

# THE NEW CONSTITUTION

THE LAW THE PEOPLE MUST NOW LIVE UNDER.

THEY WILL WORTH KEEPING.

The Full Text of South Carolina's New Organic Law as Adopted.

Following is the full text of the New Constitution, as finally adopted by the recent South Carolina Constitutional Convention.

We, the people of the State of South Carolina, in Convention assembled, grateful to God for our liberties, do ordain and establish this Constitution for the preservation and perpetuation of the same.

## ARTICLE I.

### DECLARATION OF RIGHTS.

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

Sec. 2. Representation in the house of representatives shall be apportioned according to population.

Sec. 3. The general assembly ought frequently to assemble for the redress of grievances and for making new laws, as the common good may require.

Sec. 4. 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.

Sec. 5. 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.

Sec. 6. All property subject to taxation shall be taxed in proportion to its value.

Sec. 7. 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.

Sec. 8. 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.

Sec. 9. 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, bribery, tamul or improper conduct.

Sec. 10. All elections shall be free and open, and every inhabitant of this State possessing the qualifications provided for in this Constitution shall have an equal right to elect officers and be elected to fill public office.

Sec. 11. No property qualification, unless prescribed in this Constitution, shall be necessary for an election to or the holding of any office. 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. After the adoption of this Constitution any person who shall fight a duel or send or accept a challenge for that purpose, or be an aider or abettor in fighting a duel, shall be deprived of holding any office of honor or trust in this State, and shall be otherwise punished as the law shall prescribe.

Sec. 12. Temporary absence from the State shall not forfeit a residence once obtained.

Sec. 13. 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.

Sec. 14. In the government of this State the legislative, executive and judicial powers of the government shall be forever separate and distinct from each other, and no person or persons exercising the functions of one of said departments shall assume or discharge the duties of any other.

Sec. 15. All courts shall be public, and every person shall have speedy remedy therein for wrongs sustained.

Sec. 16. 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 warrants 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.

Sec. 17. No person shall be held to answer for any crime where the punishment exceeds a fine of \$100 or imprisonment for 30 days, with or with-

out hard labor, unless on a presentment or indictment of a grand jury of the county where the crime shall have 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; nor shall any person be subject for the same offense to be twice put in jeopardy of life or liberty, nor shall be compelled in any criminal case to be a witness against himself. 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.

Sec. 18. 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.

Sec. 19. 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. The power to punish for contempt shall not in any case extend to imprisonment in the State penitentiary.

Sec. 20. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption great.

Sec. 21. In all indictments or prosecutions for libel, the truth of the alleged libel may be given in evidence, and the jury shall be the judges of the law and the facts.

Sec. 22. 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.

Sec. 23. The privileges of the writ of habeas corpus shall not be suspended unless when, in case of insurrection, rebellion or invasion, the public safety may require it.

Sec. 24. No person shall be imprisoned for debt except in cases of fraud.

Sec. 25. The right of trial by jury shall be preserved inviolate.

Sec. 26. 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.

Sec. 27. 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.

Sec. 28. All navigable waters shall forever remain public highways, free to the citizens of the States and the United States without tax, impost or toll imposed; 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 the same be authorized by the general assembly.

Sec. 29. The provisions of the Constitution shall be taken, deemed and construed to be mandatory and prohibitory, and not merely directory, except where expressly made directory or permissive by its own terms.

## ARTICLE II.

### RIGHT OF SUFFRAGE.

Section 1. All elections by the people shall be by ballot and elections shall never be held or the ballots counted in secret.

Sec. 2. Every qualified elector shall be eligible to any office to be voted for, unless disqualified by age as prescribed in this Constitution. But no person shall hold two offices of honor or profit at the same time, except that any person holding another office may at the same time be an officer in the militia and a notary public.

Sec. 3. Every male citizen of this State and of the United States 21 years of age and upwards, not laboring under the disabilities named in this Constitution and possessing the qualifications required by it, shall be an elector.

Sec. 4. The qualifications for suffrage shall be as follows:

(a) Residence in the State for two years, in the county one year, in the polling precinct in which the elector offers to vote four months, and the payment six months before any election of any poll tax then due and payable; provided, however, that ministers in charge of an organized church and teachers of public schools shall be entitled to vote after six months residence in the State, if otherwise qualified.

(b) Registration, which shall provide for the enrollment of every elector once in ten years and also an enrollment during each and every year of every elector not previously registered under the provisions of this article.

(c) Up to January 1, 1898, all male persons of voting age applying for registration who can read any section in this Constitution submitted to them by the registration officer, or understand and explain it when read to them by the registration officer shall be entitled to register and become electors. A separate record of all persons registered before January 1, 1898, sworn to

by the registration officer shall be filed, one copy with the clerk of court and one in the office of the secretary of state, on or before February 1, 1898, and such persons shall remain during life qualified electors unless disqualified by the other provisions of this article. The certificate of the clerk of court or secretary of state shall be sufficient evidence to establish the right of said citizens to any subsequent registration and the franchise under the limitations herein imposed.

(b) Any person who shall apply for registration after January 1st, 1898, if otherwise qualified, shall be registered; provided, that he can both read and write any section of this Constitution submitted to him by the registration officer, or can show that he owns and has paid all taxes collectible during the previous year on property in this State assessed at \$300 or more.

(c) Managers of elections shall require of every elector offering to vote at any election, before allowing him to vote, proof of the payment of all taxes, including poll tax, assessed against him and collectible during the previous year. The production of a certificate or of the receipt of the officer authorized to collect such taxes shall be conclusive proof of the payment thereof.

(f) The general assembly shall provide for issuing to each duly registered elector a certificate of registration and shall provide for the renewal of such certificate when lost, mutilated or destroyed, if the applicant is still a qualified elector under the provisions of this Constitution, or if he has been registered as provided in subsection (c).

Sec. 5. Any person denied registration shall have the right to appeal to the court of common pleas or any judge thereof, and thence to the supreme court, to determine his right to vote under the limitation imposed in this article, and on such appeal the hearing shall be de novo and the general assembly shall provide by law for such appeal and for the correction of illegal and fraudulent registration, voting and all other crimes against the election laws.

Sec. 6. The following persons are disqualified from being registered or voting:

First. Persons convicted of burglary, arson, obtaining goods or money under false pretenses, perjury, forgery, robbery, bribery, adultery, bigamy, wife-beating, horsebreaking, receiving stolen goods, breach of trust with fraudulent intent, fornication, sodomy, incest, assault with intent to ravish, miscegenation, larceny or crimes against the election laws; provided, that the pardon of the governor shall remove such disqualification.

Second. Persons who are idiots, insane, paupers supported at the public expense, and persons confined in any public prison.

Sec. 7. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this State, or of the United States, or the high seas, nor while a student of any institution of learning.

Sec. 8. The general assembly shall provide by law for the registration of all qualified electors and shall prescribe the manner of holding elections and of ascertaining the results of the same; provided, that at the first registration under this Constitution, and until the 1st of January, 1898, the registration shall be conducted by a board of three disinterested persons in each county, to be appointed by the governor, by and with the advice and consent of the senate. For the first registration to be provided for under this Constitution, the registration books shall be kept open for at least six consecutive weeks, and thereafter from time to time at least one week in each month, up to 30 days next preceding the first election to be held under this Constitution. The registration books shall be public records open to the inspection of any citizen at all times.

Sec. 9. The general assembly 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 his transfer to another precinct upon his change of residence.

Sec. 10. The general assembly shall provide by law for the regulation of party primary elections and punishing fraud at the same.

Sec. 11. The registration books shall close at least 30 days before an election, during which time transfers and registrations shall not be legal; provided, persons who will become of age during that period shall be entitled to registration before the books are closed.

Sec. 12. Electors in municipal elections shall possess the qualifications herein prescribed. The production of a certificate of registration from the registration officers of the county as an elector at a precinct included in the incorporated city or town in which the voter desires to vote is declared a condition prerequisite to his obtaining a certificate of registration for municipal elections, and in addition he must have been a resident within the corporate limits at least four months before the election and have paid all taxes due and collectible for the preceding fiscal year. The general assembly shall provide for the registration of all voters before each election in municipalities; provided, that nothing herein contained shall apply to any municipal elections which may be held prior to the general election of the year 1896.

Sec. 13. In authorizing a special election in any incorporated city or town in this State for the purpose of bonding the same, the general assembly shall prescribe as a condition precedent to the holding of said election a petition from a majority of the freeholders of said city or town as shown by its tax books, and at such elections all electors of such city or town who are duly qualified for voting under section 12 of this article, and who have paid all taxes. State, county and municipal, for the previous year, shall be allowed to vote, and the vote of a majority of those voting in said elections shall be necessary to authorize the issue of said bonds.

Sec. 14. Electors shall in all cases except treason, felony or breach of the peace, be privileged from arrest on the days of election during their attendance at the polls and going and returning therefrom.

Sec. 15. No power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage in this State.

## ARTICLE III.

### LEGISLATIVE DEPARTMENT.

Section 1. The legislative power of this State shall be vested in two distinct branches, the one to be styled the "Senate," and the other the "House of Representatives," and both together the "General Assembly of the State of South Carolina."

Sec. 2. The house of representatives shall be composed of members chosen by ballot every second year by citizens of this State, qualified as in this Constitution is provided.

Sec. 3. The house of representatives shall consist of 124 members, to be apportioned among the several counties according to the number of inhabitants contained in each. Each county shall constitute one election district. An enumeration of the inhabitants for this purpose shall be made in the year 1901, and shall be made in the course of every 10th year thereafter, in such manner as shall be by law directed: Provided, that the general assembly may at any time, in its discretion, adopt the immediately preceding United States census as a true and correct enumeration of the inhabitants of the several counties, and make the apportionment of representatives among the several counties according to said enumeration: Provided, further, that until the apportionment which shall be made upon the next enumeration shall take effect, the representation of the several counties as they now exist (including the county of Saluda established by ordinance) shall be as follows: Abbeville, 5; Aiken, 3; Anderson, 5; Barnwell, 5; Beaufort, 4; Berkeley, 4; Charleston, 9; Chester, 3; Chesterfield, 2; Clarendon, 3; Colleton, 4; Darlington, 3; Edgefield, 3; Fairfield, 3; Florence, 3; Georgetown, 2; Greenville, 5; Hampton, 2; Horry, 2; Kershaw, 2; Lancaster, 2; Laurens, 3; Lexington, 2; Marion, 3; Marlboro, 3; Newberry, 3; Oconee, 2; Orangeburg, 5; Pickens, 2; Richland, 2; Saluda, 2; Spartanburg, 6; Sumter, 5; Union, 3; Williamsburg, 3; York, 4; Provided, further, that in the event other counties are hereafter established, then the general assembly shall reapportion the representatives between the counties.

Sec. 4. 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; provided, that if in the apportionment of representatives any county shall appear not to be entitled, from its population, to a representative, such county shall, nevertheless, send one representative; and if there be still a deficiency in the number of representatives required by section third of this article, such deficiency shall be applied by assigning representatives to those counties having the largest surplus fractions.

Sec. 5. No apportionment of representatives shall take effect until the general election which shall succeed such apportionment.

Sec. 6. The senate shall be composed of one member from each county, to be elected for the term of four years by the qualified electors in each county, in the same manner in which members of the house of representatives are chosen.

Sec. 7. No person shall be eligible to a seat in the senate or house of representatives who, at the time of his election, is not a duly qualified elector under this Constitution in the county in which he may be chosen. Senators shall be at least 25 and representatives at least 21 years of age.

Sec. 8. The first election for members of the house of representatives under this Constitution shall be held on Tuesday after the first Monday in November, 1896, and every second year thereafter, in such manner and in such places as the general assembly may prescribe; and the first election for senators shall be held on Tuesday after the first Monday in November, 1896; and every fourth year thereafter except in counties in which there was an election for senator in 1894 for a full term, in which counties no election for senator shall be held until the general election to be held in 1898 and every fourth year hereafter, except to fill vacancies. Senators shall be so classified that one-half of their number, as nearly as practicable, shall be chosen every two years. Whenever the general assembly shall establish more than one county at any session, it shall so prescribe the first term of the senators from such counties as to observe such classification.

Sec. 9. The annual session of the general assembly heretofore elected, fixed by the Constitution of the year 1868 to convene on the fourth Tuesday of November, in the year, 1895, is hereby postponed, and the same shall be convened and held in the city of Columbia on the second Tuesday in January, in the year 1896. The first session of the general assembly elected under this constitution shall convene

in Columbia on the second Tuesday in January, in the year 1897, and thereafter annually at the same time and place. Should the casualties of war or contagious diseases render it unsafe to meet at the seat of government then the governor may by proclamation appoint a more secure and convenient place of meeting. Members of the general assembly shall not receive any compensation for more than forty days of any one session: Provided, that this limitation shall not affect the first four sessions of the general assembly under this constitution.

Sec. 10. The terms of office of the senators and representatives chosen at a general election shall begin on the Monday following such election.

Sec. 11. Each house shall judge of the election returns and qualifications of its own members, and a majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may in such manner and under such penalties as may be provided by rule.

Sec. 12. 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, expel a member, but not a second time for the same cause.

Sec. 13. 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 contemptuous behavior in its presence, or who, during the time of its sitting, shall threaten harm to the body or estate of any member, or anything said or done in either house, or who shall assault or arrest any witness or other person ordered to attend the house in his going thereto or returning therefrom, or who shall rescue any person arrested by order of the house: Provided, that such time of imprisonment shall not in any case extend beyond the session of the general assembly.

Sec. 14. The members of both houses shall be protected in their persons and estates during their attendance on, going to and returning from the general assembly, and 10 days previous to the sitting and 10 days after the adjournment thereof. But these privileges shall not protect any member who shall be charged with treason, felony or breach of the peace.

Sec. 15. Bills for raising revenue shall originate in the house of representatives, but may be altered, amended or rejected by the senate; all other bills may originate in either house, and may be amended, altered or rejected by the other.

Sec. 16. The style of all laws shall be: "Be it enacted by the general assembly of the State of South Carolina."

Sec. 17. Every act or resolution having the force of law shall relate to but one subject, and that shall be expressed in the title.

Sec. 18. No bill or joint resolution shall have the force of law until it shall have been read three times and on three several days in each house, has had the great seal of the State affixed to it, and has been signed by the president of the senate and the speaker of the house of representatives: Provided, that either branch of the general assembly may provide by rule for a first and third reading of any bill or joint resolution by its title only.

Sec. 19. Each member of the general assembly shall receive five cents for every mile for the ordinary route of travel in going to and returning from the place where its sessions are held; no general assembly shall have the power to increase the per diem of its own members; and members of the general assembly when convened in extra session shall receive the same compensation as is fixed by law for the regular session.

Sec. 20. In all elections by the general assembly, or either house thereof, the members shall vote "viva voce," and their votes, thus given, shall be entered upon the journal of the house to which they respectively belong.

Sec. 21. Neither house, during the session of the general assembly, shall, without consent of the other, adjourn for more than three days, nor to any other place than that in which it shall be at the time sitting.

Sec. 22. Each house shall keep a journal of its own proceedings, and cause the same to be published immediately after its adjournment, excepting such parts as, in its judgment, may require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of ten members of the house or five members of the senate, respectively, be entered on the journal. Any member of either house shall have liberty to dissent from and protest against any act or resolution which he may think injurious to the public or to any individual, and have the reasons of his dissent entered on the journal.

Sec. 23. The doors of each house shall be open, except on such occasions as in the opinion of the house may require secrecy.

Sec. 24. No person shall be eligible to a seat in the general assembly while he holds any office or position of profit or trust under this State, the United States of America, or any of them, or under any other power, except officers in the militia and notaries public; and if any member shall accept or exercise any of the said disqualifying offices or positions he shall vacate his seat.

Sec. 25. If any election district shall neglect to choose a member or members on the day of election, or if any person chosen a member of either house shall refuse to qualify and take his seat, or shall resign, die, depart the State, accept any disqualifying office or position, or become otherwise disqualified to hold his seat, 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 for which the person so refusing to qualify, resigning, dying, departing the State, or becoming disqualified, was elected to serve, or the defaulting election district ought to have chosen a member or members.

Sec. 26. Members of the general assembly, and all officers, before they enter upon the duties of their respective offices, and all members of the bar, before they enter upon the practice of their profession, shall take and subscribe the following oath: "I do solemnly swear (or affirm) that I am duly qualified, according to the Constitution of this State, to exercise the duties of the office to which I have been elected, (or appointed) and that I will, to the best of my ability, discharge the duties thereof, and preserve, protect and defend the Constitution of this State and of the United States. I do further solemnly swear (or affirm) that I have not since the first day of January, in the year eighteen hundred and eighty-one, engaged in a duel as principal or second or otherwise; and that I will not, during the term of office to which I have been elected (or appointed) engage in a duel as principal or second or otherwise so help me God."

Sec. 27. Officers shall be removed 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.

Sec. 28. The general assembly shall enact such laws as will exempt from attachment, levy and sale under any mesne or final process issued from any court, to the head of the family residing in this State, a homestead in lands, whether held in fee or any lesser estate, to the value of \$1,000, or so much thereof as the property is worth if its value is less than \$1,000, 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 \$500, or so much thereof as the property is worth if its value is less than \$500. The title to the homestead to be set off and assigned shall be absolute and be forever discharged from all debts of the said debtor then existing or thereafter contracted except as hereinafter provided: Provided, that in case any woman having a separate estate shall be married to the head of a family who has not of his own sufficient property to constitute a homestead as hereinbefore provided, said married woman shall be entitled to a like exemption as provided for the head of the family: Provided, further, that there shall not be an allowance of more than \$1,000 worth of real estate and more than \$500 worth of personal property to the husband and wife jointly: Provided, further, that no property shall be exempt from attachment, levy or sale for taxes, or for payment of obligations contracted for the purchase of said homestead or personal property exemption or the erection or making of improvements or repairs thereon: Provided, further, that the yearly products of said homestead shall not be exempt from attachment, levy or sale for the payment of obligations contracted in the production of the same: Provided, further, that no waiver shall defeat the right of homestead before assignment except it be by deed of conveyance, or by mortgage, and only as against the mortgagee; 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: Provided, further, that after a homestead in lands has been set off and recorded the same shall not be waived by deed of conveyance, mortgage or otherwise, unless the same be executed by both husband and wife, if both be living: Provided, further, that 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 \$300.

Sec. 29. All taxes upon property, real and personal, shall be laid upon the actual value of the property taxed as the same shall be ascertained by an assessment made for the purpose of laying such tax.

Sec. 30. 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; but appropriations may be made for expenditures in repelling invasion, preventing or suppressing insurrection.

Sec. 31. Lands belonging to or under the control of the State shall never be donated, directly or indirectly, to private corporations or individuals, or to railroad companies. Nor shall such land be sold to corporations, or associations, for a less price than that for which it can be sold to individuals. This, however, shall not prevent the general assembly from granting a right of way, not exceeding 150 feet in width, as a mere easement to railroads across State lands, nor to interfere with the discretion of the general assembly in confirming the title to lands claimed to belong to the State, but used or possessed by other parties under an adverse claim.

Sec. 32. The general assembly shall not authorize payment to any person of the salary of a deceased officer beyond the date of his death; nor grant pensions except for military and naval service; nor retire any officer on pay or part pay.

Sec. 33. The marriage of a white person with a negro or mulatto, or person who shall have one-eighth, or more negro blood, shall be unlawful.