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Thomas Allen

Ruth Roettinger

R. M. Jefferies

J. D. Parler

L. M. Gressette

See next page for additional authors

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Author(s)

Thomas Allen, Ruth Roettinger, R. M. Jefferies, J. D. Parler, L. M. Gressette, and Committee to Study the South Carolina Constitution of 1895 (1949-1950)

JOURNAL
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House of Representatives
OF THE
SECOND SESSION OF THE
88th GENERAL ASSEMBLY
OF THE
State of South Carolina
BEING THE
Regular Session Beginning Tuesday, January 10, 1950

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ERRORS AND OMISSIONS

- Page 34—Under heading "Special Committee Appointments" Mr. Bryant should appear Mr. Bryan.
- Page 1241—Under heading "Introduction of Bills" H. 2523 should appear H. 2533.
- Page 2000—In heading "House Bill No. 2531" should appear H. 2521.
- Page 2227—Under heading "Leave of Absence" Mr. Hall should appear Mr. Stall.
- Page 2330—Heading "Senate Amendments Concurred in and Bill Enrolled" should appear Senate Amendments Concurred In."

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H. 2463.—Pickens Delegation: A Bill to provide for the levy of taxes in Pickens County for county and school purposes for the fiscal year beginning July 1, 1950, and ending June 30, 1951, and to direct the expenditure thereof.

H. 2464.—Greenville Delegation: A Bill to authorize and empower greater Greenville Sewer District Commission to issue not exceeding Three Million Five Hundred Thousand (\$3,500,000.00) Dollars of general obligation bonds of Greater Greenville Sewer District, to prescribe the terms and conditions upon which said bonds may be issued and their proceeds expended, and to provide a tax levy for their payment.

H. 2465.—Greenville Delegation: A Bill to create a consolidated school district in Greenville County to be known as Travelers Rest Consolidated School District No. 365; to provide an election for submitting the question of consolidation to the voters of the respective districts and to elect Trustees of the Consolidated District and to prescribe the duties and powers of the Trustees; to provide for the transfer of assets and liabilities of component districts to the consolidated district and to otherwise provide for the operation of the consolidated district.

H. 2467.—Spartanburg Delegation: A Bill to provide for a County Board of Education for Spartanburg County, to provide the method of selection, its duties and functions; to provide for a County Superintendent of Education; to provide for new school districts, the Trustees thereof, their selection and functions; to provide for transportation; and the financing of same; and to repeal Sections 5655, 5656, 5656-1, 5656-2, 5656-3, 5656-5, 5657, Code of Laws of South Carolina, 1942, Act No. 661, Acts and Joint Resolutions of South Carolina, 1949, and Act No. 791, Acts and Joint Resolutions of South Carolina, 1936.

H. 2468.—Spartanburg Delegation: A Bill permitting the Supervisor of Spartanburg County to perform certain road work on roads not in the county road system for incorporated towns of the county.

H. 2470.—Lancaster Delegation: A Bill to amend Section 1 of an Act entitled "An Act to regulate fishing in certain rivers and areas in the Counties of Kershaw, Chester, Lancaster and Fairfield, etc.", being Act No. 217 of the Acts and Joint Resolutions of the General Assembly, 1949, approved June 1, 1949, so as to exempt Lancaster County from the provisions thereof.

H. 2472.—Mr. Rivers: A Bill to amend an Act entitled "An Act to provide a budget system for the operation of the schools of Jasper County and to provide funds for the operating expenses of such schools," bearing Ratification No. 753, approved February 9, 1950, so as to further provide funds for the operating expenses of such schools.

H. 2473.—York Delegation: A Bill to provide for the levy of taxes for York County for the fiscal year beginning July 1, 1950, and ending June 30, 1951, for school, county and other purposes; and to direct the expenditure thereof, and to prescribe powers, duties, and authorities of various county officials of said county.

H. 2474.—Lancaster Delegation: A Bill to provide for the levy of taxes for ordinary county and road purposes for the fiscal year July 1, 1950, to July 1, 1951, and to provide for the expenditure thereof in the County of Lancaster.

S. 604.—Senator Kennedy: A Bill to authorize the County Board of Directors of Kershaw County to transfer airport property now jointly owned by the City of Camden and County of Kershaw to the City of Camden; to authorize the County Board of Directors to accept from the City of Camden conveyances of certain property adjacent or appurtenant thereto, and to abolish the Camden and Kershaw County Airport Commission.

REPORT OF COMMITTEE TO STUDY EXISTING STATE CONSTITUTION

To the General Assembly of the State of South Carolina:

Under the authority of a Joint Resolution of the General Assembly, approved April 10, 1948, as amended by a Joint Resolution, approved April 1, 1949, a committee of fifteen members, composed of five members elected by the House of Representatives from its membership, five members elected by the Senate from its membership and five members appointed by the Governor, was created for the following purposes, as stated in the Joint Resolution of April 1, 1949:

"To study the existing Constitution of the State of South Carolina and the present Constitutional needs of said State; to conduct such investigations and hold such hearings as the Committee shall deem advisable; to fully inform itself as to the pres-

ent Constitutional needs of South Carolina and such revision of the present Constitution as may be desirable; to employ such clerical and technical help as the Committee may deem necessary, within the appropriations hereinafter provided, for the performance of the duties of the Committee; and to report to a constitutional convention if ordered and also to the General Assembly during its regular session for the year 1950 the findings and recommendations of the Committee, together with a proposed draft of a new constitution in the event that a new Constitution is deemed desirable."

The committee organized by the election of Hon. R. M. Jeffries, Senator from Colleton County, as Chairman, Hon. Thomas Allen of Anderson, S. C., as Vice-Chairman, and Miss Ruth Roettinger of Winthrop College as Secretary.

Five subcommittees were named, and to each of these certain designated articles of the present Constitution were assigned for study, and with instructions to report to the full committee recommending such changes as might seem desirable. The reports of these subcommittees have been given due consideration by the full committee, and after careful study of these reports and the present Constitution of South Carolina, as well as those of other States, a majority of the full committee now submits its report for your consideration, together with a proposed new Constitution for the State of South Carolina. This proposed new Constitution does not in all respects have the approval of some members of the committee, but it represents the best judgment of the majority.

In the proposed new Constitution herewith submitted many parts of the present Constitution thought to be unnecessary have been omitted, and the effort has been made to place all matters relating to the same subject matter in the same article. Important changes have been made as to some subjects, which will be readily apparent from a careful reading of the proposed new Constitution herewith submitted.

The proposed new Constitution entirely omits the limitations on the bonded indebtedness of cities, towns and other political subdivisions of the State contained in the present Constitution. This would have the effect of avoiding the constant amendment of the Constitution, as in the case of the present Constitution, eliminating these limitations as to various political subdivisions

of the State. By referring to the present Constitution as it appears in the Code of 1942, the amendments to Article VIII, Section 7, occupy fifteen and one-half printed pages, and the amendments to Article X, Section 5, occupy fourteen and one-half printed pages.

Article III, Section 21, of the proposed new Constitution expressly authorizes the General Assembly to enact local or special laws regulating or relating to the internal government or the fiscal affairs of counties, townships and school districts, thereby somewhat liberalizing the power of the General Assembly to authorize local government peculiarly suited to local needs.

No attempt is being made to summarize the differences between the present Constitution and the proposed new Constitution, since these two documents are available and can more accurately speak for themselves. It may not be amiss, however, to call special attention to the very important changes made by Article II of the proposed new Constitution in relation to the requirements for the registration of voters.

Consideration for a time was given by the Committee to the possibility of bringing about the changes in the present Constitution thought desirable by the generous use of amendments, but it was finally determined that this would not be practicable on account of the very large number of amendments that would be necessary, each of which would have to be separately submitted to the electors. Some of these amendments might be adopted while at the same time others necessary to the full effectiveness of the adopted amendments might be rejected, thereby destroying the consistency of the general plan of revision.

Consideration then was given to the possibility of submitting the qualified electors a proposed new Constitution as a whole, but this idea was also abandoned by the committee, because it was thought that it would violate the provisions of Article XVI, Section 2, of the present Constitution.

The committee is of the opinion that a new Constitution is needed, and that there are only two practicable ways to have it, either through a constitutional convention, or by the submission of a new Constitution as a whole to the qualified electors. To submit a new Constitution as a whole obviously would require an amendment of the present Constitution authorizing such submission.

The present Constitution requires proposed amendments as well as a proposed call of a constitutional convention to be submitted to the electors at a general election. A majority of the Committee is of the opinion that there ought to be authority to submit proposed amendments and a proposed call of a convention at a special election as well as at a general election, and that in the interest of more expeditious action the present Constitution ought to be amended accordingly. The committee therefore so recommends.

If these amendments should be approved by the qualified electors and ratified by the General Assembly at its next session, then the General Assembly at a reasonably early date could submit to the electors for their approval or disapproval either a proposed new Constitution as a whole or a proposed call of a convention, according to its preference.

In case a convention might be held, and in order to remove any possible doubt, it would probably be advisable also to submit to the electors at the next general election still another amendment to the present Constitution providing that membership in a constitutional convention shall not bring any member within the inhibition against dual office holding. The committee is of the opinion that excluding all office holders in the State, including members of the General Assembly, from a constitutional convention would be a distinct loss to the State on account of the long and valuable experience of many of them in governmental affairs.

Respectfully submitted,

THOMAS ALLEN,
Vice-Chairman,

RUTH ROETTINGER,
Secretary.

Columbia, S. C.
April 12, 1950.

A JOINT RESOLUTION Proposing An Amendment To Section 1 Of Article XVI Of The Constitution Of South Carolina, 1895, So As To Provide For The Submission Of Proposed Amendments To The Constitution By The Secretary Of State At The Next General Election For Representatives, With The Further Provision That If The Resolution Proposing An Amend-

ment So Stipulates It Shall Be Submitted By The Secretary Of State At A Special Election To Be Held At The Time Specified In The Resolution, But Not Less Than Three Months After The Adjournment Of The General Assembly Then In Session.

BE IT RESOLVED by the General Assembly of the State of South Carolina:

SECTION 1: The General Assembly of South Carolina hereby proposes that Section 1 of Article XVI of the Constitution of South Carolina, 1895, be amended by striking out all of Section 1 of Article XVI of the said Constitution, which reads as follows:

"Any amendment or amendments to this Constitution may be proposed in the Senate or House of Representatives. If the same be agreed to by two-thirds of the members elected to each House, such amendment or amendments shall be entered on the Journals respectively, with the yeas and nays taken thereon; and the same shall be submitted to the qualified electors of the State, at the next general election thereafter for Representatives; and if a majority of the electors qualified to vote for members of the General Assembly, voting thereon, shall vote in favor of such amendment or amendments, and a majority of each branch of the next General Assembly shall, after such an election, and before another, ratify the same amendment or amendments, by yeas and nays, the same shall become part of the Constitution: *Provided*, That such amendment or amendments shall have been read three times, on three several days, in each House."

And by inserting in lieu thereof the following:

"Amendments to this Constitution may be proposed either in the Senate or House of Representatives. If agreed to by two-thirds of the members elected to each house, each proposed amendment shall be entered on the journal of each house, with the yeas and nays taken thereon, and it shall be submitted by the Secretary of State to the qualified electors of the State at the next general election thereafter for Representatives; *provided*, that if the General Assembly so stipulates in the resolution proposing an amendment, it shall be submitted by the Secretary of State at a special election to be held at the time specified in the resolution, but not less than three months after the adjournment of the General Assembly then in session. If a majority of the votes cast by qualified electors is in favor of the amendment sub-

mitted to the electors, and a majority of each branch of the General Assembly during its next session after such election ratifies the amendment by yeas and nays, it shall become a part of the Constitution, *provided*, such amendment has been read three times on three several days in each house."

SECTION 2: That the question of adoption of this amendment be submitted to the qualified electors of this State at the next general election for members of the House of Representatives of this State, and there shall be furnished at the voting places in this State a sufficient number of ballots with the following words plainly written or printed thereon:

"Amendment to the Constitution of South Carolina, 1895, by striking out and eliminating therefrom all of Section I of Article XVI, which reads as follows:

"Any amendment or amendments to this Constitution may be proposed in the Senate or House of Representatives. If the same be agreed to by two-thirds of the members elected to each House, such amendment or amendments shall be entered on the Journals respectively, with the yeas and nays taken thereon; and the same shall be submitted to the qualified electors of the State, at the next general election thereafter for Representatives; and if a majority of the electors qualified to vote for members of the General Assembly, voting thereon, shall vote in favor of such amendment or amendments, and a majority of each branch of the next General Assembly shall, after such an election, and before another, ratify the same amendment or amendments, by yeas and nays, the same shall become part of the Constitution: *Provided*, That such amendment or amendments shall have been read three times, on three several days, in each House."

"And by inserting in lieu thereof the following:

"Amendments to this Constitution may be proposed either in the Senate or House of Representatives. If agreed to by two-thirds of the members elected to each house, each proposed amendment shall be entered on the journal of each house, with the yeas and nays taken thereon, and it shall be submitted by the Secretary of State to the qualified electors of the State at the next general election thereafter for Representatives; *provided*, that if the General Assembly so stipulates in the resolution proposing an amendment, it shall be submitted by the Secretary of State at a special election to be held at the time specified in the

resolution, but not less than three months after the adjournment of the General Assembly then in session. If a majority of the votes cast by qualified electors is in favor of the amendment submitted to the electors, and a majority of each branch of the General Assembly during its next session after such election ratifies the amendment by yeas and nays, it shall become a part of the Constitution, *provided*, such amendment has been read three times on three several days in each house."

"Yes———No".

Those voting in favor of the amendment shall erase the word "No"; those voting against the amendment shall erase the word "Yes".

A JOINT RESOLUTION Proposing An Amendment To The Constitution Of South Carolina, 1895, So As To Add To Section 2 Of Article XVI A Provision Allowing The General Assembly To Provide For The Submission To The Qualified Electors Of The State Of A New Constitution As An Entity To Be Voted On As A Whole; And To Dispense With Ratification, If The Vote Be Favorable.

BE IT RESOLVED by the General Assembly of the State of South Carolina:

SECTION 1: That the following amendment to the Constitution of South Carolina, 1895, be agreed to; that there be added to Section 2 of Article XVI of said Constitution which reads as follows:

"If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately." the following words, to wit:

"But the General Assembly may provide for the submission of a new Constitution as an entity to be voted on as a whole, if agreed to by two-thirds of the members elected to each house, with the yeas and nays taken thereon and entered on the journal of each house, whereupon such new Constitution shall be submitted by the Secretary of State to the qualified electors of the State at the next general election thereafter for Representatives; *provided*, that if the General Assembly so stipulates in the resolution proposing such new Constitution, it shall be submitted by the Secretary of State at a special election to be held at the time specified in the resolution, but not less than three months

after the adjournment of the General Assembly then in session. If a majority of the votes cast by qualified electors be in favor of the new Constitution, it shall thereupon be and become the Constitution of the State of South Carolina, without ratification by the General Assembly, as is required with reference to an amendment.”,

so that the said section when thus amended shall read as follows

“If two or more amendments are submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately. But the General Assembly may provide for the submission of a new Constitution as an entity to be voted on as a whole, if agreed to by two-thirds of the members elected to each house, with the yeas and nays taken thereon and entered on the journal of each house, whereupon such new Constitution shall be submitted by the Secretary of State, to the qualified electors of the State at the next general election thereafter for Representatives; *provided*, that if the General Assembly so stipulates in the resolution proposing such new Constitution, it shall be submitted by the Secretary of State at a special election to be held at the time specified in the resolution, but not less than three months after the adjournment of the General Assembly then in session. If a majority of the votes cast by qualified electors be in favor of the new Constitution, it shall thereupon be and become the Constitution of the State of South Carolina, without ratification by the General Assembly, as is required with reference to an amendment.”

SECTION 2: That the question of the adoption of this amendment be submitted to the qualified electors at this State at the next general election for members of the House of Representatives, and there shall be furnished at the voting places in this State a sufficient number of ballots with the following words plainly written or printed thereon:

“Amendment to the Constitution of South Carolina, 1895, so as to add to Section 2 of Article XVI, which reads as follows:

“If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.”, the following words, to wit:

“But the General Assembly may provide for the submission of a new Constitution as an entity to be voted on as a whole, if

agreed to by two-thirds of the members elected to each house, with the yeas and nays taken thereon and entered on the journal of each house, whereupon such new Constitution shall be submitted by the Secretary of State to the qualified electors of the State at the next general election thereafter for Representatives; *provided*, that if the General Assembly so stipulates in the resolution proposing such new Constitution, it shall be submitted by the Secretary of State at a special election to be held at the time specified in the resolution, but not less than three months after the adjournment of the General Assembly then in session. If a majority of the votes cast by qualified electors be in favor of the new Constitution, it shall thereupon be and become the Constitution of the State of South Carolina, without ratification by the General Assembly, as is required with reference to an amendment.”,

so that the said section when thus amended, shall read as follows:

“If two or more amendments are submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately. But the General Assembly may provide for the submission of a new Constitution as an entity to be voted on as a whole, if agreed to by two-thirds of the members elected to each house, with the yeas and nays taken thereon and entered on the journal of each house, whereupon such new Constitution shall be submitted by the Secretary of State to the qualified electors of the State at the next general election thereafter for Representatives; *provided*, that if the General Assembly so stipulates in the resolution proposing such new Constitution, it shall be submitted by the Secretary of State at a special election to be held at the time specified in the resolution, but not less than three months after the adjournment of the General Assembly then in session. If a majority of the votes cast by qualified electors be in favor of the new Constitution, it shall thereupon be and become the Constitution of the State of South Carolina, without ratification by the General Assembly, as is required with reference to an amendment.”

“Yes———No”.

Those voting in favor of the amendment shall erase the word “No”; those voting against the amendment shall erase the word “Yes.”

A JOINT RESOLUTION Proposing An Amendment To Section 3 Of Article XVI Of The Constitution Of South Carolina, 1895, So That If There Were Submitted To The Qualified Electors The Question As To Whether A Convention Should Be Called To Revise, Amend Or Change The Constitution, Or To Adopt A New Constitution, Such Question Might Be Submitted At A Special Election To Be Held At The Time Specified By The General Assembly, But Not Less Than Three Months After The Adjournment Of The General Assembly Then In Session.

BE IT RESOLVED by the General Assembly of the State of South Carolina :

SECTION 1: The General Assembly of South Carolina hereby proposes that Section 3 of Article XVI of the Constitution of South Carolina, 1895, be amended by striking out all of Section 3 of Article XVI of the said Constitution, which reads as follows:

"Whenever two-thirds of the members elected to each branch of the General Assembly shall think it necessary to call a Convention to revise, amend or change this Constitution, they shall recommend to the electors to vote for or against a Convention at the next election for Representatives; and if a majority of all the electors voting at said election shall have voted for a Convention, the General Assembly shall, at its next session, provide by law for calling the same; and such Convention shall consist of a number of members equal to that of the most numerous branch of the General Assembly.", and by inserting in lieu thereof the following:

"Whenever two-thirds of the members elected to each branch of the General Assembly find it necessary or advisable to call a convention to revise, amend or change this Constitution, or to adopt a new Constitution, they shall recommend to the electors to vote for or against a convention at the next general election thereafter for Representatives, or at a special election to be held at the time specified by the General Assembly, but not less than three months after the adjournment of the General Assembly then in session; and if a majority of all the electors voting thereon vote for a convention, the General Assembly at its next session shall provide by law for calling such convention, which shall consist of a number of members equal to that of the most numerous branch of the General Assembly."

SECTION 2: That the question of adoption of this amendment be submitted to the qualified electors of this State at the next general election for members of the House of Representatives, and there shall be furnished at the voting places in this State a sufficient number of ballots with the following words plainly written or printed thereon:

"Amendment to the Constitution of South Carolina, 1895, by striking out and eliminating therefrom all of Section 3 of Article XVI which reads as follows:

"Whenever two-thirds of the members elected to each branch of the General Assembly shall think it necessary to call a Convention to revise, amend or change this Constitution, they shall recommend to the electors to vote for or against a Convention at the next election for Representatives; and if a majority of all the electors voting at said election shall have voted for a Convention, the General Assembly shall, at its next session, provide by law for calling the same; and such Convention shall consist of a number of members equal to that of the most numerous branch of the General Assembly.", and by inserting in lieu thereof the following:

"Whenever two-thirds of the members elected to each branch of the General Assembly find it necessary or advisable to call a convention to revise, amend or change this Constitution, or to adopt a new Constitution, they shall recommend to the electors to vote for or against a convention at the next general election thereafter for Representatives, or at a special election to be held at the time specified by the General Assembly, but not less than three months after the adjournment of the General Assembly then in session; and if a majority of all the electors voting thereon vote for a convention, the General Assembly at its next session shall provide by law for calling such convention, which shall consist of a number of members equal to that of the most numerous branch of the General Assembly."

"Yes———No".

Those voting in favor of the amendment shall erase the word "No"; those voting against the amendment shall erase the word "Yes".

A JOINT RESOLUTION Proposing An Amendment To Section 3 Of Article XVI Of The Constitution Of South Carolina, 1895, So As To Provide That Membership In A Constitutional

Convention Shall Not Be Construed To Be Within The Inhibition Of The Constitution Against Dual Office Holding.

BE IT RESOLVED by the General Assembly of the State of South Carolina:

SECTION 1: That the following amendment to Section 3 of Article XVI of the Constitution of South Carolina, 1895, be agreed to, to wit:

That there shall be added at the end of said section the following:

"Membership in such a convention shall not be construed to be within the inhibition of this Constitution against dual office holding."

SECTION 2: That the question of the adoption of this amendment be submitted to the qualified electors of this State at the next general election for members of the House of Representatives, and there shall be furnished at the voting places in this State a sufficient number of ballots with the following words plainly written or printed thereon:

"Amendment to Section 3 of Article XVI of the Constitution of South Carolina, 1895, as proposed by a joint resolution of the General Assembly of South Carolina entitled:

"A JOINT RESOLUTION Proposing An Amendment to Section 3 Of Article XVI Of The Constitution Of South Carolina, 1895, So As To Provide That Membership In A Constitutional Convention Shall Not Be Construed To Be Within The Inhibition Of The Constitution Against Dual Office Holding,' by adding at the end of said section the following:

"Membership in such a convention shall not be construed to be within the inhibition of this Constitution against dual office holding.'"

"Yes———No".

Those voting in favor of the amendment shall erase the word "No"; those voting against the amendment shall erase the word "Yes".

CONSTITUTION OF THE STATE OF SOUTH CAROLINA

We, the people of the State in convention assembled, do ordain and establish this Constitution for the State of South Carolina.

ARTICLE I.

Declaration of Rights.

Section 1. All political power is vested in and derived from the people only, who have the right at all times to modify their form of government.

Section 2. The General Assembly shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and to petition the government or any department thereof for a redress of grievances.

Section 3. The privileges and immunities of citizens of this State and of the United States under this Constitution shall not be abridged, nor shall any person be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws.

Section 4. No tax, subsidy, charge, impost tax or duties shall be established, fixed, laid or levied, under any pretext whatsoever, without the consent of the people or their representatives lawfully assembled.

Section 5. Private property shall not be taken for private use without the consent of the owner, nor for public use without just compensation being first made therefor. Every party to a proceeding in which the power of eminent domain is being exercised, upon demand therefor at such time and in such manner as may be prescribed by law, shall have the right to have the compensation finally ascertained by a jury of twelve in the Court of Common Pleas of the County in which the property involved is situated.

Section 6. No bill of attainder, *ex post facto* law, law impairing the obligation of contracts, nor law granting any title of nobility or hereditary emolument, shall be passed, and no conviction shall work corruption of blood or forfeiture of estate.

Section 7. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized.

Section 8. The power of suspending the laws or the execution of the laws shall only be exercised by the General Assembly or by its authority in particular cases expressly provided for by it.

Section 9. Treason against the State shall consist alone in levying war or in giving aid and comfort to enemies against the State. No person shall be held guilty of treason, except upon testimony of at least two witnesses to the same overt act or upon confession in open court.

Section 10. In the government of this State the legislative, executive and judicial departments shall be forever separate and distinct, and no person or persons exercising the functions of one of these departments shall assume or discharge the duties of any other.

Section 11. All Courts shall be public, and every person shall have speedy remedy therein for wrongs sustained.

Section 12. The right of trial by jury shall be preserved inviolate.

Section 13. No person shall be held to answer for any crime if the punishment exceeds a fine of one hundred dollars (\$100.00) or imprisonment for thirty days, with or without hard labor, unless on a presentment or indictment of a grand jury of the county where the crime has been committed, except in cases arising in the land or naval forces or in the militia when in actual service in time of war or public danger; *provided, however,* that the General Assembly may provide for the prosecution and trial of misdemeanors on informations filed by the official prosecuting attorneys. No person shall be subject for the same offense to be twice put in jeopardy of life or liberty, nor be compelled in any criminal case to be a witness against himself.

Section 14. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury and to be fully informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to be fully heard in his defense by himself or by his counsel or by both. In all indictments or prosecutions for libel, the truth of the alleged libel may be given in evidence, and the jury shall have the right to render a general verdict, as in other cases.

Section 15. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted, nor shall witnesses be unreasonably detained. Corporal punishment shall not be inflicted. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption great.

Section 16. No person shall be imprisoned for debt except in cases of fraud.

Section 17. The privilege of the writ of *habeas corpus* shall not be suspended, unless in case of insurrection, rebellion or invasion the public safety requires it, and then only in such manner as may be prescribed by law.

Section 18. A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed. As in times of peace armies are dangerous to liberty, they shall not be maintained without the consent of the General Assembly. The military power of the State shall always be held in subordination to the civil authority and be governed by it. No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in the manner to be prescribed by law.

Section 19. No person shall in any case be subject to martial law or to any pains or penalties by virtue of that law, except those employed in the army and navy of the United States, and except the militia in actual service, but by the authority of the General Assembly.

Section 20. The enumeration of rights and privileges in this Constitution shall not be construed to impair or deny others retained by the people.

ARTICLE II.

Suffrage and Elections.

Section 1. All elections shall be free and open, and shall be by ballot, and the ballots shall never be counted in secret, but secrecy of voting shall at all times be preserved; *provided* that the General Assembly may provide for the use of mechanical devices for voting or counting the votes; and may also provide a manner in which qualified electors who may be absent from this State may vote, and for the return and canvass of their votes in

the polling precincts in which they reside. The General Assembly shall prescribe the manner of holding elections and of ascertaining the results thereof, and it shall provide for the establishment of polling precincts in the several counties of the State, and those now existing shall so continue until abolished or changed. Each elector shall be required to vote at his own precinct, but provision shall be made for the transfer to another precinct upon his change of residence.

Section 2. Every citizen of this State and of the United States twenty-one years of age and upwards, whether a man or a woman, not laboring under the disabilities named in this Constitution and possessing the qualifications required by it, shall be an elector.

Section 3. The qualifications for suffrage shall be: (a) residence in the State for two years, in the county one year, and in the polling precinct four months; *provided*, that ministers in charge of organized churches and teachers of public schools shall be entitled to vote in the county and polling precinct of their residence after six months residence in the State, if otherwise qualified; and *provided further*, that temporary absence from the State shall not forfeit a residence once obtained, nor for the purpose of voting shall any person be deemed to have gained or lost a residence by reason of presence or absence while employed in the service of the United States, or while engaged in the navigation of the waters of this State, or of the United States, or of high seas, or while a student of any institution of learning; (b) registration, which shall be provided for and regulated by law in conformity with the provisions of this Constitution.

Section 4. Registration under this Constitution shall be conducted by a board of three discreet persons in each county, to be appointed by the Governor, by and with the advice and consent of the Senate; and there shall be issued to each registered elector a certificate of registration, which shall be renewed upon application therefor when lost, mutilated or destroyed if the applicant for renewal is still a qualified elector. At least thirty days before an election the registration books shall close for that election, during which time transfers and registration for that election shall not be legal; *provided*, persons who will become of age during that period shall, if duly qualified, be entitled to registration before the books are closed.

Section 5. The registration of every elector, pursuant to the Constitution of 1895, since the year 1947 and until the expiration of six months from the effective date of this Constitution, exclusive of such date, shall be permanent in character, and no further registration shall be required. Any person who applies for registration after the expiration of six months from the effective date of this Constitution, exclusive of such date, if found to be qualified under the provisions thereof, shall be registered, and such registration shall be permanent in character and no other registration shall be required; but before being registered the applicant shall be required to file with the Board of Registration for the county of his residence a certificate of literacy, issued by the Board of Education of that county, to the effect that he has successfully completed the seventh grade of an accredited public school, or that he has at least an equivalent education otherwise acquired; or to prove that he owns, and has paid all taxes collectible during the preceding year on, property in this State assessed at one thousand dollars (\$1,000.00) or more. The certificate of literacy herein mentioned shall be issued by the County Board of Education upon satisfactory proof that the applicant has successfully completed the seventh grade of an accredited public school, or upon his standing an examination, conducted by the Board, showing that he has acquired otherwise at least an equivalent education. This examination shall be conducted pursuant to rules and regulations to be adopted by the State Board of Education providing for a reasonably adequate examination, uniform in character.

Section 6. The following persons are disqualified from being registered and from voting: (a) persons convicted of, or pleading guilty to, any crime against election laws or any crime involving moral turpitude; *provided*, that the Governor may, in his discretion, remove any such disqualification as to any person by executive order; and (b) persons who are *non compos mentis*, and persons while confined in any public prison.

Section 7. Any person denied registration shall have the right to appeal to the Court of Common Pleas, and thence to the Supreme Court, to determine his right to vote under the limitations imposed in this article; and on such appeal to the Court of Common Pleas the hearing shall be *de novo*.

Section 8. Electors in city and town elections shall have the qualifications and be subject to the disqualifications herein prescribed, and the production of a certificate of registration from the registration officers of the county, as an elector at a precinct included in the city or town, shall be a condition prerequisite to voting in such elections.

Section 9. The General Assembly shall provide by law for the regulation of party primary elections and the punishment of fraud relating to the same; and no person shall be allowed to participate in any primary election unless he is a qualified elector under the provisions of this Constitution.

Section 10. No power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage in this State; and the right of suffrage, as regulated in this Constitution, shall be protected by law regulating elections and prohibiting, under adequate penalties, all undue influences from power, violence, bribery, tumult or improper conduct.

ARTICLE III.

Legislative Department.

Section 1. The legislative power of the State shall be vested in the General Assembly of the State of South Carolina, which shall consist of two houses, a Senate and a House of Representatives, and which shall meet in the City of Columbia in regular annual sessions beginning on the second Tuesday of each January, unless a different day shall have been set by law. Should the casualties of war or contagious disease render it unsafe to meet in the designated place, then the Governor may be proclaimed appoint a more secure and convenient place of meeting during the period of such emergency.

Section 2. The Senate shall be composed of one member from each county of the State, to be elected by the qualified electors thereof for a term of four years.

Section 3. The House of Representatives shall be composed of one hundred and twenty-four members, to be apportioned among the several counties according to the number of inhabitants in each, and to be elected from each county by the qualified electors thereof for a term of two years. The General Assembly shall make such reapportionment as may be required in the event of

the formation of new counties or the consolidation of old counties, and immediately after each United States census it shall reapportion the number of Representatives to be elected from each county in accordance with the changes in the population of the several counties. In assigning Representatives to the several counties the General Assembly shall allow one Representative to every one hundred and twenty-fourth part of the whole number of inhabitants in the State; but if in the apportionment or reapportionment of Representatives any county should appear from its population not to be entitled to a Representative, such county nevertheless shall have one Representative; and if there should still be a deficiency in the number of Representatives herein required, such deficiency shall be supplied by assigning Representatives to those counties having the largest surplus fractions.

Section 4. No person shall be eligible to be a member of the Senate or House of Representatives who at the time of his election is not a qualified elector under this Constitution in the county in which he may be chosen. Senators shall be at least twenty-five years of age and Representatives at least twenty-one years of age.

Section 5. The Senate shall choose one of its members as its President *pro tempore*, who shall be the presiding officer of the Senate in the absence of the Lieutenant Governor, or when he exercises the office of Governor, or when the office of Lieutenant Governor becomes vacant for any cause. The House of Representatives shall choose one of its members as its presiding officer, who shall be designated the Speaker of the House of Representatives.

Section 6. The election of members of the General Assembly shall be held on the Tuesday next following the first Monday in November in the even numbered years. At each election all members of the House of Representatives shall be chosen, but Senators shall be so classified that one-half of their number, as nearly as practicable, shall be chosen at each such election. The terms of office of the Senators and Representatives chosen at an election shall begin on the Monday following such election.

Section 7. If any county should fail to choose a member or members of the General Assembly on the day of election, or if any person chosen a member of either house should fail to

qualify, or should resign, die, or depart the State, or should for any cause because disqualified to be a member of the General Assembly, a writ of election shall be issued by the President of the Senate or Speaker of the House of Representatives, as the case may be, for the purpose of filling the vacancy thereby occasioned for the remainder of the term concerned, and the term of office of the person so elected shall begin on the Monday following such election.

Section 8. The members of the General Assembly shall receive an annual salary for services, and in addition, mileage and *per diem* for all expenses during attendance at regular and special sessions; *provided*, however, that the President *pro tempore* of the Senate and the Speaker of the House of Representatives, each by virtue of his office, shall receive appropriate additional allowances. No member of the General Assembly shall receive any pay or allowance of any character except that hereinbefore mentioned, and the amounts thereof shall neither be increased nor diminished so as to apply to any member during the term of office he is then serving.

Section 9. The members of the General Assembly shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

Section 10. Each house shall be the judge of the election returns and qualifications of its own members, and a majority of each house shall constitute a quorum for the transaction of business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as may be provided by law or rule. Each house shall choose its own officers, determine its rules of procedure, punish its members for disorderly behavior, and with the concurrence of two-thirds of all its members expel a member.

Section 11. Each house shall have power to compel the attendance and testimony of witnesses and the production of books and papers, either before the house as a whole or before any committee thereof. Each house may punish by imprisonment during its sitting any person not a member who shall be guilty

of disrespect to the house by any disorderly or contemptuous behavior in its presence, or who during the time of its sitting shall threaten harm to the body or estate of any member for anything said or done in either house, or who shall assault any of them therefor, or who shall assault or arrest any witness or other person, ordered to attend either house, in his going thereto or returning therefrom, or who shall rescue any person arrested by order of either house; but such time of imprisonment shall not in any case extend beyond the session of the General Assembly.

Section 12. Each house shall keep a Journal of its own proceedings which shall be published from day to day, excepting such parts as, in its judgment, may require secrecy. Any member of either house shall have liberty to dissent from and protest against any action which he may think injurious to the public or to an individual, and have the reasons of his dissent entered on the journal.

Section 13. Each house shall prescribe its methods of voting on all matters before it, with the exceptions specified in this Constitution; but the yeas and nays of the members of either house on any question shall, at the desire of ten members of the House of Representatives or five members of the Senate respectively, be taken and entered on the journal. In all elections by the General Assembly, or either house, unless there is unanimous consent to the contrary, the *viva voce* vote of each member shall be entered on the journal.

Section 14. The doors of each house shall be open, except on such occasions as in the opinion of the house may require secrecy.

Section 15. Neither house, during a session of the General Assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be at the time sitting.

Section 16. No law shall be enacted except by bill or joint resolution; and all provisions in this Constitution relating to bills shall apply to joint resolutions. Any bill may originate in either house, and may be amended, altered, rejected or approved by the other. The style of all bills shall be: "Be it enacted by the General Assembly of the State of South Carolina." Every act or resolution having the force of law shall relate to but one subject, and that shall be expressed in the title. Appropriation bills shall be confined to appropriations and measures for raising

revenue for the same, and shall specify the objects and purposes for which the appropriations are made; and the several amounts thereof shall be stated in distinct items and sections.

Section 17. Except as hereafter in this section provided, no bill shall have the force of law until it has been read on three different days in each house; has received the assent of a majority of the members of each house voting thereon; has had the Great Seal of the State affixed thereto; and has been signed by the President of the Senate and the Speaker of the House of Representatives; *provided*, that either house may provide by rule for readings of any bill by its title only; *and provided further*, that either house by unanimous consent may pass a bill without compliance with the requirement that it be read on three different days.

Section 18. Every bill which has passed the General Assembly except on a question of adjournment, before it becomes a law shall be presented to the Governor, and if he approves he shall sign it, and it shall become a law; if not, he shall return it with his objections to the house in which it originated, which shall enter the objections at large on its journal and proceed to reconsider it. If after such reconsideration two-thirds of that house agree to pass the bill, it shall be sent, together with the objections of the Governor, to the other house, where it shall be reconsidered, and if approved by two-thirds of that house it shall become a law, notwithstanding the Governor's veto; but in all such cases the votes of each house shall be taken by yeas and nays and entered on its journal. If the Governor does not approve any one or more of the items or sections contained in any appropriation bill, but approves the residue thereof, he shall indicate over his signature the part so approved, and it shall become the law, and any items or sections so disapproved shall be returned and acted upon separately, in the same manner, and with the same effect, as in the case of any other veto by the Governor. If a bill has not been signed or returned by the Governor within three days after it has been presented to him, Sundays excepted, it shall become a law in like manner as if he had signed it, unless the adjournment of the General Assembly prevents return, in which case it shall become a law unless returned within two days after the convening of the next session.

Section 19. In the exercise of the police power the General Assembly shall have the power to prohibit the manufacture and sale, either or both, of alcoholic liquors or beverages within the State, but may license persons or corporations to manufacture and sell, either or both, alcoholic liquors or beverages under such rules and restrictions as it may deem proper; and it may authorize and empower officers of the State, counties, cities, and towns, all or either, under the authority and in the name of the State, to buy in any market and sell at retail within the State liquors and beverages in such packages and quantities, under such rules and regulations, as it deems expedient; *provided*, that no license shall be granted to sell alcoholic beverages in less quantities than one-half pint, or to sell them between sun-down and sunrise, or to sell them to be drunk on the premises; *and provided further*, that the General Assembly shall not delegate to any county, city or town the power to issue licenses to sell the same.

Section 20. The General Assembly shall never grant extra compensation, fee, or allowance to any public officer, agent, servant or contractor after service rendered, or contract made, nor authorize payment or part payment of any claim under any contract not authorized by law.

Section 21. Local or special laws, not in conflict with any other provision of this Constitution, may be enacted by the General Assembly regulating or relating to the internal government or the fiscal affairs of counties, townships and school districts; but in no other case shall any local or special law be enacted when a general law can be made applicable, unless otherwise expressly authorized by this Constitution.

Section 22. It shall be the duty of the General Assembly to enact laws limiting the number of acres of land which any person not a citizen of the United States, or any corporation controlled by such persons, may own within this State.

Section 22. No lottery shall ever be operated or advertised in any newspaper or otherwise in this State, and no lottery tickets shall be sold in the State. The General Assembly shall provide by law for the enforcement of the provisions of this section.

Section 24. The General Assembly shall provide adequately for the care of the insane and the poor.

Section 25. The General Assembly shall provide for the codification of the general statutory laws of the State at least once in every ten years; and the Code as so prepared, if and when approved, shall be declared, in an act duly and legally adopted, to be the only general statutory law of the State.

Section 26. Every statute shall be a public law, unless otherwise declared in the statute itself.

ARTICLE IV.

Executive Department.

Section 1. The executive power of the State shall be vested in a Governor who shall be chosen by the qualified electors of the State for a term of four years and shall not be eligible to succeed himself. He shall take office during the first session of the General Assembly after his election, on such day during the second week of the session as may be provided by law. He shall reside at the capital of the State except in case of contagion or the emergencies of war, but during the sittings of the General Assembly he shall reside where its sessions are held. No person shall be eligible to the office of Governor unless he has attained the age of thirty years and is otherwise qualified under the provisions of this Constitution. The person receiving the highest number of votes in an election for Governor shall be declared elected; but if two or more shall be equal, and highest in votes, one of them shall be elected Governor by the General Assembly in joint meeting at the regular legislative session next following the election for Governor by the people. Contested elections for the office of Governor shall be determined in such manner as shall be prescribed by law.

Section 2. It shall be the duty of the Governor to see that the laws are faithfully executed, and to that end he shall have power by appropriate action or proceeding, brought by the Attorney General, pursuant to his direction, and in the name of the State, in any appropriate tribunal, to enforce compliance with any constitutional or legal mandate, or to restrain violation of any constitutional or statutory duty by any officer, department or agency of the State; but this power shall not be construed to authorize any action or proceeding against the General Assembly.

Section 3. The Governor shall appoint, by and with the advice and consent of the Senate, all officers for whose election or appointment provision is not otherwise made by this Constitution or by law. He shall have the power to require all officers in the executive department and in all administrative offices and agencies of the State government to give him information in writing or otherwise upon any subject relating to their respective offices, including itemized statements of receipts and disbursements. All grants and commissions shall be issued by the Governor in the name of and by the authority of the State of South Carolina, signed by him, sealed with the Great Seal of the State, and countersigned by the Secretary of State. The Governor shall be commander-in-chief of the armed forces of the State (except when they have been called into the service of the United States), and he may call out the volunteer and militia forces, either or both, to execute the laws, to suppress insurrection, to repel invasion and to preserve the public peace.

Section 4. The Governor shall have power to grant reprieves and to commute sentences of death to life imprisonment, but the granting of all other clemency to persons convicted of crime shall be vested in a Probation, Parole and Pardon Board composed of one member from each Congressional District, as such district is now established, to be appointed by the Governor, by and with the advice and consent of the Senate. The members of the Probation, Parole and Pardon Board in office when this Constitution becomes effective shall continue in office until their respective terms expire and shall constitute the board herein provided for, and at the expiration of the term for which each member of the present board has been appointed the successor of such member shall be appointed for a term of twelve years, so that the term of office of one member of the board will expire every two years, as at present provided. Appointments to fill vacancies caused by death, resignation or disability shall be for the unexpired term. The Probation, Parole and Pardon Board shall grant pardons, issue paroles and admit to probation under such terms and conditions as it may deem proper, but a two-thirds vote of all members of the board shall be necessary for clemency in any case. The board shall submit to the Governor and the General Assembly annual reports giving in detail all action taken by it. The General Assembly shall enact appro-

appropriate legislation providing for a staff for the board, defining the duties and powers of the board, not in conflict herewith, and appropriating funds for its proper operation.

Section 5. The Governor shall at the beginning of each session and may at other times, give to the General Assembly information as to the affairs of the State, and recommend for its consideration such measures as he may deem necessary or expedient. He shall have the power of veto over bills passed by the General Assembly, as provided elsewhere in this Constitution.

Section 6. The Governor may when he deems it necessary or expedient convene the General Assembly in extra session. The case either house remains without a quorum for five days, or in case of disagreement between the two houses during any session with respect to the time of adjournment, the Governor may adjourn them to such time as he may think proper, not beyond the time of the next annual session.

Section 7. A Lieutenant Governor shall be chosen at the same time and in the same manner as the Governor, and he shall possess the same qualifications and continue in office for the same period as the Governor. He shall *ex officio* be President of the Senate. The Lieutenant Governor while presiding in the Senate shall have no vote, unless the Senate be equally divided.

Section 8. In case of the failure of the Governor to qualify, or in case of his impeachment, death, or resignation, or disqualification from any cause, the powers and duties of the office of Governor shall devolve upon the Lieutenant Governor for the remainder of the term, or until the disqualification of the Governor has been removed; and in the event of the death of a Governor-elect the Lieutenant Governor-elect shall become Governor in place of the deceased Governor-elect. In case of the inability to serve or disqualification of both the Governor and the Lieutenant Governor for any of the foregoing reasons, the *President pro tempore* of the Senate shall become Governor, and he shall then forthwith by proclamation convene the Senate in order that a *President pro tempore* may be chosen in his place. A member of the Senate thus acting as Governor shall thereupon vacate his seat in the Senate, and another person shall be elected in his stead.

Section 9. The Governor and the Lieutenant Governor shall receive for their services such compensation as may be provided

by law, which shall not be diminished during the term for which they have been elected.

Section 10. There shall be elected by the qualified electors of the State a Secretary of State, a Comptroller General, an Attorney General, a Treasurer, an Adjutant and Inspector General and a State Superintendent of Education, who shall take office at the same time as the Governor and hold their respective offices for the term of four years. Their duties and compensation shall be prescribed by law, and such compensation shall not be diminished during the period for which they have been elected.

ARTICLE V.

Judicial Department

Section 1. The judicial power of the State shall be vested in a Supreme Court and two Circuit Courts, to wit, a Court of Common Pleas in each county having civil jurisdiction and a Court of General Sessions in each county having criminal jurisdiction, and in such Courts inferior to the Supreme Court and the Circuit Courts as the General Assembly may from time to time establish; but no such inferior Court shall be invested with jurisdiction of any criminal case when the punishment for the crime charged may exceed imprisonment for the term of ten years, or with jurisdiction of any civil case when the amount involved exceeds the sum of five thousand dollars (\$5,000.00). Justice shall be administered in a uniform mode of pleading without distinction between law and equity.

Section 2. The Supreme Court shall consist of a Chief Justice and four Associate Justices, any three of who shall constitute a quorum for the transaction of business. The Chief Justice shall preside, and in his absence the senior Associate Justice present. They shall be elected by a joint vote of the General Assembly for a term of ten years, and they shall be so classified that one of them shall go out of office every two years.

Section 3. The Supreme Court shall have power to issue writs or orders of injunction, *mandamus*, *quo warranto*, prohibition, *certiorari*, *habeas corpus* and other original and remedial writs. It shall have appellate jurisdiction only in cases of chancery, and in such appeals it shall review the findings of fact as well as the law, except in chancery cases where the facts are

settled by a jury and the verdict is not set aside; and it shall constitute a Court for the correction of errors at law. The Court shall be held at least twice in each year at the seat of government and at such other place or places in the State as the General Assembly may direct.

Section 4. If any Justice of the Supreme Court should be disqualified to hear any cause, or should be otherwise prevented from acting therein, the Chief Justice, or the ranking Associate Justice, if the Chief Justice should be disqualified or unable to act, may assign any disengaged Circuit Judge, or available retired Justice or Circuit Judge, to fill the temporary vacancy as an Acting Associate Justice; and such service on the part of any Circuit Judge shall not be within the inhibition against dual office holding, but shall be merely incidental to the performance of his judicial duties. If there should be no disengaged Circuit Judge or available retired Justice or Circuit Judge, the Governor shall commission as Acting Associate Justice such person, learned in the law, to fill such temporary vacancy, as may be recommended by the Chief Justice, or by the ranking Associate Justice, if the Chief Justice should be disqualified or unable to act. The same course shall likewise be pursued with regard to the assignment of a disengaged Circuit Judge or an available retired Justice or Circuit Judge, or the appointment of a person learned in the law, to hold terms of the Circuit Court or Courts of inferior jurisdiction. In case all of the Justices of the Supreme Court should be disqualified or unable to hear any particular case or cases, a majority of the Justices shall certify the fact to the Governor, and he shall commission the requisite number of persons learned in the law for the hearing and determination thereof.

Section 5. There shall be appointed by the Justices of the Supreme Court a Reporter and a Clerk of the Court, who shall hold their offices for four years, and who shall perform such duties as may be prescribed by law, and such rules, not inconsistent with law, as may be adopted by the Court.

Section 6. When a judgment or decree is reversed or affirmed by the Supreme Court, every point made and distinctly stated in the cause and fairly arising upon the record of the case shall be considered and decided, and the reasons for the decision shall be concisely and briefly stated in writing and preserved with

the record of the case. In all cases decided by the Supreme Court the concurrence of three of the Justices shall be necessary for a reversal of the judgment below.

Section 7. The State shall be divided into as many Judicial Circuits as the General Assembly may prescribe. For each Circuit a Judge shall be elected by a joint vote of the General Assembly who shall hold office for a term of six years, and at the time of his election and during his continuance in office he shall be a resident of the Circuit of which he is Judge. Judges of the Circuit Courts shall interchange Circuits with each other, and the General Assembly shall provide therefor.

Section 8. The Courts of Common Pleas shall have original jurisdiction, subject to appeal to the Supreme Court, to issue writs or orders of injunction, *mandamus habeas corpus*, and such other writs as may be necessary for the full effectuation of their powers. They shall have original jurisdiction in all civil cases, and they shall have appellate jurisdiction in all civil cases within the jurisdiction of inferior Courts, unless the General Assembly provides for a direct appeal to the Supreme Court. The Court of Common Pleas shall sit in each county at least twice in every year at such stated times and places as may be appointed by law.

Section 9. The Courts of General Sessions shall have original jurisdiction in all criminal cases, except those arising from the violation of ordinances of cities or towns, and they shall have appellate jurisdiction in all criminal cases within the jurisdiction of inferior Courts, unless the General Assembly provides for a direct appeal to the Supreme Court. The Court of General Sessions shall sit in each county at least twice in every year at such stated times and places as may be appointed by law.

Section 10. Each of the Justices of the Supreme Court and Judges of the Circuit Court shall have the same power at chambers to issue writs of *habeas corpus*, *mandamus*, *quo warranto*, *certiorari*, prohibition and interlocutory writs or orders of injunction as when in open Court. The Judges of the Circuit Courts shall also have such other powers at chambers as the General Assembly may provide.

Section 11. Judges shall not charge juries in respect to matters of fact, but shall declare the law.

Section 12. It shall be the duty of the Justices of the Supreme Court to file their decisions within sixty days from the last day of the Court at which the cases were heard, and the duty of the Judges of the Circuit Courts to file their decisions within sixty days from the rising of the last Court of the Circuit then being held.

Section 13. No person shall be eligible to the office of Chief Justice, Associate Justice or Judge of the Circuit Court unless he is a citizen of the United States and of this State, has attained the age of thirty-five years, and has been a licensed attorney at law in this State for at least ten years, *provided, however,* that this shall not serve to disqualify, or to prevent his re-election, any Chief Justice or Associate Justice of the Supreme Court or Judge of the Circuit Court who has already qualified for the office at the time of the adoption of this Constitution.

Section 14. All vacancies in the Supreme Court or in the Circuit Courts shall be filled by election as herein prescribed, *provided,* that if the unexpired term does not exceed one year such vacancy may be filled by executive appointment.

Section 15. The Justices of the Supreme Court and the Judges of the Circuit Courts shall each receive for their services compensation to be fixed by law, which shall not be diminished during their continuance in office.

Section 16. No Justice of the Supreme Court or Judge of the Circuit Court shall preside or in any manner participate in his official capacity at the trial or hearing of any cause in the event of which he may be interested, or when any of the parties shall be connected with him by consanguinity or affinity within the sixth degree, or in which he may have been counsel or have presided in any other court.

Section 17. There shall be a Court of Probate in each county of the State, which shall have jurisdiction in all matters testamentary and of administration, in business appertaining to minors, the allotment of dower, and in cases of idiocy, lunacy, and persons *non compos mentis*.

Section 18. A sufficient number of magistrates shall be appointed by the Governor, by and with the advice and consent of the Senate, for each county in the State, who shall hold office for the term of four years. They shall have such jurisdiction in civil and criminal cases as the General Assembly may pres-

cribe, which need not be uniform throughout the State; *provided, however,* that no magistrate shall have jurisdiction of any civil case in which the amount involved exceeds one thousand dollars (\$1,000.00) or in which the title to real estate is in question, or of any case in chancery, or to try any criminal case in which the crime charged is a felony, or in which the punishment may exceed imprisonment for the term of ten years; *and provided further,* that no magistrate shall have jurisdiction of any civil case in which the amount involved exceeds two hundred dollars (\$200.00), or to try any criminal case in which the punishment may exceed a fine of one hundred dollars (\$100.00) or imprisonment for thirty days, unless he has been licensed to practice law in this State and has been engaged in the practice of law therein not less than five years; *and provided further,* that in criminal cases in which the offense charged is beyond his jurisdiction to try each magistrate shall have jurisdiction to sit as an examining court, and to commit, discharge, or, except in capital cases, admit the accused to bail, subject to such regulations as the General Assembly may prescribe. Magistrates having jurisdiction to try civil cases in which the amount involved exceeds two hundred dollars (\$200.00), or to try criminal cases in which the punishment may exceed a fine of one hundred dollars (\$100.00) or imprisonment for thirty days, shall be designated and appointed as Special Magistrates in order to distinguish them from other magistrates not having such jurisdiction.

Section 19. The General Assembly shall enact laws providing for and regulating change of venue in all cases, civil and criminal.

Section 20. Every civil action cognizable by magistrates shall be brought before a magistrate in the county where the defendant resides, and every criminal action in the county where the offense was committed. In all cases tried by them, the right of appeal shall be secured under such rules and regulations as may be provided by law: *provided,* that in counties where magistrates have separate and exclusive territorial jurisdiction, criminal cases shall be tried in the magistrate's district where the offense was committed.

Section 21. Every person charged with an offense shall have the right to demand and obtain a trial by jury. The jury in all cases either civil or criminal in all Courts inferior to Circuit Courts shall consist of six. The grand jury of each county shall

consist of eighteen members, twelve of whom must agree in a matter before it can be submitted to the Court. The petit jury of the Circuit Courts shall consist of twelve members, all of whom must agree to a verdict in order to render the same. Each juror must be a qualified elector under the provisions of this Constitution between the ages of twenty-one and sixty-five years, and of good moral character.

Section 22. Circuit Courts and all Courts inferior thereto shall have the power, in their discretion, to impose sentences of labor upon highways, streets and other public works upon persons by them sentenced to imprisonment.

Section 23. All writs and processes shall run and all prosecutions shall be conducted in the name of the State of South Carolina; all writs shall be attested by the Clerk of the Court from which they shall be issued; and all indictments shall conclude "against the peace and dignity of the State."

Section 24. There shall be elected in each county by the electors thereof one clerk for the Courts of Common Pleas and General Sessions, who shall hold his office for the term of four years. By virtue of his office he shall be clerk of all other Courts of record inferior to the Circuit Courts in the county, but the General Assembly may provide by law for the election of a clerk with a like term of office for any other Court of record inferior to the Circuit Courts in the county, and it may authorize the Judge of the Probate Court to perform the duties of clerk for his Court under such regulations as it may direct. Clerks of Court shall be removable for such cause and in such manner as may be prescribed by law.

Section 25. There shall be one Solicitor for each Judicial Circuit to be elected by the qualified electors of the Circuit, who shall be a resident of the Circuit and shall hold his office for the term of four years. In all cases when an attorney for the State of any Circuit fails to attend and prosecute according to law, the Court shall have power to appoint an attorney *pro tempore*. The General Assembly may provide for County Solicitors, where their services are needed in connection with County Courts having criminal jurisdiction.

Section 26. The qualified electors of each county shall elect a Sheriff and a Coroner for terms of four years, and they shall

reside in their respective counties during their continuance in office.

Section 27. All officers provided for in this article shall receive for their services such compensation as the General Assembly may from time to time by law direct, except Justices of the Supreme Court and Judges of the Circuit Courts, whose compensation has been otherwise provided for and regulated in this article.

ARTICLE VI.

Counties and Townships.

Section 1. The counties and townships of the State existing on the effective date of this Constitution, with names and boundaries as established by law, shall each constitute a body politic and corporate, and each county shall constitute one election district; but the General Assembly shall have power to organize other townships or to change the boundaries of those already established, including the consolidation thereof. Counties and townships respectively shall be governed in such manner as may be now or hereafter prescribed by law; *provided*, that local or special laws, not in conflict with any other provision of this Constitution, may be enacted by the General Assembly regulating or relating to the internal government or fiscal affairs of counties and townships, or either of them, as provided in Article III of this Constitution.

Section 2. The General Assembly shall have the power to alter county lines at any time; *provided*, that before any existing county line is altered the question of such alteration shall be first submitted to the qualified electors of the territory proposed to be taken from one county and given to another, and shall have received two-thirds of the votes cast; *and provided further*, that the change shall not reduce the county from which the territory is taken below the limits prescribed in Section 4 of this article, nor shall such change conflict with any provision of Section 5 of this article; *and provided further*, that the proper proportion of the existing county indebtedness of the section so transferred shall be assumed by the county to which the territory is transferred.

Section 3. The General Assembly may establish new counties in the following manner: Whenever one-third of the qualified

electors within the area of each section of an old county proposed to be cut off to form a new county shall petition the Governor for the creation of a new county, setting forth the boundaries and showing compliance with the requirements of this article, the Governor shall order an election, within a reasonable time thereafter, by the qualified electors within the proposed area, in which election they shall vote "Yes" or "No" upon the question of creating the proposed new county; and at the same election the question of a name and a county seat for such county shall also be submitted to the electors. If two-thirds of the qualified electors voting at such election shall vote in favor of creating the new county, then the General Assembly at the next session shall establish such new county; *provided*, no section of a county proposed to be dismembered shall be thus cut off without consent by a two-thirds vote of those voting in such section; and no county shall be formed without complying with all the conditions imposed in this article. An election upon the question of forming the same proposed new county shall not be held oftener than once in four years.

Section 4. No new county hereafter formed shall contain less than a one hundred twenty-fourth part of the whole number of inhabitants of the State, nor shall it have less assessed taxable property than one and one-half million dollars (\$1,500,000.00) as shown by the last tax returns, nor shall it contain less than four hundred square miles. In the formation of new counties no county existing on December 31, 1895, shall be reduced to less area than five hundred square miles, to less assessed taxable property than two million dollars (\$2,000,000.00) as shown by the last tax returns, nor to a smaller population than fifteen thousand; and no county created since December 31, 1895, shall be reduced to less area than four hundred square miles, to less assessed taxable property than one and one-half million dollars (\$1,500,000.00) as shown by the last tax returns, nor to a smaller population than fifteen thousand.

Section 5. Neither in the formation of new counties nor in the alteration of county lines shall any county be cut within eight miles of its court house building, nor shall any county line be so established as to pass through any incorporated city or town of this State.

Section 6. All new counties hereafter formed shall bear a just apportionment of the valid indebtedness of the old county or counties from which they have been formed.

Section 7. The General Assembly may provide for the consolidation of two or more existing counties, if a majority of the qualified electors of each of such counties voting at an election held for that purpose vote separately therefor, but such election shall not be held oftener than once in four years in the same counties.

Section 8. No county seat shall be removed except by a vote of two-thirds of the qualified electors of the county voting in an election held for that purpose, but such election shall not be held in any county oftener than once in five years.

Section 9. The General Assembly may at any time arrange the various counties into Congressional Districts, as it may deem wise and proper.

ARTICLE VII.

Cities and Towns.

Section 1. The General Assembly shall provide by general laws for the incorporation and classification of cities and towns. The powers of each class shall be defined so that no such corporation shall have any powers or be subject to any restrictions other than all such corporations of the same class. Cities and towns now existing under special charters may reorganize under the general laws, and when so reorganized their special charters shall cease and determine.

Section 2. No city or town in this State may be incorporated without the previous approval by a majority of the votes cast by the qualified electors, residing within the territory proposed to be incorporated, at an election duly called and held, pursuant to such regulations as may be prescribed by law.

Section 3. The corporate limits of no city or town in this State may hereafter be extended without the previous approval by a majority of the votes cast by the qualified electors residing therein, and also by a majority of the votes cast by the qualified electors residing within the territory proposed to be annexed, at an election duly called and held, pursuant to such regulations as may be prescribed by law. The provisions of this section shall

likewise apply to the reduction of the corporate limits of cities and towns.

Section 4. Any city or town in this State may acquire by construction or purchase and may operate public utility plants and systems for supplying water, light, power, heat, gas, ice and transportation, or any or either of them, to individuals, firms and corporations for reasonable compensation; *provided*, that no such construction or purchase shall be made without the previous approval by a majority of the votes cast by the qualified electors of such city or town at an election duly called and held, pursuant to such regulations as may be prescribed by law.

Section 5. No law shall be passed by the General Assembly granting the right to construct and operate a street or other railway, telegraph, telephone or electric plant, or to erect water or gas works for public uses, or to lay mains for any purpose, without first obtaining the consent of the local authorities in control of the streets or public places proposed to be occupied for any such or like purposes.

ARTICLE VIII.

Corporations.

Section 1. The term "corporation" as used in this article includes all associations and joint stock companies having powers and privileges not possessed by individuals or partnerships, and excludes counties, townships, school districts, cities, towns and any and all other political subdivisions or governmental agencies of this State.

Section 2. The General Assembly shall provide by general laws for the issuance of charters of incorporation, according to its classification thereof, under which the powers and restrictions applicable to each class shall be stated; and any such laws so enacted, as well as all charters now existing or hereafter issued, shall be subject to future repeal or alteration; *provided*, that the General Assembly may by a two-thirds vote of each house on a concurrent resolution allow a bill for a special charter to be introduced, and when so introduced may approve or reject the same as in the case of any other bill.

Section 3. The General Assembly shall provide by law for the election of directors, trustees or managers of all corporations

so that each stockholder shall be allowed to cast, in person or by proxy, as many votes as the number of shares he owns multiplied by the number of directors, trustees or managers to be elected, the same to be cast for any one candidate or be distributed among two or more candidates.

Section 4. Every corporation, whether domestic or foreign, doing business in this State, other than religious, educational or benevolent corporations, shall have and maintain at least one agent in the State upon whom process may be served, and at last one public office for the transaction of its business; *provided*, that nothing herein contained shall be construed to prohibit the General Assembly from providing other methods for the service of process so as to bind such corporations.

Section 5. Stock or bonds shall not be issued by any corporation save for labor done, or money or property actually received or subscribed; and all fictitious increases of stock or indebtedness shall be void.

Section 6. 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.

Section 7. There shall be a commission, to be known as the Public Service Commission, for the regulation of public utilities in this State, vested with the jurisdiction, powers and duties now provided by law or that may hereafter be prescribed by the General Assembly, not inconsistent with other provisions of this Constitution. The membership of such Commission, the manner of their choice, and their terms of office, shall be as now or hereafter provided by law.

ARTICLE IX.

Finance and Taxation.

Section 1. The power of taxation shall be exercised in a just and equitable manner, and shall never be surrendered, suspended, or contracted away, except as authorized by this Constitution. Taxes shall be levied for public purposes only; and no tax shall be levied except in pursuance of a law which shall distinctly state the object of the same; to which object the tax shall be applied.

Section 2. All property taxes shall be levied on the same assessment, which shall be based on a uniform standard of valuation; *provided*, that the taxation of intangible personal property, including moneys, credits, bank deposits, corporate stocks, and bonds, if any levy thereon be imposed by law, shall never exceed one-half of one per centum of the assessed value thereof; *and provided further*, that a graduated tax may be levied on incomes and also on occupations and businesses.

Section 3. The credit of the State, or of any political subdivisions thereof, shall never in any manner, directly or indirectly, be pledged, loaned or given for the benefit of, or used in the aid of, any individual, or private company, association or corporation.

Section 4. No property or credit of the State, or of any political subdivision thereof, or any public money from whatever source derived, shall be used, directly or indirectly, by gift, donation, loan, contract, appropriation or otherwise in aid or maintenance of any institution, society, or organization of whatever kind, which is wholly or in part under the direction or control of any church, or of any religious or sectarian denomination, society or organization.

Section 5. The corporate authorities of the counties, cities, towns and school districts of the State shall be vested with power to levy and collect taxes for their corporate purposes only, subject to such regulations and limitations as may be prescribed by the General Assembly; and the General Assembly may also authorize other political subdivisions of the State to levy and collect taxes for their corporate purposes only, subject to such regulations and limitations as the General Assembly may prescribe.

Section 6. No bonded debt of the State or of any county, township, city, town, school district, or other political subdivision of the State, shall be incurred or increased without first submitting the question as to the creation or increase of such bonded debt to the qualified electors of the issuing authority, and unless a majority of those voting shall vote in favor thereof the bonded debt shall not be incurred or increased; *provided, however*, that this provision shall not in anywise apply to bonds or other obligations secured by a pledge of a fund, the source of which is of such a character that it might reasonably be expected to be suf-

ficient to pay the bonds or other obligations without resort to the levy of a property tax, even though the full faith, credit and taxing power of the issuing authority may also be pledged for the payment of such bonds or other obligations; *and provided further*, that the General Assembly may by special Act authorize any school district to borrow money urgently needed for its corporate purposes, without referendum to the electors, on its note or notes maturing not more than five years from the date thereof, if the General Assembly determines that such indebtedness is justified in view of the financial resources of the district; *and provided further*, that nothing herein shall prevent the State or any county, township, city, town, school district or other political subdivision of the State from issuing notes or certificates of indebtedness, containing the pledge of the full faith and credit of the issuing authority, without referendum to the electors, in anticipation of the collection of taxes for any current fiscal year for amounts actually contained or to be contained in the taxes for that year, when such notes or certificates are payable out of such taxes; *and provided further*, that nothing herein shall prevent the issuance of bonds or other obligations, without referendum to the electors, for the purpose of paying or refunding any valid bonds, or other valid obligations, previously issued under the authority of law.

Section 7. All obligations, special or general, issued by the State or any county, township, city, town, school district or other political subdivision of the State, and maturing beyond the period of eight years from the date thereof, shall be issued subject to redemption by the issuing authority on such terms as the General Assembly may prescribe, or in the absence of action by the General Assembly, on such terms as the issuing authority may provide in and by the terms of the obligations.

Section 8. The General Assembly, in order to make provision for the cost of permanent public improvements, may provide by law that special or local assessments be levied upon the real property directly and specially benefited thereby; *provided*, that before any such assessment shall be made, due and timely notice shall be given to the property owners affected thereby; and no such assessment shall be levied upon abutting property for the purpose of paying for permanent improvements on streets and sidewalks in incorporated cities or towns without the written

consent of the owners of at least one-half of the abutting property.

Section 9. Money shall be drawn from the treasury of the State only in pursuance of appropriations made by law; and an accurate statement of the receipts and expenditures of all public money shall be published with the laws of each regular session of the General Assembly in such manner as may be directed by law.

Section 10. Exemptions of property from taxation shall conform to the following provisions of this section:

(a) There shall be exempt from taxation all property of the State and of its political subdivisions and governmental agencies used exclusively for public purposes and not for revenue.

(b) There shall also be exempt from taxation the property of all schools, colleges and institutions of learning, all charitable institutions in the nature of hospitals or homes for the infirm, deaf and dumb, blind, mentally incompetent and indigent persons; and of all public libraries, churches, parsonages and cemeteries; *provided*, that this exemption shall not be applicable to any of the property herein referred to where the profits thereof are applied either wholly or in part to private uses; *and provided further*, that as to real estate this exemption shall not extend beyond the buildings and premises actually occupied for the purposes herein indicated, although connected with charitable objects.

(c) There shall also be exempt from taxation all obligations issued by the State, counties, townships, cities, towns, school districts, and other political subdivisions of the State.

(d) There shall also be exempt from taxation all household goods and furniture used in the homes of the owners thereof, but this exemption shall not apply to such property used in hotels, rooming houses, apartments, or other places of business.

(e) Any city or town in this State, by ordinance adopted by its council or other governing body, may exempt from all city or town taxes, except for school purposes, new manufacturing enterprises, each having a paid in capital of not less than Fifty Thousand Dollars (\$50,000.00), established within its limits, for five successive years from the time of such establishment; and any county in this State may likewise exempt, by resolution

of its Commissioners or other governing body, from all county taxes, except for school purposes, such new manufacturing enterprises, established within its limits, for the period aforesaid; *provided*, that the exemption referred to in this sub-section shall apply only to new manufacturing enterprises having the capital aforesaid, and shall not apply to additions to existing manufacturing enterprises.

Section 11. The fiscal year shall commence on the first day of July in each year; and this shall not only be the fiscal year of the State, but also that of all counties, townships, cities, towns, school districts, and other political subdivisions of the State.

ARTICLE X.

Education.

Section 1. There shall be a State Board of Education, composed of the Governor, the State Superintendent of Education, in whom the supervision of public instruction is vested, and not exceeding seven other persons to be appointed every four years by the Governor, by and with the advice and consent of the Senate, of which board the Governor shall be Chairman and the State Superintendent of Education, Secretary. This board shall have the regulation of the examination of teachers applying for certificates of qualification, shall award all scholarships, and have such other powers and duties as may be determined by law, including the powers and duties conferred upon it by Section 5, Article II of this Constitution.

Section 2. The General Assembly shall make provision for the election or appointment of all other necessary school officers, including a County Board of Education in each county, and shall define their qualifications, powers, duties, compensation and terms of office. Each County Board of Education also shall have the powers and duties conferred upon it by Section 5, Article II, of this Constitution.

Section 3. The General Assembly shall provide for the division of the counties into suitable school districts and for a liberal system of free public schools for all children, beginning with the age of six years and continuing until a high school education may be completed. The present division of the counties into school districts and the provisions of law now governing

the same shall remain until changed by the General Assembly. The General Assembly also shall provide for a system of higher education.

Section 4. The manner of the selection of trustees of school districts shall be prescribed by the General Assembly, and need not be uniform throughout the State.

Section 5. Separate schools shall be provided for members of the white and colored races, and no member of either race shall ever be permitted to attend a school provided for members of the other race.

ARTICLE XI.

Militia.

Section 1. The militia of this State shall consist of all able bodied male citizens of the State between the ages of seventeen and forty-five years, except such persons as may be exempted by law, and it shall be organized, officered, armed, equipped and disciplined as the General Assembly may by law direct.

Section 2. The Adjutant and Inspector General, whose duties relate primarily to the militia, shall be *ex officio* chief of staff, with such rank as the General Assembly may prescribe; and the Governor, by and with the advice and consent of the Senate, shall appoint such other staff officers as the General Assembly may direct.

Section 3. The General Assembly is hereby empowered and required to provide such proper and liberal legislation as will guarantee and secure an annual pension to every indigent or disabled Confederate soldier and sailor of this State and of the late Confederate States who is a citizen of this State, and also to the indigent widows of Confederate soldiers and sailors.

ARTICLE XII.

Impeachment and Removal of Officers

Section 1. The House of Representatives shall have the sole power of impeachment. A vote of two-thirds of all the members elected shall be required for an impeachment. Any officer impeached shall thereby be suspended from office until judgment in the case has been pronounced, and the office shall be

filled during the trial in such manner as may be provided by law.

Section 2. All impeachments shall be tried by the Senate, and when sitting for that purpose, they shall be under oath or affirmation. No person shall be convicted except by a vote of two-thirds of all the members elected. When the Governor is impeached, the Chief Justice of the Supreme Court or the Senior Associate Justice, if the Chief Justice should be disqualified, shall preside, with a casting vote in all preliminary questions.

Section 3. The Governor and all other executive and judicial officers shall be liable to impeachment, but judgment in such cases shall not extend further than removal from office. The persons convicted shall, nevertheless, be liable to indictment, trial and punishment according to law.

Section 4. Whenever it has been brought to the notice of the Governor by affidavit that any officer having the custody of public or trust funds is probably guilty of embezzlement or the appropriation of public or trust funds to private use, the Governor shall direct his immediate prosecution by the proper officer, and upon true bill found the Governor shall suspend such officer and appoint one in his stead, until he has been acquitted by the verdict of a jury. In case of conviction the office shall be declared vacant and the vacancy filled as may be provided by law. Officers shall be removed by the Governor for incapacity, misconduct or neglect of duty in such manner as may be provided by law, when no mode of trial or removal is provided in this Constitution.

ARTICLE XIII.

Amendment, Revision and Change of the Constitution.

Section 1. Amendments to this Constitution may be proposed either in the Senate or House of Representatives. If agreed to by two-thirds of the members elected to each house, each proposed amendment shall be entered on the journal of each house, with the yeas and nays taken thereon, and it shall be submitted by the Secretary of State to the qualified electors of the State at the next general election thereafter for Representatives; *provided*, that if the General Assembly so stipulates in the resolution proposing an amendment, it shall be submitted by the Secretary of State at a special election to be held at the time

specified in the resolution, but not less than three months after the adjournment of the General Assembly then in session. If a majority of the votes cast by qualified electors is in favor of the amendment submitted to the electors, and a majority of each branch of the General Assembly during its next session after such election ratifies the amendment by yeas and nays, it shall become a part of the Constitution, *provided*, such amendment has been read three times on three several days in each house.

Section 2. If two or more amendments are submitted at the same time, they shall be submitted in such manner that the electors can vote for or against each of such amendments separately. But the General Assembly may provide for the submission of a new Constitution as an entity to be voted on as a whole, if agreed to by two-thirds of the members elected to each house, with the yeas and nays taken thereon and entered on the journal of each house, whereupon such new Constitution shall be submitted by the Secretary of State to the qualified electors of the State at the next general election thereafter for Representatives; *provided*, that if the General Assembly so stipulates in the resolution proposing such new Constitution, it shall be submitted by the Secretary of State as a special election to be held at the time specified in the resolution, but not less than three months after the adjournment of the General Assembly then in session. If a majority of the votes cast by qualified electors be in favor of the new Constitution, it shall thereupon be and become the Constitution of the State of South Carolina, without ratification by the General Assembly, as is required with reference to an amendment.

Section 3. Whenever two-thirds of the members elected to each branch of the General Assembly find it necessary or advisable to call a convention to revise, amend or change this Constitution, or to adopt a new Constitution, they shall recommend to the electors to vote for or against a convention at the next general election thereafter for Representatives, or at a special election to be held at the time specified by the General Assembly, but not less than three months after the adjournment of the General Assembly then in session; and if a majority of all the electors voting thereon vote for a convention, the General Assembly at its next session shall provide by law for calling such convention, which shall consist of a number of members equal

to that of the most numerous branch of the General Assembly. Membership in such a convention shall not be construed to be within the inhibition of this Constitution against dual office holding.

ARTICLE XIV.

Miscellaneous Matters

Section 1. The people of the State are declared to possess the ultimate property in all lands within the jurisdiction of the State, and all lands the title to which shall fail from defect of heirs shall revert or escheat to the people.

Section 2. The State shall have concurrent jurisdiction on all rivers bordering on this State, so far as they form a common boundary to this and any other State. Such rivers, together with all navigable waters within the limits of the State, shall forever remain public highways, free to the citizens of this State and the United States without tax, impost or toll imposed, unless expressly provided for by the General Assembly; and no tax, toll, impost or wharfage shall be imposed, demanded or received from the owners of any merchandise or commodity for the use of the shores, or any wharf erected on the shores, or in or over the waters of any navigable stream, unless authorized by the General Assembly.

Section 3. No person who denies the existence of a Supreme Being shall hold any office under this Constitution.

Section 4. Every qualified elector shall be eligible to any office in this State, unless disqualified under this Constitution, and no person shall be elected or appointed to any office unless he possesses the qualifications of an elector; but no person shall hold two offices of honor or profit at the same time; *provided*, *however*, that any person holding another office may at the same time be an officer in the militia or a Notary Public.

Section 5. No person shall be elected or appointed to office in this State for life or during good behavior, but the terms of all officers shall be for some specified period, except Notaries Public and officers in the militia.

Section 6. All public officers in this State before entering upon the duties of their respective offices, and all members of the bar, before entry upon the practice of their profession, shall

take and subscribe the following oath (or affirmation): "I do solemnly swear (or affirm) that I am duly qualified to exercise the duties of the office to which I have been elected (or appointed), and that I will perform the duties thereof faithfully, impartially and justly to the best of my ability; and that I will support and defend the Constitution of this State and of the United States."

Section 7. The real and personal property of a woman held at the time of her marriage or thereafter acquired, either by gift, grant, inheritance, devise or otherwise, shall be her separate property, and she shall have all the rights incident to such property to which an unmarried woman or a man would be entitled. She also shall have the power to contract and be contracted with in the same manner as if she were unmarried.

Section 8. There shall be exempt from attachment, levy and sale, under any mesne or final process issued from any Court, to the head of every family residing in this State a homestead in lands, whether held in fee or any lesser estate, to the value of One Thousand Dollars (\$1,000.00), or so much thereof as the property is worth if its value is less than One Thousand Dollars (\$1,000.00), with the yearly products thereof, and to every head of a family residing in this State, whether entitled to a homestead exemption in lands or not, personal property to the value of Five Hundred Dollars (\$500.00), or so much thereof as the property is worth if its value is less than Five Hundred Dollars (\$500.00). The title to the homestead to be set off and assigned shall be absolute and forever discharged from all debts of the debtor then existing or thereafter contracted, except as hereinafter provided. In case any woman having a separate estate should be married to the head of a family not having sufficient property of his own to constitute a homestead as hereinbefore provided, such married woman shall be entitled to a like exemption as provided for the head of the family; *provided, however,* that there shall not be an allowance of real estate exceeding One Thousand Dollars (\$1,000.00) in value or of personal property exceeding Five Hundred Dollars (\$500.00) in value to the husband and wife jointly. No property shall be exempt from attachment, levy or sale for taxes, or from being subjected to payment of obligations contracted for the purchase of the homestead or personal property exemption or the erection

or making of improvements or repairs thereon, and the yearly products of the homestead shall not be exempt from attachment, levy or sale for the payment of obligations contracted in their production. No waiver shall defeat the right of homestead before assignment, except it be by deed or conveyance, or by mortgage and then only to the extent of the mortgage debt; and no judgment creditor or other creditor whose lien does not bind the homestead shall have any right or equity to require that a lien which embraces the homestead and other property shall first exhaust the homestead. After a homestead in lands has been set off and recorded it shall not be waived by deed of conveyance, mortgage or otherwise, unless such instrument be executed by both husband and wife, if both be living. Any person not the head of a family shall be entitled to a like exemption as provided for the head of a family in all necessary wearing apparel and tools and implements of trade, not to exceed in value the sum of Three Hundred Dollars (\$300.00).

Section 9. All persons sentenced to imprisonment for the violation of any law shall always be under the supervision and control of the public authorities, and in the event of being hired or farmed out, their maintenance, support, medical attention, and discipline shall be under the exclusive control and direction of the public authorities.

Section 10. In the case of a prisoner lawfully in the charge, custody or control of any officer, State, county or municipal, being seized and taken from such officer, through his negligence, permission or connivance, by a mob or other unlawful assemblage of persons, and at their hands suffering bodily violence or death, such officer shall be deemed guilty of a felony, and upon true bill found shall thereby become automatically suspended from his office pending his trial. Upon conviction he shall forfeit his office, and unless lawfully pardoned shall be ineligible to hold any office of trust or profit within this State. It shall be the duty of the prosecuting attorney within whose circuit or county the offense has been committed to forthwith institute a prosecution against such officer, who shall be tried in such county, other than the one in which the offense was committed, as the Attorney General may elect; *provided, however,* that upon sufficient cause being shown the defendant shall be entitled to a change of venue in accordance with the provisions of law

as in other criminal cases. The fees and mileage of all material witnesses, both for the State and for the defense, shall be paid by the State Treasurer in such manner as may be provided by law. In all cases of lynching when death ensues the county where such lynching occurs, without regard to the conduct of the officers, shall be liable in exemplary damages of not less than Two Thousand Dollars (\$2,000.00) to the legal representatives of the person lynched. Any county against which a judgment has been obtained for damages in any case of lynching shall have the right to recover in any Court of competent jurisdiction the amount of such judgment from the parties engaged in the lynching.

Section 11. Divorces from the bonds of matrimony shall be allowed only on grounds of adultery, desertion, physical cruelty or habitual drunkenness.

Section 12. The marriage of a white person with a negro or mulatto, or person having one-eighth or more of negro blood, shall be unlawful and void.

Section 13. No unmarried woman shall legally consent to sexual intercourse who has not attained the age of fourteen years.

ARTICLE XV.

General Provisions.

Section 1. The provisions of this Constitution shall be taken, deemed and construed to be mandatory and prohibitory, and not merely directory, except when expressly made directory or permissive by its own terms.

Section 2. The provisions of this Constitution shall be self-executing to the extent that their respective natures permit.

Section 3. Wherever in this Constitution it is provided that the General Assembly shall enact certain legislation, such provision shall not be construed to require further or additional legislation, if there is existing statutory law, not in conflict with this Constitution, covering the subject matter referred to in this Constitution.

Section 4. Wherever in this Constitution the term "person," "persons," "people" or any personal pronoun is used, the same shall be interpreted to include persons of both sexes.

Section 5. If at the expiration of the term of any office held pursuant to law, except membership of the General Assembly, no successor has been chosen or has qualified, the incumbent shall continue in office until such successor has been elected or appointed and has qualified, but in that case the hold over period shall not so operate as to extend the term of the successor.

ARTICLE XVI.

Schedule.

Section 1. All laws in force in this State at the time of the adoption of this Constitution not inconsistent therewith, and constitutional when enacted, shall remain in full force until altered or repealed by the General Assembly, or until they expire by their own limitations.

Section 2. All officers filling any office by election or appointment who may be in office at the time of the effective date of this Constitution shall continue to exercise the duties thereof, according to their respective commissions or appointments, until their terms expire, unless sooner removed pursuant to law.

Section 3. All writs, actions, causes of action, proceedings, prosecutions and rights of individuals, of bodies corporate, of the State and of all its political subdivisions, existing at the time of the adoption of this Constitution and not inconsistent therewith, shall continue as valid.

Section 4. All recognizances, obligations and all other instruments entered into or executed, before the adoption of this Constitution, to the State, or to any county, township, city, town, or other political subdivision therein, and all fines, taxes, penalties and forfeitures due or owing to this State, or to any county, township, city, town, or other political subdivision therein, shall continue and remain unaffected by the adoption of this Constitution, except as therein otherwise provided. All crimes or offenses committed at the time of the adoption of this Constitution may be prosecuted as if no change had been made, except as otherwise provided in this Constitution.

Section 5. The first election for members of the House of Representatives under this Constitution shall be held on Tuesday after the first Monday in November, 195____, and the first election for Senators shall likewise be held on Tuesday after the first

Monday in November, 195____, except in counties in which there was an election for Senator in 195____, for a full term, and in those counties the hold over Senators shall continue in office until the expiration of their terms.

Section 6. This Constitution shall supersede the Constitution of Eighteen Hundred and Ninety-five as amended.

Section 7. This Constitution shall be in full force and effect from and after the_____day of_____, in the year_____.

We deeply regret that we cannot concur in the Report of the majority of the Constitution Revision Committee, especially that portion dealing with Suffrage. We agree that an amendment should be submitted to the people in the General Election of this year clarifying the method of amending the Constitution.

R. M. JEFFERIES
J. D. PARLER
L. M. GRESSETTE

April 12, 1950

SOUTH CAROLINA CONSTITUTION REVISION COMMITTEE

MINORITY REPORT BY RUTH ROETTINGER

The draft of a Constitution submitted in the report of this Committee is far superior to the present Constitution of 1895. But still it is not the Constitution that South Carolina needs, in the opinion of this Committee member. The changes recommended are needed and are good as far as they go. But they do not touch the fundamental problems of government in South Carolina. These are the absence of adequate executive power where it properly belongs, and the possession of power elsewhere in the government without sufficient responsibility. And there are other problems of significance some of which are mentioned later that are likewise untouched.

South Carolina has the semblance of a government of three branches, each with its own proper powers, each independent of the other and limited to its own field, but it lacks the reality. One might think that the Governor would have the authority that properly belongs in the executive branch in as much as the

Constitution says "He shall take care that the laws be faithfully executed in mercy"—but in reality he largely lacks power over administration because he lacks authority over those who administer and enforce the law. And the legislative branch that is not constitutionally given the responsibility of directing the administration of the affairs of the State and the counties actually possesses a large measure of this power.

The weakness of the Executive is produced by constitutional provisions that should be changed. The great power of the legislative branch, which has existed in South Carolina from colonial days, except for the period under the Constitution of 1868, may be the wish of the people but it is neither authorized nor prohibited by the Constitution. One or the other should be done.

Two essentials of good government are (1) that adequate power to act must be given, and (2) that responsibility must be pinned where power is. In both respects the Constitution of South Carolina fails to provide good government. This Committee has failed to do anything about these problems.

Weak Executive

South Carolina has a government dominated by legislators. Certainly a strong and effective Legislature is desirable. But the pattern of American government is to have the Legislature limited to legislative functions, and balanced by a strong and effective executive and both of them kept in line by an alert judiciary. South Carolina does not have such a government. A strong and effective executive is not found in South Carolina.

Lines of governmental power have changed little in South Carolina since colonial days when rightly the people insisted that power should not reside in an executive on the other side of the Atlantic. But, as Dr. D. D. Wallace has so aptly said: "We have not yet apparently realized that the Governor is no longer the representative of a distant and would-be despotic potentate, but is our own servant who to serve us adequately must have the handcuffs removed."

We should know by now that the voters select and can control the executive, and a powerless executive should not be one of our desires. It is not executive power that is to be feared—it is irresponsible power that is to be prevented.

The Governor has very little authority over the administration of law in South Carolina. He does not choose and has little authority over those who do administer the law. The chief state administrators are, like himself, popularly elected, so they each go their own way in splendid independence. Several administrative bodies are elected by the General Assembly and it is as true in government as anywhere else that "he who pays the piper calls the tune"—whom the General Assembly elects, the General Assembly controls. And constitutional responsibility should be placed on the Legislators for all the non-legislative power they exercise. This is not now done. Some administrative bodies are filled by executive appointment but the terms are so long and so arranged that in a four-year term a Governor has little influence on them, with the result that these are largely independent bodies.

The chief law enforcement officials, the County Sheriffs, are popularly elected and so are independent of the Governor. Dr. Wallace has said "An essential reform is that we should give the state executive officials the power of appointment and removal of all county and other officials responsible for the enforcement of the laws over which the respective state departments are set."

It is state law that is being administered and yet a large part of it is in the hands of officials who enjoy what has been called "county officer sovereignty."

The South Carolina Governor closely resembles in authority the King of England but the lines of authority and responsibility are not clear here as they are in England. If we wish a government in which the three branches are not equally powerful, each within its own field, if we wish to have a preponderance of power in one branch, our Constitution should clearly say so.

The present situation has many undesirable features besides the fact that a reading of the Constitution will not now give a clear picture of government authority in South Carolina. As Dr. Wallace has said, it is mostly by personal power rather than constitutional authority that a Governor can exert much influence or accomplish very much. This is a dangerous weapon to force a Governor to resort to if he wishes to be more than a colorless and perfunctory head of the State.

"Tillman was officially Governor of South Carolina; but he was unofficially something more powerful; he was boss of his

party. Armed with the power to blast the political fortunes of almost any man in the State in either state or national politics, he got things done through the terror of this political control that he could never have gotten done through the exercise of his constitutional powers. Through the agency of party a strong man grasps in an extra-legal, irresponsible way the power that should be lodged legally and responsibly in the hands of the executive."—Dr. Wallace.

V. O. Key in his recent study "Southern Politics" says, "South Carolinians, like most of us, have a strange hesitancy to reconcile themselves to the proposition that to govern requires power and that the problem of democracy is not to break down power but to grant power adequate to necessities and then to control it."

The Constitutional Convention of 1895 did not heed Governor John Gary Evans, President of the Convention, when he said: "If we are to have a chief, make him such." This Committee has left the Governor as it found him.

Reelection of Governor

The constitutional restriction that the Governor cannot be re-elected to succeed himself is one of the misguided provisions that should come out of the Constitution, in the opinion of this Committee member.

This limitation is probably based on the theory that if the Governor cannot succeed himself, he will devote his energies to his daily work with no thought or time given to reelection. In reality, since he cannot continue in the governorship, he may if he has ability turn his attention to the United States Senate.

Both of South Carolina's Senators at the present time were elected to that office while Governor of South Carolina and left the governorship without finishing their terms. So the apparent purpose of this limitation fails to be achieved and the limitation should therefore be thrown out as impractical.

But a more important aspect of this question is the fact that the limitation is based on lack of confidence in the voters—on the theory that the voters cannot be trusted to decide whether a Governor should be continued in office or not. If the voters can decide in the first place to put an official in office, they should certainly have the chance to decide whether they want him to continue in office.

If the purpose of this constitutional provision is to limit an official simply because he might wish to perpetuate himself in office and could build a machine for this purpose, then it should be equally binding on all popularly elected officials, including Legislators, who could build machines and perpetuate themselves in office.

But in reality this is a limitation that should apply to none. The people should have and should be trusted to discharge the responsibility of deciding whether popularly elected officials should be continued in office or not.

Furthermore, by this limitation South Carolina largely deprives itself of the benefits of any constructive program that a Governor may present. Lacking power as he does, a Governor can do little toward the accomplishment of a program in four years. And with the almost complete lack of any clash of issues in elections in South Carolina, it is improbable that the voters would have a chance to choose a new Governor who would carry on a program that already has been started and that they wish to have continued. This adds to the ineffectualness of the Governor and deprives the State of constructive accomplishments.

In some instances the Constitution requires unreasonable decisions of the voters—decisions that they should not be required to make (as will be shown later)—but in this instance the Constitution denies the power to make a decision that the people are able to make and should make. This limitation should certainly be removed from the Constitution.

Popular Election

With the rise of representative government there developed the notion that all officials should be popularly elected. Experience with this idea has shown its fallacy. Yet South Carolina too largely continues to cling to it. Popular election of all officials is not necessary for representative responsible government and in some cases is really undesirable.

The essential thing is to have policy-makers—those who make decisions about what is to be done—chosen by and responsible to the people. Those who administer the decisions after they are made and who need specialized and professional training for their work are better chosen by those who can be held respon-

sible for their selection. To place the choice of these latter officials on the voters confuses the issues of representative government and places on the voters a burden that without doubt increases their apathy and retards their participation in political decisions. Lack of interest and slight participation in political affairs is one of the great problems of democratic government. In South Carolina voter participation is very much lower than the average for the nation. No unnecessary or unwise burdens should be placed upon it.

The Constitution of South Carolina now requires popular election of the Secretary of State, the Treasurer, the Comptroller General, the Attorney General, the Adjutant General and the Superintendent of Education. And popular election of the Commissioner of Agriculture is required by statute. Not a one of these administrators should be popularly elected. They are not policy-makers who can take to the people programs for action so the people may choose the policy they prefer. These are officials who need professional competence which the voters are ill equipped to judge and measure. They should be chosen by responsible officials who will direct them and be held responsible for their performance.

One of the tragedies of politics in South Carolina is the fact that elections revolve almost entirely around personalities rather than around policies—how else could it be when we elect so many officials who do not deal with policies? What but personalities could possibly dictate the popular election of a Secretary of State, an official who largely spends his time issuing charters of incorporation and keeping records? What does the average voter know about the duties of this office and the qualifications necessary for discharge of these duties? How can the voter measure these technical qualifications in the candidates? How but on the basis of personalities can the voters choose a Comptroller General and an Attorney General—or any of the other top administrators who are now popularly elected?

The presence of these officials in the campaigning clouds the selection of policy-makers such as the Governor and the members of the General Assembly who should be chosen on the basis of the policies that will determine the many important decisions they will make. But these latter like the former deal lightly, if at all, in policy debate and so, like the former, are chosen almost

entirely on the basis of personalities. This is a curse in the politics of South Carolina and is the base of many of our political ills.

Popular election of all officials is as much a corruption of representative government at one extreme, as no popular election is a denial at the other extreme. The important thing is to decide which officials should be popularly elected and which can be best chosen by other means—by appointment or by examination to determine competence.

County government

While Article VII of the Constitution of 1895 is entitled "Counties and County Government," a reading of the Article will reveal the fact that no county government is thereby established. By legislative action, the counties have boards of one sort or another who have theoretically the power to decide policy in county affairs. But as every one in South Carolina knows, the county legislative delegations, with the exception now of Charleston, are practically the county governments. This is not a case of seizure of power by the delegations—rather they have simply filled a vacuum left by the Constitution. It may be desirable to have them exercise this power but again it is a matter that should be made constitutionally clear and along with power there should go constitutional responsibility.

Thanks to the words in Article VII "the General Assembly . . . may make special provision for municipal government . . .", Charleston County has provided the leadership which might bring a new day in county government if the people in the other counties would assert themselves and follow the Charleston example.

But the question is whether to leave the improvement of county government to this route which is sound but time-consuming and uncertain or to help to promote it by constitutional provision. The Constitution of 1868 set up a system of county government to which we might well return. Certainly there should be leeway for home rule but the pattern of government should be drawn in the Constitution. This is not now done and this Committee has done nothing about it.

Policy decisions must be made in county affairs. Maybe the county delegation is the best body to perform this work. If so,

they should be constitutionally authorized and made responsible. But the question of numbers is important here for in ten counties there is only one House member, which means that two persons, the Senator being the other one, exercise this authority. Twenty-one counties have only two House members so that, in these counties, three persons have this power. And even in the counties with larger delegations, the Senator has veto power over the wishes of the House members.

Power in the hands of so few would not be objectionable if the power were exercised *officially* rather than unofficially and by default, as is so largely true now. County delegations are now not simply representatives of the counties in the state legislature, they are called on to make decisions in county affairs throughout the year. This is a state of affairs that should be regularized either by setting them up with year-round constitutional authority (and salary), or else this work should be placed on some other body as has been done in Charleston. This latter course would mean that decisions which are not now made under public scrutiny in the county courthouse would be so made.

The great need in county government is to have a body, whether it is the delegation or some other body, which will, throughout the year, openly and at regularly announced sessions exercise legislative authority in county matters as a city council legislates in city matters.

The volume of "uncontested local business" that now congests the hoppers of the General Assembly should all be taken care of back at the county courthouse where it will be known to the people who will be affected. Approximately 84% of the laws enacted by the General Assembly now are local. It is a delusion to think that their passage through the legislature means that they receive the attention and thought of members from other counties. They receive no such supervision, but are shaped only by the delegation of the county affected. What we have now are really forty-six miniature legislatures each making laws for their respective counties according to their own wishes, but doing it in Columbia under the guise of supervision and study by the whole General Assembly but actually without that supervision and study.

There might be the argument that the mere listing of these local bills on the calendars is a valuable source of information

for members from other counties who thus keep abreast of new developments and get suggestions which lead to improvements in their counties. One might believe this argument had value if he could see any such following of good examples. But a study of county affairs will reveal such wide variety that copying of good examples is hard to find. An exchange of information between counties would certainly be desirable and could very easily be provided. Inter-county cooperation should by all means be encouraged but there is no evidence that this end is served by having county business handled in the General Assembly.

There is a two-way change here—some things need to come back from Columbia to the county courthouse and at the same time some functions, such as the assessing of property for taxation for example, need to move out of the hands of local authorities to a state-wide handling for greater uniformity and justice and competence.

Again in the field of county government, popular election is mistakenly grasped as the route to good government. The Constitution now provides for the popular election of the sheriff, the coroner, the clerk of court, and, by inference, the probate judge. Many more county officials are popularly elected either by statutory requirement or custom, as in the case of auditors, county treasurers, and magistrates.

Who would advocate for good city government that the chief of police in cities should be popularly elected? For what sound reasons then should a sheriff be popularly elected? The coroner is an official who has no place in a day of modern police methods and medical examiners. "He remains in many state constitutions as a monument to resistance to change in the matter of the abolition of political office." The clerk of court and probate judge do not deal in matters of policy. Again personalities almost alone dictate their selection when they are chosen by the voters. Yet their offices require a competence which should be the ruling consideration in their selection.

None of these officials should be popularly elected. Rather some should be under the appropriate state authority and some under a county board just as city officials in the more modern and efficient city governments are under the authority of city councils.

The county structure that has grown up needs scrutiny, and adequate county government will require constitutional changes which are not being recommended by this Committee.

Constitutional convention needed

Adequate constitutional revision if and when it comes in South Carolina will have to come by and from the people in a constitutional convention. Those who would lose power or independence or gain responsibility by revision, will not willingly see a change. Democratic government has this Achilles heel—it can be little better than the capacity and interest of the people dictate.

"We are getting along pretty well as we are" or "we have always had it this way" do not provide the perspective needed. If there is no possible room for any improvements, these slogans would be all right. But if we have courage and confidence in our stability and ability to solve our problems, we would rather say "can things be improved? Can we make government in South Carolina better?" If any suggestion of change is to be viewed with alarm as "tearing up the Constitution," we will blindly continue with parts of the Constitution that need tearing up.

South Carolina has not been timid at constitution making as her seven constitutions demonstrate. And yet while the number of constitutions is seven, never has the governmental structure been much altered since colonial days. That that structure is no longer adequate is the contention of this Committee member. The recommendations of this Committee make no change in that structure.

On motion of Mr. McCHESNEY the reading of the report was dispensed with and the report was ordered printed in the Journal and received as information.

ADJOURNMENT

At 11:12 a. m. the House, on motion of Mr. TAYLOR, adjourned (to meet at 12:00 noon Tuesday next).