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Few cases of general interest involving statutory construction were decided during the period of this survey. The cases included are of interest not because of any change or trend in the applicable rules, but because of the novelty of the situations in which the established rules were applied.

The automobile attachment lien statute[1] was construed in *Fruehauf Trailer Co. v. S. C. Electric & Gas Co.*[2] The case turned on whether a trailer being drawn by a truck-tractor on a highway was included in the term "motor vehicle," as used in the attachment statute. The Court, in deciding in the affirmative, held that a definition of a "motor vehicle" in an unrelated statute was not controlling as to the meaning of the term in the attachment statute and it was immaterial whether this particular type of vehicle was in existence at the time of enactment of the statute.

In at least one case the Court re-emphasized the rule that repeals by implication are not favored. In *City of Spartanburg v. Blalock,*[3] the Court was faced with a controversy between the city council and the Commissioners of Public Works as to who had the authority to fix rates, etc., for the waterworks system. The two statutes involved were an act[4] passed in 1896 enabling municipalities to construct and operate waterworks and to elect commissioners to manage them, and an act[5] passed in 1933, authorizing municipalities to issue revenue bonds for construction and improvement of waterworks and providing for the governing body of the borrower to fix the rates, etc., for the waterworks. The Court, by examining the history of the period in which the 1933 act, *supra,* was passed, determined that the intention of the legislature was to enable municipalities to qualify for federal grants in a period of economic crisis, rather than to deprive previously established managerial bodies of their powers. Having determined this

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1. CODE OF LAWS OF SOUTH CAROLINA, 1952 § 45-551.
2. 223 S.C. 320, 75 S.E. 2d 288 (1953).
3. 223 S.C. 252, 75 S.E. 2d 360 (1953).
4. Act March 2, 1896, § 1 *et seq.*, 22 ST. AT LARGE, p. 83, as amended.
5. Act May 8, 1933, § 1 *et seq.*, 38 ST. AT LARGE, p. 411, as amended.

legislative intent, the Court held that the council's authority was supervisory and it could interfere only when the Commissioners of Public Works, by the establishment of rates or policies, failed to comply with the requirements of the act of 1933, *supra.*

That changes in phraseology incident to revision of the code will not be construed as altering the law, unless such an intention by the legislature is clearly expressed, was determined in *Town of Forest Acres v. Seigler.*[6] The question which occasioned this holding was whether a municipality could annex a part of another municipality without submitting the question of detachment to the voters of the municipality that would be reduced. After having held that such an annexation would be invalid under provisions of the 1942 Code,[7] the Court turned to the changes made in the 1952 version of the statute.[8] The clause in question read, in the 1942 Code, "whether the said adjacent territory be in whole or *in part in* incorporated municipality"[9] and in the revised version read, "whether the said adjacent territory be in whole or *in part in an* incorporated municipality."[10] (Italics ours.) The Court, in determining the meaning of the statute turned to the original act, which read, "whether the said adjacent territory be in whole or *in part an* incorporated municipality,"[11] (Italics ours) and concluded that the intention of the legislature should be ascertained from the wording of the original act because of the ambiguity which existed in the revised statutes.[12] As a result, both the 1942 and 1952 versions of the statute were declared to have the same effect, despite their apparent conflict, and the attempted annexation was invalid.

A zoning ordinance was construed in *Purdy v. Moise.*[13] Applying the rule that a statute or ordinance in derogation of material rights should be strictly construed, the Court held that a zoning ordinance which authorized the construction of a hotel in the zone in question did not exclude a tourist or motor court.

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6. 224 S.C. 166, 77 S.E. 2d 900 (1953).
7. See S. C. CODE OF LAWS, 1942 §§ 7320-7332.
8. CODE OF LAWS OF SOUTH CAROLINA, 1952 § 47-13.
9. S. C. CODE OF LAWS, 1942 § 7231.
10. CODE OF LAWS OF SOUTH CAROLINA, 1952 § 47-13.
11. 27 ST. AT LARGE, p. 22 (1911).
12. S. C. CODE OF LAWS, 1942 § 7231; CODE OF LAWS OF SOUTH CAROLINA, 1952 § 47-13.
13. 223 S.C. 298, 75 S.E. 2d 605 (1953).

Two of the statutes[14] struck down by the Court as unconstitutional are of interest, although neither was of state-wide application. In *Fordham v. Fordham*,[15] the Court held that the provision[16] of the Juvenile and Domestic-Relations Courts Act,[17] which gives the family court jurisdiction over a husband who "is not residing or domiciled in the county but is found therein at such time and the petitioner is so residing or domiciled at such time," is unconstitutional because such provision is a special law in a field where a general law is applicable and thereby deprives a defendant of his substantial right to be tried in the county of his residence.

An over-zealous attempt to promote the lot of the fairer sex caused an election of a school board to be declared invalid and the statute[18] authorizing the election to be held unconstitutional. The validity of the election was before the Court in *Lee v. Clark*.[19] The act provided that the three women candidates who received the largest vote of the women candidates should be elected, regardless of whether they were among the nine candidates receiving the largest number of votes. This provision was held to discriminate against male candidates and, therefore, was unconstitutional. The Court held further that this discriminatory provision was not separable from the remainder of the statute as the legislature would not have passed the remaining provisions in the absence of the discriminatory part and, therefore, the entire act unconstitutional.

In the *State Ex Rel. Callison v. National Linen Service Corporation*,[20] the Court considered the "Anti Trust Statute"[21] and applying the rule that a statutory provision which works a forfeiture requires strict construction and held that a corporation and its employees or two employees of the same corporation could not constitute the required "two or more" necessary to form a conspiracy contemplated by the statute.

A retail liquor dealer was held ineligible for a refund under the refund provisions[22] of the alcohol stamp tax law in the

14. CODE OF LAWS OF SOUTH CAROLINA, 1952 § 15-1233(2), and Act of March 22, 1952, 47 STAT. AT LARGE, p. 2111.
15. 223 S.C. 401, 76 S.E. 2d 299 (1953).
16. CODE OF LAWS OF SOUTH CAROLINA, 1952 § 15-1233(2).
17. CODE OF LAWS OF SOUTH CAROLINA, 1952, Chap. 7, Vol. 2.
18. Act March 22, 1952, 47 ST. AT LARGE, p. 2111.
19. 224 S.C. 138, 77 S.E. 2d 485 (1953).
20. 81 S.E. 2d 342 (S.C. 1954).
21. CODE OF LAWS OF SOUTH CAROLINA, 1952 § 66-51.
22. CODE OF LAWS OF SOUTH CAROLINA, 1952 § 65-1268.

case of *Asmer v. Livingston.*[23] The Court refuted the contention that this provision should be strictly construed against the state as a revenue act and ruled that a refund of taxes is a matter of governmental grace so that one seeking a refund must bring himself clearly within the terms of the statute. The Court then held that the "licensee" authorized to receive a refund by the statute referred only to a licensed wholesaler and did not include a retailer.

23. 82 S.E. 2d 465 (S.C. 1954).