

# ACTS

AND

## RESOLUTIONS

OF THE

# GENERAL ASSEMBLY

OF THE

## STATE OF SOUTH CAROLINA,

Passed at the Extra Session, June, 1838.

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**COLUMBIA:**

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1838.

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# ACTS

OF THE

## GENERAL ASSEMBLY OF SOUTH CAROLINA.

Passed at the Extra Session, June, 1838.

### CHAPTER I.

#### AN ACT TO MAKE CERTAIN APPROPRIATIONS.

JUNE 1838.

SECTION 1. *Be it enacted, by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same,* That the sum of seven thousand dollars, if so much be necessary, be, and the same is hereby appropriated, out of any monies in the Treasury not otherwise appropriated, to defray the expenses of the present session of the Legislature.

SEC. 2. *And be it further enacted,* That for the Clerks of the Senate and House of Representatives, each, one hundred and fifty dollars; for the Reading Clerk, Messenger, and Doorkeeper, of both branches of the Legislature, each, fifty dollars, for their services during the present session.

SEC. 3. *And be it further enacted,* That so much of an Act of the last session of the Legislature, entitled, "an Act to make Appropriations for the year one thousand eight hundred and thirty-seven," as relates to the appropriation in behalf of Lynch's Creek, be, and the same is hereby amended, so as to read, "for Lynch's Creek, three thousand dollars, to remove obstructions on said creek." Lynch's creek.

SEC. 4. *And be it further enacted,* That the sum of three thousand three hundred and ninety dollars forty-three cents, be appropriated and paid to A. S. Johnston, in full payment of his account, for Printing the Statutes at Large, and paper, passed at the present session. A. S. Johnston

SEC. 5. *And be it further enacted,* That the Superintendent of Public Works, be authorized to draw from the unapplied appropriation for the extension of the Columbia Canal, so much as may be necessary for the clearing out of the lower part of said canal. Columbia Canal.

SEC. 6. *And be it further enacted by the authority aforesaid,* That no discrimination, exceeding sixty cents per hun-

JUNE 1838.  
  
 Repeal of tax  
 on foreign In-  
 surance Com-  
 panies.

dred dollars, shall hereafter be made by the officers of this State, or any corporate authority within the same, between domestic and foreign Insurance Companies, as to the taxes to be levied thereon; and the tax heretofore imposed by the State, on foreign Insurance Companies or their agents, is hereby repealed.

SEC. 7. *And be it further enacted*, That eighty-eight dollars be appropriated for Stationary furnished the House of Representatives, to be paid to William Cunningham; For the payment of the accounts of Benjamin Hart, twenty-three dollars twenty-five cents; For William Cunningham, for Stationary furnished the Senate, thirty-one dollars; For the payment of the account of S. Weir, for Printing done at the present session, ninety dollars.

In the Senate House, the first day of June, in the year of our Lord, one thousand eight hundred and thirty-eight, and in the sixty-second year of the Sovereignty of the Independence of the United States of America.

PATRICK NOBLE, *President of the Senate*,  
 D. L. WARDLAW, *Speaker of the House of  
 Representatives*

## CHAPTER II.

AN ACT, TO AMEND THE ACT DIRECTING THE REPRESENTATION IN THE CITY COUNCIL TO BE APPORTIONED EVERY SEVEN YEARS.

SECTION 1. *Be it enacted by the Honorable the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same*, That it shall be the duty of the Mayor and Aldermen of the City of Charleston, on, or before the first day of August, Anno Domino, one thousand eight hundred and forty-one, to apportion the number of Aldermen, to which each of the wards of the city may be entitled, on equal principles of population and the city taxation for said year; *Provided always*, that the whole number of Aldermen for the said city shall not exceed twelve, whose qualifications shall be the same as now directed by law.

How apportionment shall be made.

SEC. 2. *And be it further enacted by the authority aforesaid*, That it shall be the duty of the Mayor and Aldermen of the City of Charleston every ten years, after the year one thousand eight hundred and forty-one, to apportion the ward representation precisely on the principles above stated.

Interval of apportionment.

SEC. 3. *And be it further enacted by the authority aforesaid*, That all Acts, or clauses of Acts, contrary or repugnant to the provisions of this Act, be, and the same are hereby repealed

In the Senate House, the first day of June, in the year of our Lord, one thousand eight hundred and thirty-eight, and in the sixty-second year of the Sovereignty and Independence of the United States of America.

June 1838.



PATRICK NOBLE, *President of the Senate,*  
D. L. WARDLAW, *Speaker of the House of Representatives.*

### CHAPTER III.

#### AN ACT FOR REBUILDING THE CITY OF CHARLESTON.

SECTION 1. *Be it enacted by the Senate and House of Representatives, now met and sitting in General Assembly, and by the authority of the same,* That the Governor of the

State of South Carolina be, and he is hereby authorized and directed in the name of the said State to issue Bonds or other contracts, to be countersigned by the Comptroller General, not exceeding in all the sum of two millions of dollars; one million of which shall be payable at the expiration of twenty years, and the other million at the expiration of thirty years, at a rate of interest not exceeding six per cent, for the purpose of procuring a loan, on the credit of the State, to rebuild that portion of the City of Charleston, now lying in ruins; that the said Bonds or Contracts be issued in such form and for such sums, and the principal and interest be made payable at such times and places as shall be most effectual in procuring the said loan upon the best terms either in Europe or America; and that the faith and funds of the State of South Carolina be, and the same are hereby pledged to secure the punctual payment of the said bonds or contracts with the interest thereon.

Governor to issue bonds for two millions.

SEC. 2. That in order to effect the said loan, the Governor is authorized and directed to commission such agent or agents as the President and Directors of the Bank of the State of South Carolina shall appoint; which said agent or agents shall be empowered to receive the said bonds or contracts from the Governor and Comptroller General, and to make all such arrangements as in his or their judgment may be deemed expedient for procuring the said money and placing it to the credit of the State, subject to the draft or order of the President of the Bank of the State of South Carolina.

Bank to appoint negotiating agent.

SEC. 3. The money when realised in Charleston shall be deposited in the Bank of the State of South Carolina, and shall become part of the capital thereof.

Money deposited in Bank of the State.

SEC. 4. The President and Directors of the said Bank are authorised and required to loan to such applicants as will rebuild that portion of the City of Charleston which has been destroyed by the late fire, two million dollars, if so

Applicants to be loaned to.

JUNE 1836.



much be required, under the following terms and regulations, viz:

**CLAUSE 1.** As soon as the said loan, or any portion thereof, may be effected, any applicant desiring to build upon the said burnt district, may avail himself of the benefit thereof, by making an application to the said Bank, setting forth the plan and estimated cost of the building he proposes to erect, together with the situation and dimensions of the lot whereon the building is to be placed, and an abstract of his title thereto; and upon the President and Directors of the said Bank being satisfied with the title, and that it is free from incumbrances, they shall direct the said lot to be valued by the commissioners hereafter named, who shall certify their valuation to the said President and Directors; whereupon the said President and Directors are authorized and instructed to loan to the said applicant, one half the appraised value of his said lot. And all applications for the said loan shall be made within two years from the passing of this act.

Bond for loan,  
instalments and  
interest.

Buildings to be  
brick or stone.

Bond secured  
by mortgage.

In case of for-  
feiture.

**CLAUSE 2.** The applicant shall enter into bond in a sufficient penalty, with condition to pay to the President and Directors of the said Bank of the State, the principal sum of whatever may be loaned him, in ten equal annual instalments; the first of which shall be payable within three years from the date of the bond; also, with condition to pay the interest annually; also with the further condition that the money loaned shall, within one year from its receipt, be expended in the erection of brick or stone buildings, upon the said lot of land, and also that the said applicant shall in all respects comply with the provisions of this act; and the said bond shall be secured by a mortgage of the lot of land; and the form and nature of such bond and mortgage shall be prescribed by the President and Directors of the said Bank, under the advice and direction of the Attorney-General. And if the said mortgage should at any time become forfeited, either by failure to pay any part of the principal or interest of the said debt, at the time specified, or by a breach of any of the conditions of the said bond, the President and Directors of the said Bank, shall and may, after six months notice, to the obligor, his heirs, executors, administrators or assigns, either personally served, or published in one or more public gazettes, in the City of Charleston, proceed to sell the property mortgaged, by auction, for ready money, for the best price that can be obtained for the same, which said sale shall be advertised for three weeks previously in one or more of the public gazettes of the City of Charleston, and the monies arising from the said sale shall be applied by the President and Directors of the said Bank, in satisfaction of the said bond, any law, usage or custom to the contrary thereof in any wise notwithstanding.

ing, and the purchaser at such sale, his heirs and assigns, shall be deemed to be seized of a good and absolute legal estate in fee simple, of the premises purchased, as against all persons whomsoever, their heirs and assigns, not claiming by or under a paramount title.

JUNE 1839.



**CLAUSE 3.** Whenever the amount first loaned shall have been expended in the erection of buildings, as aforesaid, the said applicant, his heirs at law, legal representatives or assigns, may make application for a further loan, whereupon the President and Directors of the said Bank, shall cause the said commissioners to ascertain and report whether the sum originally loaned has been applied as aforesaid, and upon the same being certified to the said President and Directors, they shall make to such applicant, his heirs at law, representatives or assigns, a further loan, equal in amount to one half the appraised value of the said lot, should so much be necessary to complete the improvements thereon, which said lots shall be taken upon the same terms and subject to the same conditions as the first. And a further loan shall be made, equal to one half the value of the lot, should so much be required to complete the improvements thereon, whenever the said commissioners shall certify to the President and Directors of the said Bank, that the amount already loaned has been actually expended agreeably to the provisions of this law; and as soon as a good Policy of Insurance upon the property, to the extent of the amount previously loaned, shall have been duly assigned to the Bank. And the said additional loans shall be taken subject to the same conditions, and shall be secured in the same manner as the first. And in case any part of the said two millions shall remain, after making the said loans, the same may be lent to any applicant, or his heirs at law, representatives or assigns, for the purpose of completing his improvements, upon such securities as may be deemed satisfactory by the President and Directors of the said Bank.

Provision for a further loan.

**CLAUSE 4.** The valuation of the lots upon which the said loans are to be made, and also the certificates of expenditures upon the buildings, shall be made by a board of five commissioners, two of whom shall be appointed in behalf of the State by the Bank, and two in behalf of the City by the City Council, and a fifth to be chosen by the other four; and in case any vacancy occur, it shall be filled by the same parties who had appointed to the place, so become vacant; and the said board, or a majority, (having been first duly sworn to the faithful discharge of their duty,) shall, in all cases where a loan is to be made or increased, certify their valuations to the Bank, and make such report of facts as may be necessary and proper to enable the said Bank to discharge its duty to all interests concerned.

How valuations shall be made.

JUNE 1836.

Insurance must be effected.

Provision for neglect.

No loan where wooden buildings exist.

Interest.

Ordinance to guarantee the State.

Of lessees and owners.

Of Mortgages.

**CLAUSE 5.** In all cases where the value of the lot has been loaned, it shall be the duty of the borrower, to cause insurance to be effected upon the buildings thereon, and to keep the same renewed for the amount of the loan, or so much thereof as may remain unpaid, and to assign the policy to the Bank as collateral security; and in case the said borrower shall neglect so to do, the Bank shall cause insurance to be effected or renewed in behalf of the President and Directors of the said Bank, and shall demand from the said borrower, the premium of insurance paid and all expenses; and if the same are not paid within one month, then the bond given by such borrower, shall be considered forfeited, and he shall forthwith be bound to pay up the whole of his debt, as though the instalments had all been made payable at such date of forfeiture, if the said Bank shall deem it expedient to require payment of the same; and in all cases where a policy of insurance is required by this Act, the Bank may accept in lieu thereof, some other collateral security.

**CLAUSE 6.** No loan shall be made upon any lot, upon which there may be a wooden building, unless sufficient security be first given, that the same shall be removed within one year from the passing of this act.

**CLAUSE 7.** The interest to be charged on the said loans, shall be fixed at as low a rate as will cover the interest to be paid by the State, with the necessary charges of remittance, but the said rates, shall in no event exceed seven per cent per annum.

**SEC. 5.** Before the said loan is effected, the City of Charleston shall, by an ordinance, to be duly ratified by the City authorities, guarantee the State against all loss to arise from loans to be made to the citizens of Charleston under the authority of this Act.

**SEC. 6.** The lessee or tenant for life, of any lot of land within the said district, shall be allowed the benefit of the provisions of this Act, if the owner of the reversion or remainder join in the mortgage, to secure the amount loaned, in such form as may be advised by the Attorney General.

**SEC. 7.** The mortgage executed by the applicant, shall be a charge upon the land, in favor of the Bank and its assigns from the date of its registry in the office of mesne conveyance, against all persons whomsoever; and all mortgages shall be recorded or lodged in the Register's office for record, by the applicant, before any money shall be paid by the Bank.

**SEC. 8.** And whereas the frequent visitation of the City of Charleston by fire, the destruction of property, and the loss of life, occasioned thereby, admonish the State of the evil of permitting other than fire proof buildings in the said city; and whereas the funds of the State herein authorised,

JUNE 1832.

How lawful  
buildings shall  
be constituted.

to be advanced on the security of buildings in the said city, may be endangered; and no inducement is offered to individuals to erect fire proof buildings, so long as others are allowed to build in their immediate neighborhood, of combustible materials; for remedy whereof: *Be it enacted*, That hereafter it shall not be lawful to build, put, erect, or construct within the City of Charleston, any wooden or framed building, or to cover any building with a roof of combustible materials, and every building or construction, framed or constructed of wood, or having more wood on the outside thereof, or the roof of which is constructed otherwise than is prescribed by an Ordinance, ratified by the City Council of Charleston, on the 8th May of the present year, entitled, an Ordinance to prevent the erection of wooden buildings, and to provide greater security from fires, shall be, and is hereby declared to be a public and common nuisance, and as such, shall be abated, by the judgment and process of any court of competent jurisdiction; and the persons respectively, building, covering or constructing, or instrumental in building, covering or constructing any building, roof or construction, contrary to this Act, or to the provisions prescribed in the said Ordinance, shall be subject to the same penalties in all respects, as are provided by the said Ordinance; and all additions which shall be made to houses or buildings already erected, and all houses and buildings which shall be erected on old foundations in part or in whole shall be deemed and considered within the provisions, restrictions and regulations of the said Ordinance, and of this Act; and full power and authority are hereby granted and confirmed to the City Council of Charleston, to determine the materials, thickness and construction of the walls and other parts of buildings, of different dimensions and character, within the said city; and to make such other provisions by law, as they may deem expedient, to promote the erection of safe and convenient fire-proof buildings, and to provide greater security to the said city from fires. *Provided always*, that none of the securities against fire, prescribed by this Act, shall be diminished by any action of the City Council. And *provided also*, that the marshes flowed by the tide, within the said city, shall be excepted only to such extent as has been excepted by the said City Council.

City Ordinance  
to prescribe.

SEC. 9. And whereas the whole property in which the lands of the State are authorized by this Act to be invested, may be also greatly endangered by the wooden buildings and sheds already erected upon the said burnt district since the late fire: *Be it enacted*, That every wooden building erected upon the said burnt district, be and the same is hereby declared a public nuisance, and as such shall be abated as aforesaid. And it shall be the duty of the Mayor and Aldermen of the City of Charleston, to cause the same

Wooden build-  
ings declared a  
nuisance.

June 1838.

Damage assessed.

to be abated or removed at any time after the expiration of one year from this date, giving to the persons occupying the same at least three months previous notice of their intention to remove the same. And all persons who shall receive damage to their property by reason of such removal may apply by petition to the Court of Common Pleas, who shall thereupon cause the damage to be assessed by a jury, in view of the premises, and after having heard the parties or their counsel; and the jury in assessing the damages shall take into consideration the advantage which may accrue to the petitioner by surrounding his premises with brick instead of wooden buildings; and the damages so found by the jury, shall be paid by the City Corporation to the party entitled. And in case the City Council, before removing the said building, shall prefer to have the damages assessed, it shall be lawful for them to file their petition in the said Court, giving notice to the owner or person in possession, and thereupon the said Court shall cause the damages to be assessed by a jury as aforesaid; and the finding of the jury shall be conclusive upon all parties. *Provided always*, that the city shall not be bound to indemnify or pay damages for any building which has been erected or constructed contrary to the provisions of the Ordinance herein before mentioned and referred to.

Bank shall make provision for paying interest and principal of loan.

Sec. 10. It shall be the duty of the President and Directors of the Bank of the State of South Carolina to make proper provision for the punctual payment of the interest of such loans as may be effected upon the credit of the State under the provisions of this Act; and also, for the ultimate payment of the principal thereof.

Duties of the Bank.

Sec. 11. It shall be the duty of the President and Directors of the Bank of the State of South Carolina, to cause to be opened in the books of the said Bank, an account, in which they shall debit themselves with the profits arising out of the additional capital, created out of the two millions loan aforesaid, for the year ending on the first day of October, in the year of our Lord one thousand eight hundred and thirty-nine, and with all the future profits of the said loan as the same shall hereafter be annually declared; which said fund, with its annual accumulations, shall be considered solemnly pledged and set apart for the payment of the interest on the said loan and the final redemption thereof; and it shall be the duty of the President and Directors of the said Bank, annually, to report to both branches of the Legislature, the exact state of that fund.

Profits of Bank pledged.

Sec. 12. When the profits of the said Bank of the State of South Carolina, shall have paid the interest of certain stocks, and redeemed the said stocks, for which they have heretofore been pledged and set apart, the said profits shall also be considered solemnly pledged and set apart for the

payment of the interest on the said loan, and the final redemption thereof. JUNE 1836.

SEC. 13. The said President and Directors shall make such additional compensation to the Attorney General as they may deem sufficient for the additional services required from him by this Act; and they shall also make provision for paying such expenses as may be incurred by the Bank in carrying this Act into effect. Attorney General compensated.

In the Senate House, the first day of June, in the year of our Lord one thousand eight hundred and thirty eight; and in the sixty-second year of the Sovereignty and Independence of the United States of America.

PATRICK NOBLE, *President of the Senate.*

D. L. WARDLAW, *Speaker of the House of Representatives.*

AN ORDINANCE TO PREVENT THE ERECTION OF WOODEN BUILDINGS IN CHARLESTON, AND TO PROVIDE GREATER SECURITY FROM FIRES.

1. *Be it ordained by the Mayor and Aldermen of Charleston, in City Council assembled,* That it shall not be lawful to build, erect or construct within the City of Charleston, any wooden or framed building of any description. No wooden or frame buildings to be erected.

2. Any building framed of wood, or having more wood on the outside of the building than that required for door and window frames, doors, shutters, sashes, porticoes, and piazzas, shall be deemed a wooden building and subject to the penalties of this ordinance; and the roof of every building, and of every piazza and portico shall be covered with some material not combustible, otherwise they shall be deemed each to be a wooden building, and subject to the penalties prescribed by this ordinance for the erection of wooden buildings. How buildings shall be constructed.

3. If any person shall build or construct, or cause to be built or constructed, any wooden buildings within the limits of the city, such person shall, upon conviction before any proper tribunal, forfeit and pay to the city a fine of five hundred dollars, and also a further sum of twenty dollars for every week during which any such building shall remain erected within the city, contrary to the provisions of this law; and in case the said building shall not be pulled down and removed, or otherwise made conformable to the provisions of this law, within three months after such conviction, the person or persons so convicted shall, in addition to the said penalty of twenty dollars per week, be subject to a further penalty of one hundred dollars for his, her, or their neglect, at the expiration of every three months from the date of such conviction, until the said building shall be pul- Fine for violation of Ordinance.

June 1838. led down and removed, or otherwise made conformable to the provisions of this law.

Fine for being employed on buildings.

4. Every person who shall be employed in the building or construction of any building contrary to the provisions of this ordinance, shall, on conviction thereof before any court of competent jurisdiction, forfeit and pay to the city the sum of five dollars for every day he may be so employed; and if any person so employed shall have in his employ slaves or persons of color, he shall forfeit and pay an additional sum of two dollars for each hand for every day during which such person may be engaged in the erection or construction of such building.

Unfinished buildings.

5. Every unfinished wooden building within the city, the construction or building whereof shall be continued after the passing of this law, shall be subject to its provisions; and any person who shall, after the passing of this law, proceed in the further construction or erection of such building, or thereafter cause the same to be erected or built, shall be subject in all respects to the same penalties as are prescribed in the 3d section of this Ordinance; and every person employed in the further construction or erection of such building shall be subject in all respects to the penalties prescribed in the 4th section. *Provided, however,* that nothing in this clause contained, shall extend to any building which shall have been commenced and the frame thereof erected prior to the 27th day of April last.

Walls of buildings.

6. Every building hereafter erected within this city, shall have, between the separate tenements thereof, sufficient brick or stone partition walls, and shall also be finished with sufficient outer walls of brick or stone; and no wall of any building shall be deemed sufficient unless the same shall be at least twelve inches thick in the lower story, and eight inches thick above the lower story; and every person offending against the provisions of this section, shall, upon conviction thereof, forfeit and pay to the city, a fine of one hundred dollars, and also the further sum of ten dollars for each and every month during which the provisions of this Ordinance shall remain not complied with.

Families.

Roofing and covering.

7. Whenever, hereafter, any building already erected, shall be roofed or covered, it shall be roofed and covered as new buildings are hereby directed to be done; and the owner of such building and all persons concerned in roofing and covering the same, contrary to the provisions of this clause, shall be subject to the same penalties as though the said building had been newly erected or constructed.

Marsh lots exempted for twenty years.

8. None of the provisions of this law shall, during the next twenty years, extend to any marsh lot within the limits of the city, upon which the tide flows. *Provided, however,* that at the expiration of the said twenty years, all wooden buildings standing upon any of the said lots, shall be pulled

down or removed, by the owners thereof; and the owner or owners, so neglecting to pull down or remove the same, shall be subject to the same penalties in all respects, as are provided in the third section of this law. June 1838.

9. The City Council may, by resolution, extend permission to mechanics to build, and use as workshops, such temporary sheds as may be necessary for the purpose of rebuilding the burnt district, for such time and under such regulations, as the said Council shall deem meet. Temporary sheds.

10. It shall be the duty of the City Marshals, and they are hereby strictly enjoined, to give immediate information of all offences against this Ordinance, and one half of the penalties recovered in each case shall be paid to the Marshal, or to any person who shall inform against and prosecute any offender. Duty of City Marshals.

Ratified in City Council this eighth day of May, in the year of our Lord, one thousand eight hundred and thirty-eight, and in the sixty-second year of American Independence.

H. L. PINCKNEY, *Mayor*.

By the Mayor.

WILLIAM ROACH, *Clerk of Council*.

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CITY COUNCIL, MAY 5, 1838.

The following Preamble and Resolutions reported by Mr. Memminger, from the Special Committee were adopted:

**WHEREAS**, The determination of the City Council to prevent the erection or completion of Wooden Buildings, may operate with particular hardship upon those citizens who had commenced such buildings before they were aware of such determination; and whereas the delay which must occur in the construction of brick buildings, may bear severely upon those who at present may not be able to procure dwellings, therefore,

*Resolved*, That the City Council will indemnify any citizen, who, since the late fire, shall in good faith have commenced the construction of any wooden building, before the publication of the Mayor's Proclamation to prevent the erection of such building; provided such citizen will immediately discontinue and pull down such building, and render in his claim for indemnity to the City Council.

*Resolved*, That the Council will endeavor to provide a temporary shelter for such persons as are unable to find dwellings under existing circumstances; that a committee be appointed to ascertain what buildings are requisite for such purposes, in addition to those under the control of the

**JUNE 1836.** city, and if further accommodation be requisite, then that the said committee procure a proper site, and cause a large temporary wooden building to be constructed upon a proper plan, for such tenants as may require the same; or that they report any other measures which they may deem expedient.

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