banking associations to review reports of examinations by state bank examiner.

Section 7843 hereof and notes thereunder should be consulted.

§ 7905. * * *

Sections 7905-7910 apply only to cases where banks accept funds to invest or manage in a fiduciary capacity, and has no application whatever to a general deposit

which creates a mere indebtedness on the part of the bank. *Santee Timber Corporation v. Elliott*, 70 F. (2nd), 179.

§ 7906. Fiduciary assets to be segregated.

In suit by receiver of national bank for adjudication of controversy in respect of investment of trust funds in participation certificate, court has authority to determine whether investment was illegal, worth of

trust assets, loss occasioned by fault of trust department, and to allow any loss as general or preferred claim. *Marchant v. Wannamaker*, 176 S. C., 369; 180 S. E., 350.

§ 7908. Funds to be invested.

Where bank knowingly and in violation of statute invested trust fund in mortgages which exceeded value of property, bene-

ficiaries entitled to trust *ex maleficio* upon assets of insolvent bank. Blankenship v. Zimmerman, 179 S. C., 171; 183 S. E., 760.

§ 7910-1. Conversion of building and loan association or company or savings loan association or company into a federal savings and loan association.

See this section in 1934 Supplement.

§ 7910-2. Operation of federal savings and loan associations.

See this section in 1934 Supplement.

§ 7910-3. Associations or corporations eligible to be member of federal home loan bank may subscribe to shares of federal savings and loan associations.

See this section in 1934 Supplement.

§ 7910-4. Association or corporation eligible to be member of federal home loan bank may occupy same offices and use same facilities and employees as and in conjunction with federal savings and loan association.

See this section in 1934 Supplement.

§ 7910-5. Association or corporation eligible to be member of federal home loan bank may be member and stockholder of federal home loan bank—borrow.

See this section in 1934 Supplement.

§ 7910-6. Status of borrowers in building and loan associations.

See this section in 1934 Supplement.

§ 7910-7. Building and loan associations make loans, advances of credit and purchases in accordance with national housing act.—Subject to such regulations as the state board of bank control, co-operating with the federal housing administrator, acting pursuant to the act of Congress, entitled “national housing act”, approved on June 27th, 1934, finds to be necessary and proper, building and loan associations are authorized:

(a) To make such loans and advances of credit and purchases of obligations representing loans and advances of credit as are eligible for insurance pursuant to title one section two of such national housing act and to obtain such insurance.

(b) To make such loans secured by mortgages on real property as are eligible for insurance pursuant to title two of such national housing act and to obtain such insurance.

No law of this state prescribing the nature, amount or form of security requiring security upon which loans or advances of credit may be made, or prescribing or limiting interest rates upon loans or advances of credit, or prescribing or limiting the period for which loans or advances of credit may be made, or regulations as to the discounting of papers, or prescribing and limiting the person or corporation to whom loans can be made, shall be deemed to apply to loans, advances of credit or purchases made pursuant to the foregoing paragraphs (c) and (b). 1935 (39) 169.

§ 7910-8. Building and loan associations and savings and loan associations secure insurance from federal savings and loan insurance corporation.—Subject to such regulations as the state board of bank control finds to be necessary and proper, building and loan associations and savings and loan associations are authorized to secure insurance from the federal savings and loan insurance corporation pursuant to title four of such national housing act. 1935 (39) 169.

This section added by 1935/169.

§ 7910-9. Building and loan associations sell assets to other associations or federal savings and loan associations—accept stock for assets.—Any building and loan association organized and existing under the laws of this state, at a meeting called and held in accordance with the laws of this state, by an affirmative vote of a majority of its shareholders voting in person or by proxy, may authorize the sale of all or any portion of its assets to a federal savings and loan association or building and loan association, and may authorize the taking of stock in the association so purchasing such assets as payment for said assets. At the option of the vendor association, the shares of the vendee association given in payment of such assets may be issued to the several shareholders of the vendor association proportionately as their interests appear on the books of such association. The provisions of this section and § 7910-10 shall not prejudice the rights and remedies of creditors provided by law for the collection of their debts. 1936 (39) 1355.

This section added by 1936/1355.

§ 7910-10. Building and loan associations convey their assets for liquidation in exchange for certificates of shares.—Any building and loan association organized and existing under the laws of this state, at a meeting called and held in accordance with the laws of this state, by an affirmative vote of a majority of its shareholders voting in person or by proxy, may authorize the transfer and conveyance of all or any of its assets to a responsible trustee or trustees or to a holding corporation for the purpose of orderly liquidation, the consideration for such transfer and conveyance to be the issuance to the shareholders or such association of certificates of beneficial interest in case of transfer to a trustee or trustees and debentures or stock in case of transfer to a liquidating corporation, in either case such certificates or beneficial interest, stock or debentures to be issued to such shareholders in proportion to the book value of their respective stockholdings in the association making such transfer and conveyance. The provisions of this section and § 7910-9 shall not prejudice the rights and remedies of creditors provided by law for the collection of their debts. 1936 (39) 1355.

This section added by 1936/1355.

§ 7910-11. Building and loan associations sell their shares to home owners' loan corporation.—Notwithstanding the provisions of any other law of this state to the contrary, any building and loan association organized and existing under the laws of this state may sell its shares to the home owners' loan corporation upon such terms and conditions as may be imposed by the home owners' loan act of 1933 as amended or by the rules and regulations of the federal home loan bank board. 1936 (39) 1355.

§ 7910-12. Building and loan associations make direct reduction loans.—Direct reduction of principal loans may be made by any building and loan association organized and existing under the laws of this state upon a resolution of the board of directors of such association permitting borrowing members to repay their mortgage indebtedness by the periodic reduction of principal method. The principal of each such loan shall be determined periodically, not less frequently than each month, and each payment shall be applied first to the payment of any advances made for the account of the mortgagor under the provisions of the mortgage; second, to the payment of interest accrued prior to the date of such payment and the remainder to the reduction of principal. Interest shall be computed only on unpaid balances. Mortgages securing such loans may provide for the deposit with the association by the

mortgagor of periodic installments in addition to the regular payments, sufficient to meet the taxes and insurance incident to the property covered by such mortgage. 1936 (39) 1355.

§ 7910-13. Saving clause.—If any provision of sections 7910-9 to 7910-13 or the application thereof to any person, corporation or circumstance is held invalid, the remainder of said sections and the application of such provisions to other persons, corporations or circumstances shall not be affected thereby. 1936 (39) 1355.

This section added by 1936/1355.

§ 7935-1. Cash depositories.—* * * (4) DEPOSITS.—Deposits may be accepted in any lawful money of the United States and shall be subject to call without notice, during regular banking hours, the deposits shall be kept in cash, in safe vaults or safes, with adequate insurance protection, policies therefor to be issued by a company or companies licensed to do business in the state of South Carolina and shall be in an amount at least equal to the entire amount of cash and negotiable securities held in the depository; the official or officials having the custody of and access to such vaults and the money held in the cash depository shall be bonded with a fidelity bond by a bonding company licensed to do business in this state in a reasonable amount, not to exceed the average amount of cash on hand; this amount to be approved by the state bank examiner. In case the deposits in cash become too bulky for convenience or safe handling, the depository may invest any and all of such money (any surplus amounts exceeding ordinary business demands) in United States securities, or bonds or other obligations of the state of South Carolina or any political subdivision thereof, or cotton producers' notes, with required documents attached, eligible for sale to the commodity credit corporation, to be held as cash at the cost price thereof, the interest earned thereon during the period of the holding to be the property of the cash depository; *Provided*, that the total amount of any such investment or investments other than in United States securities shall not be in excess of twenty-five per cent. of the total amount of deposits at the time of such investment. Should there be withdrawals at any time in excess of cash on hand, withdrawing depositors shall be required to accept the aforesaid securities at the cost price thereof as cash. 1935 (39) 69.

(8) DEPOSIT OF FUNDS.—For convenience in banking or banking service the depositories shall be permitted to place a portion of their deposits in any bank to be selected by the officials of the depository and approved by the state bank examiner, or they may deposit in such approved banks in savings accounts or on time certificates of deposit: *Provided*, that no depository shall be owned or affiliated with any bank or banks. 1935 (39) 28.

See this section in 1934 Supplement for subsections 1, 2, 3, 5, 6, 7 and 9.

§ 7944-1. Insurance commissioner approve issuance of charters to insurance companies.

See this section in 1934 Supplement.

§ 7945-1. Company's charter lost or surrendered.

See this section in 1934 Supplement.

§ 7947. Insurance companies to give bond before being licensed.

Liability on bonds generally.—See Co., S. C.,; 185 S. E., 731. *Boynton v. Consolidated Indemnity & Ins.*

§ 7947-1. Deposits, fees, etc., payable by insurance companies organized in other states.

See this section in 1934 Supplement.

§ 7948. Semi-annual license fees to be paid.

See this section in 1934 Supplement.

§ 7949. Additional annual license fee.

See this section in 1934 Supplement.

§ 7967. * * *

Surety on bonds hereunder shall pay only judgments rendered during the term covered by bond. *Robertson v. Metropolitan*

Casualty Ins. Co., 84 F. (2nd), 465; *Boyn-ton v. Consolidated Indemnity & Ins. Co.*, 185 S. E., 731.

§ 7968. Penalty for violation of provisions.

"Agent" of company—"doing business" in state.—Person soliciting and securing applications on unlicensed company's forms for benefit certificates in the company, charging \$4.00 as membership fee and \$1.00 as enrollment fee with each application, and retaining \$4.00 as his pay, and forwarding applications and enrollment fees to company; thereafter the transaction being completed by mail is "agent" of such company, and may be served for company

in action hereunder, and such company is "doing business" hereunder. *McNeely v. Insurance Co.*, 182 S. E., 425; 178 S. C., 247.

Federal courts are bound, in law actions, by the practice in state courts in which the respective federal courts have jurisdiction and the right to nonsuit is absolute unless the defendant had acquired some right that would be prejudiced by the nonsuit. *Etna Life Ins. Co. of Hartford, Conn. v. Wilson*, 84 F. (2nd), 330.

§ 7969. * * *

See notes to § 7968.

§ 7986. When may dispute truth of application and representations for life insurance, disability, etc.—All life insurance companies, fraternal benefit associations or any other company, corporation or association by whatever name known, who issues a policy or certificate of insurance on the life of a person shall, after a period of two (2) years from the date of such policy or certificate of insurance, be deemed and taken to have waived any right they may have had to dispute the truth of the application for insurance, or that the assured person had made false representations, and the said application and representations shall be deemed and taken to be true; *Provided*, that where any such policy shall contain, in addition to life insurance, agreements for indemnity or benefits for disability, or any other coverage, the provisions of this section shall apply to such agreements with the same force and effect as to the life insurance coverage of such policy. 1935 (39) 303.

Words in italics added for "that shall receive the premium on any policy for the space of two years shall." 1935/303.

Where disability occurred within two-year period insured could not withhold bringing his suit until after expiration of two-year period to obtain benefit of this statute. *Love v. Prudential Ins. Co.*, 176 S. E., 333; 173 S. C., 433.

This statute does not apply to any other than a life policy. *Love v. Prudential Ins. Co.*, 176 S. E., 333; 173 S. C., 433. (See editor's note.)

This statute does not apply to disability contract contained in life policy. *Love v. Prudential Ins. Co.*, 176 S. E., 333; 173 S. C., 433.

Editor's note: This section amended after above decision—see above provision.

§ 7987. Suit to vacate policy for false representations.

See notes to § 7986.

§ 7987-1. Insurer deliver copy of application with life, health, and/or accident insurance policy.

See this section in 1934 Supplement.

Defense of fraud and misrepresentation in application for insurance is not available to insurer after expiration of period fixed in the incontestable clause, unless, such defense is specifically reserved to insurer in that clause. Under this section fraud and misrepresentation in application are not available to insurer after two premiums have been paid. *Henderson v. Life Ins. Co. of Virginia*, 176 S. C., 100; 179 S. E., 680.

A policy providing for payment in case of accidental death is to the extent of such provision to be deemed a policy of life insurance within the meaning of a statute having relation to life insurance. *Pacific Mut. Life Ins. Co. v. Parker*, 71 F. (2nd), 872.

Applied.—*New York Life Ins. Co. v. Truesdale*, 79 F. (2nd), 481.

§ 7994. No distinction to be made between individuals.

Where life policy required payment of premiums weekly, agreement between beneficiary and agent for monthly payments violated this section, and no recovery could be had by beneficiary for insurer's lapsing policy because of nonpayment of premiums

when new agent required payments weekly. *Perry v. North Carolina Mut. Life Ins. Co.*, _____ S. C., _____; 185 S. E., 47.

This section never intended to shield a fraud. *Hood v. Life & Casualty Ins. Co. of Tennessee*, 173 S. C., 139; 175 S. E., 76.

§ 7997. Suit against insurance companies in county where loss occurs.

The place of venue in suit to recover against insurance company on account of alleged wrongful acts of defendant in failing and refusing to issue and deliver to plaintiff a certain policy of insurance which plaintiff alleges defendant contracted to deliver, is determined by the law applicable to other domestic corporations doing business in this state, and not by sections 423 and 7997. *Harrison v. Carolina Mut. Ben. Corporation of South Carolina*, 174 S. C., 338; 177 S. E., 395.

Failure of plaintiff in suit against insurance company for failure and refusal to deliver policy to serve defendant's agent in first county, if defendant had an agent in said county, entitled defendant to transfer case to court in another county, in which service was made upon officer of defendant where defendant's home office is located. *Harrison v. Carolina Mut. Ben. Corporation of South Carolina*, 174 S. C., 338; 177 S. E., 395.

§ 8028. Money to be held in trust—disbursements.—* * *

Before any disbursements exceeding \$100.00 of the said funds shall be made by the treasurer of any city or town, he shall first submit to the supervising trustees of the South Carolina firemen's association, a statement of how said funds are to be expended, and shall receive from the said trustees their written approval of the manner and method by which the said funds are to be disbursed so that the said South Carolina firemen's association shall know that the said funds are being expended solely for the benefit of the firemen of each particular fire department in the state; and if expended legally and in accordance with the law it shall be mandatory upon the said supervising trustees to give their approval, and failure upon the part of the said treasurer to comply with the foregoing shall make him liable on his official bond.

1935/196 added the above paragraph to this section after the first paragraph of this section, 1932 Code.

§ 8039. Fraternal benefit societies insure children dependent on members—organize branches for children.—

Any fraternal benefit society authorized to do business in this state and operating on the lodge plan may provide in its constitution and by-laws, in addition to other benefits provided for therein, for the payment of death or annuity benefits upon the lives of children between the ages of two and eighteen years at next birthday for whose support and maintenance a member of such society is responsible. Any such society may at its option organize and operate branches for such children, and membership in local lodges and initiations therein shall not be required of such children, nor shall they have any voice in the management of the society. The total benefits payable as above provided shall in no case exceed the following amounts at ages at next birthday at time of death, respectively, as follows: two, thirty-four dollars; three, forty dollars; four, forty-eight dollars; five, fifty-eight dollars; six, one hundred and forty dollars; seven, one hundred and sixty-eight dollars; eight, two hundred dollars; nine, two hundred and forty dollars; *from the age of ten years at next birthday and upwards any fraternal benefit society authorized to do business in this state may write policies or certificates of insurance on such juvenile members not to exceed the sum of one thousand dollars (\$1,000.00) provided, the conditions set forth in Section 8040 are complied with by such fraternal benefit society or company.* 1936 (39) 1357.

Words in italics added in lieu of provisions for benefits in 1932 Code for children from ten to eighteen years, 1936/1357.

§ 8047. Subordinate bodies have no power to waive provisions of laws of association.

See this section in 1934 Supplement.

§ 8072-1. Fraternal benefit societies reinsure their insurance.—Any fraternal benefit society, company or order, or subordinate body thereof is hereby authorized to reinsure its business in a recognized company and/or reinsurance company duly authorized to carry on its business in the state of South Carolina, if the same be first approved by the supreme governing body of such fraternal society, company or order, and further that such reinsurance or merger is approved by the insurance commissioner for the state of South Carolina as tending to the greater safety of the policyholders of any such named fraternal benefit society or company, or order. 1936 (39) 1353.

This section added by 1936/1353.

§ 8073. Ten persons or more form—purposes—Any number of persons of lawful age, citizens of this state, not less than ten (10) in number, may associate themselves together as a mutual protective association for the indemnifying of each other for loss on the assessment plan, and not for profit, for any one or more of the following purposes: (1) to insure the lives or health of its members against death or disability by accident or disease, *or hospitalization benefits*; (2) to insure the property of its members against loss or damage by fire, lightning or tempests on land or hazards incidental thereto or proceeding therefrom; (3) to insure the crops of its members against damage by hail or tempests on land; (4) to insure the live stock of its members against loss or damage by accident or disease. 1935 (39) 207.

Words in italics added 1935/207.

§ 8079. Constitution—by-laws.

Although this section provides that if the officers of any mutual protective association neglect or omit to levy and collect with diligence any assessment, the insurance commissioner may apply to any court of competent jurisdiction, through the Attorney General, for a mandamus to com-

pel the performance of such neglect or omission, this remedy is not exclusive. *Batson & Walsh v. Ins. Co.*, 78 S. C., 309, 58 S. E., 936. *Prosser et al. v. Carolina Mut. Ben. Corporation*, 179 S. C., 138; 183 S. E., 710.

§ 8103. Admission of foreign mutual companies.—(1) REQUIREMENTS.—

* * * (h) Shall deposit with the insurance commissioner an approved bond or approved securities, in the discretion of the commissioner, in the amount of ten thousand (\$10,000.00) dollars. 1936 (39) 1366.

Paragraph (h) added to subsection 1 of this section, 1936/1366. The said act also omitted several commas in subsection 1.

§ 8111. Who may form mutual associations.—Members of religious denominations or local lodges or fraternal orders under the control and supervision of a representative governing body within this state, or local labor organizations with a national or international charter, *or any number of persons, not less than twenty, a majority of whom shall be bona fide residents of this state and when investigated and approved by the insurance commissioner*, may form mutual associations, incorporated or unincorporated, for the purpose of aiding their members or their beneficiaries in times of sickness and death by levying equitable assessments for the payment of sick relief or death benefits, upon compliance with the terms of this article. 1935 (39) 442.

Words in italics added by 1935/442.

§ 8113-1. Mutual protective associations, doing business in more than two adjoining counties and engaged in writing life insurance policies for more than \$100.00.

See this section in 1934 Supplement.

§ 8114. Definitions.—When used in §§ 8114-8136 the following terms shall, unless the text otherwise indicates, have the following respective meanings:

(1) “Security” shall include any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation or the right to subscribe to any of the foregoing; certificate of interest in a profit sharing agreement; certificate of interest in oil, gas or other mineral rights, leaseholds, property or royalties, fee or title; interests or shares in a patent right, copyright, trademark, process or formula; collateral trust certificate, pre-organization certificate, pre-organization subscription, any transferable share, investment contract or beneficial interest in title to property, profits or earnings or any other instrument commonly known as a security; including an interim or temporary bond, debenture, note or certificate, and any certificate of interest or participation in or warrant or right to subscribe to or purchase any security.

(2) “Person” shall include a natural person, a corporation created under the laws of this or any other state, country, sovereignty, or political subdivision thereof, a partnership, an association, a joint stock company, a trust and any unincorporated organization. As used herein the term “trust” shall not include a trust created or appointed under or by virtue of a last will and testament, or by a court of law or equity, or any public charitable trust.

(3) “Sale” or “sell” shall include every disposition, or attempt to dispose of a security or interest in a security for value. Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing, shall be conclusively presumed to constitute a part of the subject of such purchase and to have been sold for value. “Sale” or “sell” shall also include a contract to sell, an exchange, an attempt to sell, an option of sale, a solicitation of a sale, a subscription or an offer to sell, directly or by an agent, or a circular, letter, advertisement or otherwise; provided, that a privilege pertaining to a security giving the holder the privilege to convert such security into another security of the same issuer shall not be deemed a sale of such other security within the meaning of this definition and such privilege shall not be construed as affecting the status of the security to which such privilege pertains with respect to exemption or registration under the provisions of §§ 8114-8136, but when such privilege of conversion shall be exercised, such conversion shall be subject to the limitations hereinafter provided in subsection (h) of § 8118; and provided further that the issue or transfer of a right pertaining to a security and entitling the holder of such right to subscribe to another security of the same issuer, when such right is issued, or transferred with the security to which it pertains, shall not be deemed a sale of such other security within the meaning of this definition and such right shall not be construed as affecting the status of the security to which such right pertains with respect to exemption or registration under the provisions of §§ 8114-8136; but the sale of such other security upon the exercise of such right shall be subject to the provisions of §§ 8114-8136.

(4) “Dealer” shall include every person other than a salesman who in this state engages either for all or part of his time directly or through an agent in the business of selling any securities issued by another person or purchasing or otherwise acquiring such securities from another for the purpose of reselling them or of offering them for sale to the public, or offering, buying, selling or otherwise dealing or trading in securities as agent or principal for a commission or at a profit, or who deals in futures or differences in market quo-

tations of prices or values of any securities or accepts margins on purchases or sales or pretended purchases or sale of securities: provided, that the word "dealer" shall not include a person having no place of business in this state who sells or offers to sell securities exclusively to brokers or dealers actually engaged in buying and selling securities as a business. "Registered dealer" shall mean a dealer registered under the provisions of § 8126.

(5) "Issuer" shall mean and include every person who proposes to issue, has issued, or shall hereafter issue any security. Any person who acts as a promoter for and on behalf of a corporation, trust or unincorporated association or partnership of any kind to be formed shall be deemed to be an issuer.

(6) "Salesman" shall include every natural person, other than a dealer, employed or appointed or authorized by a dealer or issuer to sell securities in any manner in this state. The partners of a partnership and the executive officers of a corporation or other association registered as a dealer shall not be salesmen within the meaning of this definition.

(7) "Broker" shall mean dealer as herein defined.

(8) "Agent" shall mean salesman as herein defined.

(9) "Commissioner" shall mean the commissioner of securities as provided in § 8115.

(10) "Mortgage" shall be deemed to include any trust instrument to secure a debt.

(11) "Fraud" or "fraudulent practice" shall mean and include any misrepresentation, in any manner, of a material fact, such misrepresentation being intentional or due to gross negligence; any promise or representation or prediction as to the future not made honestly and in good faith; or the intentional failure to disclose a material fact: *Provided, however*, that nothing herein shall limit or diminish the full meaning of the terms "fraud," "fraudulent" or "fraudulent practice" as applied or accepted in courts of law or equity. 1937 (40) 1.

Section 8114, 1932 Code repealed by 1937/1. Present section 8114 comes from said act.

§ 8115. Commissioner.—The administration of §§ 8114-8136 shall be vested in the insurance commissioner of the state of South Carolina, who, for the purposes of §§ 8114-8136, is hereafter called commissioner. 1937 (40) 1.

Section 8115, 1932 Code, repealed by 1937/1. Present section 8115 comes from said act.

§ 8116. Powers and duties of commissioner.—The commissioner shall be vested with the powers and duties provided in §§ 8114-8136, including:

1. The power to administer oaths.
2. The power to make such examinations and investigations as are provided in §§ 8114-8136.
3. The power to employ, from time to time, such attorneys, clerks and employees as are necessary for the administration of §§ 8114-8136, who shall perform such duties as the commissioner shall assign to them, their compensation to be that as fixed by the commissioner and to be paid out of the fees hereafter provided to be paid under the provisions of §§ 8114-8136.
4. The power to cooperate with other governmental officials, state and national, and to coordinate the administration of §§ 8114-8136 with other similar state and national acts in so far as such may be found to be consistent with the purposes and provisions of §§ 8114-8136 and not in conflict with his duties hereunder.

5. The duty of administering §§ 8114-8136 according to the purposes declared in §§ 8114-8136.

The commissioner and each of the employees shall take and subscribe and file the oath of office prescribed by law. 1937 (40) 1.

Section 8116, 1932 Code, repealed by 1937/1. Present section 8116 comes from said act.

§ 8117. Securities exempt.—Except as hereinafter otherwise expressly provided the provisions of §§ 8114-8136 shall not apply to any of the following classes of securities.

(a) Any security issued or guaranteed by the United States or any territory or insular possession thereof, or by the District of Columbia or by any state of the United States or political subdivision or agency thereof.

(b) Any security issued or guaranteed by any foreign government with which the United States is at the time of the sale thereof maintaining diplomatic relations, or by any state, province or political subdivision thereof having the power of taxation or assessment, provided such security has been registered with the securities and exchange commission pursuant to the provisions of the federal securities act of 1933, as amended and the registration statement remains in effect as to such security.

(c) Any security issued by and representing an interest in or a direct obligation of a national bank or issued by any federal land bank or joint-stock land bank or national farm loan association under the provisions of the federal farm loan act of July 17, 1916, or by any corporation created and acting as an instrumentality of the government of the United States pursuant to authority granted by the Congress of the United States.

(d) Any security issued or guaranteed either as to principal, interest or dividend by a corporation owning or operating a railroad or any other public service utility; provided, that such corporation is subject to regulation or supervision either as to its rates and charges or as to the issue of its own securities by a public commission, board or officer of the government of the United States, or of any state, territory or insular possession thereof, or of any municipality located therein, or of the District of Columbia, or of the Dominion of Canada or any province thereof; also equipment securities based on chattel mortgages, leases or agreements for conditional sale of cars, motive power or other rolling stock mortgaged, leased or sold to or furnished for the use of or upon such railroad or other public service utility corporation or where the ownership or title of such equipment is pledged or retained in accordance with the provisions of the laws of the United States or of any state, or of the Dominion of Canada, to secure the payment of such equipment securities; also bonds, notes or other evidences of indebtedness issued by a holding corporation and secured by collateral consisting of any securities hereinabove in this clause (d) described: *Provided*, that the collateral securities equal in fair value at least 125 per centum of the par value of the bonds, notes or other evidences of indebtedness so secured.

(e) Any security issued by a corporation organized exclusively for religious, educational, benevolent, fraternal, charitable or reformatory purposes and not for pecuniary profit, and no part of the net earnings of which inures to the benefit of any private stockholder or individual.

(f) Securities which at the time of the sale have been fully listed upon the New York stock exchange, the Boston stock exchange, the Chicago stock exchange, the New York curb exchange, or upon any other recognized and re-

sponsible stock exchange which has been previously approved by the commissioner as hereinafter in the sub-section provided, and also all securities senior to, or if of the same issues, upon a parity with any securities so listed, or represented by subscription rights which have been so listed, or evidences of indebtedness guaranteed by any company any stock of which is so listed, such securities to be exempt only so long as such listing shall remain in effect and only so long as the exchange upon which such securities are so listed remains approved under the provisions of this subsection. Approval of any stock exchange by the commissioner shall be by written order upon a finding that:

a. The requirements for the listing of securities upon such exchange are such as to effect substantially the reasonable protection of the public as exists in the case of the exchanges herein approved;

b. Such exchange provides adequate facilities for the use of its members for the sale and purchase of securities listed by such exchange;

c. The governing constitution and by-laws of such exchange shall require:

1. An adequate examination into the affairs of the issuer of the securities which are to be listed before permitting trading therein.

2. The issuer of such securities, so long as they be listed, shall periodically prepare, make public and furnish promptly to the exchange, appropriate financial, income and profit and loss statements.

3. Securities listed and traded in on such exchange be restricted to those of ascertained and sound asset and/or income value.

4. A reasonable surveillance of its members, including a requirement for periodical financial statements and a determination of financial responsibility of its members, and the right and obligation in the governing body of such exchange to suspend or expel any member found to be financially embarrassed or irresponsible, or found to have been guilty of misconduct in his business dealings, or conduct prejudicial to the rights or interest of his customers.

The commissioner, upon ten (10) days' notice and hearing, shall have power at any time to withdraw the approval theretofore granted by him to any stock exchange, and thereupon securities so listed upon such exchange shall be no longer entitled to the benefits of such exemption except upon further order of the commissioner again approving such exchange.

(g) Any security issued by and representing an interest in or a direct obligation of any state bank, trust company or savings institution incorporated under the laws of and subject to the examination, supervision, and control of this state; or by any insurance company under the supervision of the insurance department of this state; or issued by any building and loan association of this state under like supervision.

(h) Negotiable promissory notes and any draft, bill of exchange or banker's acceptance given for full value and for the sole purpose of evidencing or extending the time of payment of the price of goods, wares or merchandise purchased, or which arise out of current transactions or the proceeds of which have been or are to be used for current transactions, and which such notes, drafts, bills of exchange or banker's acceptances have a definite maturity at the time of issuance of not exceeding nine months.

(i) Any security, other than common stock, providing for a fixed return, which has been outstanding and in the hands of the public for a period of not less than five years, upon which no default in payment of principal or failure to pay the return fixed, has occurred for a continuous immediately preceding period of five years.

(j) Securities evidencing indebtedness due under any contract made in pursuance to the provisions of any statute of any state or of the United States providing for the acquisition of personal property under conditional sales contract. 1937 (40) 1.

Section 8117, 1932 Code, repealed by 1937/1. Present section 8117 comes from said act.

§ 8118. Transactions exempt.—Except as hereinafter expressly provided, the provisions of §§ 8114-8136 shall not apply to the sale of any security in any of the following transactions:

(a) At any judicial, executor's, administrator's, guardians', or conservator's sale, or at any sale by a receiver or trustee insolvency or bankruptcy.

(b) By or for the account of a pledge holder or mortgagee selling or offering for sale or delivery in the ordinary course of business and not for the purpose of avoiding the provisions of §§ 8114-8136, to liquidate a bona fide debt, a security pledged in good faith as security for such debt.

(c) An isolated transaction in which any security is sold, offered for sale, subscription or delivery by the owner thereof, or by his representative for the owner's account, such sale or offer for sale, subscription or delivery not being made in the course of repeated and successive transactions of a like character by such owner, or on his account by such representatives, and such owner or representative not being the underwriter of such security.

(d) The distribution by a corporation, actively engaged in the business authorized by its charter, of securities to its stockholders or other securities holders as a stock dividend or other distribution out of earnings or surplus or in liquidation of such corporation; or the issuance of securities to the security holders or other creditors of a corporation in the process of a bona fide reorganization of such corporation made in good faith and not for the purpose of avoiding the provisions of §§ 8114-8136, either in exchange for the securities of such security holders or claims of such creditors or partly for cash and partly in exchange for the securities or claims of such security holders or creditors; or the issuance of additional capital stock of a corporation sold or distributed by it among its own stockholders exclusively, where no commission or other remuneration is paid or given directly or indirectly in connection with the sale or distribution of such increased capital stock.

(e) The sale, transfer or delivery of any securities to any bank, savings institution, trust company, insurance company or to any corporation or to any broker or dealer: *Provided*, that such broker or dealer is actually engaged in buying and selling securities as a business.

(f) The transfer or exchange by one corporation to another corporation of their own securities in connection with a consolidation or merger of such corporations, or in connection with the change of par value stock to non par value stock or of non par value stock to par value stock or the exchange of outstanding shares for a greater or smaller number of shares; the transfer or exchange by or on the account of one corporation of its own securities to the holders of securities of another corporation, partnership, trust, person, firm or association in any plan of distribution or exchange providing for the assumption or acquisition by the issuing corporation of the securities for which its own securities are issued or are to be issued, where the plan of distribution or exchange is contained in a registration statement which has been filed for more than twenty days with the securities and exchange commission of the United States or like agency of the United States charged with the registration of securities.

(g) Bonds or notes secured by mortgage upon real estate or tangible personal property where the entire mortgage together with all of the bonds or notes secured thereby are sold to a single purchaser at a single sale.

(h) The issue and delivery of any security in exchange for any other security of the same issuer pursuant to a right of conversion entitling the holder of the security surrendered in exchange to make such conversion, provided that the security so surrendered has been registered under the law or was, when sold, exempt from the provisions of the law and that the security issued and delivered in exchange if sold at the conversion price would at the time of such conversion fall within the class of securities entitled to registration by notification under the law. Upon such conversion the par value of the security surrendered in such exchange shall be deemed the price at which the securities issued and delivered in such exchange are sold.

(i) Subscriptions for shares of the capital stock of a corporation prior to the incorporation thereof under the laws of this state, when no expense is incurred, or no commission, compensation or remuneration is paid or given for or in connection with the sale or disposition of such securities. 1937 (40) 1.

Section 8118, 1932 Code, repealed by 1937/1. Present section 8118 comes from said act.

§ 8119. Registration of securities.—No securities, except of a class exempt under any of the provisions of § 8117 hereof or unless sold in any transaction exempt under any of the provisions of § 8118 hereof, shall be sold within this state unless such securities shall have been registered by notification or by qualification as hereinafter defined. Registration of stock shall be deemed to include the registration of rights to subscribe to such stock if the notice under § 8120 or the application under § 8121 for registration of such stock includes a statement that such rights are to be issued. A record of the registration of securities shall be kept in a register of securities to be kept in the office of the commissioner, in which register of securities shall also be recorded any orders entered by the commissioner with respect to such securities. Such register, and all information with respect to the securities registered therein, shall be open to public inspection. 1937 (40) 1.

Section 8119, 1932 Code, repealed by 1937/1. Present section 8119 comes from said act.

§ 8120. Registration of securities by notification.—The following classes of securities shall be entitled to registration by notification in the manner provided in this section:

(1) Securities issued by a corporation, partnership, association, company, syndicate or trust owning a property, business or industry which has been in continuous operation not less than three years and which has shown during a period of not less than two years or more than ten years next prior to the close of its last fiscal year preceding the offering of such securities, average annual net earnings, after deducting all prior charges not including the charges upon securities to be retired out of the proceeds of sale, as follows:

(a) In the case of interest-bearing securities, not less than one and one-half times the annual interest charge thereon and upon all other outstanding interest-bearing obligations of equal rank.

(b) In the case of preferred stock, not less than one and one-half times the annual dividend requirements on such preferred stock and on all other outstanding stock of equal rank.

(c) In the case of common stock, not less than five per centum upon all outstanding common stock of equal rank, together with the amount of common

stock then offered for sale reckoned upon the price at which such stock is then offered for sale or sold.

The ownership by a corporation, partnership, association, company, syndicate or trust of more than fifty per centum of the outstanding voting stock of a corporation shall be construed as the proportionate ownership of the property, business or industry of such corporation, and shall permit the inclusion of the earnings of such corporation applicable to the payment of dividends upon the stock so owned in the earnings of the corporation, partnership, association, company, syndicate or trust issuing the securities sought to be registered by notification.

(2) Securities issued by "seasoned corporations" where such securities have been registered with the securities and exchange commission (of the United States) according to the provisions of law and rules or regulations of the securities and exchange commission applicable generally to such class or securities, viz.: (a) securities of a corporation which has made annually available to its security holders, for at least ten years, financial reports (which may be reports consolidating the reports of the corporation and its subsidiaries) including at least a balance sheet and a profit and loss or income statement, or (b) such corporation had a net income for any two fiscal years of the five fiscal years preceding the date of the latest balance sheet filed with the registration statement; or as to such class of securities of seasoned corporations as the same may hereafter be defined or designated or classified by the securities and exchange commission, or by act of Congress.

(3) The commissioner shall have power and authority to receive registration by notification of other securities which are substantially of the same quality and description as either of the specific classes above named, although not specifically heretofore described.

Securities entitled to registration by notification shall be registered in the following manner:

A. In the case of securities falling within the class defined by subsection (1) of § 8120, such securities shall be registered by the filing by the issuer or by any registered dealer interested in the sale thereof in the office of the commissioner of a statement with respect to such securities containing the following:

- (a) Name of issuer;
- (b) A brief description of the security, including amount of the issue;
- (c) Amount of securities to be offered in the state;
- (d) A brief statement of the facts which show that the security falls within the class therein defined;
- (e) The price at which the securities are to be offered for sale;
- (f) At that time or within two days thereafter or within such further time as the commissioner shall allow, a copy of the circular to be used for the public offering.

B. In the case of securities falling within the class defined by subsection (2) of § 8120, such securities shall be registered by the filing by the issuer, or by any registered dealer interested in the sale thereof, in the office of the commissioner.

(a) Notice of intention to offer such securities for sale, together with a statement of the amount of such securities to be offered in this state;

(b) A copy of the prospectus filed with the securities and exchange commission. The depositing of such notice of intention to sell, statement of amount to be sold in the state and a copy of the prospectus together with remittance

for the proper filing fee in a United States post office, properly enclosed in an envelope addressed to the commissioner at his office in Columbia, South Carolina, postage prepaid, shall constitute the filing thereof.

The filing of such statement in the office of the commissioner and the payment of the fee hereinafter provided shall constitute the registration of such security. Upon such registration, such securities may be sold in this state by any registered dealer giving notice in the manner hereinafter provided in § 8126, subject, however, to the further order of the commissioner as hereinafter provided.

If, at any time, the commissioner has reasonable grounds to believe or finds as a fact that the information contained in the statement or circular filed is or has become misleading, incorrect, inadequate or incomplete, or the sale or offering for sale of the security may work or tend to work a fraud, the commissioner may require from the person filing such statement such further information as may in his judgment be necessary to establish the classification of such security as claimed in said statement or to enable the commissioner to ascertain whether the registration of such security should be revoked on any ground specified in § 8125, and the commissioner may also suspend the right to sell such security pending further investigation by entering an order specifying the grounds for such action, and by notifying by mail, or personally, or by telephone confirmed in writing, or by telegraph, the person filing such statement and every registered dealer who shall have notified the commissioner of an intention to sell such security. The refusal to furnish information required by the commissioner within a reasonable time, to be fixed by the commissioner, may be a proper ground for the entry of such order of suspension. Upon the entry of any such order of suspension no further sales of such security shall be made until the further order of the commissioner.

In the event of the entry of such order of suspension, the commissioner shall upon request give a prompt hearing to the parties interested. If no hearing is requested within a period of twenty days from the entry of such order, or if upon such hearing the commissioner shall determine that any such security does not fall within a class entitled to registration under this section, or that the sale thereof should be revoked on any ground specified in § 8125, he shall enter a final order prohibiting the sale of such security, with his findings with respect thereto; *Provided*, that if the finding with respect to such security is that it is not entitled to registration under this section, the applicant may apply for registration by qualification by complying with the requirements of § 8121. Until the entry of such final order the suspension of the right to sell, though binding upon the persons notified thereof, shall be deemed confidential, and shall not be published, unless it shall appear that the order of suspension has been violated after notice. Appeals from such final order may be taken as hereinafter provided. If, however, upon such hearing, the commissioner shall find that the security is entitled to registration under this section, and that its sale will neither be fraudulent nor result in fraud, he shall forthwith enter an order revoking such order of suspension and such security shall be restored to its status as a security registered under this section, as of the date of such order of suspension.

At the time of filing the statement, as hereinbefore prescribed in this section, the applicant shall pay to the commissioner a fee of one-fortieth of one per centum of the amount of the securities to be offered for sale in this state for which the applicant is seeking registration, computed upon the price at

which such securities are to be sold to the public. In no case shall such fee be less than one dollar (\$1.00) nor more than ten dollars (\$10.00). 1937 (40) 1.

Section 8120, 1932 Code, repealed by 1937/1. Present section 8120 comes from said act.

§ 8121. Registration of securities by qualification.—All securities required by §§ 8114-8136 to be registered before being sold in this state and not entitled to registration by notification, shall be registered only by qualification in the manner provided by this section.

The commissioner shall receive and act upon applications to have securities registered by qualification, and may prescribe forms on which he may require such applications to be submitted. Application shall be in writing and shall be duly signed by the applicant and sworn to by any person having knowledge of the facts, and filed in the office of the commissioner and may be made either by the issuer of the securities for which registration is applied or by any registered dealer desiring to sell the same within the state.

The commissioner may require the applicant to submit to the commissioner the following information respecting the issuer and such other relevant information as the commissioner may in his judgment deem necessary to enable him to ascertain whether such securities shall be registered pursuant to the provisions of this section:

(a) The names and addresses of the directors, trustees and officers, if the issuer be a corporation or association or trust; of all partners, if the issuer be a partnership, and of the issuer, if the issuer be an individual.

(b) The location of the issuer's principal business office and of its principal office in this state, if any.

(c) The purposes of incorporation (if incorporated) and the general character of the business actually to be transacted by the issuer, and the purposes of the proposed issue.

(d) A statement of the capitalization of the issuer; a balance sheet showing the amount and general character of its assets and liabilities on a day not more than sixty days prior to the date of filing such balance sheet; a detailed statement of the plan upon which the issuer proposes to transact business; a copy of the security for the registration of which application is made, and a copy of any circular, prospectus, advertisement or other description of such securities then prepared by or for such issuer or by or for such applicant (if the applicant shall not be the issuer) to be used for distribution or publication in this state.

(e) A statement of the amount of the issuer's income, expenses, and fixed charges during the last fiscal year, or if in actual business less than one year, then for such time as the issuer has been in actual business.

(f) A statement showing the price at which such security is proposed to be sold, together with the maximum amount of commission or other form of remuneration to be paid in cash or otherwise, directly or indirectly, for or in connection with the sale or offering for sale of such securities.

(g) A detailed statement showing the items of cash, property, services, patents, good will and any other consideration for which such securities have been or are to be issued in payment.

(h) The amount of capital stock which is to be set aside and disposed of as promotion stock and a statement of all stock issued from time to time as promotion stock.

(i) If the issuer is a corporation, there shall be filed with the application a certified copy of its articles of incorporation with all amendments and of its

existing by-laws, if not already on file in the office of the commissioner or of the secretary of state of this state. If the issuer is a partnership or an unincorporated association, or joint stock company, or any other form of organization whatsoever, there shall be filed with the application a copy of its articles of partnership or association and all other papers pertaining to its organization, if not already on file in the office of the commissioner or of the secretary of state of this state.

All of the statement, exhibits and documents of every kind required by the commissioner under this section, except properly certified public documents, shall be verified by the oath of the applicant or of the issuer in such manner and form as may be required by the commissioner.

With respect to securities required to be registered by qualification under the provisions of this section, the commissioner may by order duly recorded require that the issuer shall receive in cash not less than 80 per centum of the proceeds of each sale of the securities without deductions for any commissions or expenses, directly or indirectly and without liability to pay any sum whatsoever as commission or expenses or for services in and about such sale.

At the time of filing the information as hereinbefore prescribed in this section, the applicant shall pay to the commissioner a fee of one-tenth of one per cent of the aggregate par value of the securities to be sold in this state, for which the applicant is seeking registration, but in no case shall such fee be less than twenty dollars (\$20.00) nor more than two hundred dollars (\$200.00). In case of stock having no par value the price at which such stock is to be offered to the public shall be deemed to be the par value of such stock.

If upon examination of any application the commissioner shall find that the sale of the security referred to therein would not be fraudulent and would not work or tend to work a fraud upon the purchaser, and that the enterprise or business of the issuer is not based upon unsound business principles, he shall record the registration of such security in the register of securities, and thereupon such security so registered may be sold by the issuer or by any registered dealer who has notified the commissioner of his intention so to do, in the manner hereinafter provided in § 8126, subject, however, to the further order of the commissioner as hereinafter provided. 1937 (40) 1.

Section 8121, 1932 Code, repealed by 1937/1. Present section 8121 comes from said act.

§ 8122. Consent to service.—Upon any application for registration by notification under § 8120 made by an issuer, and upon any application for registration by qualification under § 8121, whether made by an issuer or registered dealer, where the issuer is not domiciled in this state, there shall be filed with such application the irrevocable written consent of the issuer or of the dealer applying for such registration that in suits, proceedings and actions growing out of the violation of any provision of §§ 8114-8136, the service on the commissioner of any notice, process, or pleading therein, authorized by the laws of this state, shall be as valid and binding as if due service had been made on the issuer. Any such action may be brought in the proper court of any county in this state in which a cause of action may arise or in which the plaintiff resides. Said written consent shall be authenticated by the seal of said issuer, if it has a seal, and by the acknowledged signature of a member of the co-partnership or company, or by the acknowledged signature of any officer of the incorporated or unincorporated association, if it be an incorporated or unincorporated association, duly authorized by resolution of the board of directors, trustees or managers of the corporation or association, and

shall in such case be accompanied by a duly certified copy of the resolution of the board of directors, trustees or managers of the corporation or association, authorizing the officers to execute the same. In case any process or pleadings mentioned in §§ 8114-8136 are served upon the commissioner, it shall be by duplicate copies, one of which shall be filed in the office of the commissioner and another immediately forwarded by the commissioner by registered mail to the principal office of the issuer against which said process or pleadings are directed. 1937 (40) 1.

Section 8122, 1932 Code, repealed by 1937/1. Present section 8122 comes from said act.

§ 8123. Registration of outstanding securities for resale or for trading purposes.—Any security the entire issue of which has been issued and is outstanding in the hands of the public prior to October 28, 1936, or any stock of the same rank or parity lawfully issued by way of stock split-up or a stock dividend thereon, may be registered for resale or for dealing in or trading purposes by filing by a registered dealer or registered dealers in the office of the commissioner:

1. (a) The name and description of the security sought so to be registered.

(b) Notice of intention to offer for resale or to deal or trade generally in any such security.

2. If requested by the commissioner there shall also be filed:

(a) A statement, with such supporting data or verifications as may be available, evidencing the fact that such security and the entire issue of which such security is a part was issued and was outstanding in the hands of the public prior to October 28, 1936, or that such security consists of stock of the same rank or parity lawfully issued by way of stock split-up or a stock dividend thereon:

(b) The price at which such security is to be offered for resale, if presently known, and if not known then the method or formula for arriving at the offering price from time to time and such additional information as the dealer has tending to establish the fairness of such price:

(c) A copy of the latest available balance sheet or other available financial data tending to establish the condition of the issuer thereof.

If it shall appear to the commissioner from the information so filed with him or otherwise available to him that such security, or the price at which it is to be sold, or the methods of the sale are such as would work or tend to work a fraud on the purchasers thereof, the commissioner shall, after notice and opportunity to be heard or after a hearing thereon, refuse registration thereof; otherwise he shall register such security for resale or for dealing and trading generally therein by registered dealers, subject to the provisions of § 8125 and § 8131.

This section shall not be deemed as in any way modifying or limiting any of the provisions as to exemptions contained in § 8117 and § 8118. 1937 (40) 1.

Section 8123, 1932 Code, repealed by 1937/1. Present section 8123 comes from said act.

§ 8124. Reorganization or recapitalization of corporations.—The commissioner is authorized and empowered on application to consider and to conduct or hold hearings upon any plan of reorganization or recapitalization of a corporation organized under the laws of this state, or domiciled or having its principal place of business within this state, proposed by such corporation or by its stockholders or creditors, by which proposed plan of reorganization or recapitalization it is proposed to issue securities in exchange for one or more bona fide outstanding securities, claims or property interests, or partly in such

exchange and partly for cash, to approve the terms and conditions of such issuance and exchange and the fairness of such terms and conditions, after a hearing upon the fairness of such terms and conditions, at which all persons to whom it is proposed to issue securities in such exchange shall have the right to appear; also to approve fair and reasonable terms and conditions for any resale of such securities so issued in such exchange to the end of preventing fraud or deception in any such exchange or the resale of any securities so issued in such exchange. 1937 (40) 1.

Section 8124, 1932 Code, repealed by 1937/1. Present section 8124 comes from said act.

§ 8125. Revocation of registration of securities.—The commissioner may revoke the registration of any security by entering an order to that effect, with his findings in respect thereto, if upon examination into the affairs of the issuer of such security it shall appear that the issuer:

- (1) is insolvent; or
- (2) has violated any of the provisions of §§ 8114-8136 or any order of the commissioner of which such issuer has notice; or
- (3) has been or is engaged or is about to engage in fraudulent transactions; or
- (4) is in any other way dishonest or has made any fraudulent representations in any prospectus or in any circular or other literature that has been distributed concerning the issuer or its securities, or
- (5) is of bad business repute; or
- (6) does not conduct its business in accordance with law; or
- (7) that its affairs are in an unsound condition; or
- (8) that the enterprise or business of the issuer or the security is not based upon sound business principles.

In making such examination the commissioner shall have access to and may compel the production of all the books and papers of such issuer, and may administer oaths to and examine the officers of such issuer or any other person connected therewith as to its business and affairs and may also require a balance sheet exhibiting the assets and liabilities of any such issuer or his income statement, or both, to be certified to by a public accountant either of this state or of any other state where the issuer's business is located, approved by the commissioner.

Whenever the commissioner may deem it necessary he may also require such balance sheet or income statement, or both, to be made more specific in such particulars as the commissioner shall point out or to be brought down to the latest practicable date.

If any issuer shall refuse to permit an examination to be made by the commissioner, it shall be proper ground for revocation of registration.

If the commissioner shall deem it necessary he may enter an order suspending the right to sell securities pending any investigation, provided that the order shall state the commissioner's grounds for taking such action.

Notice of the entry of such order shall be given by mail, or personally, or by telephone confirmed in writing, or by telegraph, to the issuer and every registered dealer who shall have notified the commissioner of an intention to sell such security.

Before such order is made final, the issuer or dealer applying for registration shall on application be entitled to a hearing. 1937 (40) 1.

Section 8125, 1932 Code, repealed by 1937/1. Present section 8125 comes from said act.

§ 8126. Registration of dealers and salesmen.—No dealer or salesman shall engage in business in this state as such dealer or salesman or sell any securities (including securities exempted in § 8117) except in transactions exempt under § 8118, unless he has been registered as a dealer or salesman in the office of the commissioner pursuant to the provisions of this section.

An application for registration in writing shall be filed in the office of the commissioner in such form as the commissioner may prescribe, duly verified by oath, which shall state the principal office of the applicant, wherever situated, and the location of the principal office and all branch offices in this state, if any, the name or style of doing business, the names, residence and business addresses of all persons interested in the business as principals, co-partners, officers and directors, specifying as to each his capacity and title, the general plan and character of business and the length of time the dealer has been engaged in business. The commissioner may also require such additional information as to applicant's previous history, record and association, as he may deem necessary to establish the good repute in business of the applicant.

There shall be filed with such application an irrevocable written consent to the service of process upon the commissioner in actions against such dealer in manner and form as hereinabove provided in § 8122.

If the commissioner shall find that the applicant is of good repute and has complied with the provisions of this section, including the payment of the fee hereinafter provided, he shall register such applicant as a dealer.

Upon the written application of a registered dealer and general satisfactory showing as to good character and the payment of the proper fee, the commissioner shall register as salesmen of such dealer such natural persons as the dealer may request. Such registration shall cease upon the termination of the employment of such salesmen by such dealer.

The names and addresses of all persons approved for registration as dealers or salesmen and all orders with respect thereto shall be recorded in a register of dealers and salesmen kept in the office of the commissioner, which shall be open to public inspection. Every registration under this section shall expire on the 31st day of December in each year, but new registrations for the succeeding year shall be issued upon written application and upon payment of the fee as hereinafter provided, without filing of further statements or furnishing any further information unless specifically required by the commissioner. Applications for renewals must be made not less than thirty nor more than sixty days before the first day of the ensuing year, otherwise they shall be treated as original applications. The fee for original registration of a dealer shall be one hundred dollars (\$100.00) and for each annual renewal thereof twenty-five dollars (\$25.00), provided, however, that a dealer who is actively engaged in business with an established office and a regular place of business in this state as of October 28, 1936, and who shall file an application for registration within thirty (30) days from October 28, 1936, shall pay an original registration fee of twenty-five dollars (\$25.00). The fee for registration of each salesman and for each annual renewal thereof shall be five dollars (\$5.00).

Changes in registration occasioned by changes in the personnel of a partnership or in the principals, co-partners' officers or directors of any dealer may be made from time to time by written application setting forth the facts with respect to such changes.

Every registered dealer who intends to offer any security of any issue, registered or to be registered, shall notify the commissioner in writing of his inten-

tion so to do. The notice shall contain the name of the dealer and shall state the name of the security to be offered for sale, and whenever a dealer shall have prepared such notice and shall have forwarded the same by registered mail, postage prepaid and properly addressed to the commissioner, such dealer, as to the contents of such notice and the filing thereof, shall be deemed to have complied with the requirements of this paragraph. Any issuer of a security required to be registered under the provisions of §§ 8114-8136, selling such securities except in exempt transactions as defined in § 8118 hereof, shall be deemed a dealer within the meaning of § 8126 and required to comply with all the provisions hereof. 1937 (40) 1.

Section 8126, 1932 Code, repealed by 1937/1. Present section 8126 comes from said act.

§ 8127. Revocation of dealers' and salesmen's registration.—Registration under § 8126 may be refused or any registration granted may be revoked by the commissioner if after a reasonable notice and a hearing the commissioner determines that such applicant or registrant so registered:

(1) Has violated any provisions of §§ 8114-8136 or any regulation made hereunder; or

(2) Has made a material false statement in the application for registration; or

(3) Has been guilty of a fraudulent act in connection with any sale of securities, or has been or is engaged or is about to engage in making fictitious or pretended sales or purchases of any of such securities or has been or is engaged or is about to engage in any practice or sale of securities which is fraudulent or in violation of the law; or

(4) Has failed to account to persons interested for all money or property received or has failed to deliver, after a reasonable time, to persons entitled thereto, securities held or agreed to be delivered, as and when paid for and due to be delivered.

(5) Has demonstrated his unworthiness to transact the business of dealer or salesman.

In cases of charges against a salesman, notice thereof shall also be given the dealer employing such salesman.

Pending the hearing the commissioner shall have the power to order the suspension of such dealer's or salesman's registration; provided, such order shall state the cause for such suspension.

Until the entry of a final order the suspension of such dealer's registration, though binding upon the persons notified thereof, shall be deemed confidential, and shall not be published, unless it shall appear that the order of suspension has been violated after notice.

In the event the commissioner determines to refuse or revoke a registration as hereinabove provided, he shall enter a final order herein with his findings on the register of dealers and salesmen; and suspension or revocation of the registration of a dealer shall also suspend or revoke the registration of all his salesmen.

It shall be sufficient cause for refusal or cancellation of registration in case of a partnership or corporation or any unincorporated association, if any member of a partnership or any officer or director of the corporation or association has been guilty of any act or omission which would be cause for refusing or revoking the registration of an individual dealer or salesman. 1937 (40) 1.

Section 8127, 1932 Code, repealed by 1937/1. Present section 8127 comes from said act.

§ 8128. Advertising.—Except as otherwise specifically provided in this section, no person shall directly or indirectly, through agents or otherwise, publish, circulate, distribute or cause to be published, circulated or distributed in any manner in this state, any circular, prospectus, advertisement, printed matter, document, pamphlet, leaflet or other matter (hereinafter referred to as advertising matter) containing or constituting an offer to sell securities, other than securities exempted under the provisions of § 8117 hereof and other than offers to sell in exempted transactions under § 8118 hereof and which have not been registered by notification under § 8120 or by qualification under § 8121 hereof.

All advertising matter shall carry the name and address of the issuer or dealer circulating, publishing or distributing the same and shall contain no reference that the security to be offered thereby has been registered under the provisions of §§ 8114-8136, and shall contain no statement stating or implying that any such security is or has been approved by the commissioner.

Notwithstanding any other provision of §§ 8114-8136, any advertising matter may include the names of persons and non-registered dealers who have participated with registered dealers in the original purchase or underwriting of such securities without being deemed to be in violation of §§ 8114-8136; but permission to so subscribe to such advertising matter shall not extend to such persons or non-registered dealers the privilege of selling such securities in this state except as the sales thereof shall otherwise be exempted by §§ 8114-8136. Any advertising matter may, by an appropriate readily legible legend printed thereon, limit the offering thereby made to any particular character of sales or class of transactions, in which event such advertising matter shall not be deemed to be for any other or additional purpose.

As to securities registered by notification under § 8120, a copy of any such advertising matter, if not filed with the notice, shall be filed within forty-eight hours after the initial publication, circulation or distribution thereof, or within such further time as may be allowed by the commissioner.

As to securities registered by qualification under § 8121, no such advertising matter shall be published, circulated, distributed or caused to be published, circulated or distributed in any manner unless and until such advertising matter shall have been submitted in duplicate to the commissioner. 1937 (40) 1.

Section 8128, 1932 Code, repealed by 1937/1. Present section 8128 comes from said act.

§ 8129. Burden of proof.—It shall not be necessary to negative any of the exemptions in §§ 8114-8136 provided in any complaint, information, indictment or any other writ or proceedings laid or brought under §§ 8114-8136 and the burden of establishing the right to any such exemption shall be upon the party claiming the benefit of such exemption, and any person claiming the right to register any securities by notification under § 8120 shall also have the burden of establishing the right so to register such securities. 1937 (40) 1.

Section 8129, 1932 Code, repealed by 1937/1. Present section 8129 comes from said act.

§ 8130. Escrow agreement.—If the statement containing information as to securities to be registered, as provided for in § 8121, shall disclose that any such securities or any securities senior thereto shall have been or shall be intended to be issued for any patent right, copyright, trademark, process, formula or good will, or for organization or promotion fees or expense or for good will or going concern value or other intangible assets, the amount and nature thereof shall be fully set forth and the commissioner may require that such securities so issued in payment of such patent right, copyright, trade-mark, process, formula or good will, or for organization or promotion fees or expenses, or for

other intangible assets, shall be delivered in escrow to the commissioner or other depository satisfactory to the commissioner under an escrow agreement that the owners of such securities shall not be entitled to withdraw such securities from escrow until all other stockholders who have paid for their stock in cash shall have been paid a dividend or dividends aggregating not less than six per cent, shown to the satisfaction of said commissioner to have been actually earned on the investment in any common stock so held; and in case of dissolution or insolvency during the time such securities are held in escrow, that the owners of such securities shall not participate in the assets until after the owners of all other securities shall have been paid in full. No such securities so held in escrow shall be deemed to be registered or otherwise qualified for sale in this state unless specifically provided for by order of the commissioner. 1937 (40) 1.

Section 8130, 1932 Code, repealed by 1937/1. Present section 8130 comes from said act.

§ 8131. Transactions illegal and prohibited—investigations and examinations—injunctions—receivers.— A. ILLEGAL AND PROHIBITED TRANSACTIONS. The use or employment by any person of any fraud, fraudulent act, fraudulent practice, or fraudulent transaction, of any device, scheme or artifice to defraud or to obtain money or property by means of any false pretense, representation or promise, in connection with the sale within or from this state of any security, including any security exempted under § 8117 and including transactions exempted under the provisions of § 8118; any fictitious or pretended purchase or sale of securities; the engaging in business as a dealer or salesman as defined in § 8114 except in exempted transactions as provided in § 8118; without first duly being registered as provided in § 8126; and the sale or offer of sale of any security in violation of §§ 8114-8136, are hereby declared to be illegal and are hereby prohibited.

B. EXAMINATIONS AND INVESTIGATIONS. Whenever it shall appear to the commissioner, either upon complaint or otherwise, that in the issuance, sale, promotion, negotiation, advertisement, or distribution of any securities within this state, including any security exempted under provisions of § 8117, and including any transaction exempted under the provisions of § 8118, any person, as defined in §§ 8114-8136:

(1) shall have employed or employs, or is about to employ any device, scheme or artifice to defraud or for obtaining money or property by means of any false pretense, representation or promise;

(2) or that any such person shall have made, makes or attempts to make in this state fictitious or pretended purchases or sales of securities;

(3) or shall have engaged in or engages in or is about to engage in any practice or transaction or course of business relating to the purchase or sale of securities

(a) which is in violation of law

(b) or which is fraudulent

(c) or which has operated or which would operate as a fraud upon the purchaser;

(4) or that any person is acting as dealer or salesman within this state without being duly registered as such dealer or salesman as provided in §§ 8114-8136, the commissioner may investigate, and whenever he shall believe from evidence satisfactory to him

(a) that any such person has engaged in, is engaged or is about to engage in any of the practices or transactions hereinbefore referred to as and declared to be illegal and prohibited;

(b) or is selling or offering for sale any securities in violation of §§ 8114-8136 or is acting as a dealer or salesman without being duly registered as provided in §§ 8114-8136;

the commissioner may:

(1) Require or permit such person to file with him, on such forms as he may prescribe, a statement or report in writing, under oath or otherwise, as to all the facts and circumstances concerning the sale of securities within or from this state by such person, and such other data and information as may be relevant and material thereto:

(2) Examine the promoter, seller, broker, negotiator, advertiser or issuer of any such securities, and any agents, employees, partners, officers, directors, members or stockholders thereof, under oath; and examine such records, books, documents, accounts and papers as may be relevant or material to the inquiry. For this purpose the commissioner shall have power to require by subpoena, summons or otherwise, the presence of such persons for examination.

In case any person shall fail or refuse to file any such statement or report or shall fail or refuse to obey any subpoena or summons of the commissioner or to give testimony or to answer questions as required, or to produce any books, records, documents, accounts or papers as required, the commissioner may apply to a court of competent jurisdiction for the issuance and service of a proper subpoena or summons, directing the party so required to appear before the secretary of state for examination under oath and to produce any books, documents or other things necessary for such examination. Any person failing to comply with such court subpoena or summons may be cited and punished for contempt of court as in such cases provided in the courts of record.

C. INJUNCTION. Whenever it shall appear to the commissioner from any report or statement filed, from any examination made as provided for in §§ 8114-8136, or from any other source, that any person has engaged in, is engaging in, or is about to engage in any practice declared to be illegal and prohibited by §§ 8114-8136, he may by petition or bill of complaint setting forth the facts and circumstances of the case, bring a suit in equity in the name and on behalf of the state of South Carolina against such person for a writ of injunction, or the appointment of a receiver, or both and the court being satisfied by affidavit or otherwise of the sufficiency of said application and the truth of the allegations contained in the petition or bill, and upon such notice as the court may by order direct, may proceed in a summary way to hear the affidavits, proof and allegations which may be offered on behalf of the parties, and if upon such inquiry it shall appear to the court that any such person has engaged, in, or is engaging in, or is about to engage in any practice or practices declared to be illegal and prohibited by §§ 8114-8136, the court may issue an injunction restraining such person or persons, and any agents, employees, brokers, partners, officers, directors and stockholders thereof, from continuing such practices or engaging therein or doing any acts in furtherance thereof; and the court may also issue an injunction restraining the issuance, sale, offer for sale, purchase or offer to purchase, promotion, negotiation, advertisement or distribution within or from this state of any securities by such person or persons and any agents, employees, brokers, partners, officers, directors or stockholders thereof until the court shall otherwise order. In any action or proceeding brought under the provisions of §§ 8114-8136, the state shall be entitled to recover costs, including reasonable solicitor's fees, said costs and solicitor's fees to be paid by the defendant or defendants for the use of the state of South Carolina.

D. IMMUNITY. No person shall be excused from testifying or from producing any book, document, or other thing under his control before the commissioner upon any investigation or examination, or upon any hearing before the equity court and in response to any subpoena or summons in §§ 8114-8136 mentioned, upon the ground that his testimony or the book, document or other thing required of him may tend to incriminate him or to convict him of a crime or to subject him to punishment or penalty of forfeiture; but no person shall be prosecuted, punished or subjected to any penalty of forfeiture for or on account of any act, transaction, matter or thing concerning which he shall have been so compelled to testify under oath; provided that no person so testifying shall be exempt from prosecution or punishment for perjury if committed by him in his testimony.

E. RECEIVER. Whenever the equity court shall issue any injunction provided for in this section against any person, it may appoint a receiver with power to sue for, collect, receive and take into his possession all the goods and chattels, right and credits, moneys and effects, land and tenements, books, records, documents, papers, choses in action, bills, notes and property of every description, derived by means of any practice declared to be illegal and prohibited by §§ 8114-8136, including also all property with which such property has been mingled, if such property cannot be identified in kind because of such commingling, and sell, convey and assign the same, and hold and dispose of the proceeds thereof under the direction of the said court for the equal benefit of all who establish an interest therein by reason of the use and employment by the defendant of any practices herein declared to be illegal and prohibited; and the court shall have jurisdiction of all questions arising in said proceedings and may make such orders and decrees therein as justice and equity shall require. 1937 (40) 1.

Section 8131, 1932 Code, repealed by 1937/1. Present section 8131 comes from said act.

§ 8132. Remedies.—Every sale made in violation of any of the provisions of §§ 8114-8136 shall be voidable at the election of the purchaser; and the person making such sale and every director, officer or agent of or for such seller, if such director, officer or agent shall have personally participated or aided in any way in making such sale, shall be jointly and severally liable to such purchaser in an action at law in any court of competent jurisdiction upon tender of the securities sold or of the contract made for the full amount paid by such purchaser, with interest, together with all taxable court costs (and reasonable attorney's fees); provided, that no action shall be brought for the recovery of the purchase price after two years from the date of such sale and, provided further, that no purchaser otherwise entitled shall claim or have the benefit of this section who shall have refused or failed within thirty days from the date thereof to accept an offer in writing of the seller to take back the security in question and to refund the full amount paid by such purchaser, together with interest on such amount for the period from the date of payment by such purchaser down to the date of repayment, such interest to be computed:

(a) In case such securities consist of interest-bearing obligations, at the same rate as provided in such obligations; and

(b) In case such securities consist of other than interest-bearing obligations, at the rate of six per centum per annum; less, in every case, the amount of any income from said securities that may have been received by such purchaser. 1937 (40) 1.

Section 8132, 1932 Code, repealed by 1937/1. Present section 8132 comes from said act.

§ 8133. Penalty.—(a) Whoever violates any provision of §§ 8114-8136, upon conviction thereof shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than three years, or by both such fine and imprisonment; but an affirmative showing that an act or omission which constituted a violation occurred in good faith and on reasonable grounds for believing it not to be a violation, shall relieve from the penalty prescribed in this subsection.

(b) Whoever, for the purpose of procuring the registration of any security by notification or by qualification or for the purpose of procuring the registration of any dealer or salesman, shall knowingly make any false statement or shall make or cause to be made any false representation of a material fact to the commissioner shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment in the state prison for not less than one year nor more than five years, or by fine of not more than one thousand dollars (\$1,000.00), or by both such fine and imprisonment.

(c) Whoever engages in this state in making of fictitious or pretended sales or purchases, or who causes the making of fictitious or pretended sales or purchases, or who engages in the offer of fictitious or pretended sales or purchases of any securities within the meaning of §§ 8114-8136, the actual delivery of which securities is not to follow such sale, shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state prison for not less than one year, nor more than five years, or by fine of not more than five thousand dollars (\$5,000.00), or by both such fine and imprisonment. 1937 (40) 1.

Section 8133, 1932 Code, repealed by 1937/1. Present section 8133 comes from said act.

§ 8134. Statutory or common law remedies.—Nothing in §§ 8114-8136 shall limit any statutory or common law right of any person to bring any action in any court for any act involved in the sale of securities, or the right of the state to punish any person for any violation of any law. 1937 (40) 1.

Section 8134, 1932 Code, repealed by 1937/1. Present section 8134 comes from said act.

§ 8135. Appeals.—An appeal may be taken by any person interested from any final order of the commissioner to the circuit court of the county in which the applicant resides, by serving upon the commissioner, within twenty days after notice of the entry of such order, a written notice of such appeal stating the grounds upon which a reversal of such final order is sought; a demand in writing for a certified transcript of the record and of all papers on file in his office affecting or relating to such order and executing a bond in the penal sum of five hundred dollars (\$500.00) to this state, with sufficient surety to be approved by the commissioner or the court, conditioned upon the faithful prosecution of such appeal to final judgment, and the payment of all such costs as shall be adjudged against the appellant. Thereupon the commissioner shall within ten days make, certify and file with the clerk of said court such a transcript, or in lieu thereof the original papers if the court shall so order; and the appellant shall within five days thereafter file the same and a copy of the notice of appeal with the clerk of said court, which said notice of appeal shall stand as appellant's complaint and thereupon said cause shall be entered on the trial calendar of said court for trial *de novo* and shall be given precedence by the court over other matters pending in said court. The court shall receive and consider evidence, whether oral or documentary, concerning the order of the commissioner from whom the appeal is taken. If the order of the commissioner shall be reversed, said court shall by its mandate specifically direct said commissioner

as to his further action in the matter, including the making and entering of any order or orders in connection therewith, and the conditions, limitations or restrictions to be therein contained, provided that the commissioner shall not thereby be barred from thereafter proceeding against such person for any proper cause which may thereafter accrue or be discovered. If said order shall be affirmed, said appellant shall not be barred after thirty days from filing a new application, provided such application is not otherwise barred or limited. Such appeal shall not in anywise suspend the operation of the order appealed from during the pendency of such appeal unless upon proper order of the court. An appeal may be taken to the supreme court from the judgment or decree of the circuit court in the same manner as other appeals are taken to that court, provided such appeal shall not operate as a supersedeas or stay of the decree or judgment from which such appeal is taken. 1937 (40) 1.

Section 8135, 1932 Code, repealed by 1937/1. Present section 8135 comes from said act.

§ 8136. Saving clause—short title—repeal.—(1) If any provision of §§ 8114-8136, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of §§ 8114-8136, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

(2) §§ 8114-8136 may be cited as the South Carolina securities law.

(3) Subject to the limitations provided in subdivisions (a), (b), and (c) of this section, sections 8114 to 8136, both inclusive, Code of Laws of South Carolina, 1932, and all acts or parts of acts inconsistent herewith, are hereby repealed.

(a) The provisions of all laws which are repealed by §§ 8114-8136 herein shall remain in force for the prosecution and punishment of any person who, before October 28, 1936, shall have violated the provisions of any law in force at the time of such violation, and such person may be prosecuted and punished under the law as it existed when such violation occurred.

(b) In the case of sales, contracts, or agreements made prior to October 28, 1936, the civil rights and liabilities of the parties thereto shall remain as provided by the law as it existed at the time such sales, contracts, or agreements were made and all parts of laws repealed by §§ 8114-8136 herein shall remain in force for the enforcement of such rights and liabilities.

(c) All securities which shall have been admitted to record and recorded in the register of qualified securities, as provided by the said law hereby repealed, prior to October 28, 1936, shall be legally salable unless otherwise ordered by the commissioner.

(d) All proceedings pending before the insurance commissioner under the law hereby repealed shall be continued and brought to final conclusion under the provisions of the law in force at the time that the proceedings were brought. *Provided*, the insurance commission is authorized to expend not exceeding \$4,250.00 to carry out the provision of §§ 8114-8136. 1937 (40) 1.

Section 8136, 1932 Code, repealed by 1937/1. Present section 8136 comes from said act.

§ 8161-1. Powers of charitable, social and religious corporations created by special act prior to 1900 enlarged.

See this section in 1934 Supplement.

§ 8169. Incorporation of eleemosynary organizations.—*Repealed by 1936 acts, page 1321.*

§ 8189. Decrease or increase capital stock—change name—amend charter.

See this section in 1934 Supplement.

§ 8192. Meeting of stockholders.

See notes under section 7679.

§ 8213. Proxies, execution and limitation.

See notes under section 7679.

§ 8244. Election of members—term—vacancies.

See this section in 1934 Supplement.

§ 8248. Powers as to public utilities.

Public utilities appealing from rate decision file bond, 1935/29. See section 8292-1 hereof.

The railroad commission has jurisdiction to exchange bus service for street car service in certain parts of city of Columbia. *City of Columbia v. Tatum*, 174 S. C., 366; 177 S. E., 541. *City of Columbia v. Pearman*,

..... S. C.,; 185 S. E., 747.

Mandamus proper remedy compel public service commission pass on merits of municipality's petition that power company completely substitute bus service for street car service in such municipality. *City of Columbia v. Pearman*, S. C.,; 185 S. E., 747.

§ 8252. Definition of terms.

See this section in 1934 Supplement.

Court, in reviewing orders of railroad commission, must exercise own independent judgment on questions of both law and fact, and as to facts, must examine evi-

dence in record of commission and determine truth according to best judgment. *City of Columbia v. Tatum*, 174 S. C., 366; 177 S. E., 541.

§ 8254. Procedure.

The commission may amend and rescind its orders hereunder; however an order based on findings of fact should not be changed without a further hearing on the facts, with notice and hearing accorded the adverse party. *City of Columbia v. Tatum*, 174 S. C., 366; 177 S. E., 541.

Order of railroad commission is simply legislative, and party adversely affected thereby is entitled to a judicial determination of its validity. *Blease v. Ry Co.*, 146 S. C., 496; 144 S. E., 233. *City of Columbia v. Tatum*, 174 S. C., 366; 177 S. E., 541.

§ 8288. Investigation of books and papers.

Public utilities appealing from rate decision file bond, 1935/29. See section 8292-1 hereof.

§ 8289. Railroad commission given jurisdiction over telephone lines.

Public utilities appealing from rate decision file bond, 1935/29. See section 8292-1 hereof.

§ 8292-1. Public utilities appealing from rate decision file bond to insure compliance if decision affirmed.—When any public utility in this state appeals from any order or decision, fixing a rate for its service lower than that obtaining at the time of such order or decision, before any such appeal shall operate as a supersedeas such utility shall give bond to the South Carolina tax commission to insure compliance on its part with the rates as fixed in the order from which the appeal is taken, in the event that the order appealed from is affirmed. The amount of the bond shall be fixed by the court to which the appeal is taken, and shall be sufficient to cover the amount that may become due to customers by way of refund during the time that the operation of the rate-fixing order is stayed pending the final determination of its validity. 1935 (39) 29.

This section added by 1935/29.

§ 8293. Charge of unreasonable rates.

See § 8292-1 hereof.

§ 8295. Charges in proportion to distance.

Jury question when evidence conflicts.—When evidence conflicts in action to recover penalty under § 8470 for violating § 8295 against railroad company for over-

charging for ticket the issue should be submitted to jury. *State v. Grant*, 174 S. C., 195; 177 S. E., 148.

§ 8354. Lines of two steam railroads crossing—when trains to stop.

See this section in 1934 Supplement.

§ 8355. Signals to be given at crossings.

Obstruction of highway by freight train. S. C., 508; 178 S. E., 136.

Spiers v. Atlantic Coast Line R. Co., 174

§ 8362. Responsible for damages by fire.

Ejection of sparks from smokestack of locomotive in vicinity of fire shortly before discovery thereof may be proved by circumstantial evidence in action against

railroad company for resulting damages. Epps v. Atlantic Coast Line R. Co., 177 S. C., 32; 180 S. E., 559.

§ 8376. * * *

The provisions hereof providing action be commenced within two years apply only to action arising after March 28, 1930. Link

v. Receivers of Seaboard Air Line Ry. Co., 73 F. (2nd), 149.

§ 8377. Injuries at crossings.

Conflicting testimony whether crossing signals were given by train as required by statute, and whether motorist colliding with train was guilty of negligence, gross negligence, or willfulness, held for jury. Nofal v. Atlantic Coast Line R. Co., 175 S. C., 94; 178 S. E., 541.

whistle at public crossing sufficient to authorize recovery by motorist colliding with train, even though motorist by exercise of ordinary care might have avoided accident. Nofal v. Atlantic Coast Line R. Co., 175 S. C., 94; 178 S. E., 541.

Railroad's omission to ring bell or sound

This section is constitutional. Atlantic Coast Line R. Co. v. Ford, 53 S. Ct., 249.

§ 8399. Exceptions to §§ 8396-8398.—* * * *Provided, further,* that as

to trains consisting of not more than one passenger car unit, operated principally for the accommodation of local travel, although operated both intrastate and interstate, and irrespective of the motive power used, the public service commission is hereby authorized to make such modifications, changes and exceptions in and to the requirements of sections 8396 to 8398, inclusive, as in its best judgment may be feasible and reasonable in the circumstances, and the regulations established by the commission pursuant to this authority shall constitute exceptions to the provisions of sections 8396 to 8398, inclusive. 1935 (39) 203.

The above proviso added by 1935/203.

§ 8402. Steam railroads equip coaches with cinder deflectors.

See section 1693, this supplement, which makes it not necessary to equip air-con-

ditioned coaches with cinder deflectors or wire screens.

§ 8433. Crossing on level to be protected.

Pedestrian who had right to use crossing not contributorily negligent as matter of law in crossing in front of engine in response to flagman's signal. Crawford v. Atlantic Coast Line, 179 S. C., 264; 184 S. E., 569.

flagman's signal to cross tracks in front of engine, whether railroad was negligent, and, of so, whether negligence was proximate cause of injury, held for jury, especially where railroad had statutory duty to maintain safe crossing. Crawford v. Atlantic Coast Line, 179 S. C., 264; 184 S. E., 569.

In pedestrian's action for injury when she fell while attempting in response to

§ 8470. Damages and penalty for prohibited acts.

See notes to § 8295 hereof.

§ 8507-8530. * * *

These sections, 8507-8530, are constitutional. Hicklin v. Coney, 54 S. Ct., 142.

§ 8509. Certificate from commission required—license fee—classes of certificates—issue—hearing.

See this section in 1934 Supplement.

§ 8522-8248. Sections not applicable unless transportation a business.

See notes to § 8248.

Public service commission require complete substitution of bus service for street

car service in city and thereafter regulate such bus service. City of Columbia v. Pearman, S. C.,; 185 S. E., 747.

§ 8522. Special trips—transport passengers in municipalities or within 5 miles from their limits.—* * * And nothing contained in sections 8507 to 8524 shall apply to motor vehicles carrying on the business of transporting

passengers within the limits of any municipality in this state, or within a distance of five (5) miles from the limits of such municipality. 1935 (39) 349.

The above sentence added to this section by 1935/349.

§ 8525. Additional annual license fee required of owner or operator of motor vehicles engaged in transporting persons or property for compensation.

See subsection 3 of section 5894, this supplement, for additional license fees to be paid by common carriers.

§ 8555-1. Electrical utilities.

See these sections in 1934 Supplement.
Public utilities appealing from rate decision file bond, see section S292-1 hereof.
Statute creating and authorizing authority to construct and operate hydro-

electric and navigation project and establish rates for electricity generated valid. *Clarke v. South Carolina Public Service Authority*, 177 S. C., 427; 181 S. E., 481.

§ 8555-2. Duties and restrictions imposed upon electrical utilities.— * * *

(27) CERTAIN ELECTRICAL UTILITIES MAINTAIN METERS NEAR STATE LINE TO MEASURE ELECTRICITY COMING IN AND GOING OUT OF STATE ON THEIR LINES—RECORD AND REPORT METER READINGS TO PUBLIC SERVICE COMMISSION.—When any electrical utility is engaged in both interstate business and in intrastate business in South Carolina and at any time transmits electricity either into or from the state of South Carolina by the use, either wholly or in part, of any transmission line or other facilities also used in intrastate service in South Carolina, or if such electricity is generated by the use, either wholly or in part, of any facilities also used in intrastate service in South Carolina, or if such electricity is a part of any supply of electricity acquired by purchase, exchange or any means other than actual generation, and any part of such supply of electricity is also at any time used in intrastate service in South Carolina. The public service commission may require such electrical utility to maintain at or near the state line, within the state of South Carolina, a meter or meters, of type or types to be approved by the commission before installation, which shall accurately and separately measure and register such electricity coming into and going out of the state of South Carolina, and it shall make such records and reports of the meter readings as the commission may require, all to the end that the commission in the performance of its duties in relation to intrastate operations and rates in South Carolina may at all times be able to determine with reasonable accuracy the results of the intrastate operations in South Carolina of such electrical utility apart from its interstate operation, or its operations in any other state or states, and to segregate with reasonable precision the property devoted to intrastate service or to the services of any other state or states. 1935 (39) 207.

This subsection added to this section by 1935/207.

§ 8555-3 through 8555-8. Electrical utilities.—

See 1934 Supplement.

§ 8555-9. Railroad commission put in effect schedules of rates of electrical, telephone and gas utilities after preliminary investigation—suspend such rates.

See this section in 1934 Supplement.

§ 8558. Probate judge to issue license—fee—qualifications—issuance by clerk of court.

See this section in 1934 Supplement.

§ 8571-1. Establish marriages prior to June 31, 1911.

See this section in 1934 Supplement.

§ 8612. Bond of guardians—extent of penalty—relief of sureties—amount.

See this section in 1934 Supplement.

§ 8623. Judge of probate appointed guardian in certain cases.

Official bond of probate judge is liable in aid of assets to pay debts of decedents. for funds received as public guardian and In re Wells et al. Snyder et al. v. Scott for funds received from sale of real estate et al., 174 S. C., 403; 177 S. E., 665.

§ 8650. Investments.

See this section in 1934 Supplement.

§ 8694. Form of conveyance of real property—witnesses—sealed instruments.—The following form or purport of a release shall, to all intents and purposes, be valid and effectual to carry from one person to another or others the fee simple of any land or real estate, if the same shall be executed in the presence of and be subscribed by two or more credible witnesses:

“The State of South Carolina.

“Know all men by these presents that I, A. B. of in the state aforesaid, in consideration of the sum of dollars, to me in hand paid by C. D. of County, State of, the receipt of which is hereby acknowledged, have granted, bargained, sold, and released, and by these presents do grant, bargain, sell and release, unto the said C. D., all that (here describe the premises), together with all and singular the rights, members, hereditaments, and appurtenances to the said premises belonging, or in any wise incident or appertaining; to have and to hold all and singular the premises before mentioned, unto the said C. D., his heirs and assigns, forever. And I do hereby bind myself, my heirs, executors, and administrators, to warrant and forever defend all and singular the said premises unto the said C. D., his heirs and assigns, against myself and my heirs, and against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

“Witness my hand and seal, this day of in the year of our Lord, and in the year of the independence of the United States of America.

..... L. S.”

Provided, this section shall be so construed as not to oblige any person to insert the clause of warranty, or to restrain him from inserting any other clause or clauses, in conveyances hereafter to be made, as may be deemed proper and advisable by the purchaser and seller, or to invalidate the forms heretofore in use within this state. Whenever it shall appear from the attestation clause or from the other parts of any instrument in writing that it was the intention of the party or parties thereto that said instrument should be a sealed instrument, then said instrument shall be construed to be, and shall have the effect of, a sealed instrument, although no seal be actually attached thereto. 1936 (39) 1301.

Present section 8694 replaces section 8694, 1932 Code, 1936/1301.

§ 8703. Satisfaction to be entered when mortgage debts are paid.

See this section in 1934 Supplement.

§ 8707-1. Satisfaction and cancellation of record of mortgages paid in full.

See this section in 1934 Supplement.

§ 8708. Debt secured must be proved before sale.

This section does not apply to action thereunder in such state, and proceeds of brought to recover balance due on note sale applied to note. Fidelity-Bankers Trust which was secured by mortgage on property Co. v. Little, 178 S. C., 133; 181 S. E., 913. in another state and such property sold

§ 8712-1. Relief for defendants in real estate foreclosures when personal judgment demanded.

See this section in 1934 Supplement.

This section does not apply to lands Trust Co. v. Little, 178 S. C., 133; 181 S. E., located in another state. Fidelity-Bankers 913.

Sale of property by receiver.—See

back to time of collision regardless of whether or not the vehicle is attached. *Waldrop v. M. & J. Finance Corporation*, 178 S. C., 527; 183 S. E., 460.

Lien hereunder entitles lienholder to maintain action in trover and conversion against vehicle injuring him. *Waldrop v. M. & J. Finance Corporation*, 178 S. C., 527; 183 S. E., 460.

§ 8785-1. Lien on watercraft, including outboard motors attached to same, for damages done by it.

See this section in 1934 Supplement.

§ 8812. Ejectment of tenants at will, domestic servants, etc.

See notes to § 8813 hereof.

§ 8813. Tenants holding over or failing to pay rent.

Tenant holding over after termination of his tenancy by proper notice may be ejected on three days' notice hereunder. *Monarch Mills, Lockhart Plant, v. Godshall*, 173 S. C., 286; 175 S. E., 552.

Applied.—*Port Utilities Commission of Charleston v. Marine Oil Co.*, 175 S. E., 518; 173 S. C., 346.

527; 183 S. E., 460.

Evidence that mortgagee stated that "he had a mortgage and wanted to defeat the judgment" (of lienholder) made a question for jury as to punitive damages. *Waldrop v. M. & J. Finance Corporation*, 178 S. C., 527; 183 S. E., 460.

Duty of landlord to improve or repair property.—See generally, *Port Utilities Commission of Charleston v. Marine Oil Co.*, 175 S. E., 518; 173 S. C., 346.

Applied.—*supra*.

§ 8825-1. Parol contracts for use of real estate for agricultural purposes terminate on December 1st of year of tenancy, Darlington, Dillon, Edgefield, Florence, Georgetown, Horry, Marion, and Williamsburg counties.—In case of parol contracts for the use and occupancy of real property for agricultural purposes in the counties of Dillon, Darlington, Florence, Horry, Marion, Georgetown, Williamsburg and Edgefield such contracts shall end on December 1st of the year of such tenancy; *Provided*, that nothing herein contained shall be construed to prevent any parties from stipulating otherwise in writing. 1936 (39) 1359.

This section added by 1936/1359.

§ 8830-1. Tenant in common or co-tenant purchasing real estate owned in common at sale thereof for enforcement of lien other than tax lien acquire title against other tenants in common before the court.

See this section in 1934 Supplement.

§ 8865. Measure of damages in actions upon covenant.

Conveyance of land with general warranty contained in deed of mortgaged property and mortgage was foreclosed and grantor did not protect grantee and his assignee, but ignored the obligation imposed by warranty, breached the covenant; and as a result the title failed in its en-

tirety and the whole property was lost, the assignee suffering actual damages to full extent of liability under covenant, held grantor liable for such damages and not just mortgaged debt. *Morris v. Lain*, 176 S. C., 310; 180 S. E., 206.

§ 8874. Person convicted of unlawful killing not to benefit thereby.

Son convicted of murdering his father and sentenced to life forfeited property rights in trust created by his father's will, and children of murderer get such property free of trust, such son also forfeited his right to inherit through other provisions of his father's will and his children took his interest. *Razor v. Razor*, 173 S. C., 365; 175 S. E., 545.

Pardon would restore citizenship and

personal rights, but not property rights forfeited by conviction, *supra*.

Proper interpretation of word "immediately" is that children of offending parent took directly from will of their grandfather and not by descent from their father. But they do not take it free from debts such parent owes the estate. *Razor v. Razor*, 173 S. C., 365; 175 S. E., 545.

§ 8875. Instruments to record—when—where—effect.—All deeds of conveyances of lands, tenements or hereditaments, either in fee simple or for life, all deeds of trust or instruments in writing, conveying either real or personal estate, or creating a trust, or trusts, in regard to such property, or charging or encumbering the same; all mortgages or instruments in writing in the nature

of a mortgage of any property, real or personal; all marriage settlements or instruments in the nature of a settlement of a marriage; all leases or contracts in writing made between landlord and tenant for a longer period than twelve months; all statutory liens on buildings and lands for materials or labor furnished on them; all statutory liens on ships and vessels; all certificates or renunciation of dower, contracts for the purchase and sale of real property; *all assignments, satisfactions, releases and contracts in the nature of subordinations, waivers, and extensions of landlords' liens, laborers' liens, sharecroppers' liens, and of all other liens on real or personal property, or both, created by law or by agreement of the parties; except assignments and satisfactions of conditional sale contracts securing the purchase money of motor vehicles and refrigerators;* and generally all instruments in writing now required by law to be recorded in the office of register of mesne conveyances or clerk of court in those counties where the office of register of mesne conveyances has been abolished, or in the office of the secretary of state, delivered or executed on and after the first day of August, in the year of our Lord one thousand nine hundred and thirty-four shall be valid, so as to affect the rights of subsequent creditors (whether lien creditors or simple contract creditors) or purchasers for valuable consideration without notice only from the day and hour when recorded in the office of register of mesne conveyances or clerk of the county where the property affected is situated, in the case of real estate; and in the case of personal property of the county where the owner of said property resides, if he resides within the state, or if he resides without the state or the county where such personal property is situated at the time of the delivery or execution of said deeds or instruments: *Provided, further,* that the register of mesne conveyances or clerk of court in those counties where the office of the register of mesne conveyances has been abolished shall immediately upon the filing for record of such deed, mortgage or other written instrument enter the same upon the proper indexes in his office, which shall constitute an integral, necessary and inseparable part of the recordation of such deed, mortgage or other written instrument for any and all purposes whatsoever, and this shall likewise apply to any copy of the said indexes made subsequently by the register of mesne conveyances or clerk of court or the deputy of the same, or by his or their authority for the purpose of replacing the original indexes.

The entries in the indexes hereby required to be made shall be notice to all persons sufficient to put them upon inquiry as to the purport and effect of the deed, mortgage or other written instrument so filed for record, but the recordation of a deed, mortgage or other written instrument shall not be notice as to the purport and effect thereof, unless the filing of the same for record be entered as required hereby in the indexes.

Provided, however, that chattel mortgages or instruments in the nature thereof, securing the payment of the purchase price, or any portion thereof, of household furniture and furnishings, and appliances, refrigerators, radios and musical instruments, shall be valid against the lien of a landlord for rent when so recorded within five days from the date of the execution thereof. 1934 (38) 1521; 1936 (39) 1387.

Words in italics added; "May" changed to "August", line 21; and "twenty-five" changed to "thirty-four", line 21; and last proviso added, 1934/1521; 1936/1387.

§ 8875-1. Assignments, satisfactions, releases, and contracts in the nature of subordinations, waivers and extensions of landlords' liens, laborers' liens, sharecroppers' liens and certain other liens on personal property and contracts

in nature of subordinations, waivers, and extensions of liens on real property—effect.—(1) **SUBSEQUENT PURCHASERS AND LIEN CREDITORS WITHOUT ACTUAL NOTICE PROTECTED AGAINST SUCH INSTRUMENTS WHEN UNRECORDED—EXCEPTIONS.**—Assignments, satisfactions, releases and contracts in the nature of subordinations, waivers, and extensions of landlords' liens, laborers' liens, sharecroppers' liens, and of other liens on personal property, created by law or by agreement of the parties, except assignments and satisfactions of conditional sale contracts securing the purchase money of motor vehicles and refrigerators, contracts in the nature of subordinations, waivers, and extensions of liens on real property, created by law or by agreement of the parties, made or entered into by the original mortgagee or lien creditor, trustee, or his legal representative, or any assignee under an assignment recorded as herein or otherwise provided, shall be good and effectual, both in law and in equity, for the protection of any subsequent purchaser for a valuable consideration of the property affected by such mortgage or other instrument or lien created by law, or subsequent creditor obtaining a lien upon such property, notwithstanding any assignment, transfer, satisfaction, release, subordination, waiver, or extension contract of such mortgage or other lien, or the obligation secured thereby, unless such assignment, satisfaction, release, subordination, waiver, or extension contract of such mortgage or other lien, or of the obligation secured thereby, shall have been recorded as herein or otherwise provided, or such purchaser or creditor shall have had actual notice thereof before such purchaser or lien creditor acquired any interest in or lien upon the property so encumbered.

(2) **RECORD SUCH ASSIGNMENTS, SATISFACTIONS, RELEASES AND CONTRACTS IN NATURE OF SUBORDINATIONS, WAIVERS AND EXTENSIONS OF LANDLORDS' LIENS, SHARECROPPERS' LIENS AND OTHER LIENS ON PERSONALTY CREATED BY LAW IN CHATTEL MORTGAGE BOOKS—FEE.**—The recordation of such assignments, satisfactions, releases and contracts in the nature of subordinations, waivers, and extensions of landlords' liens, laborers' liens, sharecroppers' liens, and of all other liens on personal property, created by law, shall be recorded and indexed in the books where chattel mortgages are now required by law to be indexed and recorded, and shall be witnessed and probated in the manner now required for the execution of chattel mortgages. There shall be charged for such recordation a fee of twenty-five (25c) cents.

(3) **RECORDATION OF SUCH ASSIGNMENTS, SATISFACTIONS, RELEASES, AND CONTRACTS IN NATURE OF SUBORDINATIONS, WAIVERS AND EXTENSIONS OF INSTRUMENTS CONVEYING PERSONALTY ON INTEREST THEREIN—FEE.**—The recordation of such assignments, satisfactions, releases and contracts in the nature of subordinations, waivers, and extensions of a chattel mortgage or other instrument conveying an interest in or creating a lien on personal property, shall be upon the record of the recorded mortgage or other written instrument: *Provided*, that the same may be recorded elsewhere in the book for the recordation of mortgages should there be no place upon the record of the recorded mortgage or other written instrument, sufficient for the recordation of such assignment, satisfaction, release, or contract in the nature of subordination, waiver, or extension of the lien, in which event there shall be entered on the margin of the recorded mortgage or other written instrument whose assignment, satisfaction, release, or contract in the nature of subordination, waiver, or extension has been thus recorded elsewhere an appropriate reference to such recordation, giving the names of the parties thereto, the date and the book and page where recorded. Any assignment, satisfaction, release or contract in the nature of sub-

ordination, waiver, or extension of a chattel mortgage or other instrument conveying an interest in or creating a lien on personal property to be entitled to be recorded as herein provided shall be in writing and witnessed as mortgages of personal property are required to be witnessed and not probated where the same is upon the original mortgage or other instrument itself, but where it is upon a separate piece then it shall be probated in the same way as is now required for the probating of mortgages of personal property. There shall be charged for such recordation a fee of twenty-five (25c) cents.

(4) RECORDATION OF SUCH CONTRACTS IN NATURE OF SUBORDINATION, WAIVER, OR EXTENSION OF LIENS ON REAL PROPERTY—FEE.—The recordation of such contract in the nature of subordination, waiver, or extension of any lien on real property, created by law or by agreement of the parties, shall be upon the record of the recorded mortgage or other written instrument: *Provided*, That the same may be recorded elsewhere in the book for the recording of mortgages should there be no place upon the record of the recorded mortgage or other written instrument sufficient for the recordation of such contract in the nature of subordination, waiver or extension, in which event there shall be entered on the margin of the recorded mortgage or other written instrument in regard to which such contract in the nature of subordination, waiver, or extension has been thus recorded elsewhere an appropriate reference to such recordation, giving the names of the parties thereto, the date and the book and page where recorded. Any contract in the nature of subordination, waiver, or extension of any lien on real property, created by law or by agreement of the parties, to be entitled to be recorded as herein provided shall be in writing and witnessed as mortgages of real property are required to be witnessed and not probated where the same is upon the original mortgage or other instrument itself, but where it is upon a separate piece then it shall be probated in the same manner as is now provided by law for the probating of mortgages of real property. There shall be charged for such recordation a fee of twenty-five (25c) cents. 1934 (38) 1518.

This section added by 1934/1518.

See § 8875-2 this supplement.

§ 8875-2. Instruments conveying interest in or creating lien on personalty.

—The original or a copy of any mortgage or other instrument conveying an interest in, or creating a lien on personal property, or of any assignment, satisfaction, release and contract in the nature of subordination, waiver and extension of landlord's liens, laborer's liens, sharecropper's liens and of all other liens on personal property may be filed in the office of the register of mesne conveyances or clerk of court in the county where such instrument is now required to be recorded. The clerk of court or register of mesne conveyances or other recording officials in the counties of this state shall file any such instrument, or copy thereof, when presented to them for that purpose, and endorse thereon the day and hour of its receipt, and the book and page where recorded. They shall index the same in the manner now required by law for the indexing of chattel mortgages. It shall be a sufficient record of any such instrument that the same, or a copy thereof, be pasted or otherwise securely fastened or bound in the book or books provided therefor. Any and all such mortgages or other instruments, heretofore filed and recorded in the manner herein provided are declared to have been duly filed and recorded. 1934 (38) 1462; 1935 (39) 191.

This section added by 1934/1462; 1935/191.

See § 8875-1 this supplement.

§ 8875-3. Plats, blue prints, etc., of real estate.—(1) **LAWFUL RECORD—PLACE.**—(1) It shall be lawful for the owner of, or of any interest in, real property or for any holder of a lien thereon, to have a plat thereof, or a blue print,

tracing, photostatic or other copy of a plat thereof recorded in the office of the register of mesne conveyances, or in the office of the clerk of court in those counties in which the office of register of mesne conveyances does not exist, of the county in which such property, or any part thereof, is situated; *Provided*, that in the county of Charleston no plats shall be recorded in the office of register of mesne conveyance for Charleston County unless said plats comply with the following requirements: (a) A true copy on tracing cloth shall be furnished at the time of recording, and (b) a filing fee of \$1.00 shall first be paid, all such fees to be paid over by said register of mesne conveyance to the county treasurer of Charleston County in due course.

(4) FEE.—The fee for filing, recording and indexing of such plat or blue print, tracing, photostatic or other copy of such plat shall be 25c for each separate piece, parcel or lot of land not to exceed the sum of \$1.00. *Provided*, that this sub-section shall not apply in Charleston County. 1936 (39) 1589.

For subsections 2, 3 and 5 of this section see this section, 1934 Supplement.

§ 8875-4. **Record plats or blue prints of subdivisions of real estate for sale.**—In all cases where real property is subdivided for the purpose of sale and where the same is sold or offered for sale according to a plat of a survey thereof, the person or persons or corporation first offering such property for sale, as the case may be, are required to file a plat or blue print of such survey in the office of the clerk of court of the county in which such real estate is situate. In the event that the owner fails to comply with the above provisions he shall become liable to the purchaser or to any subsequent grantee of the land, or of any portion thereof, in such sum as shall be found necessary to procure and record such plat. The said sum to be recovered by any such grantee provided he be interested as owner of all or a portion of the subdivided property at the time of the institution of the action for the enforcement of the liability hereby created. 1936 (39) 1473.

This section added by 1936/1473.

§ 8876. **Notice from record of chattel mortgage expire three years from date of filing.**—The notice given by the filing for record or for indexing of any chattel mortgage, or instrument in the nature of a chattel mortgage, shall expire at the end of three years from the date of such filing. 1935 (39) 192.

Notice given by the filing of chattel mortgage reduced from six years to three years, 1935/192.

§ 8877. **Renewal—statement—affidavit.**—But the effect of the filing may in all respects, including the preservation of priority of the mortgage over junior encumbrances, be extended for successive additional periods, each not exceeding three years from the date of the refileing, by filing in the proper office a statement signed by the mortgagee, *or by the holder of the mortgage*, and verified by his affidavit, identifying the mortgage and showing that it is in force, and the nature and amount of the obligation still secured. 1936 (39) 1494.

Words in italics added 1936/1494.

§ 8879. **Limit of notice on chattel mortgages heretofore filed.**—The notice given by the filing of any chattel mortgage or instrument in the nature of a chattel mortgage heretofore filed shall not extend more than three years from the date of this section, unless the same shall within three years from the date of the approval of this section be refiled as herein provided; *Provided*, that the provisions of Act 134, 1935 Acts, shall not apply to chattel mortgages recorded prior to April 5, 1935. 1935 (39) 192.

"Three" substituted for "six" on lines 3. 4; and last proviso added 1935/192.

§ 8881. Recording and indexing assignment of mortgage on real estate.

See this section in 1934 Supplement.

§ 8912. Provision for widows of intestates to be in lieu of dower.

See notes to § 8913 hereof.

§ 8913. Illegitimate child inherits from mother.

The retroactive clause in the act of 1934, page 1419, is unconstitutional.—See note to § 5, Art. 1. State Constitution. Muldrow

v. Caldwell, 175 S. E., 501; 173 S. C., 243.

See this section, 1934 Supplement.

§ 8932. Wills.

Infancy is the only disability made an exception to the four-year period to prove

will in solemn form. *Wilkinson v. Wilkinson*, 178 S. C., 194; 182 S. E., 640.

§ 8945. Wills and codicils not filed within one year after death of testator null and void as to certain subsequent purchasers and encumbrancers.—Every last will and testament, including any codicil or codicils thereto hereafter becoming effective, shall be null and void as to subsequent purchasers *or encumbrancers* for value without notice of property included in said will unless the same be filed for probate, in one of the modes allowed by law, within one year after the death of the testator or testatrix. 1935 (39) 190.

Words in italics added; and "one" substituted for "six" on last line, 1935/190.

§ 8952. Non-resident individuals act as executor, administrator, guardian or committee—foreign corporation may not act as such non-resident trustees under will.—No letters testamentary, letters of guardianship, or appointment of committee shall be granted or issued to any non-resident individual by the probate judge or courts of common pleas of this state, unless such applicant for such appointment as administrator, guardian, or committee shall first enter into and file approved fiduciary bond in same manner, upon the same conditions, in the same sum, and with like surety as is required by law with respect to resident administrators, guardians and committees, nor unless such applicant for such appointment shall first file with the probate judge or clerk of court of common pleas where such application for appointment is made, his or its consent in writing, that service of all claims, demands, debts, dues, summons and any other process of pleadings, in suits or actions, relating to the administration of estate in his or its charge in this state, by service of the same upon such resident of said county as may be appointed in such written instrument, and in the event of the death, removal, resignation, absence from the state, or any other inability, to obtain service upon said agent named in said written instrument, or any successor named by similar instrument filed with the probate judge or clerk of court of common pleas, then upon the probate judge or clerk of court of common pleas of said county, provided that nothing herein contained shall require a non-resident trustee named as such trustee under a will executed at the time when such trustee is a non-resident to give bond or make reports to the probate courts or the courts of common pleas in South Carolina, or shall prevent an executor in administering an estate from paying any legacy so directed under the will to such foreign trustee. *Provided*, that no corporation created by another state of the United States or by any foreign state, kingdom, or government shall be eligible or entitled to qualify or serve in this state as executor, administrator, guardian, or committee of the estate of any person domiciled in this state at the time of his death, whether or not the said decedent shall die testate or intestate.

Provided, That this section shall not apply to any estate in process of administration May 11, 1935. 1934 (38) 1402; 1935 (39) 387.

Present section 8952 replaces section 8952, 1932 Code, 1934/1402; 1935/387.

§ 8913-1. Issue of marriage contracted after absence of a husband or wife for seven years and unheard of, legitimate and legal heirs of the parents.

See this section in 1934 Supplement.

§ 8958. Administrator, with will annexed, to give bond—amount.

See this section in 1934 Supplement.

§ 8968. Letters of administration—to whom granted.

See § 8952 hereof.

§ 8975. Bond of administrator—amount—form.

See this section in 1934 Supplement.

§ 8996. Crops to be assets.

Cited.—Norwood v. Carter, 176 S. C., 472; 180 S. E., 453.

§ 8999. Administrators, etc., may compromise demands.

Action under Campbell act and survival statute does not "come into the hands" of the administrator within the purview of this section. He brings action on it for benefit of the beneficiaries under the statute. When he collects the claim, he does not turn it in with the other assets of the estate to the probate court. He pays over the proceeds to beneficiaries. If he brings such under survival statute and recovers, that which he recovers becomes assets of the estate in his hands, for which

he must make return to probate court. *Ellenberg v. Arthur*, 178 S. C., 490; 183 S. E., 306.

Settlement of claim for wrongful death by administratrix fraudulently appointed as such. See § 412 hereof.

This section applies to such claims as are to be listed on the statement for appraisal, such as notes, accounts, etc. *Ellenberg v. Arthur et al.*, 178 S. C., 490; 183 S. E., 306.

§ 9000. Probate judge sell real estate of deceased to pay debts.—(1)

WHEN.—The judges of probate of the several counties of this state shall have the power as hereinafter provided, if the personal estate of any intestate, testator or testatrix in the hands of the administrators or executors, or if the assets set apart by the last will and testament be insufficient to pay the debts of the deceased, to sell all or so much of the real estate of such deceased person as will pay the outstanding debts of the said deceased.

(2) SUMMON HEIRS AND DEVISEES WHEN PETITION FOR SALE MADE—DECIDE ISSUES—SALE—DISPOSITION OF RECEIPTS.—On application to the probate judge, at any time after the qualification of any executor or administrator, by a creditor or creditors of the deceased, or the administrator or executor by petition in writing, setting forth the indebtedness of the deceased, the deficiency of assets, and showing the ownership of real estate by the deceased, the judge of probate shall forthwith issue a summons to the heirs at law or devisees of the estate requiring them to appear before him at his office at such time as may be fixed in the summons to show cause, if any they might have, why such real estate should not be sold. The form of said summons to be as follows:

“You are hereby required to appear at the court of probate to be holden at courthouse, for county, on the..... day of A. D., to show cause, if any you can, why so much of the real estate of E. F., deceased, should not be sold by me and the proceeds thereof paid over to G. H., executor or administrator, of the said E. F., to be applied by him to the payments of the debts of the said E. F.

Given under my hand and seal this the day of A. D. 193... .

.....
Probate judge of..... County,”

to which said summons a copy of the petition shall be attached and the time for return shall be at least twenty days from the date of service; should any of the heirs at law or devisees desire to make a return it shall be in writing and the

judge of probate shall in regular order, as in the case of other litigated cases, proceed to determine the issues made by the petition and return, and should he decide that the real estate should be sold he shall then proceed to sell the same upon the next or some subsequent convenient salesday after publishing a notice of such sale three weeks prior thereto in some paper published in his county, and upon the sale being made, after the payment of the costs and expenses thereof, the judge of probate shall pay over to the executor or administrator the net proceeds of such sale who shall administer it in like manner as proceeds of personal property coming into his hands: *Provided*, nothing herein shall be construed to abridge homestead exemptions.

(3) SERVICE OF SUMMONS AND PETITION—MINORS—PARTIES ACCEPT SERVICE AND CONSENT TO SALE.—The copy of the summons and petition above referred to shall be served on the parties interested in like manner as summons and complaints are served in civil actions in the circuit courts, and if there be minors the probate judge shall appoint guardians *ad litem* who shall be served with a copy of the said summons and petition, and the appointment and acceptance of such guardianship shall be endorsed on the petition; *Provided*, that nothing herein contained shall preclude any of the parties from accepting service of the summons and petition, or from consenting to the sale as prayed for, in the petition.

(4) PROBATE JUDGE FILE NOTICE OF PENDENCY OF ACTION IN CLERK OF COURT'S OFFICE.—Upon the filing of the petition, the probate judge shall file in the office of the clerk of court of common pleas a notice of pendency of action authorized by section 432, and upon the filing of the said notice, it shall have the same force and effect as notice of pendency of action filed in an action in the court of common pleas.

(5) NON-RESIDENTS—PARTIES WITH UNKNOWN RESIDENCES.—If any of the parties reside beyond the limits of this state, or whose residence is unknown, and do not consent in writing to the said sale, the judge of probate shall advertise for his or her or their appearance by publication of the summons as provided by the code of civil procedure, and if such party shall not appear and show sufficient cause within the time named in the summons, then the judge of probate shall enter of record his, her or their consent as confessed and shall proceed with the sale.

(6) HANDLING OF PROCEEDS BY EXECUTOR OR ADMINISTRATOR—BOND.—The regular bond of the administrator or executor shall protect the creditors, heirs at law and devisees in the handling of the proceeds of sale by the executor or administrator, but in case no such bond has been given then the judge of probate shall require the giving of a bond by such executor or administrator in such amount as shall be sufficient to protect the interest of all interested parties, which shall be at least the amount of the sum turned over to such executor or administrator as proceeds of the said sale.

(7) FILE PAPERS IN PROBATE JUDGE'S OFFICE—RETURN OF EXECUTOR OR ADMINISTRATOR SHOW DISTRIBUTION OF FUNDS.—The judge of probate shall file and keep in his office the original petition with due proof of service thereon and all original papers connected with the sale, and shall require from such executor or administrator his annual or final returns showing the distribution of the funds received by him.

(8) ONLY PROCEDURE FOR SALE OF LANDS IN AID OF ASSETS BY PROBATE COURT.—This is declared to be the only procedure for the sale of lands in aid of assets by the court of probate. 1936 (39) 1420.

§ 9000, 1932 Code, repealed by 1936/1420. Present section comes from said act.

§ 9001. **Bond of executor or administrator on sale of real estate.**—*Repealed by 1936 acts, page 1420.*

§ 9002. **Moneys arising from sale to be paid upon petition of creditors.**—*Repealed by 1936 acts, page 1420.*

§ 9003. **Upon application, executor or administrator to account for assets.**—*Repealed by 1936 acts, page 1420.*

§ 9004. **Heirs or devisees to be summoned.**—*Repealed by 1936 acts, page 1420.*

§ 9005. **Service of copy of summons.**—*Repealed by 1936 acts, page 1420.*

§ 9006. **Citation of nonresidents by publication.**—*Repealed by 1936 acts, page 1420.*

§ 9007. **Full records to be kept.**—*Repealed by 1936 acts, page 1420.*

§ 9011. **Collection and transfer of costs and fees of probate court and sheriff of Clarendon County.**

See § 4185 this supplement and in 1934 Supplement.

§ 9011-A. **Probate judge enter releases of liens on property sold.**—In case any lands of the deceased, subject to the lien of any judgment, mortgage, or other lien, shall be sold under the provisions of this chapter, the probate judge shall have authority, and it shall be his duty, to enter a release of the lands so sold, upon the records in the office of the clerk of court or register of mesne conveyance of his county, from the lien of such judgment or mortgage or other lien; and in case such mortgage, judgment, or other lien debt or debts shall have been paid in full out of the proceeds of the sale of such lands, the probate judge shall have cancellation of the same entered on the record thereof; *Provided*, these duties shall not be required of the probate judge in case such mortgage, judgment, or other creditor shall have the said liens released or cancelled within thirty days following the sale of such lands, nor shall any judgment, mortgage, or other lien creditor be relieved of the duty, as provided otherwise by law, of releasing or cancelling such liens: *Provided, further*, that the probate judge shall receive the sum of fifteen cents for each mortgage, judgment, or other lien released or cancelled by him; and the clerk of court or register of mesne conveyance shall receive the usual fees provided by law for recording releases and cancellations of mortgages, judgments, and other liens; and all fees provided for in this section shall be charged against and paid out of the estates involved as a part of the costs of administration. *Provided, further*, that each release, satisfaction, or cancellation provided herein shall refer by proper notation to the file number of such estate in the probate court: *Provided, further*, that the provisions of this chapter shall not apply in cases where the order of sale shall direct the sale of any lands which shall be sold subject to any existing mortgage, judgment, or other lien, but only to cases where such lands are sold freed and discharged from all such liens. 1935 (39) 280.

This section added by 1935/280.

§ 9012. **Filing of annual return.**—Executors or administrators shall on the first day after the expiration of eleven (11) months from the date of his or their appointment, and on the first day after the expiration of every twelve (12) months thereafter, render to the judge of probate of the county from whom they obtain letters testamentary or letters of administration a just and true account, upon oath, of the receipts and expenditures of such estate covering the preceding period, and at the time of making such first return said

executor or administrator shall file with the probate judge a verified, itemized statement of all liabilities of such estate, and the probate judge shall pass upon and determine whether the said claims are just and true liabilities in whole or in part of such estate, and such disposition shall be recorded in the book of returns, which, when examined and approved, shall be deposited with inventory and appraisal, or other papers belonging to such estate, in the office of said judge of probate, there to be kept for the inspection of such persons as may be interested in the estate. If any executor or administrator should neglect to render such annual account, he shall not be entitled to any commissions for his trouble in the management of the said estate; and shall moreover be liable to be sued for damages by any person or persons interested in such estate. *Provided, however*, the judge of probate may, upon sufficient showing, excuse such neglect heretofore or hereafter occurring to render such annual account or may extend the time for filing same. 1935 (39) 147.

Last proviso added; and commas added after "appointment", line 2, "verified", line 8, "estate", line 8, "estate", line 10, "which", line 11, and "of" changed to "or", line 2, 1935/147.

Administrator must return to estate commissions received during first eleven

months after his appointment, when he failed to make return as required herein. *Brannon v. Woodward*, 175 S. C., 1; 178 S. E., 249. (This decision filed prior to the section being amended, 1935 acts, page 147.)

§ 9017. Commissions.

The executor must actually receive and handle money in order to justify an allowance of the statutory commissions. *Buerhaus v. DeSausure*, 41 S. C., 457, 497; 19 S. E., 926, 946; 20 S. E., 64. *Spartanburg County v. Arthur*, _____ S. C., _____; 185 S. E., 486.

"Receive."—In construing this section,

our court has steadfastly adhered to an exact definition of the word "receive" and has denied unto a fiduciary any commissions upon a fund unless it could fairly be said that such fiduciary had himself actually "received" into his possession funds of the estate. *Spartanburg County v. Arthur* _____ S. C., _____; 185 S. E., 486.

§ 9032. Heirs selling before action liable for debt of ancestor.

See this section in 1934 Supplement.

§ 9033. Creditors preferred.

See this section in 1934 Supplement.

§ 9046. Substitution of trustees.

See this section in 1934 Supplement.

§ 9049. Savings banks, banks, trust and insurance companies, judges of probate, executors, administrators, guardians and trustees may invest in farm loan bonds—accountability for interest.

See this section in 1934 Supplement.

§ 9050. Investment of funds by guardians, executors, administrators, and other trustees—interest.

See this section in 1934 Supplement.

§ 9051. Investment of trust funds.

See this section in 1934 Supplement.

A mere deposit of funds belonging to an estate is not such an investment by a fiduciary as is contemplated by this section, especially during the first year of

an administrator's service when the deposit is subject to check for payment of costs and expenses. *Brannon v. Woodward*, 175 S. C., 1; 178 S. E., 249.

See notes to § 7908.

§ 9051-1. Eligibility of bonds of home owners' loan corporation as investments and/or exchange for liens secured by real estate.

See this section in 1934 Supplement.

§ 9051-2. Invest trust funds in insured shares in federal savings and loan, associations and state building and loan associations; bonds of federal home loan banks; and consolidated bonds of federal home loan bank board.—It shall be lawful for the state of South Carolina, and any of its departments, in-

stitutions and agencies, any political subdivision or subdivisions of the state, any district thereof, any county therein or political subdivision thereof, and any cities, towns, or municipalities therein, or any political or public corporation of the state or of the United States, or for any insurance company, building and loan association, or for any bank, trust company or other financial institution, operating or doing business in the state of South Carolina, or under the laws of this state or the United States, any national bank or receiver of any bank, trust company, building and loan association or other financial institution operating under the laws of this state or of the United States, or for any executor, administrator, committee, guardian, conservator, trustee or other fiduciary, to invest their funds or the moneys in their custody or possession eligible for investment in the shares of any federal savings and loan association or in the shares of any building and loan association organized and existing under the laws of this state, when such shares are insured by the federal savings and loan insurance corporation; also in bonds or debentures issued by any federal home loan bank, or in the consolidated bonds or debentures issued by the federal home loan bank board. 1935 (39) 287.

This section added by 1935/287.

§ 9051-3. Investments may make under national housing act.—(1) FINANCIAL INSTITUTIONS MAKE LOANS, ETC., PURSUANT TO TITLES I AND II.—Banks, savings banks, trust companies, insurance companies and other financial institutions subject to the laws of this state, are authorized:

(a) To make such loans and advances of credit and purchase of obligations representing loans and advances of credit as are eligible for insurance pursuant to title I, section 2, of the national housing act, and to obtain such insurance.

(b) To make such loans, secured by real property or lease-hold, as the federal housing administrator insures or makes a commitment to insure pursuant to title II of the national housing act, and to obtain such insurance.

(2) FINANCIAL INSTITUTIONS AND FIDUCIARIES INVEST IN BONDS AND MORTGAGES INSURED BY FEDERAL HOUSING ADMINISTRATION; AND DEBENTURES ISSUED BY FEDERAL HOUSING ADMINISTRATOR; AND SECURITIES OF, ISSUED BY NATIONAL MORTGAGE ASSOCIATIONS.—It shall be lawful for banks, savings banks, trust companies, insurance companies and other financial institutions, executors, administrators, guardians, committees, conservators and other fiduciaries subject to the laws of this state, to invest their funds, and the moneys in their custody or possession, eligible for investment, in mortgages insured by the federal housing administrator, including bonds secured by a mortgage so insured, and in debentures issued by the federal housing administrator, pursuant to title II of the national housing act, and in securities issued by national mortgage associations or similar credit institutions now or hereafter organized under title III of the national housing act.

(3) LOANS OR INVESTMENTS MADE HEREUNDER EXEMPT FROM CERTAIN STATUTES.—No law of this state requiring security upon which loans or investments may be made, or prescribing the nature, amount or form of such security, or prescribing or limiting interest rates upon loans or investments, or prescribing or limiting the period for which loans or investments may be made, shall be deemed to apply to loans or investments made pursuant to the foregoing paragraphs. 1935 (39) 67.

This section added by 1935/67.

§ 9071. Advertisement of sale—contents—publication.

See this section in 1934 Supplement.

§ 9078-1. Judicial sales of real estate.—(1) TIME OFFER BIDS.—In all judicial sales of real estate the bidding shall not be closed upon the day of sale, but shall remain open until noon of the thirtieth day after the sale, exclusive of the day of sale, within which thirty days period any person other than the highest bidder at the sale or any representative thereof in foreclosure suits, may enter a higher bid upon complying with the terms of sale by making any necessary deposit as a guaranty of his good faith, and thereafter within such period any person other than such highest bidder at the sale or any representative thereof in foreclosure suits, may in like manner raise the last highest bid, and the successful purchaser shall be deemed to be the person who submitted the last highest bid within said period and make the necessary deposit or guaranty: *Provided*, that if the thirtieth day falls on Sunday, the bidding shall be so closed at noon on the Monday immediately following: *And provided, further*, that the provisions of this section, except as to the fees and charges of sales officers, shall not apply to any suit brought for foreclosure if the complaint therein states that no personal or deficiency judgment is demanded and that any right to the same is expressly waived, or where the plaintiff is suing in a representative or fiduciary capacity, or a defendant is sued in such capacity and sets up a right to affirmative relief in his answer, makes the beneficiary or a member of the class of beneficiaries a party to the action, and requests in the complaint or answer leave of the court to waive any right to a personal or deficiency judgment and such leave is granted by the court and incorporated in the decree, but in any such case the sales officer shall state in the advertisement of sale that no personal or deficiency judgment is demanded and that the bidding will not remain open after the sale but that compliance with the bid may be made immediately. 1936 (39) 1294.

For subsections 2, 3, 4 and 5 of this section see section 9078-1, 1934 Supplement.

Bidder at judicial sale was charged with notice of terms of decree requiring bidder to make deposit in cash or by certified check, and master had no authority to vary terms of decree. *Bank v. Hudson*, 179 S. C., 399; 184 S. E., 102.

Bidder at judicial sale who deposited in cash percentage of purchase price pursuant to decree ordering sale and requiring deposit of cash or certified check entitled to have deed executed upon paying of balance of purchase price, notwithstanding bid was not the highest, where highest bidder deposited personal check which was not honored until check was redeposited. *Bank v. Hudson*, 179 S. C., 399; 184 S. E., 102.

This section inapplicable to receiver's sale of industrial corporation, a going concern. *Montgomery Crawford, Inc., v.*

Arcadia Mills, 174 S. C., 252; 177 S. E., 151.

Sale of property by receiver.—See generally, *Hannon et al. v. Mechanics Building & Loan Ass'n et al.*, 177 S. C., 153; 180 S. E., 873.

Mortgage sale of property which evidence showed to be worth more than \$5,000.00 set aside and premises ordered resold, where last bid of \$500.00 was inadequate, and through negligence of master's stenographer bid of \$4,000.00 was not received in time. *Poole v. Jefferson Standard Life Ins. Co.*, 174 S. C., 150; 177 S. E., 24.

Confirmation of bid on theory that it was made within statutory 30-day period after public sale held error, where no bid was actually made and entered on master's sales book before expiration of time. *Poole v. Jefferson Standard Life Ins. Co.*, 174 S. C., 150; 177 S. E., 24.

§ 9084-1. No lien on real estate hereafter sold at execution or judicial sale in any action to which lien creditor is party shall constitute lien on property so sold after such sale.—No lien created by operation of law or agreement of the parties whether of record or authorized by law to be entered of record in any office of any clerk of court and/or register of mesne conveyance in this state, or any transcript, extension, renewal or revival thereof shall constitute a lien or attach or reattach as a lien on real property of the lien debtor, or real property in which the lien debtor has an interest, after a public sale of such

real property at any execution or judicial sale in any action or special proceeding to which the lien creditor is duly made a party as now provided by law; *Provided*, that sections 9084-1 and 9084-2 shall not be construed to affect any prior mortgage lien not foreclosed in any such action or special proceeding, and shall not be construed to require the foreclosure of any such prior mortgage lien; and *Provided, further*, that sections 9084-1 and 9084-2 shall not apply to tax execution sales. 1935 (39) 503.

§ 9084-2. No lien on real property heretofore sold, as provided in § 9084-1, shall constitute lien on such real property if it is hereafter acquired by lien debtor.—No lien on real property barred by a public sale of such real property at any execution or judicial sale heretofore made in the manner provided in section 9084-1, nor any transcript, extension, renewal or revival thereof, shall constitute a lien or attach or reattach as a lien on the real property so sold, or any part thereof, if acquired by the lien debtor subsequent to May 11, 1935. 1935 (39) 503.

This section added by 1935/503.

§ 9085. Homestead in lands—what allowed—how set off.—A homestead in lands, whether held in fee or any lesser estate, to the value of one thousand dollars, or so much thereof as the property is worth if its value is less than one thousand dollars, with the yearly products thereof, shall be exempt to the head of every family residing in this state from attachment, levy or sale, in mesne or final process issued from any court, upon any judgment obtained upon any right of action arising subsequent to the ratification of the Constitution of the state of South Carolina in 1868. And it shall be the duty of the sheriff or other officer before selling the real estate of any head of a family resident in this state to cause a homestead as above stated to be set off to said person in the manner following, to wit: *He shall give public notice by advertising his intention to set off such homestead on behalf of the person demanding same, once a week for four weeks, in some newspaper published in the county, where the land lies, and in case no paper is published in the county, then by posting the notice in the court house and in three other public places, for a like length of time.* He shall cause three appraisers to be appointed, one to be named by the creditor, one by the debtor and one by himself, who shall be discreet and disinterested men, in no wise related to either party, and resident in the county, and who shall be sworn by a magistrate, or other officer authorized by law to administer oaths, to impartially appraise and set off by metes and bounds a homestead not to exceed in value one thousand dollars. The said appraisers shall make return of their action in the premises under their hands and seals to the sheriff or other officer within thirty days after they shall have been appointed as aforesaid, for record in the office of the clerk of court, giving the metes and bounds as well as the value of the homestead set off, for which purpose they shall be authorized to call in the aid of a surveyor if they, or a majority of them, deem it necessary. If no complaint shall be made by any creditor or the debtor within thirty days after the return of the appraisers has been filed, the proceedings in the case shall be final. If exceptions to said return be filed by *any* creditor or the debtor within thirty days after the filing thereof, the same shall be tried *de novo* upon testimony taken in open court, and the court out of which the process issued may, upon good cause being shown, order a reappraisal and reassignment of the homestead by other appraisers appointed by the court. Should the creditor or debtor neglect or refuse, after ten days' notice from the officer in whose hands the process is lodged, to nominate an appraiser, the said officer shall appoint the same. *All*

homesteads which may have heretofore been set off to the head of any family without notice shall not be attacked or set aside for lack of notice after six (6) months from May 28, 1936. 1936 (39) 1594.

Words in italics added; and "either" on line 27, changed to "any", 1936/1594.

§ 9086. Return to be recorded.

Judgment creditor which entered up its judgment against debtor more than four months before debtor was adjudicated a bankrupt, and proved his claim in the bankruptcy proceeding, said bankrupt never paid his creditors any dividends, and said judgment never being set aside or cancelled off record, there being no evidence of fraud,

cannot set aside homestead of said debtor, and apply the surplus proceeds, if any, to the satisfaction of such judgment, since the trustee in bankruptcy did not undertake administration of property affected. *W. C. Robinson & Son Co. v. Gamble*, 178 S. C., 259; 182 S. E., 745.

§ 9150. State housing law.

The above law comes from the 1933 acts, page 176. The said act is not reproduced

here to save printing.

§ 9151. Housing authorities law.

The above law comes from the 1934 acts, page 1368 and 1935 acts, pages 424, 501.

The said act is not reproduced here to save printing.

§ 9152. Building council of South Carolina.

See this section in 1934 Supplement.

§ 9160. Light entrance to elevator shafts when elevator in operation.

See these sections in 1934 Supplement.

§§ 9201-9212. South Carolina public service authority.

See this section in 1934 Supplement. South Carolina public service authority complete Columbia Canal. Start work in two years from May 22, 1936. See 1936

Acts, page 2722. §§ 9201-9212 are constitutional. *Clarke v. South Carolina Public Service Authority*, 177 S. C., 427; 181 S. E., 481.

§ 9301. Municipalities and water districts may purchase, construct and improve waterworks system, provide for the issuance of revenue bonds payable solely out of the revenues derived therefrom, and provide for the operation of such systems in case of deficiencies in revenues.

See this section in 1934 Supplement.

§ 9302. Municipalities and water districts may purchase, construct and improve waterworks, electric and/or power systems; issue revenue bonds payable solely out of the revenues derived therefrom; and provide for the operation of such systems in case of deficiencies in revenues.

See this section in 1934 Supplement.

§ 9303. Municipalities, counties, and political subdivisions of this state may construct, acquire, own, equip, operate, maintain and improve, enlarge or extend works for the collection and/or treatment, purification and disposal of sewage; authorize such political subdivisions to construct, acquire, own, equip, operate, maintain and improve, enlarge or extend water works systems, hospitals, toll bridges, ferries, drainage systems, grading and/or paving and/or repaving streets, sidewalks, and highways, where such streets or highways are not part of any federal or state aid project, public buildings, common jails, such political subdivisions are authorized by law to own, acquire, construct or maintain where such works or project will be made self-supporting and the construction cost thereof returned within a reasonable period not exceeding thirty years by means of tolls, fees, rents or charges other than taxation; to authorize such political subdivisions to fix and make charges for the use of such works and to provide for the collection of the same; authorize such political subdivisions to finance such projects by the issuance and sale of revenue certificates payable solely from the revenue of such works; authorize contracts for the use of such works by other political subdivisions and charges against the owners

of premises therein served; authorize municipalities to construct and operate such works jointly; and to contract with each other and/or with other parties, and in case of toll bridges or ferries across state line rivers to contract with municipalities or agencies of other states; authorize the creation of a lien on certain property served by certain of such works; provide for the method by which such revenue certificates shall be paid and to provide remedies for the holders of such certificates; authorize and provide for the condemnation by said municipalities of property necessary for such projects, and for other purposes.

See this section in 1934 Supplement.

County, 174 S. C. 35; 176 S. E. 870.

See generally.—Park v. Greenwood

§ 9304. Municipalities and other subdivisions may construct, own, equip, operate and improve works for the collection and/or treatment, purification and disposal of sewage; charge owners of premises for the use of such works and provide for the collection of same; issue revenue bonds payable solely from the revenues of such works and make such bonds exempt from taxation and make them lawful investments of sinking funds; contract for the use of such works by other cities, towns and political subdivisions, and charge owners of premises therein served thereby.

See this section in 1934 Supplement.

§ 9305. Any county, township, city or incorporated town of the state may purchase or construct a waterworks system, water supply system, sewer system, sanitary disposal equipment and appliances, light plant or system, natural gas system, ice plants, power plants and/or distribution systems, gas plants, incinerator plants, hospitals, piers, docks, terminals, air ports, toll bridges, ferries, drainage systems, city halls, court houses, armories, fire stations, auditoriums, hotels, municipal buildings, theatres, community auditoriums and hotels, city halls and hotels, public buildings and/or structures, public markets, public recreation parks, swimming pools, golf courses, stadiums, school auditoriums, teacherages, gymnasiums, court houses, court houses and office building combined, and court houses and jails combined, and in furtherance thereof to purchase or construct any necessary part of any such system either within or without the limits of such county, township, city or incorporated town, as the case may be: and to authorize any such political subdivision now or hereafter owning and operating any such system or plant to improve, enlarge, extend or repair the same: and for any such purpose or purposes to issue revenue bonds payable solely from the revenues, derived from the operation of any such system, project or systems: regulate the issuance, sale, retirement, and refunding of such bonds and of other matters in connection therewith: to regulate the use of the revenues of such system or systems when such bonds are issued or outstanding: to provide for the operation of any such system or systems in case of deficiencies in such revenues, and for other purposes. To authorize and facilitate the construction of combined and/or united county and/or municipal projects and allow such projects to be constructed and carried on through joint county and/or municipal action, to authorize condemnation of property necessary or convenient for the purpose of any of said projects, to provide that water and sewerage systems of any municipality shall constitute one system: To provide that any two or more projects or undertakings described in section one which are in any way related, as in the case of waterworks system and a sewerage system, may be deemed a single system or project, for all the purposes hereof, provided the governing body shall so de-

termine either in the ordinance authorizing the issuance of bonds pursuant to this act, or in any other ordinance passed prior to the issuance of such bonds; to authorize the revenues of the water system of any municipality to be pledged for construction of or extension of the sewer system and/or water system: to permit authorization of bonds by resolutions in counties and townships; to prohibit any requirement of the use of general funds or of the levy of taxes; and to authorize the acceptance of loans and grants by federal agencies for the purposes hereof.

See this section in 1934 Supplement.

Roach v. City of Columbia, 172 S. C., 478, 174 S. E., 461.

The provisions of this section, 1933/411; 1934/1307, 1394, 1543; 1935/494, 1091; 1936/1299, are not printed in this supplement in detail. For the provisions hereof the said acts should be consulted. The provisions of this section are cumulative to the general law.

See generally.—Bollin v. Graydon, 177 S. C., 374; 181 S. E., 467.

Revenue bonds issued by county for purpose of building hydro-electric plant hereunder are valid obligations of county. Park

v. Greenwood County, 174 S. C., 35; 176 S. E., 870.

Fact that county, pursuant to this statute, may sell some of its power outside of its territorial limits does not matter, *supra*.

Resolution of county commissioners.—See generally, Park v. Greenwood County, 174 S. C., 35; 176 S. E., 870.

Town could construct waterworks system where no bonded indebtedness in the constitutional sense was involved without submitting project at any election called and held on a petition of a majority of the freeholders of the town. Acker v. Cooley, 177 S. C., 144; 181 S. E., 10.

§ 9306. State, counties, municipalities, school districts, and all political subdivisions of the state may borrow from the reconstruction finance corporation or other agency of the United States government, or from any other source funds for the construction or purchase or carrying out of any project that is needful in the public interest, for the purpose of funding and/or retiring indebtedness and for current operating expenses.

See this section in 1934 Supplement.

§ 9308. Counties, and subdivisions thereof, borrow for public purposes.

Allendale County, 1935/609, 613; Beaufort County, 1935/609; Cherokee County, 1935/715, 719; 1936/2076; Clarendon County, 1935/749; Greenville County, 1936/1714; Greenwood County, 1934/2020; 1936/

2353; Lancaster County, 1935/956; Pickens County, 1935/1072; Union County, 1935/1146; 1936/2674; Blacksburg, town of, 1935/717; Gaffney, town of, 1935/717; Williamsburg County, 1935/1159.

§ 9350. Public works eminent domain law.

The provisions of this section, 1936/1268, are not printed in this supplement in detail. For the provisions hereof the 1936 acts on

page 1268 should be consulted. The provisions of this section are cumulative to the general law.

§ 9400. Municipalities and counties establish, conduct, develop, equip, improve and maintain parks, playgrounds, recreational systems, etc.

The provisions of this section, 1935/111, are not printed in this supplement in detail. For the provisions hereof the 1935 acts on page 111 should be consulted.

Bethel park commission, Fairfield County, 1934/1949.

Lee County park commission, 1934/2070.

§ 9401. Counties and cities over 10,000 establish farm marketing centers.

The provisions of this section, 1935/252, are not printed in this supplement in detail.

For the provisions hereof the 1935 acts, page 252, should be consulted.

§ 9501. Mortgage foreclosure procedure law.

See this section in 1934 Supplement.

1936/2711 reenacted the provisions of this section (1934/2286) for eighteen months from April 10, 1936.

Sale of property by receiver.—See generally, Hannon et al. v. Mechanics Building & Loan Ass'n et al., 177 S. C., 153; 180 S. E., 873.

Constitution of the United States

ARTICLE I—§ 5

Gasoline tax act not violative of this section. *Eastern Transport v. South Carolina Tax Commission*, 52 S. Ct., 340; *Gregg Dyeing Co. v. Query*, 52 S. Ct., 631.

Commerce clause of this constitution merely inhibits regulations of motor vehicles which result in discrimination against motor vehicles used in interstate commerce, and does not restrict state from

making regulations in exercise of its police power in respect to weight and size of motor vehicles, so long as such regulations apply equally to all. State ex rel. *Daniel v. John P. Nutt Co.*, _____ S. C., _____; 185 S. E., 25.

Commerce clause.—See generally, *Atlantic Coast Line R. Co. v. Ford*, 53 S. Ct., 249.

ARTICLE I—§ 10

This clause must be relied on in state court in order for U. S. Supreme Court to review on repeal. *Gibbes v. Zimmerman*, 54 S. Ct., 140.

Right to sue state.—See *Duke Power Co. v. S. C. Tax Commission*, 81 F. (2nd), 513.

S. C. Power Co. v. S. C. Tax Commission, 52 F. (2nd), 515, 519 (D. C.); *Broad River Power Co. v. Query*, 288 U. S., 178, 179; 53 S. Ct., 326, 77 L. Ed., 685.

Cited.—*Link v. Receivers of Seaboard Air Line Ry. Co.*, 73 F. (2nd), 149.

AMENDMENTS

ARTICLE V

Statute providing that officer, who receives public funds, and does not account for them, that a presumption arises that such funds unaccounted for were fraudulently appropriated, does not violate this provision. *State v. Brown*, 178 S. C., 294; 182 S. E., 838.

The flooding and injuring of property by the negligent impounding of a natural water course is a "taking" under the constitutional provision. *Chick Springs Water Co. v. State Highway Department*, 178 S. C., 415; 183 S. E., 27.

ARTICLE VII

Trial by jury will not be impaired by unnecessary resort to equity. *Pacific Mut.*

Life Ins. Co. v. Parker, 71 F. (2nd), 872.

ARTICLE XIV

See notes to § 1, Art. 10, state constitution.

In engineer's action for disability benefits under railroad employees' relief fund contract which was made and subject to performance in North Carolina, exclusion of decision of North Carolina Supreme Court on ground of statute requiring as condition precedent to right of foreign corporation to do business in state that place of making and performance of contract whereby consideration was received from citizen of state be deemed to be within state, held error as depriving railroad of due process. *Livingston v. Atlantic Coast Line R. Co.*, 176 S. C., 385; 180 S. E., 343.

To assess license tax under §§ 2681, 2690-A, and 2690-1 on that part of capital stock of domestic corporation which is represented by the Georgia investment and wholly beyond borders of this state is not burden to interstate commerce and is not in violation of this amendment. *Pacolet Mfg. Co. v. Query*, 174 S. C., 359; 177 S. E., 653. See § 2681 hereof.

All one is guaranteed by this amendment is the preservation of his substantial right

to redress by same effective procedure. *Gibbes v. Zimmerman*, 54 S. Ct., 140.

See generally, *Hicklin v. Coney*, 54 S. Ct., 142; *Atlantic Coast Line R. Co. v. Ford*, 53 S. Ct., 249; *Broad River Power Co. v. Query*, 54 S. Ct., 326.

Due process of law requires that a person shall have a reasonable opportunity to be heard before a legally appointed and qualified impartial tribunal before any binding decree, order, or judgment can be made affecting his rights to life, liberty, or property. *State v. Brown*, 178 S. C., 294; 182 S. E., 838.

Statute imposing tax of 5% on all dividends and interest in excess of \$1.00 received by individuals is not in violation hereof. *Marshall v. South Carolina Tax Commission*, 178 S. C., 57; 182 S. E., 96.

Governor declaring state of insurrection and calling out militia. See §§ 1390 and 3098 and notes thereto.

Applied.—*Duke Power Co. v. S. C. Tax Commission*, 81 F. (2nd), 513.

Cited.—*Link v. Receivers of Seaboard Air Line Ry. Co.*, 73 F. (2nd), 149.

* Constitution of the State of South Carolina 1895

ARTICLE I.—DECLARATION OF RIGHTS

§ 5. Privileges and immunities.

The general assembly may enact retrospective legislation, unless it has effect of impairing obligation of a contract, or divesting vested rights of property. *Muldrow v. Caldwell*, 175 S. E., 501; 173 S. C., 243.

Vested rights may be divested by forfeiture, but the legislature has no power to transfer property from one to another directly or indirectly. *Muldrow v. Caldwell*, 175 S. E., 501; 173 S. C., 243.

Governor declaring state of insurrection and calling out militia.—See §§ 1390 and 3098 and notes thereto.

Statute providing for construction and

§ 13. Suspension of laws.

Governor declaring state of insurrection and calling out militia.—See §§ 1390 and

§ 17. Presentment of grand jury.

The word "property" does not include services performed under a contract. *Harris v. Fulp*, 178 S. C., 332; 183 S. E., 158.

In an action against a municipal corporation hereunder for taking of private property for public use without compensation, it is not necessary to allege or offer proof that such municipal corporation has negligently established, maintained, or operated that which has caused damages amounting to a taking, and if there has been a taking without compensation, it is immaterial if the taking was due to the negligence of such municipal corporation.

§ 23. Habeas corpus.

Governor declaring state of insurrection and calling out militia.—See §§ 1390 and

§ 28. Navigable waters free.

Navigation, health betterment, flood control and the reforestation of watersheds are public purposes in which the state is interested and may engage. 45 C. J., 421; 29 C.

operation of hydroelectric and navigation project by state authority is not unlawful, unjust, and discriminatory, and will not confiscate business of private corporations and individuals engaged in electrical utilities. *Clarke v. South Carolina Public Service Authority*, 177 S. C., 427; 181 S. E., 481.

Where on a person's death, the rights of his heirs, devisees, or legatees have thereby become vested, these rights may not be impaired by subsequent legislation. *Muldrow v. Caldwell*, 175 S. E., 501; 173 S. C., 243.

3098 and notes thereto.

Sheriff v. City of Easley, 178 S. C., 504; 183 S. E., 311.

Statute providing that officer, who receives public funds, and does not account for them, that a presumption arises that such funds unaccounted for were fraudulently appropriated, does not violate this provision. *State v. Brown*, 178 S. C., 294; 182 S. E., 838.

The flooding and injuring of property by the negligent impounding of a natural water course is a "taking" under the constitutional provision. *Chick Springs Water Co. v. State Highway Department*, 178 S. C., 415; 183 S. E., 27.

3098 and notes thereto.

J., 242; 36 C. J., 997; 59 C. J., 163. *Clarke v. South Carolina Public Service Authority et al.*, 177 S. C., 427; 181 S. E., 481.

ARTICLE II.—RIGHT OF SUFFRAGE

§ 3. Electors.

Person without registration certificate not entitled to be appointed tax collector.—

See notes under § 2868 hereof.

§ 4. Qualification for suffrage.

Person without registration certificate not entitled to be appointed tax collector.—

See notes under § 2868 hereof.

*This supplement contains all amendments ratified since adoption of 1932 Code.

§ 13. Bonded debt in municipalities.

See this section in 1934 Supplement, page 381.

ARTICLE III.—LEGISLATIVE DEPARTMENT

§ 1. Legislative power.

The General Assembly has a right to pass such legislation as in its judgment may seem beneficial to the state, and to create such agencies of government as may be necessary to carry out its purpose, un-

less expressly prohibited by the constitution. *Clarke v. South Carolina Public Service Authority*, 177 S. C., 427; 181 S. E., 481.

§ 9. Sessions of General Assembly.

See notes under article 3, section 19, state constitution.

§ 17. One subject.

Act regulating size and weight of trucks, trailers, and semitrailers not violative of this section. *State v. John P. Nutt Co.*, _____ S. C., _____; 185 S. E., 25. *Clarke v. S. C. Public Service Authority*, 177 S. C., 427; 181 S. E., 481.

It is not necessary that the title should be an index of the contents of the statute. *Clarke v. South Carolina Public Service Authority et al.*, 177 S. C., 427; 181 S. E., 481; *Crawford v. Johnston*, 177 S. C., 399; 181 S. E., 476.

When the general subject is expressed in the title, any details of legislation which provide the means, methods, or instrumentalities which are intended to facilitate the accomplishment of the general purpose, and are germane to it, may be embraced in the body of the act without violating this provision of the constitution. *Clarke v. South Carolina Public Service Authority*, 177 S. C., 427; 181 S. E., 481. *Crawford v. Johnston*, 177 S. C., 399; 181 S. E., 476.

§ 18. Formalities of act.

Act regulating size and weight of trucks, trailers, and semitrailers not violative of

this section. *State v. John P. Nutt Co.*, _____ S. C., _____; 185 S. E., 25.

§ 19. Mileage.

Legislator, who received \$90.00 for 9 days' service at \$10.00 per day for expenses plus travel and postage allowances for

extra session, is not entitled to any more pay. *Godfrey v. Hunter*, 176 S. C., 442; 180 S. E., 468.

§ 31. Public lands.

Real estate, title in fee to which had been conveyed away by state in 1892, was not, at time of adoption of constitution of 1895, "lands belonging to or under the control of the state," within constitutional provision prohibiting donation of such land to private corporations or individuals. *State v. Broad River Power Co.*, 177 S. C., 240; 181 S. E., 41.

Grant of land for construction of canal, and contract incorporated in statute which relieved successor of grantee from performance of covenants of grant, not prohibited "donation" of land, where under terms of grant and contract state had re-

ceived electric power of value of \$180,000.00, benefit of moneys expended by grantee in construction and maintenance of distribution lines, and generating and property taxes, and would continue to receive such benefits in perpetuity. *State v. Broad River Power Co.*, 177 S. C., 240; 181 S. E., 41.

Indirect benefits expected to result from improvement of land granted by state by way of promotion of public convenience, increase in value of adjacent property, and taxes to be paid on improvements, are sufficient to keep such grant from amounting to donation. *State v. Broad River Power Co.*, 177 S. C., 240; 181 S. E., 41.

§ 32. Salary of deceased officer—provide care or extend financial assistance to certain needy individuals.—* * * *Provided, however, the General Assembly may provide for the care of or extend financial assistance to needy dependent children under the age of sixteen who would otherwise be deprived of support and care, and to persons who are blind, and to needy individuals who have obtained the age of sixty-five years and who, by reason of age or other infirmities, are unable to support themselves and would otherwise suffer; that any adult person making application for such assistance must show that he or she has been a resident in the state of South Carolina for at least five of the last nine years, and has resided therein continuously for one year immediately pre-*

ceding the date of such application, but that no individual aided under this provision shall receive more than thirty (\$30.00) dollars per month from any public funds. 1936 (39) 1614.

The above proviso proposed to be added to this section, 1936/1614. proved by the electors in the general election in November, 1936.

The above proposed amendment was ap-

§ 34. **Local or special laws.**—The General Assembly of this state shall not enact local or special laws concerning any of the following subjects or for any of the following purposes, to wit:

- I (1) To change the names of persons or places.
- (2) (*Repealed by 1905/959.*)
- II (3) To incorporate cities, towns or villages.
- III (4) To incorporate educational, religious, charitable, social, manufacturing or banking institutions not under the control of the state, or amend or extend the charters thereof.
- IV (5) To incorporate school districts.
- V (6) To authorize the adoption or legitimation of children.
- VI (7) To provide for the protection of game.
- VII (8) To summons and empanel grand and petit jurors.
- (9) (*Repealed by 1905/959.*)
- VIII (10) (*Repealed by 1920 (31) 700; 1921 (32) 191 and 1934 (38) 1623 and 1935 (39) 27.*)
- IX (11) In all other cases, where a general law can be made applicable, no special law shall be enacted: *Provided*, that the General Assembly may enact local or special laws fixing the amount and manner of compensation to be paid to the county officers of the several counties of the state, and may provide that the fees collected by any such officer, or officers, shall be paid into the treasury of the respective counties. 1934 (38) 1625; 1935 (39) 24.
- X (12) The General Assembly shall forthwith enact general laws concerning said subjects for said purposes, which shall be uniform in their operations: *Provided*, that nothing contained in this section shall prohibit the General Assembly from enacting special provisions in general laws.
- XI (13) The provisions of this section shall not apply to charitable and educational corporations, where, under the terms of the gift, devise or will, special incorporations may be required.

Provided, that the General Assembly is empowered to divide the state into as many zones as may appear practicable, and to enact legislation as may appear proper for the protection of game in the several zones. 1934 (38) 1626; 1935 (39) 153.

1920/1700; 1921/191 and 1934/1623; 1935/27 eliminated subsection 10 of this section (subsection VIII herein). In eliminating said subsection 1920/1700 and 1921/191 reenacted this section. By the reenactment of this section by 1920/1700 and 1921/191 "or change, amend or extend charter thereof," at end of subsection II of this section in 1922 and 1932 Codes eliminated; the comma after "institutions" in subsection III of this section in 1912, 1922 and 1932 Codes eliminated; and the comma after "corporations" in sub-

section XI of this section in 1922 and 1932 Codes added.

The above provisions unless otherwise noted are as the said section was reenacted by 1920/1700 and 1921/191.

Subsection 11 (subsection IX herein) amended by 1934/1625 and 1935/24.

Subsection 10 (subsection VIII herein) was eliminated by 1920/1700; 1921/191 and 1934/1623; 1935/27.

The last proviso in this section added by 1934/1626; 1935/153.

Original subsections 2 and 9 were repealed by 1905/959.

Subsection numbers in parenthesis are original.

Act regulating size and weight of trucks, trailers, and semitrailers not unconstitutional as "special law." *State v. John P. Nutt Co.*, S. C.,; 185 S. E., 25.

Statute authorizing certain state institutions to issue bonds for buildings does not violate this section. *Crawford v. Johnston*, 177 S. C., 399; 181 S. E., 476.

Section of statute relating to Horry

county only and providing that all fees and licenses collected by clerk of court for such county should go to general fund of county and stated salary should be paid clerk in lieu of such fees and licenses unconstitutional as local and special legislation on a prohibited subject. *Holt v. Calhoun*, 175 S. C., 481; 179 S. E., 501.

It is not valid as an amendment to general law where it was otherwise unconstitutional as local and special legislation on a prohibited subject, *supra*.

ARTICLE IV.—EXECUTIVE DEPARTMENT

§ 22. Suspension of officers.

Suspension of officers for disbursement of funds.—See § 1592 and notes thereto. Governor cannot effect removal of officer

by arbitrarily and indefinitely suspending such officer. *Dacus v. Johnston*, S. C.,; 185 S. E., 491.

ARTICLE V.—JUDICIAL DEPARTMENT

§ 4. Jurisdiction of Supreme Court.

Action to set aside Governor's orders suspending state highway commissioners from office within original jurisdiction of Supreme Court. *Dacus v. Johnston*, S. C.,; 185 S. E., 491. See notes to § 427 hereof.

Supreme Court may consider the question whether there was any evidence tending to support the verdict. *State v. Floyd*, 174 S. C., 288; 177 S. E., 375.

In a capital case this court will take notice of any error apparent on the record affecting the substantial rights of accused, even though not made a ground of appeal. *State v. Floyd*, 174 S. C., 288; 177 S. E., 375.

§ 9. Compensation of judges and justices.

An annual appropriation bill cannot reduce the compensation of a circuit judge whose salary has theretofore been fixed by a continuing statute, which statute was in effect at time of his election to office. *Grimball v. Beattie*, 174 S. C., 422; 177 S. E., 668.

See notes under § 9, article 10, hereof.

The provisions hereof creating office of circuit judge, prescribing his term of office, commanding the manner of fixing his compensation, prohibiting diminution thereof during his continuance in office, and provisions of the permanent unrepealed, unmodified, operative statutes fix-

§ 18. Court of general sessions.

§ 936, 1932 Code, providing for preliminary hearing for persons charged with crimes in court of general sessions does

Governor declaring state of insurrection and calling out militia.—See §§ 1390 and 3098 and notes thereto.

Appellate jurisdiction of Supreme Court.—By this section Supreme Court has appellate jurisdiction in cases of chancery, and it is given right to review fully findings of fact as well as law except where facts are settled by a jury and verdict is not set aside, and it has power to either affirm in whole, reverse in whole, or modify a decree of a circuit judge, sitting as a chancellor in an equity case. *Montgomery & Crawford v. Arcadia Mills*, 176 S. E., 589, 173 S. C., 464.

ing the amount of his compensation, designating time, mode, and manner of payment, directing be paid as specified in statutes for term for which he has been elected, constitute an appropriation of such salary, made by law, in accordance with constitutional requirements, payment of which by comptroller general and state treasurer from surplus funds in state treasury is a simple ministerial act compellable by mandamus. Judicial notice of economic condition existing at time of circuit judge's salary reduced, refused. *Grimball v. Beattie*, 174 S. C., 422; 177 S. E., 668.

not contravene this section and section 21 of this article. *State v. Flintroy*, 178 S. C., 89; 182 S. E., 311.

§ 21. Jurisdiction of magistrates—examining courts. * * * (1) *Provided*, that in the county of Sumter, jurisdiction of magistrates in civil cases shall extend to where the value of property in controversy or the amount claimed is not more than two hundred (\$200.00) dollars, except in the third magisterial district, where the amount shall not exceed one thousand (\$1,000.00) dollars. 1932 (37) 1399; 1933 (38) 586.

(2) *Provided, further*, that in addition to the jurisdiction conferred by this constitution upon magistrates in Anderson County, any magistrate or magistrates residing in the city of Anderson who are licensed to practice law in this state and who have been actively engaged in the practice of law in this state for a period of five (5) years shall have the same jurisdiction as the court of common pleas and the judges thereof and concurrent therewith in all cases in law and equity, special proceedings and remedial remedies, where the value of the property in controversy or the amount claimed does not exceed the sum of one thousand (\$1,000.00) dollars, to issue and hear writs of habeas corpus to determine the custody of minor children: *Provided, however*, they shall not have jurisdiction in any case where the title to real estate is involved; and such magistrate or magistrates shall have jurisdiction in such criminal cases as the General Assembly may prescribe, but such jurisdiction shall not extend to cases where the punishment exceeds a fine of five hundred (\$500.00) dollars and/or imprisonment for eighteen (18) months, (either or both) with or without hard labor, except, however, such jurisdiction in criminal cases may be extended by the General Assembly to include any and all violations of the laws relating to intoxicating and/or alcoholic liquors, cases charging non-support of wife and/or child or children, bastardy, drawing and uttering fraudulent check, driving motor vehicle under the influence of intoxicating liquor, and disposing of property under lien, and in such cases said magistrates shall have the power to impose such sentences as are provided by law for such offenses. 1934 (38) 1627; 1935 (39) 341.

See notes to article V, § 18, hereof.

§ 26. Charge to juries.

Failure of magistrate to instruct jury except kind of verdict they might render does not comply with this section, however if jury "found right way without a compass" no harm can be done. *Westbrook v. Jefferies*, 175 S. E., 433; 173 S. C., 178.

Charge "that negligence may be established by circumstantial evidence. Negligence on part of manufacturer may be in-

ferred from testimony that small pieces of glass were found in article purchased, together with evidence that the article was served in original container to a customer" is charge on facts. *Garrison v. Coca-Cola Bottling Co.*, 174 S. C., 396; 177 S. E., 656.

Charge on life insurance policy held valid hereunder. *Walker v. Life Ins. Co. of Virginia*, 175 S. C., 153; 178 S. E., 618.

ARTICLE VI.—JURISPRUDENCE

§ 5. **Codification of laws.**—The General Assembly, at its first session after the adoption of this Constitution, shall provide for the appointment or election of a commissioner, whose duty it shall be to collect and revise all the general statute laws of this state then of force as well as that which shall be passed from time to time, and to properly index and arrange the said statutes when so passed. And the said commissioner shall reduce into a systematic code the general statutes, including the Code of Civil Procedure, with all the amendments thereto, and shall, on the first day of the session for the year nineteen hundred and one, and at the end of every subsequent period of not more than ten years, report the result of his labors to the General Assembly, with such recommendations and suggestions as to the abridgement and amendments as may be deemed necessary or proper. Said report when ready to be made shall be submitted to the General Assembly at the first session in such manner as may be provided by law, but shall not be taken up for consideration until the next session of the said General Assembly. The said code shall be declared by the General Assembly, in an act passed according to the forms of this Constitution for the enactment

of laws, to be the only general statutory law of the state; but no alterations or additions to any of the laws therein contained shall be made except by bill passed under the formalities heretofore prescribed for the passage of laws. Provision shall be made by law for imposing such other duties as may be desired, for filling vacancies, regulating the term of office and the compensation of said commissioner. And the General Assembly shall by committee inquire into the progress of his work at each session. 1932 (37) 1396; 1933 (38) 587.

1932/1396, 1933/587 discontinued the printing of the decennial report of the commissioner, and empowered the General Assembly to regulate compensation of commissioner.

General Statutory Law.—The code and the statutes passed since its adoption must be recognized as the only general statutory law of the State. *Greenville v. Pridmore*, 162 S. C., 52, 160 S. E., 144.

§ 6. Prisoner lynched through negligence of officer.

Burden is upon plaintiff to prove by preponderance of the evidence that decedent was "lynched" as defined by law. *Green v.*

Greenville County, 176 S. C., 433; 180 S. E., 471. See § 3041 hereof.

ARTICLE VII.—COUNTIES AND COUNTY GOVERNMENT

§ 9. Election district.

There is nothing in article 7 which restricts rights of legislature to authorize a county to build and operate a hydre-electric plant. The fact that constitutiona provides

for creation of county does not take away from General Assembly right to prescribe its powers. *Park v. Greenwood County*, 174 S. C., 35; 176 S. E., 870.

ARTICLE VIII.—MUNICIPAL CORPORATIONS AND POLICE REGULATIONS

§ 5. Water works and plants for furnishing lights.

Right given to cities and towns herein to establish and operate lighting plants does not affect power of legislature to

confer similar right upon counties. *Park v. Greenwood County*, 174 S. C., 35; 176 S. E., 870.

§ 7. Bonded debt—certificates of indebtedness.—* * * (1) *Provided*, that the limitations imposed by this section and by section 5 of article X of the Constitution shall not apply to the bonded indebtedness of the city of Georgetown for the purpose of retiring certain outstanding past indebtedness as evidenced by certain bonds and promissory notes of the city of Georgetown, as of December 31st, 1931, as shown by the audit of E. T. Campbell, certified public accountant, of the city of Georgetown, or the retiring of other promissory notes outstanding having been issued in payment of, or to renew the aforesaid promissory notes: *Provided, however*, that the total bonded indebtedness of the said city of Georgetown shall not exceed at any time, excluding bonds issued for waterworks, sewerage, electric light distribution system and street paving and tax anticipated notes, pledging the unincumbered taxes of the said city of Georgetown for the current fiscal year, fifteen (15%) per centum of the assessed value of the taxable property in the said city of Georgetown. 1932 (37) 1400; 1933 (38) 585.

(2) *Provided*, that the limitations imposed by section 7, article 8 and section 5 of article 10 of the Constitution of the state of South Carolina shall not apply to the bonded indebtedness of the town of St. George when the proceeds of such bonds are applied exclusively for the building, erecting, establishing, repairing, extending or maintaining of sidewalks, streets, waterworks, lighting plants, sewerage system, fire department, or town hall and guard house for such town, or for either of such purposes or for the payment of any indebtedness already incurred for any or either of such purposes and when the question of incurring such bonded indebtedness is submitted to the qualified electors of said municipi-

pality by the town council of said town and a majority of those voting in such elections shall vote in favor thereof. 1930 (36) 1212; 1933 (38) 589.

(3) *Provided, further*, that the limitations and restrictions imposed by this section and by section 13 of article II, and section 5 of article X of the Constitution, shall not apply to bonds issued or to be issued by the town of Waltherboro and the town of Manning, for the purpose of funding or paying any indebtedness incurred before the ratification of this amendment by the General Assembly, for municipal purposes, and the General Assembly shall have power by special act or acts, to authorize said towns to issue their respective bonds to fund the same without regard to limitations and without the requirement of an election. 1931 (37) 281; 1933 (38) 589.

Proviso 1 added by 1932/1400, 1933/585.
Proviso 2 added by 1930/1212, 1933/589.
Proviso 3 added by 1931/281, 1933/589.

Refund bonded indebtedness without electors' approval. *Williams v. City of Rock Hill*, 177 S. C., 82; 180 S. E., 799.

County revenue bonds, issued to pay for construction of county hydro-electric plant not constitutional debt. *Park v. Greenwood County*, 174 S. C., 35; 176 S. E., 870.

Money borrowed by town from its water commission, which is not a separate entity capable of contracting with town itself, but is merely a department of town itself is not such an existing indebtedness as would affect the constitutional limitation of its bonded indebtedness. *Tarver v. Town of Johnston*, 175 S. E., 821; 173 S. C., 333.

Statutes (§§ 7319 and 7320) authorizing

municipalities to issue bonds to refund bonded indebtedness, whether matured or not, and to issue refunding bonds without submitting question of their issuance to electors, and act specifically authorizing city issue refunding bond, do not violate this section. *Williams v. City of Rock Hill*, 177 S. C., 82; 180 S. E., 799.

Refunding bonds do not create "debt" within constitutional limitation on municipal indebtedness, in so far as aggregate interest which must be paid on refunding bonds exceeded aggregate interest city would have to pay if outstanding bonds were not refunded, since unearned interest to become due in future is not a "debt." *Williams v. City of Rock Hill*, 177 S. C., 82; 180 S. E., 799.

§ 10. Boards of health.

Navigation, health betterment, flood control, and the reforestation of watersheds are public purposes in which the state is

interested and may engage. *Clarke v. South Carolina Public Service Authority et al.*, 177 S. C., 427; 181 S. E., 481.

§ 11. Alcoholic liquor and beverages.

See notes under § 1829 hereof.

ARTICLE IX.—CORPORATIONS

§ 11. Election of officers of corporations.

Conveyance by stockholders of their interest in corporation to other stockholders in trust for a certain time to manage and

operate corporation is valid. *Bethea v. Allen*, 178 S. C., 9; 181 S. E., 897.

§ 14. **The public service commission.**—A commission is hereby established to be known as "the Railroad Commission," which shall be composed of not less than three members, whose powers over all transporting and transmitting corporations, and duties, manner of election and term of office shall be regulated by law; and until otherwise provided by law the said commissioners shall have the same powers and jurisdiction, perform the same duties and receive the same compensation as now conferred, prescribed and allowed by law to the existing railroad commissioners: *Provided*, that the members thereof shall be elected at the expiration of the terms of the present railroad commissioners, who are hereby continued in office for the terms for which they were elected. *Provided*, that upon the adoption and ratification of this amendment the said commission shall be known as The Public Service Commission. 1934 (38) 1629; 1935 (39) 25.

§ 18. **Liability of stockholders.**—The stockholders of all insolvent corporations shall be individually liable to the creditors thereof only to the extent of the

amount remaining due to the corporation upon the stock owned by them. 1934 (38) 1628; 1935 (39) 35.

The proviso to this section eliminated by 1934/1628; 1935/35. The said proviso was: "Provided, that stockholders in banks or banking institutions shall be liable to depositors therein in a sum equal in amount

to their stock over and above the face value of the same."

Cited.—Brice v. Cleveland, 179 S. C., 283; 184 S. E., 574.

ARTICLE X.—FINANCE AND TAXATION

§ 1. **Taxation and assessment.**—* * *.—*Provided, further,* that the General Assembly may provide by law for the assessment of all intangible personal property, including moneys, credits, bank deposits, corporate stocks, and bonds, at its true value for taxation for state, county and municipal purposes or either thereof: *Provided,* that the total rate of taxation imposed thereon shall never exceed one-half of one per centum of the actual value of such intangible property: *Provided, further,* that such intangible personal property shall not be subject to the three mill levy provided by section 10, article 11, of this instrument or to any other general or special tax levy, except such as is especially provided by the General Assembly by the authority and within the limitation of this provision; nor shall such intangible personal property be considered a part of "taxable property," as such term is used in this instrument, of the state or any subdivision thereof. 1930 (36) 1349; 1932 (37) 1126.

In order to comply with provision of the constitution as to graduation, it is not necessary that the rate of the tax be graduated. The constitution is satisfied if the amount of tax be graduated in accordance with amount of income. De-

termination of amount of income that shall be wholly exempted and method and ratio of graduation were left by constitution to discretion of legislature. Marshall v. South Carolina Tax Commission, 178 S. C., 57; 182 S. E., 96.

§ 3. Tax shall be levied in pursuance of law.

Statute directing that certain revenues or taxes, levied and collected under existing laws, should be used in the payment of bonds to be issued under such statute in the first instance, does not violate this section and is not a re-enactment of the taxes

referred to. No tax is "levied" by statute in the sense that word is used in this section. Clarke v. South Carolina Public Service Authority et al., 177 S. C., 399; 181 S. E., 476.

§ 4. Property exempt from taxation.

Public properties used for private purposes in addition to their public uses are

not exempt from taxation. Bank v. Greenville County, 174 S. C., 256; 177 S. E., 369.

§ 5. Taxes for corporate purposes—bonded indebtedness.

—* * *.—(1)

All notes and bonds heretofore issued by Dorchester County and now outstanding and unpaid are hereby validated; and the General Assembly may authorize the said county to issue its bonds for the purpose of paying, funding, or refunding the said outstanding notes or bonds or any of them, notwithstanding any limitations or restriction contained in this Constitution. 1932 (37) 1159; 1933 (38) 590.

Provided, further, that the limitation imposed by this section shall not apply to school district No. 40, within the counties of Kershaw and Lancaster, such school district being hereby expressly authorized to vote bonds to an amount not exceeding forty thousand (\$40,000.00) dollars, in excess of the bonds already issued and authorized, the proceeds of such bonds to be applied solely to the erection of a school building in said school district, and for the purchase of equipment for said building, under such restrictions and limitations as the General Assembly may prescribe, and where the question of incurring such indebtedness is submitted to the qualified electors of said school district, as provided in the

Constitution upon the question of bonded indebtedness. 1934 (38) 1630; 1935 (39) 16.

Refund bonded indebtedness without electors' approval. *Williams v. City of Rock Hill*, 177 S. C., 82; 180 S. E., 799.

See notes to § 7, article 8, hereof.

This section and § 3819, giving county supervisor general jurisdiction over "all matters relating to taxes" do not grant

county supervisor power to levy taxes. *Clary v. Harvey*, 176 S. C., 512; 180 S. E., 673.

School district No. 10, Cherokee County.—Issuance of bonds—amount, etc., *Middleton v. Littlejohn*, 179 S. C., 88; 183 S. E., 593.

§ 6. Credit of state.

Bonds issued by the state or its political subdivisions which are payable out of special funds do not create debts of the state or its political subdivisions, although the full faith, credit, and taxing powers of the state or its political subdivisions are pledged for the payment of the same. *Clarke v. South Carolina Public Service Authority*, 177 S. C., 427; 181 S. E., 481. *Bollin v. Graydon*, 177 S. C., 374; 181 S. E., 467. *Crawford v. Johnston*, 177 S. C., 399; 181 S. E., 476.

The giving of a mortgage over property to be acquired from the proceeds of bonds

to be sold by authority under statute authorizing such authority to construct and operate hydro-electric and navigation project would not make the bonds debts of the state within constitutional inhibitions against creation of a public debt without vote of people, especially when no funds, or property, acquired from taxation are involved, and the mortgage is payable solely from revenues of the authority. *Clarke v. South Carolina Public Service Authority*, 177 S. C., 427; 181 S. E., 481.

See notes under § 11, this article.

§ 7. Script, certificate, or evidence of state debt.

See notes under § 11, this article.

§ 9. Money.

Unless there has been an appropriation made by law authorizing payment of salary, comptroller general should not issue his warrant for amount. *Grimball v. Beattie*, Comptroller General, et al., 174 S. C., 422; 177 S. E., 668.

A general law being in force fixing salary of a public officer and its payment at particular periods, a special annual appropriation is not necessary for comptroller to issue warrant on treasurer for such salary. *Grimball v. Beattie*, 174 S. C., 422; 177 S. E., 668.

Appropriation may be made by a permanent continuing statute. *Grimball v. Beattie*, 174 S. C., 422; 177 S. E., 668.

Unrepealed and unmodified statutes being in full force and effect providing for payment of officer's salary, nothing being indefinite or uncertain, no further legislative sanction or action is necessary to authorize proper officers to pay such salary. *Grimball v. Beattie*, 174 S. C., 422; 177 S. E., 668.

See notes under article 5, section 9, state constitution.

§ 10. **Fiscal year.**—The fiscal year shall commence on the first day of July in each year: *Provided*, that the General Assembly at its first regular session after the passage of this amendment, shall be authorized and empowered to make appropriations for governmental purposes for not exceeding eighteen (18) months, and to make such other changes and provisions in law as may be necessary to effectively make the foregoing provision operative; *Provided, further*, that should this Constitution be amended so as to provide for biennial sessions, then the General Assembly shall have power at the first session after the adoption of such an amendment to make appropriations for a period not exceeding two and one-half (2½) years and thereafter for each succeeding biennium. 1932 (37) 1402; 1933 (37) 591.

Editor's Note.—Fiscal year changed from January 1 to July 1, and provisos

added, 1932/1402, 1933/591. See § 3081-1, 1934 Supplement.

§ 11. Public debt.

Inasmuch as the statute and bonds and mortgage to be issued by authority expressly provide no debt of state shall be created, nor shall full faith, credit, and taxing power of state be pledged to their payment, no debt of state within the con-

stitutional sense will be created, irrespective of amount available to construct project, and the revenues to be derived therefrom. *Clarke v. South Carolina Public Service Authority*, 177 S. C., 427; 181 S. E., 481.

Under acts providing for erection of county courthouse, which created courthouse commission and conferred upon it authority to issue bonds payable solely from revenues to be derived from operation of building so erected, county bonds issued for purpose of raising money valid, although question of issuance of bonds was not submitted to voters of county, since retirement was provided for by special fund and no property tax could be levied to pay them. *Bollin v. Graydon*, 177 S. C., 374; 181 S. E., 467.

Where obligations will be met by special fund without taxation, this section is not violated. *Bollin v. Graydon*, 177 S. C., 374; 181 S. E., 467. *Crawford v. Johnston*, 177 S. C., 399; 181 S. E., 476. *Clarke v. South Carolina Public Service Authority*, 177 S. C., 427; 181 S. E., 481.

The refinancing of existing obligations is not the creation of "any further debt or obligation" within the meaning of this section. *State v. Stevens*, 173 S. C., 149; 175 S. E., 213.

§ 12. Safe-keeping of public funds.

See notes to § 1510 hereof.

§ 14. Certain cities may levy assessments on abutting property.

See this section, 1934 Supplement, page 388.

ARTICLE XI.—EDUCATION

§ 5. Free public schools—school districts—bonded debt—school districts.—

* * * *Provided, further, that the limits of area of school districts imposed by this section shall not apply to Florence, Abbeville, Orangeburg, Sumter, Union, Darlington, Charleston, Lancaster, Bamberg, Beaufort, Berkeley, Dorchester, Colleton, Dillon, York, Lee, Williamsburg, Horry, Georgetown, Jasper, Chesterfield, Edgefield and Anderson Counties, but in said counties school districts shall be of such area as the General Assembly may prescribe. 1936 (39) 1423.*

The above proviso proposed to be added to this section, 1936/1423.

electors in general election in November, 1936.

This proposed amendment approved by

ARTICLE XVII.—MISCELLANEOUS MATTERS

§ 1. Qualification of officers.

Person without registration certificate not entitled to be appointed tax collector.

See notes under § 2868 hereof.

Rules of the Circuit Courts of South Carolina

11.

Refusal to charge requests not error when judge, before argument begun, directed that requests to charge be handed up, counsel stated they had none, but had

read theirs into the record. *Youmans v. Charleston & W. C. Ry. Co.*, 175 S. C., 99; 178 S. E., 671.

37.

See § 37 hereof.

58.

In beneficiary's action on life policy, insurer denying beneficiary's allegation that insurer had failed and refused to pay after demand *held* not entitled to open and close case, notwithstanding insurer admitted

every other material allegation of complaint and relied on affirmative defense. *Crumel v. Metropolitan Life Ins.*, 179 S. C., 338; 184 S. E., 169.

69.

Receiver has only such general powers, rights, and duties as may be conferred upon him by the rules of court or by statute law; or more expressly by the special orders and decrees of court. *Hannon et al. v. Mechanics Building & Loan Ass'n et al.*, 177 S. C., 153; 180 S. E., 873.

tor in hands of receiver as an officer of court is possession of court which appointed him. He is medium through which the court acts in the execution of its orders and decrees. *Hannon et al. v. Mechanics Building & Loan Ass'n et al.*, 177 S. C., 153; 180 S. E., 873.

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Rules of the Supreme Court of South Carolina

Rules of the Supreme Court of South Carolina were revised February 1, 1936. Rule VI of the said rules as revised was amended October 12, 1936

RULE 4

Exceptions are deemed abandoned unless argued in appellant's printed brief.

Echols v. Seaboard Air Line Ry. Co., 174 S. C., 537; 178 S. E., 139.

RULE 24

Rule 24 of the Supreme Court, as construed in *State v. Hawkins*, 121 S. C., 290; 114 S. E., 538; 27 A. L. R., 1983, applies to

civil cases as well as to criminal cases. *Ward v. Bruce*, 178 S. C., 286; 182 S. E., 759.

RULE 60

Applied.—*La Count v. General Asbestos & Rubber Co.*, 175 S. C., 110; 178 S. E., 500.

RULE 62

Order merely directing amendment of complaint but not attaching any other contingency upon this; then filing of such complaint would not be performance of a con-

dition in the sense contemplated by this rule. *White v. Harby*, 176 S. C., 36; 179 S. E., 671.

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Unlawful to sell unless tax paid § 2557-1 (8).

License tax for brewers and makers of wine § 2557-1.

Pay state's revenue into special school account § 1829 (32).

Permits sell § 2557-1 (6).

Retail dealers defined § 2557 (7).

Revenue, distribution, use §§ 1829, 2557-1.

Tax include municipal license for delivery by wholesalers § 2557-1 (9).

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Paint registration numbers on, licensed trawl for shrimp § 3414-2.

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Greenville, city of, regulate construction, alteration, etc. § 7492.

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Charters, issuance § 7843 (3).

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Examinations § 7843 (6).

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See Banks.

CONSTABLES

See particular county; also Magistrates.

Pickens County §§ 3811, 3781.

CONSTITUTION OF SOUTH CAROLINA

Amendment proposed.

Art. III, § 32, General Assembly enact legislation provide care or extend financial assistance to certain needy individuals Const. '95, art. III, § 32.

Art. II, § 5, area of certain school districts Const. '95, art. 11, § 5.

Amendment ratified.

Art. III, § 34, Subs, VIII, relating to compensation of county officers eliminated Const. '95, art. III, § 34.

Art. III, § 34, Subs. IX, compensation of county officers Const. '95, art. III, § 34.

Art. III, § 34, divide state in game zones, enact laws protect game in zones art. III, § 34.

Art. 5, § 21, jurisdiction of magistrates, city of Anderson Const. '95, art. 5, § 21.

Sumter county Const. '95, art. 5, § 21.

Art. IX, § 14, name of railroad commission changed to public service commission Const. '95, art. IX, § 14.

Art. IX, § 18, liability of bank stockholders to depositors Const. '95, art. IX, § 18.

Art. X, § 5, bonded indebtedness school district no. 40, Kershaw and Lancaster Counties Const. '95, art. X, § 5.

Anderson, city of, jurisdiction of magistrates Const. '95, art. 5, § 21.

Banks, liability of stockholders Const. '95, art. IX, § 18.

Blind, state aid, Const. '95, art. 3, § 32.

Children, aid Const. '95, art. 3, § 32.

County officers, compensation art. III, § 34.

Destitute, provide for, Const. '95, art. 3, § 32.

Game zones, divide state into Const. '95, art. III, § 34.

Kershaw County, school district 40, bonded indebtedness Const. '95, art. X, § 5.

Lancaster County, school district 40, bonded indebtedness Const. '95, art. X, § 5.

Needy persons, aid Const. '95, art. 3, § 32.

Old age, aid Const. '95, art. 3, § 32.

Public service commission Const. '95, art. IX, § 14.

School districts, area Const. '95, art. XI, § 5.

Sumter county, jurisdiction of magistrates Const. '95, art. 5, § 21.

CONTAINERS

Labeling of commercial feeding stuff §§ 6587, 6589, 6592.

Minimum for whiskey § 1829.

CONTRACTORS

See Workmen's Compensation.

General contracting.

Architects and engineers, duties of § 7084-1 (5).

Definitions § 7084-1 (1).

Exemptions § 7084-1 (6).

Licenses § 7084-1 (3a).

Building without § 7084-1 (3b).

Examination § 7084-1 (3a).

File application for § 7084-1 (3a).

Lost § 7084-1 (3b).

Penalties § 7084-1 (4).

Revoke, re-issue § 7084-1 (3b).

Prosecute for operating or bidding without license § 7084-1 (3b).

Register of applicants for licenses § 7084-1 (2g).

Roster of licensed general contractors § 7084-1 (2g).

State licensing board for contractors § 7084-1 (2a).

Meetings § 7084-1 (2e).

Oath § 7084-1 (2b).

Officers § 7084-1 (2c).

Powers § 7084-1 (2c).

Report annually § 7084-1 (2g).

Seal § 7084-1 (2d).

Secretary, duties of § 7084-1 (2f).

Secretary furnish tax commission names of certain contractors § 7084-1 (5).

Secretary keep records § 7084-1 (2g).

Use of funds § 7084-1 (2f).

Violations, penalty § 7084-1 (4).

CONTRACTS

See Workmen's Compensation.

Agricultural, parol contracts, termination § 8825-1.

Contractors—see Contractors.

Highway construction, give veterans preference in employment § 5882.

Principal and surety jointly and concurrently liable on bonds or insurance § 487.

CONVEYANCES

Real estate § 8694.

CONVICTS

Credit for good behavior § 1578.

Sentence suspended, time run § 1039-1.

Working of § 3831.

COOPERATIVE MARKETING ASSOCIATIONS

Amount of non-member business § 6504.

Powers § 6504.

Articles of incorporation §§ 6506, 6507.

By-laws § 6508.

Membership § 6512.

Stock § 6512.

Voting by stockholders or members § 6512.

COPYRIGHTS

Securities issued for § 8130.

CORN LIQUOR

See Intoxicating Liquors.

CORONERS

Pay of coroner's jurors § 1070.

CORPORATIONS

See Charters.

Charters.

Amended § 7704-2.

Cancellation §§ 7704-1, 7704-2.

Issuance §§ 7704-2, 7726, 7730.

Publish notice § 7726.

Recordation § 7730.

Defunct, cancel charters § 7704-1.

Domestic, payment license fees §§ 2681, 2690-A, 2690-1.

Donations made by, to American Red Cross exempt from income tax § 2449 (12).

Eleemosynary organizations § 8169.

Foreign corporations.

Appoint, not, as administrators, guardians, or committees § 8952.

Publish notice of chartering § 7726.

Recapitalization of § 8124.

Reorganization § 8124.

Securities—See Securities.

COSTS

See Fees.

See particular office; also particular county.

COTTON

Cotton weigher.

Batesburg, town of § 6434.

Florence County § 6426.

Kershaw County § 6429.

COTTON MANUFACTURERS ASSOCIATION OF SOUTH CAROLINA

Board for promotion of external trade, president member § 6681-1.

COTTON MILL

Hours work employees § 1466-1.

Inspection § 3253-13.

COUNTIES

Buildings of, insurance §§ 2180-2195.

Domestic relations court, officer and employee co-operate § 256-1 (22), (47).

Farm marketing centers, etc., over 10,000 establish § 9401.

Fines from liquor law violations § 1829 (14, 23).

Hospital § 5136.

Investment for trust funds § 9051-2.

Motor vehicle licenses, state county § 5894 (16).

Parks, establish § 9400.

Projects, construct or purchase certain §§ 9301-9305.

Public works eminent domain law, exempt from § 9350.

Recreation centers, establish § 9400.

Return of real estate situate in two or more, for taxes § 2608.

Rights-of-way for roads to be constructed with federal funds § 5866-1.

Textbook rental system, establish § 5290-1.

Trucks, issue permits operate § 1624-1 (9).
Reduce width, height, etc. § 1624-1 (9).

Use equipment, materials and supplies of classes produced in this state § 3079-7.

COUNTIES WITH CITY OVER 60,000.

Board of equalization.

Primary elections § 2774.

Board of tax appeals.

Compensation § 2779-A.

Courts of domestic relations § 256-1.

COUNTIES WITH CITY OVER 60,000 (Cont'd)

Municipal primaries § 2383.

Provide adequate sewerage and running water before selling lots in real estate developments § 1504-2.

COUNTY ATTORNEY

See particular county.

COUNTY BOARD OF COMMISSIONERS

Greenville County § 4442.

Lancaster County § 4552-1.

Posting and numbering of highways by § 1613.

Richland County § 3821.

COUNTY BOARD OF DIRECTORS

Darlington County § 4227.

COUNTY BOARD OF EDUCATION

Appointment, powers, etc., § 5335.

See particular county also.

Co-operate with state school book commission § 5290-1 (7).

Teachers, not designate places board § 5477-1.

COUNTY COURT

Charleston County § 281.

Greenville County §§ 118-139.

COUNTY OFFICERS

Compensation Const. '95, art. III, § 34.

COUNTY SUPERINTENDENT OF EDUCATION

State school book commission.

Co-operate with § 5290-1 (7).

Members § 5290-1 (1).

Vacancy § 5309.

COUNTY SUPPLY LAWS

When none enacted § 2081-1.

Darlington County § 4238.

Jasper County § 4510-1.

COUNTY TREASURER

Drainage taxes, collection § 6175.

COURT HOUSES

Counties, cities, etc., purchase or construct § 9305.

COWS

License purchase, Clarendon County § 4186-2.

COYOTES

See Game.

CREDITORS

Lien on real estate sold by court, when lien creditor party §§ 9084-1, 9084-2.

Rights in certain actions, law repealed § 584-1.

Sale of real estate of decedent pay debts §§ 9000, 9011-A.

Wills and codicils not filed within one year after decease of testator, void as to certain § 8945.

CRIMINAL CASES

Appeal from § 1046.

CRIMINAL INVESTIGATOR

Greenville County § 4444.

CRIMINAL OFFENSE

Break into motor vehicle or vessel where kerosene, gasoline or lubricating oil is § 1154-1.

CROPS

Fee record mortgages on § 3636.

CRYSTALIZED OR GLAZED FRUITS

Exempted from business license tax § 2527 (5).

DAIRY PRODUCTS

Counties and cities over 10,000 establish farm marketing centers § 9401.

DAMAGES

Workmen's compensation.

See Workmen's Compensation.

DANCES

Promote, conduct, advertise or participate in certain, unlawful § 1504-1.

DARLINGTON COUNTY

Appropriations, no supply bill enacted § 4238.

Area school districts Const. '95, art. XI, § 5.

Assessment of property § 2737.

Bailiffs, pay § 3518.

Board of county directors § 4227.

Compensation § 4227 (6).

Duties and powers § 4227 (2).

Duties and powers as to forfeited lands § 4227 (5).

Finances § 4227 (3).

Present board abolished § 4229.

Report legislative delegation § 4227 (4).

Sell, lease or rent property acquired through tax sales § 2871.

Circuit court jurors, pay § 632.

Circuit court, terms § 54.

Collection of drainage taxes § 6175.

Collection of fees § 4253-1.

Cost, collection § 4253-1.

County board of education §§ 5320-B, 5335.

Approved contracts expending money § 5320-B.

Fix budget for schools § 5320-B.

County supervisor and purchasing agent § 4228.

Duties § 4228 (2).

County treasurer, bond § 2810.

Delinquent taxes, collection § 2871.

Deposit of public funds § 2810.

Drainage assessments, payment § 6204.

Drainage taxes, collection § 6175.

Fees and costs, collection § 4253-1.

Fiscal year § 4239.

Florence-Darlington tuberculosis sanatorium, levy for § 4253-2.

Forfeited land commission, lands acquired by, disposition § 2167.

Games of chance, no, at carnivals, etc. § 6333.

Hartsville school district 32, borrow annually § 5320-B.

Secretary and treasurer for trustees § 5531.

Highway commission § 4230.

Duties and powers § 4230 (2).

Vacancies § 4230 (3).

Jurors, pay § 632.

DARLINGTON COUNTY (Cont'd)

Lands acquired at tax sales, sell, rent § 2167.

Libraries, Hartsville township § 7347.

Library, establish, when § 7347.

Officials and employees furnish information § 4229.

Practice of law by probate judge § 3663.

Probate judge, practice law § 3663.

Road houses, no license on § 5123-1 (5).

Rolling stores, license § 7121.

School district 2, levy support library § 5320-B.

School districts, area Const. '95, art. XI, § 5.

School, operation § 5320-B.

School system § 5320-B.

School trustees, selection § 5531.

Superintendent of education, vacancy § 5309.

Supply bill, none enacted, previous year's effective §§ 2081-1, 4238.

Tax collector, appointment, term, duties, etc. § 2871.

Assistant, etc. § 2871.

Taxes, drainage, collection § 6175.

Taxes sales, sell, rent, etc., property acquired from § 2167.

Taxes, time bringing actions recover lands sold for § 2871.

Tax levies for Florence-Darlington tuberculosis sanatorium § 4253-2.

Tax levy for weak high schools § 5320-B.

Termination of parol contracts for use of real estate for agricultural purposes § 8825-1.

Terms of circuit court § 54.

Tourist camps, no license on § 5123-1 (5).

Vote on establishing circulating library § 7347.

Voting precincts § 2296 (16).

Weak high schools, levy for § 5320-B.

Year, fiscal § 4239.

DEALERS

Securities—See Securities.

DEATH

Dismissal of appeal from sentence of § 1046.

DEBENTURES

Securities—See Securities.

DEBT

See Creditors.

Lien on real estate sold by court, when lien creditor party §§ 9084-1, 9084-2.

Release of lien on decedent's property sold pay debts § 9011-A.

Sell real estate of deceased pay §§ 9000, 9011-A.

State highway department, limited §§ 5973-4, 5973-5.

DEEDS

See Mortgages and Deeds of Trust.

Forfeited land commission execute deeds for tax lands § 2170.

Real estate § 8694.

DEER

See Game.

DEGREES

Columbia Bible College confer § 5291-A.

DENTISTS

- Advertising of prices § 5210.
- Annual registration abolished § 5204.
- License fees, turn into state treasury § 5216.
- Licenses to practice § 5210.
- State board of dental examiners.
- Compensation and expenses § 5216.
- Secretary and treasurer § 5216.
- Suspension or revocation § 5210.
- Unprofessional conduct § 5210.

DEPARTMENT OF AGRICULTURE AND COMMERCE

- Accept alcoholic liquors for storage § 1829 (28).
- Penalty for removal without affixing stamps § 1829 (28).
- Revolving fund pay insurance premiums § 3253-1.

DEPARTMENT OF AGRICULTURE, COMMERCE AND INDUSTRY

- Call department of agriculture and commerce § 3253-11.

DEPARTMENT OF LABOR

- See Labor.

DEPOSITORS

- For certain waterworks systems § 9305.

DEPOSITS

- See Banks.
- Payment of, joint § 7870.

DESCENT AND DISTRIBUTION

- Sale of real estate of decedents pay debts §§ 9000, 9011-A.
- Workmen's compensation.
- See Workmen's Compensation also.

DESTITUTE

- General assembly enact legislation provide care or extend financial assistance to certain needy individuals, proposed Const. '95, art. III, § 32.

DEVEISEES

- Sale of real estate of decedents pay debts §§ 9000, 9011-A.

DILLON COUNTY

- Area school districts Const. '95, art. XI, § 5.
- Chattel mortgages, recordation of certain, to U. S. § 3637-1.
- Circuit court, terms § 54.
- County hospital § 5136.
- Drainage assessments, payment § 6204.
- Exempt from public works eminent domain law § 9350.
- Fishing, close season in certain streams § 1751-1 (2).
- Forest fire control.
 - Board, appointment, duties, term § 3280.
 - Wardens, patrolmen and towermen, duties, etc. § 3280.
- Hospital § 5136.
- Rolling stores, license § 7121.
- School districts, area Const. '95, art. XI, § 5.
- School system § 5320-C.
- State highway system § 5926 (17).
- Termination of parol contracts for use of real estate for agricultural purposes § 8825-1.
- Terms of circuit court § 54.

DISABILITY

- See Destitute.
- Incontestability of agreements for § 7986.
- Workmen's compensation.
- See Workmen's Compensation.

DISABLED AMERICAN VETERANS OF WORLD WAR

- Emblems, wearing of § 1242.
- Insignia, wearing of § 1242.

DISABLED AMERICAN WAR VETERANS

- Property exempt from taxes § 2578 (42).

DISTILLED SPIRITS

- See Intoxicating Liquors.

DOCKS

- Beaufort, city of, establish and maintain public § 7283.

DOCTORS AND PHYSICIANS

- Workmen's compensation.
- See Doctors under Workmen's Compensation.

DOGS

- Inoculate against rabies § 3427-1.
- Run at large without unlawful § 3427-1.
- Tax.

- Abbeville County § 2610.

- York County § 2619.

- Vaccination and inoculation of, against rabies § 3427-1.

DOMESTIC RELATIONS COURT

- Counties with city over 60,000 § 256-1.
- Appeals § 256-1 (24).
- Authorities co-operate § 256-1 (22).
- Children, arrest of § 256-1 (30).
- Confinement § 256-1 (30).
- Release § 256-1 (34).
- Children, attendance at § 256-1 (19).
- Children's court § 256-1 (4).
- Arrests, discharge, release § 256-1 (34), (30).
- Children, examine § 256-1 (37).
- Medical and surgical care § 256-1 (37).
- Testify § 256-1 (32).
- Clerk, duties § 256-1 (10).
- Guardian ad litem § 256-1 (35).
- Hearings § 256-1 (33), (35).
- Institutions, judge visit § 256-1 (39).
- Judgment, confession, etc., effect of § 256-1 (36), (35), (38).
- Jurisdiction § 256-1 (26), (40).
- New trial § 256-1 (38).
- Orders and judgments modify and vacate § 256-1 (38).
- Procedure when not prescribed § 256-1 (31).
- Proceedings, institute with petition, petitioners § 256-1 (27).
- Summons and other process, service § 256-1 (29).
- Summons, judge direct § 256-1 (28).
- Witnesses § 256-1 (28).
- Clerk § 256-1 (9).
- Attendance § 256-1 (8).
- Duties § 256-1 (10).
- Papers, prepare § 256-1 (11).
- Counsel for court § 256-1 (25).
- Definitions § 256-1 (2).

DOMESTIC RELATIONS COURT (Cont'd)

Counties with city over 60,000 (Cont'd)

Divisions of the court § 256-1 (4).

Established § 256-1 (3).

Family court § 256-1 (40).

Arrests § 256-1 (56).

Arrests when court not in session § 256-1 (62).

Bail, admit to § 256-1 (61).

Compromise issues § 256-1 (49).

Counsel § 256-1 (57).

Death of respondent § 256-1 (69).

Funds forfeited or defaulted, use § 256-1 (69).

Interview respondent § 256-1 (48).

Issues, hear and determine § 256-1 (54).

Jurisdiction § 256-1 (42), (44).

Magistrates, duty as to certain persons § 256-1 (63).

New or additional security § 256-1 (72).

Officials co-operate § 256-1 (47).

Petition § 256-1 (46).

Powers § 256-1 (43).

Presumptions § 256-1 (57).

Probation § 256-1 (59), (60).

Probation officers § 256-1 (9).

Visit person in jail § 256-1 (64).

Relieve surety of liability § 256-1 (70).

Rules § 256-1 (55).

Summons and process, service § 256-1 (53).

Summons, issuance § 256-1 (50).

Support, bond provide § 256-1 (65).

Death of respondent § 256-1 (69).

Default § 256-1 (67), (68).

New bond § 256-1 (66), (72).

Surety, relieve § 256-1 (70).

Support, failure to § 256-1 (58).

Support of wife or child, petition for § 256-1 (45).

Support, temporary § 256-1 (55).

Warrant, form § 256-1 (52).

Warrants, issuance and service § 256-1 (51).

Witnesses § 256-1 (57).

Inspection of records § 256-1 (20).

Judge § 256-1 (5).

Rules and regulations, make § 256-1 (7).

Term, removable, vacancy § 256-1 (6).

Jurisdiction § 256-1 (42), (3), (74).

Separations, divorces and custody of children § 256-1 (44).

Oaths, acknowledgments § 256-1 (14).

Orders and decrees, enforce § 256-1 (23).

Probation officers.

Appointment, etc. § 256-1 (9), (12).

Duties § 256-1 (13), (8), (12).

Make investigations § 256-1 (16).

Supervise probationers § 256-1 (16).

Quarters, furniture, supplies, etc. § 256-1 (18).

Receipts and disbursements § 256-1 (15).

Records § 256-1 (20, 8).

Seal § 256-1 (21).

Terms § 256-1 (17).

DORCHESTER COUNTY

Area school districts Const. '95, art. XI, § 5.

DORCHESTER COUNTY (Cont'd)

Board of directors, term § 4276.

Crop and chattel mortgages, fee to record § 3636.

Directors, term § 4276.

Forfeited land commission.

Appointment, term, duties and powers, etc. §§ 2167, 4299-4.

Not file reports on lands sold §§ 2167, 4299-4.

Harleyville school district no. 9, tax §§ 5356, 5320-D.

Road houses, no license on § 5123-1 (5).

Rolling stores, license § 7121.

School districts, area Const. '95, art. XI, § 5.

Schools, levy for certain § 5320-D.

Tax, Harleyville school district no. 9 §§ 5356, 5320-D.

"The board of county commissioners of Dorchester county" in acts and joint resolutions interpreted § 4299-4.

Tourist camps, no license on § 5123-1 (5).

DRAINAGE

Assessments, payment § 6204.

Bonds, refund § 6210-1.

Collection of drainage taxes § 6175.

Districts refund outstanding bonds § 6210-1.

Outstanding bonds, refund § 6210-1.

Payment of assessments § 6204.

DRUNKS

Sale of whiskey to prohibited § 1829 (10).

EAGLES

Unlawful to catch, hunt, etc., bald eagle § 1751-2 (2).

EATING PLACES

Inspection § 3253-13.

EDGEFIELD COUNTY

Area school districts Const. '95, art. XI, § 5.

Common pleas court open during general sessions § 61.

Hawkers pay license § 7123.

Hunting of quail § 1751.

Quail, season to hunt § 1751.

Road houses, no license on § 5123-1 (5).

Rolling stores, license § 7121.

School districts, area Const. '95, art. XI, § 5.

School system § 5319-4.

Termination of parole contracts for use of real estate for agricultural purposes § 8825-1.

Tourist camps, no license on § 5123-1 (5).

EDUCATIONAL INSTITUTIONS

Purchase of materials and supplies by § 3079-1.

Real estate owned by, exempt from taxes § 2578 (49, 49a).

ELECTIONS

Books of registration, opening and closing regular municipal elections in towns less than 300, supervisors of registration § 2288.

Books of registration, Spartanburg County, time open and close § 2272.

ELECTIONS (Cont'd)

Cities of 25,000 to 29,000.

Qualification of voters § 7631.

Registration and voting in primaries § 7631.

Electors of president and vice-president.

Duties of state officers § 2344.

Time convene § 2343.

Managers require electors offering to vote show payment poll tax due § 2307.

Municipalities, waterworks § 7280-1.

Poll tax, voter pay § 2307.

Primary.

Brookland, Town of § 7665-2.

Cities of 25,000 to 29,000 § 7631.

Cities over 60,000 § 2383.

Counties with city over 60,000 § 2383.

Hours polls open during § 2365.

Nomination of mayor and aldermen, city of Rock Hill § 7665-1.

Time electors of president and vice-president convene §§ 2343, 2344.

Towns less than 300.

Books of registration, opening and closing § 2288.

Supervisor of registration § 2288.

Voting precincts—See Voting Precincts.

ELECTRICAL UTILITIES

Condemnation.

Parties necessary § 7298-1.

Payment of awards § 7298-1.

Maintain meters near state line to measure electricity § 8555-2 (27).

Record and report readings to public service commission § 8555-2 (27).

Rate decision, file bond in appealing from § 8292-1.

ELECTRICITY

See Rural Electrification.

Cities contract furnish § 7300.

Close downs, not charge employees for § 1318-1.

Electric power owned by state, sale § 3081.

Rural electrification—See Rural Electrification.

ELECTRIC LIGHTS

Cities furnish, beyond limits § 7300.

ELECTRIC POWER TAX

Collection §§ 2558, 2561.

ELECTRIC STORAGE BATTERIES

See Storage Batteries.

ELEEMOSYNARY ORGANIZATIONS

Incorporation § 8169.

Real estate owned by, exempt from taxes § 2578 (49, 49a).

EMINENT DOMAIN

Counties, rights-of-way for roads to be constructed by state highway department with federal funds § 5866-1.

Public works eminent domain law § 9350.

EMPLOYER AND EMPLOYEE

Hours work in certain mills § 1466-1.

Post notice stating law of employment of adult persons and children and hours and working conditions § 3253-13.

Trade checks, acquisition, etc., § 1315.

Unemployment compensation—See Unemployment Compensation.

EMPLOYER AND EMPLOYEE

(Cont'd)

Workmen's compensation.

See Workmen's Compensation.

ENGINEERS

Inform bidders of contracting law § 7084-1 (5).

ENTERTAINMENTS

Cities between 5,000 and 6,000 grant exclusive franchise for § 6326.

Exempt from admission tax § 2531.

EPILEPSY

Sterilization of mental defectives and insane persons § 5057-1.

EQUIPMENT

Allendale County, purchase § 3955-2.

Use on public works and in public business, of classes produced in this state, when § 3079-7.

ESCROW

Securities—See Securities.

ESTATES OF DECEDENTS

Sale of real estate of decedents pay debts §§ 9000, 9011-A.

ESTATE TAX

See this title under Taxes.

ESTILL, TOWN OF

Library, tax exempt § 2578 (57).

Recreation hall, tax exempt § 2578 (57).

ESTRAYS

Time to advertise § 6272.

EVIDENCE

Investigation by aeronautics association, use of § 7112 (13).

Securities law—See Securities.

Workmen's compensation law not to admit as, in tort actions not arising thereunder § 7035-14.

EXECUTION SALE

Lien on real estate sold by court, when lien creditor party §§ 9084-1, 9084-2.

EXECUTORS AND ADMINISTRATORS

Alcoholic liquor license, stock, disposition § 1829 (5).

Estate tax—see this title under Taxes.

Foreign corporations, appointment as § 8952.

Investment for §§ 9051-2, 9051-3.

Returns, filing § 9012.

Sale of real estate of decedents pay debts §§ 9000, 9011-A.

Wills and codicils not filed within one year after decease of testator void as to certain purchases, etc. § 8945.

EX-SERVICE MEN

See Veterans.

EXTENSIONS

Recordation §§ 8875, 8875-1, 8875-2.

FACTORIES

Inspection § 3253-13.

FAIRFIELD COUNTY

Agricultural board, duties, etc. § 5773-1.
Appropriations for hospitalization of needy persons, administration § 4321.
Bethel park commission § 9400.
Coroner's jurors, pay § 1070.
Fee record chattel mortgages to U. S. § 3636.
Forfeited land commission, agent § 2873.
Hawkers pay license § 7123.
Hospitalization of needy persons, administration of appropriations for § 4321.
Hours polls open during primary elections § 2365.
Magistrate at Winnsboro mill village § 3764.
Pay of coroner's jurors § 1070.
Primary elections, hours polls open during § 2365.
Rent school books § 5290-1.
Rolling stores, license § 7121.
School books, rent § 5290-1.
School system § 5319-5.
Sheriff account and settle for tax execution § 2873.
Tax commissioner, appointment, power, duties, etc. § 2873.
Terrace farm lands § 5773-1.
Winnsboro Mills, magistrate § 3764.

FAIRS

See Carnivals.
Exhibiting of tent shows and carnivals §§ 6327, 6333.
License fees for traveling shows and circuses § 6327.

FARM CREDIT ACT OF 1933

See United States.

FARM CREDIT ADMINISTRATION

Chattel mortgages executed to, description § 8713.

FARM MARKETING CENTER

Counties and cities over 10,000 established § 9401.

FARMS

See Agriculture.
Assent given to act of congress providing for.
Research into agriculture, etc. § 5744-1.
Soil conservation § 5744-2.

FEDERAL AGENCIES

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Recordation of conveyances or mortgages of personalty to § 3637-1.
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Catch, kill, possess or transport, or attempt to, any, in violation of chapter 84, unlawful § 1769.

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Foxes, declare open season on § 1768-1.

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Deer, season hunt, Horry County § 1751-2 (4).

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Colleges and universities get copies § 2109 (37, 38).

Lobbying and lobbyists regulated § 2070-1.

Provide care or extend financial assistance to certain needy individuals, proposed Const. '95, art. III, § 32.

Supply bill, when none enacted.

Darlington County § 4238.

Jasper County § 4510-1.

"The board of county commissioners of Dorchester County" in, interpreted § 4299-4.

Transmit library of Congress §§ 2135-1, 2109 (19).

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Break into motor vehicle or vessel where kerosene, gasoline or lubricating oil is kept, to § 1154-1.

STERILIZATION OF MENTAL DEFECTIVES AND INSANE PERSONS

Penal institutions petition state board of health sterilize certain inmates § 5057-1.

Procedure, if authorized § 5057-1 (1).

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Commercial feeds.

Labeling of § 6587, 6589, 6592.

Preferred, issued by banks exempt from taxes § 2578 (53).

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STORES

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Clear water streams, Sumter County § 1751-1 (4).

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Advertise whiskey on billboards on unlawful § 1829 (25).

Chester, city of, repair; collect street taxes § 7438.

Provide, before selling lots in real estate developments in counties with city over 60,000 § 1504-2.

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Shad and sturgeon nets, removal from banks of streams § 1751-1 (10).

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Manufacturing enterprises exempt from taxes § 2590.
Officers, salaries of certain § 4812.
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Rural police assist tax collector § 2883-1.
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TELEPHONE COMPANIES

Condemnation.

Parties necessary § 7298-1.

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Commissioner of agriculture and commerce pay costs in storing and warehousing intoxicating liquors § 1829 (28).

WATEREE RIVER

State highway department purchase toll bridge over § 5926 (28).

WATER, WATER COURSES, ETC.

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Cities contract furnish § 7300.

Clear water streams § 1751-1 (4).

Close downs, not charge employees for § 1318-1.

Fraudulent watering of salt pork meats § 1279-1.

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Sanctuaries for marine life, Charleston County § 3414-3.

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Condemnation.

Parties necessary § 7298-1.

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Rate decision, file bond in appealing from § 8292-1.

WHISKEY

See Intoxicating Liquors.

WHOLESALEERS

Beer, ale, etc., tax include municipal license for delivery by § 2557-1 (9).

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Area school districts Const. '95, art. XI, § 5.

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Road houses, no license on § 5123-1 (5).

School district no. 16, trustees § 5591.

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Tax executions.

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Termination of parol contracts for use of real estate for agricultural purposes § 8825-1.

Tourist camps, no license on § 5123-1 (5).

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File within one year after decease of testator, if not, void as to certain purchasers and encumbrances § 8945.

Sell real estate of deceased pay debts §§ 9000, 9011-A.

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Certain natural, non-alcoholic and non-intoxicating, tax § 2557-1.

License tax for brewers and makers § 2557-1 (11).

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"Retailer" defined § 2557 (7).

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WORKMEN'S COMPENSATION

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(Cont'd)

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Effect of 1932 Acts

Black face type refers to page of acts. Light face type refers to sections in 1932 Code and this supplement. a—amend; r—repeal; s—supersede; x—refer; n—new. See tables in 1934 Supplement, also.

1112	x-5319-23	a-2296	a-3884	x-2878	x-2795	1492
a-2816	1197	1287	1364	1407	1457	x-2795
1117	x-5318	a-5414	a-5309	n-4784	a-2578	1535
x-5320-C	s-5402	1312	1366	1408	a-2296	s-6429
x-5335	1199	a-1768-1	x-5320-G	x-7281	1462	1539
1118	x-2167	1318	1370	1409	x-7112	x-2880-3
x-3479	1201	x-3286	a-1828-1	r-7283	1465	1550
1136	r-4733	1321	1374	1412	a-7460	x-3286
s-2878	1213	x-5319-16	x-3831	a-5320-K	1471	1558
1129	a- 54	1330	1375	1415	n-6229	x-2795
x-7665-1	1221	x-5319-8	a- 62	x-5319-23	1476	1560
1147	r-4517	1332	1380	x-5319-23	x-5320-K	x-2795
r-7203	1226	a-2296	r-4779	1419	1480	1726
1149	x-5319-8	1335	1385	a-2296	r-1800	x-2578
a-7381	1228	a- 63	r-4780	1434	a-1800-1	1727
1157	r-2207	1338	1386	x-5319-12	1482	x-2578
x-5593	1236	s-5593	a-1751-2	1441	a-5413	1737
s-5571	x-5319-23	1343	x-5319-13	s-4351	1485	x-7438
s-5572	1245	x-4453-1	x-5335	1441	r-7545	1797
s-5651	r-4907	x-4467	1388	x-4351	r-7546	x-5320-B
s-5661	r-4913	to 1348	x-2795	1441	r-7548	1874
1171	r-4918	x-2795	1390	s-4362	r-7549	x-5320-E
x-3678	1267	1352	1399	s-4363	r-7550	1834
1176	x-2795	a-3884	a- 58	1443	1491	x-7112
r-4441	to 1268	1359	1393	1443	r-5624	1858
r-4447	r-3777	x-2795	x-7283	x-2795	r-5638	x-4442
1177	1283	1363	1404	1447		

Effect of 1933 Acts

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8	49	90	r-4046	175	n-3253-1	265
a- 632	x-4923	s-3811	125	a-2296	238	x-2578
r-2758	54	92	x-3678	176	a-2296	270
9	x-5350	r-3799	132	x-9150	239	x-4442
r-2971	64	r-3805	a-5572	208	x-5369	276
14	a-7414	95	136	r-4321	s-5369	x-2795
a- 632	69	x-2795	a- 56	217	245	277
15	r-2621	110	147	x-2795	a-2610	a-7283
r-4503	76	x-2795	x-2795	219	248	287
17	a- 632	111	151	x-2795	x-3286	x-2557-1
x-3678	78	r- 633	a- 55	220	a-4023	292
21	x-2854	a- 632	158	x-6229	255	a-6367
x-5319-15	r-2872	113	x-2854	226	x-5437	295
x-5335	79	x-5320-D	159	s-5571	256	x-2795
22	x-1790	x-5335	r-4447	s-5572	n-3479	297
r-4693	83	114	160	228	259	x-7843
25	x-5582	x-5319-8	x-2883-1	x-2795	x-3286	320
x-2578	86	x-5356	161	234	263	a- 52
45	r-3813	n-5359	a-5571	a-2296	a-7414	322
x-4942	r-5864-A	116	a-5593	236	n-4784	x-2795

324	r-4621	390	x-1829	x-7281	x-3765	567
x-2795	r-4622	x-2795	x-2557-1	470	522	s-5320-K
x-2795	348	391	427	x-2795	x-2795	r-5478
326	x-2795	x-5319	x-2795	473	531	r-5480 to
x-2795	348	394	430	r-4210	x-5320-F	5484
327	r-4146	r-4765	x-2795	475	532	576
x-2854	353	r-4766	x-2795	x-2795	x-2167	x-2557-1
329	x-2795	r-4767	433	484	x-2795	581
x-3286	355	r-4768	x-5593	x-2578	535	x-2557-1
330	x-2795	r-4769	437	493	x-5552-1	x-1829
x-5319-11	357	398	a-1755	a-5369	540	583
x-5335	a-2296	x-2854	438	495	x-2795	r-2823
331	359	399	a-1752	x-5315	541	650
x-2795	x-3751	a-2737	439	x-5335	x-5894	r-5791
x-2795	360	407	x-1829	499	543	r-5712
333	r-3752	x-5319-2	x-2557-1	x-2795	x-2795	774
a-1751-1	a-6175	x-5474	443	507	553	x-5319-1
334	368	410	x-2795	a-1828-1	x-5319-16	x-5319-8
x-5308	x-5316-1	x-5413	451	508	556	805
335	x-5335	x-5437	a-2810	x-5319-11	x-2795	x-5320
x-2795	370	411	458	511	561	829
341	x-2795	x-9305	a-5414	x-1829	x-2880-3	x-2795
n-1624-1	386	423	462	x-2557-1	565	1063
a-5894	x-2825-2	x-2795	x-2795	515	a- 977	a-5926
x-1617	387	x-2795	466	x-7281	566	1166
1624	a-1751-1	426	x-3781	516	x-5320-J	a-1751-1
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1191	a-2296	1284	1340	x-8952	r-3960	1521
a-2296	1240	x-2854	x-5478	1404	r-3962	a-8875
1193	a- 57	1289	x-4942	a-1751-2	1449	1534
x-5320-F	1242	a- 57	r-5478	1408	x-2795	n-2737
1194	a- 62	1300	1341	x-2795	1450	1538
x-7112	1244	x-5320-F	a-2296	1414	a-1751-2	x-2296
1197	x-3286	1304	1348	a-2296	1455	1539
s-4667	1446	r-7768	x-5894	1415	x-3280	a- 64
s-4684-1	a- 58	r-7771	1358	x-2296	1462	1541
1199	1249	1307	x-2878	1417	n-8875-2	x-5926-(24)
a- 56	a-1751	x-9305	1363	x-7665-1	1463	1543
1201	r-1800-1	1309	x-5894	1420	n-6204	x-9305
x-3678	1254	x-5894	a-2296	x-5643	1466	1557
1202	a- 56	1310	1366	1422	a- 53	r-4757
x-4441	1255	r-1786	n-2168	r-5431	1473	r-4758
1206	x-2795	1311	1368	1425	x-7281	r-4760
a-7300	1258	x-1617	x-9151	a-4671	1474	r-4760
1207	x-7283	r-5894	1381	1430	x-2854	1559
n-2737	1259	a-1624-1	a-2365	x-5523	x-5320-G	r-2827
x-5318	r-2769	1312	1382	x-5369	1476	1562
1208	x-5413	a-2296	x-5319-8	1432	a-2296	x-5478
x-2871	x-5437	1313	x-5356	x-7281	1484	1573
1210	1260	x-2167	1383	1434	a-6333	x-2590
n-3286	a- 51	a-2177	a-2365	x-6229	1491	1576
1211	1264	1314	1384	1437	r- 118	a-2296
x-2578	a-2296	x-6042-2	x-2795	x-7283	r- 140	x-7437
1221	1264	1325	1387	1439	1492	1580
x-5478	a-2296	n-2737	a-5557	x-2557-1	a-3637-1	x-2167
1223	1265	1326	1392	1442	1498	1591
a-2365	r-2871	r-4210	a-2296	x-5478	a-2296	x-5356
a- 55	1275	1329	1394	1443	1505	1595
1231	a-2296	r-2104	x-9305	a-2365	x-5319	1595
r-2871	1278	1333	1400	1447	1506	x-5413
1232	x-5319-2	x-2177	a- 54	r-3956	x-5547	1598
a- 62	1282	1337	a-2296	r-3957	1518	a- 632
1238	x-5894	a-2296	1402	r-3958	n-8875-1	x-2854

1600	1686	x-5356	x-2795	x-2795	x-5136	x-5319-24
r-5388	r-5296	1744	1900	2001	2119	2229
1602	5305	x-2795	x-2795	x-2795	x-2795	x-2795
a-2365	1686	1748	1930	2004	2148	2230
1611	r-5769	x-7374	x-5320-D	x-5319-8	x-5320-1	x-5319-25
x-3280	r-5770	1820	1948	2020	2172	2259
1615	r-5772	x-5319	x-4321	x-9308	x-7347	n-6210-1
n-2737	r-5777 to	1849	1949	2027	2179	2262
1651	5783	x-2795	x-9400	a-2578	x-5319-22	n-3253-1
x-5478	r-5793	1862	1951	2051	2193	n-5926
1686	r-5797	x-2795	x-2795	x-2795	x-2795	2264
r-5441	1718	1887	1968	2070	2200	x-5926
r-5765 to	x-5136	x-2795	x-2795	x-9400	x-5319-23	2278
5768	1726	1893	1974	2105	2212	x-5319-15

Effect of 1935 Acts

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2	39	n-9051-3	n-4077-5	a-1504-1	a- 977	a-5413
n-7280-1	a-7437	68	110	150	194	232
3	41	s-4812	s-6429	n-3284-3	a-2296	a-4778
n-2070-1	x-2167	69	111	151	196	234
5	x-3286	a-7935-1	x-9400	a- 540	a-8028	a-2578
n-5036	42	70	120	154	198	x-7620
6	a-2820	a-2610	x-6042-2	n-3902-2	n-4225-2	235
r- 118 to	44	71	124	155	200	a-1771
140	n-6204	n-6010-2	a-4937	a-3774	a-5926	236
15	45	80	125	n-4077-7	202	a-7870
r-3895	x-4925	n-4873-1	a-3760	157	a-6688	237
17	46	81	126	x-2878	203	a- 56
n-3898	a- 131	x-5320-E	r-4733	158	a-8399	238
18	r-7868	83	127	x-2876-1	205	x-3286
a-3886	47	x-2090	x-5319-15	161	a-6512	239
19	a-5926-(13)	x-5474	x-5335	x-2883-3	207	x-2873
a- 972-2	48	85	x-5571	163	a-8073	x-4185
20	a-2383	n-6229	x-5572	a-6504	a-8555-2	x-5523
a- 972-3	r-4063	87	129	a-6505	209	242
21	49	a- 64	a-2578	a-6508	x-3286	a-1759
a-2296	x-4441	88	130	168	210	243
22	51	a- 19	s-4667	a-3081	x-3971	x-5478
x-3821	r-1639-1	a- 41	s-4684-1	169	211	244
23	x-2866	89	a-5291-A	a-7910-7	n-4529-3	a-2527
x-4444	55	x-3777	131	n-7910-8	212	246
26	n- 44	91	x-3776	170	a-3757	x-4446
x-3286	57	x-2878	n-4644-1	r-1769	214	247
27	a-2296	x-5474	132	a-3765	x-3636	a-2736
x-5315	x-5319-17	92	x-5547	171	216	248
x-5335	x-5335	x-5514-1	133	a-2816	x-3785	x-4907
28	58	94	a-5478	173	x-5136	249
a-7935-1	r-5582	a-1956	x-5478	r-5223 to	218	a- 437
29	a-5926	95	135	5231	x-2795	251
x-7211	60	x-3956	a-2681	180	219	a-1626-2
x-8248	a-2737	x-3957	a-2690-A	x-5231-1 to	a-7054	a-1751-1
x-8288	a-4276	97	a-2690-1	5231-17	220	252
x-8289	61	a-2296	137	n-5231-18	a- 632	x-9401
n-8292-1	a-5926	n-7271-1	x-3805	185	a-5472	253
30	62	99	140	n-2520-1	222	x-3636
x-2871	n-4784-1	x-3831	a-1768	186	x-3777	254
n-3769	x-5894	101	142	x-3280	223	n-4723-1
33	64	x-3286	a-7631	190	x-5648	256
a-4253-1	n-4372-2	102	146	a-8945	x-5562-1	x-3280
34	x-5591	a-2794	r-5643	191	225	259
x-3776	65	x-5567	147	n-8875-2	a-1751-2	r- 584-1
35	x-4757	103	a-9012	192	x-3286	260
a-1751	66	x-2871	148	a-8876	227	n-5970
36	n-1315	107	a-4761	a-8879	x-6272	261
x-4445	67	a-2619	149	193	229	n-3636

262	r-4210	342	x-4453	x-4916	x-3751	494
a-1184	291	n-5052	x-4453-1	408	446	x-9305
263	a-7437	344	x-5531	x-5567	x-5320-K	497
x-2557-1	294	x-3280	378	410	447	x-3280
264	a-5359	347	n-3286	n-4597-3	n-7112	501
a-5873	295	x-5528	379	411	456	x-9151
265	x-3280	348	a-2195	x-5508	a-2296	503
x-2795	299	r-2825-2	n-3079-2	416	n-5309	a-9084-1
266	x-3831	x-3773	381	x-4622	457	n-9084-2
n-6333	300	349	n-4597-5	x-5319-12	x-5511-1	592
x-6333	x-7283	a- 656	a-5713	x-5335	458	n-3695
268	302	a-8522	382	419	x-3678	609
x-2557-1	n-3079-1	350	x-1758	x-5539	459	x-9308
269	303	x-5593	n-7829-1	420	x-3831	613
a-8713	a-7986	354	383	a-1751-1	461	x-9308
270	304	x-1829	a-2816	421	a-2058	653
x-3280	x-4925	x-2557-1	384	a-1751-2	462	x-7438
273	x-5290-1	r-7704-1	a-2527	n-6333	n-3427-1	663
a-3586	306	n-7704-2	x-5320-J	x-6333	463	x-5136
274	n-3636	355	x-5335	423	a-1751	715
a-2296	307	n-5926-1	385	n-3079-7	465	x-9308
275	n-8712-3	356	x-3755	424	a-2427	717
x-2558	308	a-5908	386	x-9151	n-7835-1	x-9308
x-2561	a- 52	358	a-2244	425	467	719
276	309	a-2578	387	x-2795	a-1578	x-9308
a-2557-1	x-5320-F	362	x-8952	427	a-2557-1	749
278	311	a-2296	388	n-5404	x-5478	x-9308
a- 119	n-3752	363	n-6333	428	472	856
280	325	n-5289-1	389	n-5057-1	a-7121	x-7238
n-9011-A	r-1829	364	x-5136	431	475	886
282	r-1836	n-2737	392	a-1039-1	a-5926	x-7374
a-2307	r-1846	n-2749	a-7123	432	476	913
a-2531	r-1847	365	393	n-3884	n-1961	x-5773-1
283	r-1849	x-2527	x-2883-1	434	a-5926	917
a-1751-1	r-1850	r-4405	395	x-3280	477	x-5926
284	r-1851	r-5332	x-2167	435	x- 540	956
a- 281	r-1852	367	397	x-5136	478	x-9308
x-5474	r-1857	a-3637-1	n-6681-1	439	n-1154-1	1072
286	r-1858	370	398	n-5309	n-3295-1	x-9308
a-1751-2	r-1860	n-4597-4	a-2854	x-5320-B	480	1091
287	r-1872	to x-5320-B	n-2855	x-5335	a-1636	x-9305
n-9051-2	1884	372	404	440	481	1146
288	r-1886	to a-1761-A	x-5319-16	a- 54	a-4467	x-9308
n-6327	1892	374	405	x-4351	482	1159
x-6327	r-1894	to x-1829	a- 57	442	n-7853-3	x-9308
289	1902	x-2557-1	406	a-8111	490	1211
n-6005	x-1834	375	n- 487	443	n-5696-1	a-1829
290	x-1864	n-5049	a-6326	a-3637-1	493	x-2557-1
x-2167	a-2557-1	377	407	445	n-7835-2	1214
						n-3284-3

Effect of 1936 Acts

Black face type refers to page of acts. Light face type refers to sections in 1932 Code and this supplement. a—amend; r—repeal; s—supersede; x—refer; n—new. See tables in 1934 Supplement, also.

1231	1294	a-5926	x-5319-1	a-2109	1326	x-5474
n-7035-1 to	a-9078-1	1304	1311	1318	x-5136	1336
7035-76	1296	a- 632	x-3286	a-4253-1	1329	a- 62
1268	a-2296	n-3764	1312	1319	x-4517	a-1729
x-9350	1297	a-6426	a-7460	a-2966-1	1330	1337
1281	a-1070	1305	1313	1320	x-5319-23	a-7726
x-7545	1298	a-2167	a-7414	a-7730	1331	1339
1288	x-3636	1306	1314	1321	x-2167	x-4046
a-7381	x-5319-1	a-1046	n-3579	a- 632	x-2177	a-5341-1
1289	1299	1307	a-7403	r-8169	1332	1340
r-2810	r-3663	x-7665-2	1315	1322	a- 61	n- 622
1290	x-9305	1308	a- 632	n-6681-2	1333	x-5777
x-3636	1301	a-1829	1316	1324	x-3636	1341
x-7437	x-8694	1309	x-3815	x-3636	1334	a-5413
1293	1303	n-5866-1	1317	1325	x-2167	1342
a-2578	a-1751-2	1310	a-1759	x-3895	1335	n-1154-1

1343	x-4238	x-7665-1	1472	1548	1611	r-3414
n-2288	1381	1432	x- 932	a-2109	x-5894	1649
1344	a-7414	n-4569-1	x-5711	1549	1612	n-1603-1
x-5539	1383	1433	x-5320-J	n-5290-1	a-2712	1650
r-5542	x-5539	a-2608	1473	1556	1613	a-2578
1345	1384	a-4671	n-8875-4	a-1829	x-5550	1651
x-4925	n-2272	1434	1474	1557	1615	x-2343
1346	1385	x-5319-10	n-3752	r-5867	x-3223	x-2344
n-1279-1	x-3375	1435	1477	n-5867-1	n-3253-11 to	1652
1347	n-3414-2	x- 290	x-2557-1	x-5894	3253-16	a-2578
x-5539	1386	a- 931-1	1478	n-5973-4	1619	1653
1348	x-2214	x- 952	x-2081-1	1568	a-5882	a-4724
x-4494	1387	n-4761	a-4510-1	n-1466-1	n-6327	n-6333
r-4494-1	a-8875	x-7251	1479	1571	1620	1654
1349	1389	1436	x-2167	r-1613	a-5926	x-5315
a-2170	x-2830	x-3804-3	1480	a-1751-1	1621	x-5335
1350	1390	1438	a-1242	1572	n-3971-2	x-5501
x- 24	n-3479	a-4023	a-7281	x-5290-1	n-4026	x-5508
x-2109	n-3486	1439	1481	1573	1624	1658
n-2135-1	1392	n-4406	a- 53	x-5290-1	a-1829	x-5319-12
1351	x-5514-1	1440	1482	1575	a-5926	x-5474
a-1829	1393	x-3776	n-1504-2	a-2170	1625	x-5562-1
1353	n-4075-2	x-7347	1484	a-2365	a-4689	1660
a-2296	r-6434	1442	a-2296	1577	1627	x-7347
n-3072-1	1394	n-4502-1	x-7843	x-5528	x-2167	1662
1355	x-5552-1	x-5320-B	a-7853-3	1578	1628	n-4077-9
n-7910-9	1395	1443	1491	x-5290-1	n-3782	1663
n-7910-10	n-4873-2	x-4253-2	a-3757	1581	1629	a-2296
a-7910-11	x-5413	s-5928	1493	x-5290-1	n-3787	n-3955-1
a-7910-12	1397	n-5928	x-3781	1583	1630	1664
n-7910-13	x-2578	1444	x-3811	a-7300	n-4186-2	x-5551
1357	1398	a-5926	1494	1585	1631	1665
a-8039	n-4077-6	1445	a-8877	x-3286	n-5359	a-1751-1
1358	1399	x-2774	1495	1586	1632	1666
n-7528-1	n-1631-1	1446	a-7869	n-4597-6	a-1751-1	a-2578
1359	1401	x-2883-1	1497	1587	1633	1668
n-8825-1	a-6367	x-4442	a-5926	a-1751-2	x-3797-1	r-2180 to
1360	1402	1447	1498	x-4914	1635	2195
x-3479	a-5926	n-4138-2	x-3413	1588	a-1624-2	r-2185
x-4466	1403	1448	1499	x-5136	1636	1673
r-7091	x-5582	a-5744-1	n- 256-1	1589	a-1751-2	x-3777
1361	1405	1449	1526	a-8875-3	a-5926	1675
r-5204	x-7347	n-4644-2	x-5290-1	1591	1637	n-7084-1
a-5210	1407	1450	1528	a-2531	x-5369	1680
1364	a-2365	x-2865-3	a-1962	1592	x-5523	x-5320-D
a-5216	1408	1454	a-2296	a-6587	1638	x-5356
1365	x-2168	x-5290-1	1530	a-6589	x-4442	1681
a-2805	x-3427-1	1456	x-2866	a-6592	1641	a-2449
1366	1410	a-1829	1531	1594	x-7492	x-5290-1
a-8103	n-4684-1	a-3125	x-3678	x-4146	1642	1682
1368	1411	1457	n-3680-2	a-9085	x-2880-3	n-1688-1
r-5320	a-5414	a-5926	a-5744-2	1596	1643	1683
x-7281	1412	1458	1533	a-1751-1	a-5926	x-4503
1369	x-3375	a- 626-1	x-3380	n-3938-2	1644	x-5290-1
a-1751-1	x-3414	a-2365	1534	1597	x-3299	1686
1370	1413	1459	x-3378	a-2296	a-3303	x-5773-1
a-5860	n-3414-3	x-5773-1	1535	1598	a-3307	1687
a-5926	1416	1460	a-1751-1	x-5531	a-3320	n-4227 to
1371	a-4950	x-3785	n-3711	1601	a-3329	4231
x-7347	1419	1462	1537	a-5926	a-3330	r-4236
1375	x-4239	n-4873-3	n-4077-8	1603	a-3332	r-4238
n-7528-1	x-5318	1464	1540	x-5320-B	a-3337	r-4239
1376	1420	x-4917	a-4555-1	1604	a-3338	1693
n-4077-4	r-9000 to	1465	1541	x-2249-1	a-3339	x-5320-F
1377	9007	n-4784	x-3474	1606	a-3340	n-5477-1
a-2531	1424	1466	x-5290-1	x-5561	a-3345	1694
r-3781	x-3942	a-2774	1543	1608	a-3359	x-2249-2
x-3811	n-3955-2	1467	x-2167	a-6426	r-3302	1696
1379	r-5595	x-5773-1	1544	1609	r-3319	x-5290-1
x-5319-23	1426	1469	x-3518	a-2296	r-3333	1698
1380	x-7665-1	a-5926	1545	r-4491	r-3334	x-5319-1
x-2081-1	1431	1470	a-1751-1	r-4492	r-3335	1699
r-4077-10	a- 626-2	x-5474	x-2167	r-4494	r-3336	a-2365

a-2578	n-5350	1749	1767	1777	1792	x-5773-1
1700	x-5403	a- 977	a-1828-1	a-5926	x-5320-G	2353
a-1768	1710	1750	1768	1778	1793	x-9308
1701	x-5319-11	x-3427-1	n-2504-1	n-5123-1	x-4779	2365
n-4723-4	x-5335	1751	1769	1779	n-5973-5	x-2816
x-5319-23	1711	a-5926	x-5474	a-3081	1805	2590
x-5335	a-2296	1752	1770	1780	r-2700	x-5136
1704	1712	a-1768	a-2244	a-1829	1909	2608
x-5319-8	n-1632-1	1753	1771	x-2557-1	x-2795	x-5319-22
x-5356	a-5926	x-5561	a-2531	1786	2076	2629
1706	1713	1754	1772	n-4299-4	x-9308	x-5773-1
a-5413	n-1693	a-2296	a-1751-1	1787	2094	2674
1707	x-7843	1755	1773	x-5319-12	x-5926	x-9308
a-2296	1714	x-2167	a-2779-A	1788	2219	2705
x-2590	x-9308	n-4738-3	1774	x-5320-I	x-5136	x-4997
1708	1716	1765	x-7347	1790	2288	2711
n-2737	n-7035-81 to	a-5557	1775	n-4723-5	x-7238	x-9501
n-2749	7035-102	1766	x-3636	x-5136	2292	2722
1709	1747	x-4915	1776	1791	x-2597	x-9201 to
x-5320-J	a-6175	a-7836-1	x-2795	x-7374	2328	9212





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