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THE SOUTH CAROLINA LAW QUARTERLY

VOL. I

SEPTEMBER, 1948

PART I

FOREWORD

TO THE MEMBERS OF THE SOUTH CAROLINA BAR ASSOCIATION:

In this, the initial issue of The South Carolina Law Quarterly, it is hoped, and confidently anticipated, that a very effective instrumentality for the promotion and betterment of the standards of the Bar of South Carolina has been created. Your Executive Committee feels that the publication of this Law Quarterly by the joint efforts of the members of the South Carolina Bar Association and the Faculty and Students of the University of South Carolina School of Law will prove a decided step forward in promoting a closer and more harmonious relationship between the present and future lawyers of this State, and that the future will establish unquestionably that this is one of the most worthwhile undertakings in which your Bar Association has ever engaged.

The South Carolina Law Quarterly should be of great interest, and practical value, to the practicing lawyers and law students of this State, and it is unqualifiedly expected that it will reflect honor upon, and be a credit to, those engaged in and sponsoring its publication.

The support and assistance of all members of the Bar Association in making this undertaking a continuing success is earnestly solicited and respectfully requested.

FRANK H. BAILEY

EDWARD W. MULLINS

J. MEANS MCFADDEN

Executive Committee.

EDITOR'S FOREWORD

It is with a great deal of satisfaction, and a touch of pride, that we of the Editorial Staff present the first issue of our new publication, *The South Carolina Law Quarterly*, which is to be the successor to *The Year Book of the Selden Society*.

It is to be a joint enterprise in every sense of the word—both editorially and financially. The Faculty and students of the University Law School are fortunate to be able to share in such an undertaking with the South Carolina Bar Association, and we hope by this means to bind even closer than before those ties between present and future members of the legal profession of this state. Even a cursory reading of the transactions of the South Carolina Bar Association through the years will demonstrate the keen interest and pride that members of this state's Bar and Bench have shown in the legal training of their neophyte lawyers.

As the name implies, the publication is to be a quarterly. One issue, ordinarily the Spring issue, is to be devoted to the transactions of the South Carolina Bar Association; for this year only, the proceedings are to be in this, the Fall issue. Remaining issues will be devoted to articles, reviews of recent South Carolina and Federal cases, contemporary legislation, book reviews, and biographies, with the view ever in mind to make the publication of great practical value to the attorney with his everyday problems. Members of the Bar and Bench are encouraged to submit articles and ideas. Comment on our first issue will be especially welcomed.

In accordance with the ideas expressed above, we are grateful for the contributions for this our initial issue, and for the encouragement given us by these men and women, as well as by that interest and encouragement from lawyers throughout the state. We extend our thanks to our distinguished jurist, Judge L. D. Lide, of Marion, S. C., for his article on *The Uniform Declaratory Judgments Act* and for the scholarly companion article on *The Uniform Simultaneous Death Act* by (Miss) James M. Perry of Greenville, S. C. Possible modification of the "Last Clear Chance" Doctrine in S. C. is the subject of an article by A. L. Hardee of the Florence, S. C., bar. Samuel Want of Darlington, S. C., has prepared a timely case note for us on a matter involving statutory officers. And as a capstone, Abbott M. Sellers of the Department of Justice, Tax Division, Washington, D. C., has authored an opportune treatise on *Disposing of Federal Tax Litigation Extra-Judicially*.

WILLIAM B. TYSON

THE SOUTH CAROLINA LAW QUARTERLY

VOL. I

DECEMBER, 1948

PART II

EDITOR'S FOREWORD

With the publication of this, Part II of Volume I of *The South Carolina Law Quarterly*, the publication of the Transactions of the Fifty-Fourth Annual Meeting of The South Carolina Bar Association is completed.

Part III of Volume 1, to be published in March, 1949, will be sent only to the subscribers to *The Law Quarterly*.

The response of the Bench and Bar of South Carolina, and elsewhere, to the effort which we are making has been large, encouraging and gratifying. Those of us who have had some part in its publication are grateful for this response, and take this opportunity to express our gratitude.

Of interest to every member of the legal profession in South Carolina, was a compliment recently paid our Supreme Court by a nationally known law teacher, Professor W. Barton Leach of Harvard University. In his class on October sixteenth, past, Professor Leach called attention to the need in any organized society of certainty in the law. He went on to tell of the dilemma suffered by the lawyers of this country because of the lack of this certainty in a great many instances. As an example of this uncertainty, he cited the fact that the Supreme Court of the United States, during the recent period from 1939 to 1946, had overruled thirty-eight and one-half (38½%) per cent of all the previous decisions ever overruled by that court. Professor Leach then called attention to the Supreme Court of South Carolina as being one of the finest in this country from the standpoint of predictability.

We are indeed fortunate in having such excellent contributions in this issue. Of interest to practitioners, as well as real estate dealers, will be the article *Landlord and Tenant in South Carolina* by John C. Bruton of the Columbia, S. C., Bar. Of interest to all who have any interest in the subject of insurance law, will be the article by Hugh C. Howser, of

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the Nashville, Tenn., Bar, *The Awarding of Punitive Damages
for Breach of Insurance Contracts in South Carolina*. The ex-
cellent article by Joseph M. Jones, *The Administrative Phase
of Tax Practice*, will be a welcomed addition to any Tax
Library, regardless of size, and will, in conjunction with the
articles on Taxation published previously, round out the sub-
ject discussed. In Part II of Volume I, *The Law Quarterly*
resumes the practice of The Selden Society Yearbook of having
student case note contributions. This issue contains in addi-
tion, an excellent full length article by one of the leading mem-
bers of the Senior Class, William A. Cook, *The Effect of Pur-
chase of Tax Title by Mortgagee as Against Mortgagor*. In the
past, the student contributions have been limited principally
to Case Notes. This article is an exceptionally fine one, and we
proudly place it among the feature articles.

SAUNDERS M. BRIDGES