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ANALYSIS OF CONSTITUTIONAL PROVISIONS
AFFECTING PUBLIC WELFARE IN THE STATE OF
FLORIDA

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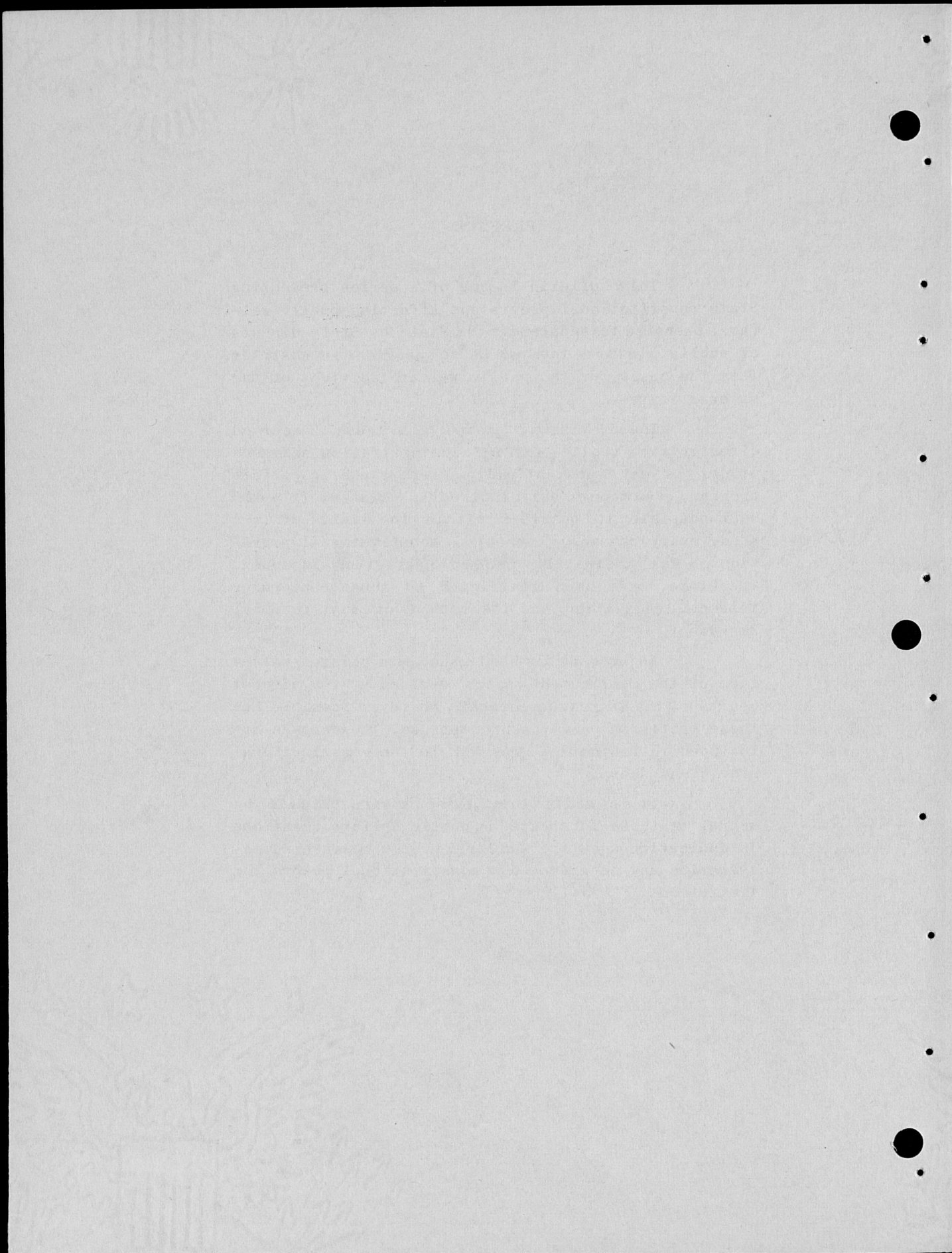
PREFACE

This bulletin is one of a series presenting State constitutional provisions affecting public welfare, prepared to supplement the State by State digests of public welfare laws so as to provide in abstract form the basis for the public welfare services of the several States.

The provisions quoted are those concerned directly with public welfare administration and such others as may substantially affect a public welfare program, even though only indirectly related. It would be impossible to consider within the limits of this study every remotely connected constitutional provision. The indirectly related provisions included, therefore, have been restricted to those concerning finance, legislation, and the methods of constitutional amendment.

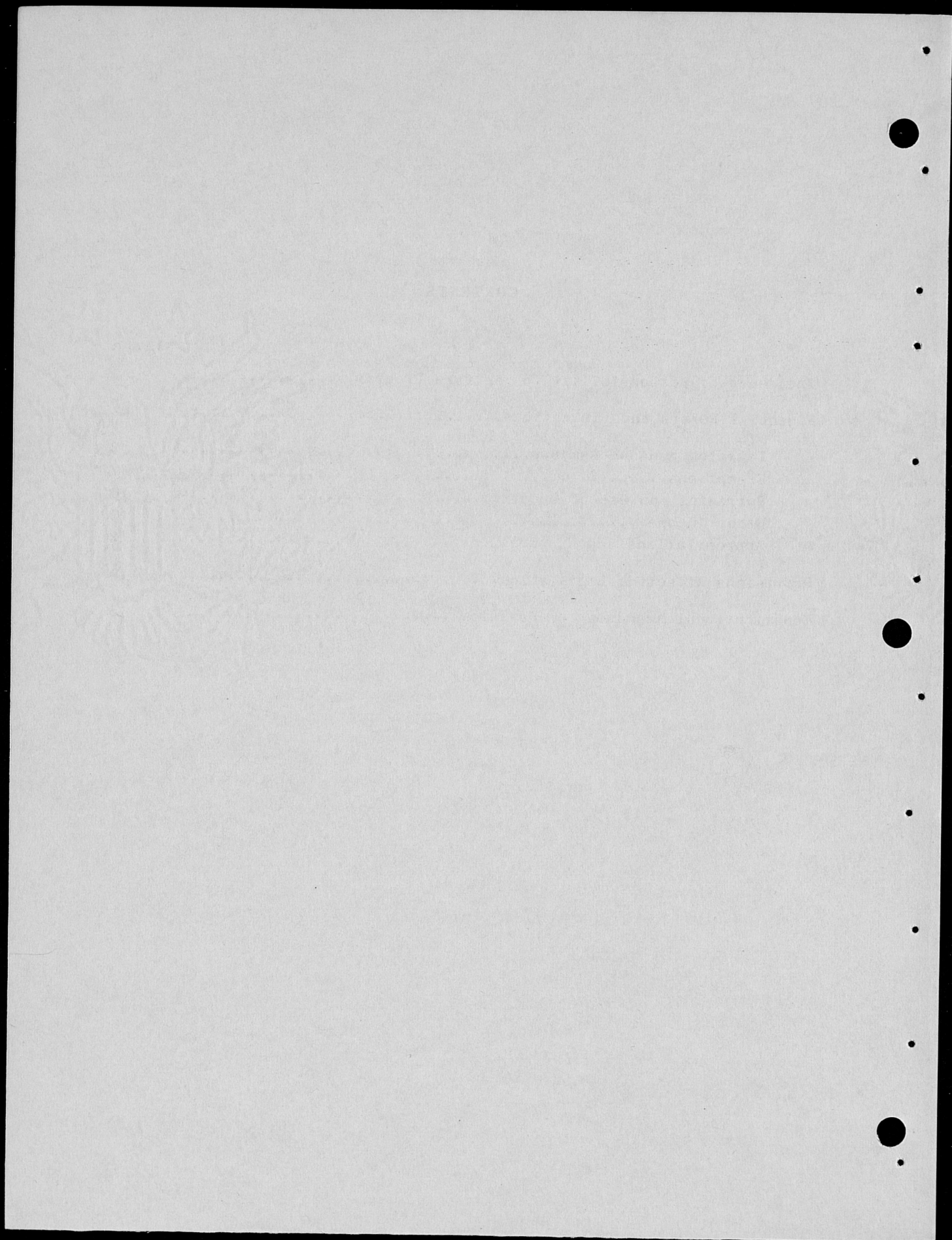
An attempt has been made, by a careful selection of the most recent cases decided by the highest courts of the States, to indicate wherever possible how these provisions have been construed. These cases are included in footnotes appended to the constitutional provisions shown.

It is hoped that these abstracts will be useful to those interested in public welfare questions in indicating how State and local public welfare administration may be affected by constitutional powers and limitations.



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Florida

ANALYSIS OF CONSTITUTIONAL PROVISIONS AFFECTING
PUBLIC WELFARE IN FLORIDA¹

I. Incidence of Responsibility for Welfare Program

A. Institutions for the benefit of the insane, blind and deaf, and such other benevolent institutions as the public good may require, shall be fostered and supported by the State, subject to such regulations as may be prescribed by law.²

B. The Governor and the administrative officers of the Executive Department shall constitute a Board of Commissioners of State Institutions, which Board shall have supervision of all matters connected with such institutions in such manner as shall be prescribed by law.³

C. A State Prison shall be established and maintained in such manner as may be prescribed by law. Provision may be made by law for the establishment and maintenance of a house of refuge for juvenile offenders; and the Legislature shall have power to establish a home and work-house for common vagrants.⁴

D. The respective counties of the State shall provide in the manner prescribed by law for those of the inhabitants that, by reason of age, infirmity or misfortune, may have claims upon the aid and sympathy of society. Provided, however, the Legislature may by general law provide for a uniform State-wide system for such benefits, and appropriate money therefor; but no such general law shall provide benefits to any person who shall not have been a resident of the State of Florida for a period of five years continuously next preceding his application therefor, nor shall such general law provide for benefits to any person solely on account of age who has not attained the age of sixty-five years; Provided, further, that where by any law of the United States, a lesser or different period of residence, age or citizenship shall be fixed in order for the State of Florida to participate in any Federal grants that might

¹Constitution (1885), as published by the Secretary of State for the State of Florida (1933); with all amendments adopted and reported in the Florida Session Laws to May 31, 1937.

²Constitution, Art. XIII, Sec. 1.

³Constitution, Art. IV, Sec. 17.

⁴Constitution, Art. XIII, Sec. 2.

I. Incidence of Responsibility for Welfare Program—Continued

be made for such purposes, the Legislature may prescribe such requirements as to citizenship, age, and residence as will be consistent with and not in conflict with such Federal law.⁵

E. The first Legislature that convenes after the adoption of this Constitution shall enact the necessary laws to carry into effect the provisions of this Article.⁶

II. Financial Powers and Limitations

A. Taxation and Assessments

(1) State

(a) The Legislature shall provide for a uniform and equal rate of taxation, except that it may provide for special rate or rates on intangible property, but such special rate or rates shall not exceed five mills on the dollar of the assessed valuation of such intangible property, which special rate or rates, or the taxes collected therefrom, may be apportioned by the Legislature, and shall be exclusive of all other State, County, district and municipal taxes; and shall prescribe such regulations as shall secure a just valuation of all property, both real and personal,⁷ * * *.

⁵Constitution, Art. XIII, Sec. 3, as amended 1936.

An act providing for county welfare boards in counties of over 100,000 was held to be for the establishment of a public instrumentality serving a county purpose and therefore not in conflict with but consonant with the command of Sec. 3, Art. XIII. *State vs. Daniel*, 87 Fla. 273, 99 So. 804 (1924).

⁶Constitution, Art. XIII, Sec. 4.

⁷Constitution, Art. IX, Sec. 1, as amended 1924.

See p. 5, par. (a) for provisions relating to license and capitation taxes.

The Legislature, notwithstanding the tax uniformity clause, may provide reasonable classifications of property for purposes of municipal taxation so long as such classifications are not arbitrary, unreasonable, and unjustly discriminatory. *State vs. City of Miami*, 103 Fla. 54, 137 So. 261 (1931).

The Legislature has wide, if not plenary, discretion in apportioning and applying proceeds of State taxes, except as restrained by the Constitution. *Amos vs. Mathews*, 99 Fla. 1, 126 So. 308 (1930).

An ad valorem tax on property and a license or occupational tax on the use of the same property was held not double taxation. *Hiers vs. Mitchell*, 95 Fla. 345, 116 So. 81 (1928).

An ad valorem tax levied twice against the same person or property for the same purpose, because of such ownership, would constitute double taxation. The Florida Constitution however does not prohibit double taxation. *Klemm vs. Davenport*, 100 Fla. 627, 129 So. 904 (1930).

In distinguishing general tax levies from special assessments it may be said that general tax levies exact contributions for the general benefits of government, and promise nothing to the person taxed beyond what may be anticipated from an administration of the laws for individual protection and the general public good. Assessments on the other hand are made to provide special benefits and are payable by those receiving the benefits. *Lainhart vs. Catts*, 73 Fla. 735, 75 So. 47 (1917).

II. Financial Powers and Limitations—Continued

A. Taxation and Assessments—Continued

(1) State—Continued

(b) The Legislature shall provide for raising revenue sufficient to defray the expenses of the State for each fiscal year, and also a sufficient sum to pay the principal and interest of the existing indebtedness of the State.⁸

(c) No tax shall be levied except in pursuance of law.⁹

(d) No tax shall be levied for the benefit of any chartered company of the State, nor for paying interest on any bonds issued by such chartered companies, or by counties, or by corporations, for the above-mentioned purpose.¹⁰

(e) No person or corporation shall be relieved by any court from the payment of any tax that may be illegal, or illegally or irregularly assessed, until he or it shall have paid such portion of his or its taxes as may be legal, and legally and regularly assessed.¹¹

(f) No taxes upon inheritances or upon the income of residents or citizens of this State shall be levied by the State of Florida, or under its authority, * * * Provided, however that the Legislature may provide for the assessment, levying and collection of a tax

⁸Constitution, Art. IX, Sec. 2.

This section contemplates that sufficient revenue shall be raised each year to defray the expenses of the State for that year, and that during any fiscal year no indebtedness for the expenses of the State shall be incurred substantially in excess of the revenue that may be provided for that year. *Hathaway vs. Munroe*, 97 Fla. 28, 119 So. 149 (1929).

⁹Constitution, Art. IX, Sec. 3.

A district was held to have no inherent powers of taxation. Taxation can be exercised only pursuant to a valid statute containing definite limitations. The legislative power to tax may be exercised through subordinate governmental agencies, if granted within definite limitations fixed by law. An act authorizing the board of commissioners of a special tax district to levy a tax and incur indebtedness, without definitely limiting the rate of levy or the amount to be collected, or the amount of indebtedness that might be incurred, payable by the tax, was held to be an unconstitutional attempt to delegate the legislative power of taxation. *Atlantic Coast Line Company vs. Amos*, 94 Fla. 588, 115 So. 315 (1928).

¹⁰Constitution, Art. IX, Sec. 7.

The issuance of general improvement bonds which merely benefited incidentally corporations along with other private persons was held not to violate this section. *West vs. Town of Lake Placid*, 97 Fla. 127, 120 So. 361 (1929).

¹¹Constitution, Art. IX, Sec. 8.

Where an assessment roll is wholly void by reason of the improper conduct of the assessor, a property owner can contest the assessment without having paid the tax. *Harjim vs. Owens*, 52 F. (2d) 530 (1931).

Under this section relief should not be granted under a petition alleging the illegality of an assessment of real property, where petitioner owns personal estate properly assessed, and as to which there is no ground of illegality, until the personal tax is paid or tendered. *City of Tampa vs. Mugge*, 40 Fla. 326, 24 So. 489 (1898).

II. Financial Powers and Limitations—Continued

A. Taxation and Assessments—Continued

(1) State—Continued

upon inheritances, or for the levying of estate taxes, not exceeding in the aggregate the amounts which may by any law of the United States be allowed to be credited against or deducted from any similar tax upon inheritances, or taxes on estates assessed or levied by the United States on the same subject, but the power of the Legislature to levy such inheritance taxes, or estate taxes in this State, shall exist only so long as, and during the time, a similar tax is enforced by the United States against Florida inheritances or estates and shall only be exercised or enforced to the extent of absorbing the amount of any deduction or credit which may be permitted by the laws of the United States, now existing or hereafter enacted to be claimed by reason thereof, as a deduction or credit against such similar tax of the United States applicable to Florida inheritances or estates. The Legislature may provide for the appropriation of all taxes collected under this Article to such State, county, municipal or educational purposes as it may deem advisable.¹²

(g) Motor vehicles, as property, shall be subject to only one form of taxation which shall be a license tax for the operation of such motor vehicles, which license tax shall be in such amount and levied for such purpose as the Legislature may, by law, provide, and shall be in lieu of all ad valorem taxes assessable against motor vehicles as personal property.¹³

(h) A special tax of one (1) mill on the dollar of all taxable property in the State, in addition to the other means provided, shall be levied and apportioned annually for the support and maintenance of public free schools.¹⁴

(i) The property of all corporations, except the property of a corporation which shall construct a ship or barge canal across the peninsula of Florida, if the Legislature should so enact, whether

¹²Constitution, Art. IX, Sec. 11, adopted 1930.

A tax upon the gross receipts of corporations engaged in selling electricity was held not to be an income tax but an occupation tax levied upon the business of selling electricity and measured by reference to the gross receipts from sales. *City of Lakeland vs. Amos*, 106 Fla. 873, 143 So. 744 (1932).

¹³Constitution, Art. IX, Sec. 13, adopted 1930.

¹⁴Constitution, Art. XII, Sec. 6.

An act authorizing the municipality of Lakeland to issue bonds "for the purpose of erecting schoolhouses and maintaining a system of public education" was held void. The Supreme Court in its opinion stated that the Constitution contemplates a uniform system of public free schools and that taxes levied in an incorporated town or city to supplement the other provisions made for their support and maintenance shall be as those of school districts and not of municipalities. *Brown vs. City of Lakeland et al.*, 61 Fla. 508, 54 So. 716 (1911).

II. Financial Powers and Limitations—Continued

A. Taxation and Assessments—Continued

(1) State—Continued

heretofore or hereafter incorporated, shall be subject to taxation unless such property be held and used exclusively for religious, scientific, municipal, educational, literary or charitable purposes.¹⁵

(2) Counties and Other Local Units¹⁶

(a) The Legislature shall authorize the several counties and incorporated cities or towns in the State to assess and impose

¹⁵Constitution, Art. XVI, Sec. 16.

¹⁶Art. III, Sec. 24 of the Constitution provides that the Legislature shall establish a uniform system of county and municipal government, which shall be applicable, except in cases where local or special laws for counties are provided by the Legislature that may be inconsistent therewith; also, by general law, shall classify cities and towns according to population and by general law provide for their incorporation, government, jurisdiction, powers, duties, and privileges under such classifications. No special or local laws incorporating cities or towns, providing for their government, jurisdiction, powers, duties, and privileges may be passed by the Legislature.

Art. VIII, Sec. 8 of the Constitution provides that the Legislature shall have the power to establish and abolish municipalities and provide for their government and powers, and alter or amend the same at any time.

Under this section the jurisdiction and powers conferred by statute upon municipalities may be altered or amended at any time by the Legislature. *State vs. Burr*, 79 Fla. 290, 84 So. 61 (1920).

Generally, where a local or special law relating to the powers of a municipality conflicts with a general statute, the former will prevail. *Sullivan vs. City of Tampa*, 101 Fla. 298, 134 So. 211 (1931).

General laws may repeal or supersede special or local laws respecting municipalities if so intended. When not inconsistent, both may be applicable to a particular municipality. *City of Lake Alfred vs. Lawlers*, 102 Fla. 84, 135 So. 895 (1931).

Charter provisions authorizing a city council to provide by ordinance for the issuance of municipal bonds were held to prevail over a general law authorizing issuance of municipal bonds only with approval of two-thirds of registered voters. *Harris vs. City of Hialeah*, 10 F. Supp. 546 (1935).

Constitution prevents a statute which abolishes a municipality from becoming effective until provision is made for protection of municipalities' creditors. *Humphreys vs. State*, 108 Fla. 92, 145 So. 858 (1933).

A county was held to be not a municipality within the meaning of a constitutional provision relating to the abolishing of municipalities. *State vs. Crandon*, 105 Fla. 309, 141 So. 177 (1932).

Art. VIII, Sec. 9 of the Constitution provides that the Legislature shall have power to establish, alter, or abolish a municipal corporation to be known as the city of Jacksonville in the place of any or all county, district, municipal, and local governments, and shall prescribe the jurisdiction, powers, duties, and functions of such municipal corporation; also to divide the territory included in such municipality into subordinate districts, and to prescribe a just and reasonable system of taxation for such municipality and districts and to fix the liability of such municipality and districts.

An amendment to Art. VIII of the Constitution adopted in 1936 provides similar provisions applying to the city of Key West.

Special statutes relating to the city budget and the levying of city taxes, applying to Jacksonville only, were held valid on the theory that the Legislature had not yet enacted a general scheme of municipal government as provided for by Art. III, Sec. 24 of the Constitution, as same was amended in 1934. *State vs. Alsop*, 120 Fla. 628, 163 So. 80 (1935).

II. Financial Powers and Limitations—Continued

A. Taxation and Assessments—Continued

(2) Counties and Other Local Units—Continued

taxes for county and municipal purposes, and for no other purposes, and all property shall be taxed upon the principles established for State taxation. But the cities and incorporated towns shall make their own assessments for municipal purposes upon the property within their limits. The Legislature may also provide for levying a special capitation tax, and a tax on licenses. But the capitation tax shall not exceed one dollar a year and shall be applied exclusively to common school purposes.¹⁷

(b) Each county shall be required to assess and collect annually for the support of the public free schools therein, a tax

¹⁷Constitution, Art. IX, Sec. 5.

For the "Principles established for State taxation," see pp. 2-5.

The phrase "Principles established for State taxation," pursuant to which municipalities may tax property, means uniformity, equality, a just valuation, and similarity of treatment on the same subject of taxation. *Rareger Realty Company vs. Mitter*, 102 Fla. 378, 136 So. 546 (1931).

Legislative classifications may be made with reference to similarity of situations, circumstances, requirements, and conveniences to best subserve public interest. *State vs. City of Miami*, 103 Fla. 54, 137 So. 261 (1931).

Contracts of a municipality providing for exemption from taxation were held to be a remission of taxes without legislative authority, ultra vires, and void. *Tampa Shipbuilding & Engineering Company vs. City of Tampa*, 102 Fla. 549, 136 So. 458 (1931).

The Legislature was held empowered to delegate to a city the power to tax the purchase of electricity, gas, water, and telephone service. *Heriot vs. City of Pensacola*, 108 Fla. 480, 146 So. 654 (1933).

A statute authorizing a city to levy a special tax to advertise the city was held valid under the Constitution. *City of Jacksonville vs. Oldham*, 112 Fla. 502, 150 So. 619 (1933).

This section is a mandate to the effect that in levying taxes on property for municipal purposes, cities and towns shall make their own assessments. *City of Bradentown vs. Seaboard Air Line Railway Company*, 100 Fla. 606, 130 So. 21 (1930).

A gasoline tax levied by the State and apportioned to the several counties in proportion to the amount collected therein, and which was required to be applied to the payment of county and district road and bridge bonds by a State board of administration, created by the statute, was held valid as a county tax under this section. *Amos vs. Mathews*, 99 Fla. 1, 126 So. 308 (1930).

The general rule is that the Legislature does not have the power to directly levy or to compel a county to levy a local county ad valorem tax for an exclusively local purpose. Local administration of exclusively local affairs, i.e., those in which the State has no sovereign interest, is undoubtedly contemplated by the Constitution. *Ibid.*

However, there are the following exceptions to the general rule: (1) When the purpose is one of both local and general concern, such as the support of the public schools, the protection of public health, safety, and morals. (2) When the purpose is to require a county to properly perform its duty as a legal political division of the State. The State may enforce contribution by the counties to the general expense of the State for State purposes, even though such is exclusive of any element of local purpose. (3) When the purpose is to compel a county to fulfil its obligations. *Ibid.*

What is a "county purpose" may be determined by the express or implied provisions of a statute; and the courts will not interfere with such determination unless it has no legal or practical relation to a valid county purpose. *State vs. Brevard Company*, 99 Fla. 226, 126 So. 353 (1930).

II. Financial Powers and Limitations—Continued

A. Taxation and Assessments—Continued

(2) Counties and Other Local Units—Continued

of not less than three (3) mills, nor more than seven (7) mills on the dollar on all taxable property in the same.¹⁸

B. Exemptions

(a) The Legislature shall provide for a uniform and equal rate of taxation, * * * excepting such property as may be exempted by law for municipal, education, literary, scientific, religious or charitable purposes.¹⁹

(b) The property of all corporations, except the property of a corporation which shall construct a ship or barge canal across the peninsula of Florida, if the Legislature should so enact, whether heretofore or hereafter incorporated, shall be subject to taxation unless such property be held and used exclusively for religious, scientific, municipal, educational, literary or charitable purposes.²⁰

(c) For a period of fifteen years from the beginning of operation, all industrial plants which shall be established in this State on or after July 1, 1929, engaged primarily during said period in the manufacture of steel vessels, automobile tires, fabrics and textiles, wood pulp, paper, paper bags, fiber board, automobiles, automobile parts, aircraft, aircraft parts, glass and crockery manufacturers and the refining of sugar and oils, and including by-products or derivatives incident to the manufacture of any of the above products, shall be exempt from all taxation, except that no exemption which shall become effective by virtue of this amendment shall extend beyond the year 1948.

¹⁸ Constitution, Art. XII, Sec. 8, as amended 1918.

For other provisions relating to school taxes see Art. XII, Secs. 8, 9, 10, 11, and 17 of the Constitution.

¹⁹ Constitution, Art. IX, Sec. 1, amended 1924.

These permissive exemptions apply only to property taxes and not excises. *City of West Palm Beach vs. Amos*, 100 Fla. 891, 130 So. 710 (1930).

²⁰ Constitution, Art. XVI, Sec. 16.

The exemption contemplated by the latter part of this section extends only to property taxes and not to excises. *City of West Palm Beach vs. Amos*, 100 Fla. 891, 130 So. 710 (1930).

The Constitution does not exempt authorized corporate business, occupations, or proprietary activities of municipalities from taxation. *City of Lakeland vs. Amos*, 106 Fla. 873, 143 So. 744 (1932).

Generally, exemption from taxation is determined by the use and ownership of the property, and not altogether by the charter provisions. Property of a university club, in view of facts showing that the club was essentially a social club and that furnishing of university scholarships was incidental, was held not exempt from taxation as property used exclusively for "education, literary, or charitable purposes." *University Club vs. Lomer*, 119 Fla. 146, 161 So. 78 (1935).

II. Financial Powers and Limitations—Continued

B. Exemptions—Continued

The exemption herein authorized shall not apply to real estate owned and used by such industrial plants except the real estate occupied as the location required to house such industrial plants and the buildings and property situated thereon, together with such lands as may be required for warehouses, storage, trackage and shipping facilities and being used for such purposes.²¹

(d) For a period of fifteen years from the beginning of operation, motion picture studios and plants which shall be established in this State on or after July 1st, 1933, including all lands, buildings, and chattels utilized in connection therewith, and all raw materials going into the finished products of such studios and plants, as well as the finished products or films, shall be exempt from all ad valorem taxation, except that no exemption, which shall become effective by virtue of this Amendment shall extend beyond the year 1943. The exemption herein authorized shall not apply to real estate owned by such motion picture studios and plants except the real estate occupied as the location required to house such motion picture studios and plants and other buildings incidental to the operation of such studios and plants, together with such lands as may be required for housing officers and employees, and for warehouses, laboratories, cutting rooms, projection rooms, storage, trackage, shipping facilities, sets and locations.²²

(e) There shall be exempted from all taxation, other than special assessments for benefits, to every head of a family who is a citizen of and resides in the State of Florida, the homestead as defined in Article X of the Constitution of the State of Florida up to the valuation of \$5,000.00 * * * provided, however, that the title to said homestead may be vested in such head of a family or in his lawful wife residing upon such homestead or in both.²³

²¹Constitution, Art. IX, Sec. 12, adopted 1930.

Metal containers manufactured in industrial plants from 98.5 percent steel and 1.5 percent tin as containers for food products were held "steel vessels" within the provision of this section, as against the contention that steel vessels referred to boats. *City of Jacksonville vs. Continental Can Company*, 113 Fla. 168, 151 So. 488 (1933).

²²Constitution, Art. IX, Sec. 14, adopted 1934.

²³Constitution, Art. X, Sec. 7, as amended 1934.

See p. 9, par. (f) for homestead referred to.

Tax exemptions, whether stated in the Constitution or a statute, are to be construed against the claimant and in favor of the taxing power, in all cases of doubt. *Stewart vs. State*, 119 Fla. 117, 161 So. 378 (1935).

The alien head of a family residing on a homestead within the State was held not entitled to constitutional tax exemption for homesteads as being a person who is a "citizen of and resides in the State of Florida"; such phrase being limited to those who, under the Federal Constitution, would be entitled to claim citizenship in the State, in addition to residing therein. *Ibid.*

II. Financial Powers and Limitations—Continued

B. Exemptions—Continued

(f) A homestead to the extent of one hundred and sixty acres of land, or the half of one acre within the limits of any incorporated city or town, owned by the head of a family residing in this State, together with one thousand dollars worth of personal property, and the improvements on the real estate, shall be exempt from forced sale under process of any court, and the real estate shall not be alienable without the joint consent of husband and wife, when that relation exists. But no property shall be exempt from sale for taxes or assessments, or for the payment of obligations contracted for the purchase of said property, or for the erection or repair of improvements on the real estate exempted, or for house, field or other labor performed on the same. The exemption herein provided for in a city or town shall not extend to more improvements or buildings than the residence and business house of the owner; and no judgment or decree or execution shall be a lien upon exempted property except as provided in this Article.²⁴

(g) * * * there shall be exempt from taxation to the head of the family residing in this State, household goods and personal effects to the value of five hundred dollars:²⁵ * * *.

(h) There shall be exempt from taxation property to the value of five hundred dollars to every widow that has a family dependent on her for support, and to every person who is a bona fide resident of the State and has lost a limb or been disabled in war or by misfortune.²⁶

Where it was provided that taxes should be levied on "all" the property of a school district to retire bonds, a later amendment seeking to exempt homestead property up to \$5,000 would, if it had the effect of impairing the contracts of pre-existing bondholders, be inoperative under the Federal Constitution. *Gray vs. Moss*, 115 Fla. 701, 156 So. 262 (1934); *Gray vs. Winthrop*, 115 Fla. 721, 156 So. 270 (1934).

A Constitutional amendment exempting from taxation homestead property of less than \$5,000 valuation was held unconstitutional insofar as it might prohibit the levy, assessment, and collection of taxes on such homesteads for the payment of interest and principal of bonds issued by a tax district prior to adoption of amendment until some other adequate fund should be legally substituted for that lost by the exemption. *State vs. Port of Palm Beach District*, 164 So. 851 (1935).

All remedies in effect at the time of the issuance of bonds, for tax levy, assessment, and collection, become part of the contract. *State vs. Boring*, 164 So. 859 (1935).

²⁴ Constitution, Art. X, Sec. 1.

²⁵ Constitution, Art. IX, Sec. 11, adopted 1930.

The \$500 exemption from taxation to a head of a family is deductible from the total assessed value of the household goods and effects. *Hackney vs. McKenny*, 113 Fla. 176, 151 So. 524 (1933).

Constitutional provisions exempting from taxation household goods and personal effects apply only to limited kinds of personal property designated. *City of Tarpon Springs vs. Chrysontomides*, 108 Fla. 500, 146 So. 845 (1933).

Appurtenances and appliances of a pressing club up to the value of \$500 were held not exempt from taxation as household goods and personal effects. *Ibid.*

²⁶ Constitution, Art. IX, Sec. 9, as amended 1916.

II. Financial Powers and Limitations--Continued

C. Borrowing and Use of Credit

(1) State

(a) The Legislature shall have power to provide for issuing State bonds only for the purpose of repelling invasion or suppressing insurrection,²⁷ * * *.

(b) The credit of the State shall not be pledged or loaned to any individual, company, corporation or association; nor shall the State become a joint owner or stockholder in any company, association or corporation.²⁸ * * *

(2) Counties and Other Local Units

(a) The Legislature shall have power to establish new counties, and to change county lines. Every newly established county shall be held liable for its proportion of the then existing liabilities of the county or counties from which it shall be formed, rated upon the basis of the assessed value of the property, both real and personal, subject to taxation within the territory taken from any county or counties; and every county acquiring additional territory from another county shall be held liable for its proportion of the liabilities of such other county existing at the time of such acquisition, to be rated upon the basis of the assessed value of all property subject to taxation within such acquired territory.²⁹

(b) * * * the counties, districts or municipalities of the State of Florida shall have power to issue bonds only after the same shall have been approved by a majority of the votes cast in an

²⁷Constitution, Art. IX, Sec. 6, as amended 1930.

An act authorizing the road department to borrow money was held invalid on the ground that any attempt to authorize an agency of the government to borrow money or issue any promise to pay would be creating an obligation of the State in violation of the Constitution. In re: Advisory Opinion to the Governor, 94 Fla. 867, 114 So. 850 (1917).

This section was held to forbid the issuing of State bonds or other evidences of State indebtedness except to repel invasion or suppress insurrection in the State. Hathaway vs. Munroe, 97 Fla. 28, 119 So. 149 (1929).

It has been held that the State could not legally, in any form or manner, directly or indirectly, pay, or be obligated to pay, the whole or any part of the principal or the interest of bonds authorized to be issued by a drainage district. Marter vs. Dade Muck Land Company, 95 Fla. 530, 116 So. 449 (1928).

The Constitution in effect forbids the issue of State bonds for road purposes. State vs. Brevard County, 99 Fla. 226, 126 So. 353 (1930).

²⁸Constitution, Art. IX, Sec. 10.

²⁹Constitution, Art. VIII, Sec. 3.

II. Financial Powers and Limitations—Continued

C. Borrowing and Use of Credit—Continued

(2) Counties and Other Local Units—Continued

election in which a majority of the freeholders who are qualified electors residing in such counties, districts, or municipalities shall participate, to be held in the manner to be prescribed by law; but the provisions of this law shall not apply to the refunding of bonds issued exclusively for the purpose of refunding of the bonds or the interest thereon of such counties, districts, or municipalities.³⁰

(c) * * * The Legislature shall not authorize any county, * * * to become a stockholder in any company, association or corporation, or to obtain or appropriate money for, or to loan its credit to, any corporation, association, institution or individual.³¹

³⁰Constitution, Art. IX, Sec. 6, as amended 1930.

The main purpose of this amendment was to prevent the counties, districts, and municipalities of this State from issuing any bonds, excepting refunding bonds, without first obtaining the approval of a majority of the votes cast in an election in which a majority of the freeholders who are qualified electors residing in the territory to be affected shall have participated. *Sullivan vs. City of Tampa*, 101 Fla. 298, 134 So. 211 (1931).

An agreement entered into by a county without a vote of the people to repay a Federal grant in aid, evidenced by note or indenture of indebtedness, was held to create an interest-bearing contract obligation in violation of the Constitution. *Herbert vs. Thursby*, 112 Fla. 826, 151 So. 385 (1933).

Under the constitutional provision that refunding bonds may be issued by counties and other political subdivisions without procuring approval by electorate, only bonds extending or continuing the identical contractual obligations of the old bonds without enlargement may be issued. *State vs. Citrus County*, 118 Fla. 676, 157 So. 4 (1934).

Constitutional provision that counties and other political subdivisions shall have power to issue bonds other than refunding bonds only after approval by electorate held absolute limitation on power of Legislature to authorize creation of any new or additional obligations by counties or other political subdivisions. *Ibid.*

Constitutional limitations against issuance of county, district, or municipal bonds, without approval of the voters of such county, district, or municipality, were held inapplicable to a contract for current governmental needs when executed in due course of authorized budgetary requirements. *State vs. Butts*, 111 Fla. 630, 149 So. 746 (1933).

Construction of a county jail under a statute authorizing the creation of a jail building fund by the levy of a designated building tax for not more than 5 years, was held a necessary budgetary requirement of the county, and hence did not need the people's approval. *Ibid.* See also *Tapers vs. Pichard*, 169 So. 39 (1936).

Water revenue certificates payable only from income of municipal water plant were held not "municipal bonds" within constitutional requirement. *State vs. City of Miami*, 113 Fla. 280, 152 So. 6 (1934).

Issuance of revenue certificates by a city for the entire acquisition of a new utility, secured by a pledge of the revenues of the utility, by a mortgage upon the physical property, and by a contingent franchise (to be granted to purchasers of utility in event of foreclosure decree against city), was held to create a conditional indebtedness of the city, and so was prohibited by the Constitution unless authorized by the voters of the city. *Boykin vs. Town of River Junction*, 164 So. 558 (1935).

³¹Constitution, Art. IX, Sec. 10.

An act authorizing an appropriation by county commissioners to hold a county fair was held constitutional. *State vs. Thursby*, 113 Fla. 257, 150 So. 252 (1933).

II. Financial Powers and Limitations—Continued

C. Borrowing and Use of Credit—Continued

(2) Counties and Other Local Units—Continued

(d) The Legislature may provide for special tax school districts to issue bonds for the exclusive use of public free schools within any such special tax school district, whenever a majority of the qualified electors thereof who are freeholders shall vote in favor of the issuance of such bonds, but no bonds shall be issued hereunder which shall exceed, together with the existing indebtedness of such special tax school district 20 per cent of the assessed value of the taxable property of such district according to the last assessment for State and County purposes prior to the issuing of such bonds.³² * * *

D. Other Income

No provision.

E. Appropriations and Expenditures

(1) State

(a) No preference shall be given by law to any church, sect or mode of worship, and no money shall ever be taken from the public treasury directly or indirectly in aid of any church, sect or religious denomination, or in aid of any sectarian institution.³³

³²Constitution, Art. XII, Sec. 17, adopted 1924.

The amendment to Sec. 6, Art. IX (p. 10, (2), par. (b)) authorizing the issuance of refunding bonds by counties, municipalities, and districts without requiring an election as a condition precedent thereto applies to school districts. The power to issue bonds carries with it the power to levy sufficient taxes for their payment, unless such power is denied. *State vs. Special Tax School District No. 5 of Dade County*, 107 Fla. 93, 144 So. 356 (1932).

Legislation authorizing anticipation of current revenues of tax levies for school districts through issuance and disposal of interest-bearing warrants was held not to be in violation of the Constitution. *Savage vs. Board of Public Instruction for Hillsborough County*, 101 Fla. 1362, 133 So. 341 (1931).

Constitutional and statutory provisions in effect at the time of issuance of bonds of a special tax school district, requiring and providing for the levy of a tax on all taxable property in the district for the payment of the interest and principal of the bonds, and all remedies then existing for the levy, assessment, and collection of such tax, became part of the bond contract. *State vs. Boring*, 164 So. 859 (1935).

Constitutional amendment exempting from taxation homestead property of less than \$5,000 valuation held to contravene Art. I, Sec. 10 of the Federal Constitution prohibiting the "impairment of the obligation of contracts," insofar as it might prohibit levy, assessment, and collection of taxes on such homesteads for payment of interest and principal of bonds issued by special tax school district prior to adoption of amendment until some other adequate fund should be legally substituted for that lost by exemption. *State vs. Boring*, 164 So. 859 (1935).

³³Constitution, Declaration of Rights, Sec. 6.

II. Financial Powers and Limitations—Continued

E. Appropriations and Expenditures—Continued

(1) State—Continued

(b) The Treasurer shall receive and keep all funds, bonds, and other securities, in such manner as may be prescribed by law, and shall disburse no funds, nor issue bonds, or other securities, except upon the order of the Comptroller countersigned by the Governor, in such manner as shall be prescribed by law.³⁴

(c) No money shall be drawn from the Treasury except in pursuance of appropriations made by law.³⁵

(2) Counties and Other Local Units

* * * The Legislature shall provide by law for the care and custody of all county funds it shall provide the method of reporting and paying out all such funds.³⁶ * * *

III. Provisions Affecting Legislation

A. Regular Sessions of Legislature

(1) The regular sessions of the Legislature shall be held biennially, commencing on the first Tuesday after the first Monday in April, A. D. 1887, and on the corresponding day of every second year thereafter, * * *. Regular sessions of the Legislature may extend to sixty days,³⁷ * * *.

³⁴Constitution, Art. IV, Sec. 24.

³⁵Constitution, Art. XX, Sec. 4.

Appropriation of money is the setting it apart officially out of public revenue for a special use or purpose in such a manner that the proper executive officer of the government will have the authority to withdraw and use such money, and no more, for such object, and for no other. State vs. Lee, 163 So. 859 (1935).

The Legislature may, within appropriate limitations, purchase property for the State through a governmental administrative agency, but an act providing for the purchase of a toll highway by a commission without limit as to amount of payment was held to be an attempt to confer on unofficial engineers unlimited authority to fix by estimate the amount to be paid from the State Treasury, without audit or approval by some responsible official, and therefore violative of Art. IX, Sec. 4. State vs. Green, 95 Fla. 117, 116 So. 66 (1928).

³⁶Constitution, Art. VIII, Sec. 6, as amended 1914.

³⁷Constitution, Art. III, Sec. 2.

The failure of the Legislature to adjourn promptly at the agreed hour of adjournment short of constitutional limitation was held a breach of parliamentary law, which could not be considered by the court in determining whether a statute was enacted while the Legislature was in session. Enactment of a statute after the hour at which the Legislature had agreed to adjourn on the 60th day of its session did not render such statute unconstitutional where same was enacted before the expiration of the legislative day. State vs. Thompson, 120 Fla. 860, 163 So. 270 (1935).

Whether what purported to be the journal of the Legislature on the last day of the session was in fact the journal of what happened on that day alone, or the combination journal of what happened on that day and on subsequent days as well, could

III. Provisions Affecting Legislation—Continued

A. Regular Sessions of Legislature—Continued

(2) * * * and neither (House) shall, without the consent of the other, adjourn for more than three days, or to any other town than that in which they may be holding their session.³⁸

(3) The Governor shall communicate by message to the Legislature at each regular session information concerning the condition of the State, and recommend such measures as he may deem expedient.³⁹

(4) It shall be the duty of the Judges of the Circuit Courts to report to the Attorney-General at least thirty days before each session of the Legislature such defects in the laws as may have been brought to their attention, and to suggest such amendments or additional legislation as may be deemed necessary. The Attorney-General shall report to the Legislature at each session such legislation as he may deem advisable.⁴⁰

B. Special Sessions of Legislature

(1) * * * the Governor may convene the same (the Legislature) in extra session by his proclamation. * * * but no special session convened by the Governor shall exceed twenty days.⁴¹

(2) The Governor may, on extraordinary occasions, convene the Legislature by proclamation, and shall in his proclamation state the purpose for which it is to be convened, and the Legislature when organized shall transact no legislative business other than that for which it is especially convened, or such other legislative business as the Governor may call to its attention while in session, except by a two-thirds vote of each House.⁴²

not be collaterally established or inquired into, in a case to which legislative officials were not parties. So long as the journals stand as conclusive records of the Legislature, valid on their face, they must be judicially noticed as such by the courts in all proceedings not directly involving an adjudication as to the verity of such records. *State vs. Thompson*, 164 So. 192 (1935).

³⁸Constitution, Art. III, Sec. 13.

³⁹Constitution, Art. IV, Sec. 9.

⁴⁰Constitution, Art. V, Sec. 13.

⁴¹Constitution, Art. III, Sec. 2.

⁴²Constitution, Art. IV, Sec. 8.

The two-thirds vote required by this section applies only to the matter of taking up "legislative business" for consideration not embraced in the Governor's proclamation or called by him to their attention while in session. After agreeing by two-thirds vote to consider any "legislative business," it then takes the regular course under the rules, and such legislation may be amended, adopted, or rejected by a majority vote. *Louis K. Liggett Company vs. Amos*, 141 So. 153 (1932).

III. Provisions Affecting Legislation—Continued

C. Powers of Initiative and Referendum

(1) See page 10, (2), paragraph (b), and page 11, footnote 30.

(2) See page 12, paragraph (d), and footnote 32.

(3) See page 17, paragraph (7), and footnote 49.

D. Legislative Enactment

(1) Any bill may originate in either House of the Legislature, and after being passed in one House may be amended in the other.⁴³

(2) Each law enacted in the Legislature shall embrace but one subject and matter properly connected therewith, which subject shall be briefly expressed in the title; and no law shall be amended or revised by reference to its title only; but in such case the act, as revised, or section, as amended, shall be re-enacted and published at length.⁴⁴

(3) Laws making appropriations for the salaries of public officers and other current expenses of the State shall contain provisions on no other subject.⁴⁵

⁴³Constitution, Art. III, Sec. 14.

On the issue of whether a legislative act was passed pursuant to constitutional requirements, the journals of the Houses will be examined. The journals are conclusive on the point whether the yeas and nays were so taken and entered. *Amos vs. Mosley*, 74 Fla. 555, 77 So. 619 (1917). See also *Gwynn vs. Hardee*, 110 So. 343 (1926).

Where the title of an act signed by the legislative officers and the Governor materially differs from the legislative journal entries of the title of the bill as passed, the journal entries control. *Freeman vs. Simmons*, 107 Fla. 430, 145 So. 187 (1932).

⁴⁴Constitution, Art. III, Sec. 16.

If the title of an act expresses the subject matter with sufficient certainty so as to give reasonable notice of the matters dealt with by the act and of its scope, and reasonably leads to inquiry as to its contents, though not an index to its relative provisions, it is sufficient to meet the constitutional requirement that the subject of an act be expressed in its title. *Ex parte Sarros*, 116 Fla. 86, 156 So. 396 (1934). See also *Whitney vs. Hillsborough Company*, 99 Fla. 628, 127 So. 486 (1930); *Singleton vs. Knott*, 101 Fla. 1077, 133 So. 71 (1931).

The test of duplicity of subject matter within the constitutional requirement is whether provisions of the bill are designed to accomplish separate and dissociated objects of legislative effort. *State vs. Thompson*, 120 Fla. 860, 163 So. 270 (1935).

⁴⁵Constitution, Art. III, Sec. 30.

The purpose of this section is generally conceded to be the prevention of the inclusion in bills appropriating money to carry on the government of the State of measures foreign to that purpose, so that by taking advantage of the necessities of the State, the Legislature may be forced to adopt them. But a specific provision for the payment of expenses, necessary, proper, incidental to, or growing out of a law itself, including provision for the payment of persons employed is not prohibited by the Constitution. *Amos, State Controller, et al. vs. Moseley*, 74 Fla. 555, 77 So. 619 (1917).

The term "current expenses of the State," which to pay in full, the Legislature is required to raise revenue, comprehends any claim or demand enforceable by mandamus against the State's general revenue fund by reason of a general or special legislative appropriation therefor. *State ex rel. Kurtz vs. Lee, State Comptroller*, 163 So. 859 (1935).

III. Provisions Affecting Legislation—Continued

D. Legislative Enactment—Continued

(4) Every bill shall be read by its title, on its first reading, in either house, unless one-third of the members present desire it read by sections. Every bill shall be read on three several days unless two-thirds of the members present when such bill may be pending shall deem it expedient to dispense with this rule. Every bill shall be read by its sections on its second reading and on its final passage, unless on its second reading two-thirds of the members present in the House where such bill may be pending, shall deem it expedient to dispense with this rule. The vote on the final passage of every bill or joint resolution shall be taken by yeas and nays to be entered on the Journal of each house: Provided, That any general revision of the entire laws embodied in any bill shall not be required to be read by sections upon its final passage, and its reading may be wholly dispensed with by a two-thirds vote. A majority of the members present in each house shall be necessary to pass every bill or joint resolution, all bills or joint resolutions so passed shall be signed by the presiding officer of the respective Houses and by the Secretary of the Senate and the Clerk of the House of Representatives.⁴⁶

(5) No law shall take effect until sixty days from the final adjournment of the session of the Legislature at which it may have been enacted, unless, otherwise specially provided in such law.⁴⁷

⁴⁶Constitution, Art. III, Sec. 17, as amended 1896.

Courts have no substantive power to review and nullify legislative proceedings or enactments; courts may determine whether legislative journals show that a statute was not duly enacted. *State vs. Carley*, 89 Fla. 361, 104 So. 577 (1925).

⁴⁷Constitution, Art. III, Sec. 18.

Where an act provides that it shall go into effect immediately on its approval by the Governor and it becomes a law without his approval, it does not take effect under this section until 60 days after final adjournment of the Legislature. *Thompson vs. State*, 56 Fla. 107, 47 So. 816 (1908); *Jacksonville Gas Company vs. Lee*, 110 Fla. 61, 148 So. 188 (1933).

An act levying a license tax on gross receipts was passed June 26th. Under the above section it became effective August 24th. The court held that the provision therein which provided for the tax to be paid upon the gross receipts beginning with July 1st was valid for the reason that the measure became a law June 26th, the date of passage, even though not effective until August 24th. The court stated "the Constitution of this State does not forbid the enactment of retroactive laws." The act was further held not to violate Sec. 17 of the Bill of Rights of the Florida Constitution which provides that "no * * * ex post facto law nor any law impairing the obligation of contracts shall ever be passed." *State vs. Lee*, 112 Fla. 109, 150 So. 225 (1933).

A statute duly enacted and complete for legal and practical operation may, by the statute itself, be made to become operative upon the happening of a lawful contingency, such as the stated vote of the electors or property owners of appropriate governmental entity. *Town of San Mateo City vs. State*, 117 Fla. 546, 158 So. 112 (1934).

III. Provisions Affecting Legislation—Continued

D. Legislative Enactment—Continued

(6) The Legislature shall not pass special or local laws in any of the following enumerated cases; that is to say, * * * for assessment and collection of taxes for State and county purposes;⁴⁸ * * *.

(7) In all cases enumerated in the preceding section all laws shall be general and of uniform operation throughout the State, but in all cases not enumerated or excepted in that section, the Legislature may pass special or local laws except as now or hereafter otherwise provided in the Constitution:⁴⁹ * * *.

(8) Every bill that may have passed the Legislature shall, before becoming a law, be presented to the Governor; if he approves it he shall sign it, but if not he shall return it with his objections to the House in which it originated, which House shall cause such objections to be entered upon its Journal, and proceed to reconsider it; if, after such reconsideration, it shall pass both Houses by a two-thirds vote of members present, which vote shall be entered on the Journal of each House, it shall become a law. If any bill shall not be returned within five days after it shall have been presented to the Governor (Sunday excepted) the same shall be a law, in like manner as if he had signed it. If the Legislature, by its final adjournment prevent such action, such bill shall be a law, unless the Governor, within ten days after the adjournment, shall file such bill, with his objections thereto, in the office of the

⁴⁸ Constitution, Art. III, Sec. 20.

The Legislature by a special act may confer on any municipality an effective method of enforcing the payment of taxes, and may authorize the foreclosure of tax liens in the circuit court of the county wherein the municipality is located. *Milton vs. City of Marianna*, 107 Fla. 251, 144 So. 400 (1932).

The prohibition against special or local laws "for the assessment and collection of taxes for state and county purposes" goes only to the manner or method of assessing taxes, and does not forbid the Legislature to authorize by special or local law a county to levy a tax for a local purpose. *Kroegel vs. Whyte*, 62 Fla. 527, 56 So. 498 (1912). *McMullen vs. Pinellas County*, 90 Fla. 398, 106 So. 73 (1925).

⁴⁹ Constitution, Art. III, Sec. 21 (1923).

This section further sets out the procedure to be followed in the enactment of special or local laws. The proposed bill must be published at least 30 days prior to the introduction of same in the Legislature in the locality to be affected thereby. This requirement does not apply to bills requiring a referendum vote before becoming effective.

Uniformity of operation throughout the State does not require universality of operation throughout the State. The former relates to similarity of conditions affecting subjects or localities of the State that are appropriately classified. The latter relates to the whole and every part of the State. *State vs. Daniel*, 87 Fla. 273, 99 So. 804 (1924).

A statute relating to all subdivisions of the State or to subjects or to persons or things as a class, based upon proper distinctions and differences that inhere in or are peculiar or appropriate to the class, is a "general law"; a statute relating to particular subdivisions or portions of the State or to particular places or classified localities is a "local law"; and a statute relating to particular persons or things or other particular subjects of a class is a "special law." See *McConihe vs. State ex rel. McMurray*, 17 Fla. 238 (1879); *State vs. Daniel*, 87 Fla. 273, 99 So. 804 (1924).

III. Provisions Affecting Legislation—Continued

D. Legislative Enactment—Continued

Secretary of State, who shall lay the same before the Legislature at its next session, and if the same shall receive two-thirds of the votes present, it shall become a law.⁵⁰

(9) The Governor shall have power to disapprove of any item or items of any bills making appropriations of money embracing distinct items, and the part or * * * parts of the bill approved shall be the law, and the item or items of appropriation disapproved shall be void, unless repassed according to the rules and limitations prescribed for the passage of other bills over the Executive veto.⁵¹

IV. Constitutional Amendment or Revision

A. By Proposal of Legislature or People

Either branch of the Legislature, at a regular session thereof, may propose amendments to this Constitution; and if the same be agreed to by three-fifths of all the members elected to each House, such proposed amendments shall be entered upon their respective Journals with the yeas and nays, and published in one newspaper in each county where a newspaper is published, for three months immediately preceding the next general election of Representatives, at which election the same shall be submitted to the electors of the State, for approval or rejection. If a majority of the electors voting upon the amendments at such election shall adopt the amendments, the same shall become a part of the Constitution. The proposed amendments shall be so submitted as to enable the electors to vote on each amendment separately.⁵²

⁵⁰Constitution, Art. III, Sec. 28.

⁵¹Constitution, Art. IV, Sec. 18.

Money can be appropriated by the Legislature only, by means of a bill enacted into law with the formalities prescribed by the Constitution for enacting bills into laws as distinguished from resolutions. In re: Advisory Opinion to the Governor, 43 Fla. 305, 31 So. 348 (1901).

⁵²Constitution, Art. XVII, Sec. 1.

Where there is repugnancy between a constitutional amendment and some provision in the original, which cannot be so construed as to have them both stand and leave to each a legitimate office to perform, the original must be deemed repealed. Board of Public Instruction of Polk County vs. Board of Commissioners of Polk County, 58 Fla. 391, 50 So. 574 (1909).

While the constitutional procedure for the adoption of a proposal to amend the Constitution must be duly followed without omitting any requisite steps, courts should uphold the amendment, unless satisfied that the Constitution was violated in submitting the proposal. Collier vs. Gray, 116 Fla. 845, 157 So. 40 (1934).

Legislature's proposals to amend the Constitution are not the exercise of ordinary Legislative powers nor subject to constitutional provisions regulating introduction and passage of ordinary legislative enactments. Collier vs. Gray, 116 Fla. 845, 157 So. 40 (1934).

Governor need not concur in proposed constitutional amendment. Ibid.

Under the requirement that a proposed constitutional amendment should be entered upon the legislative journals with the yeas and nays, where a proposed amendment was not so entered, the Secretary of State was enjoined from publishing the proposed amendment. Gray vs. Childs, 115 Fla. 816, 156 So. 274 (1934).

IV. Constitutional Amendment or Revision—Continued

B. By Constitutional Convention

If at any time the Legislature, by a vote of two-thirds of all the members of both Houses, shall determine that a revision of this Constitution is necessary, such determination shall be entered upon their respective Journals, with the yeas and nays thereon. Notice of said action shall be published weekly in one newspaper in every county in which a newspaper is published, for three months preceding the next general election of Representatives and in those counties where no newspaper is published, notice shall be given by posting at the several polling precincts in such counties for six weeks next preceding said election. The electors at said election may vote for or against the revision in question. If a majority of the electors so voting be in favor of revision, the Legislature chosen at such election shall provide by law for a Convention to revise the Constitution, said Convention to be held within six months after the passage of such law. The Convention shall consist of a number equal to the membership of the House of Representatives, and shall be apportioned among the several counties in the same manner as members of said House.⁵³

⁵³Constitution, Art. XVII, Sec. 2.

V. Constitutional Amendment or Statute Concerning

B. By Constitutional Amendment or Statute

It is the policy of the State to maintain the integrity of the Constitution and to preserve the rights of its citizens. Any amendment to the Constitution or any statute that would infringe upon these rights is hereby rejected. The people of the State are hereby advised that any such amendment or statute is not binding upon them until it has been approved by a majority of the voters in a referendum election. The Commission on Governmental Reform has recommended that the Constitution be amended to provide for a more efficient and economical government. The Commission has also recommended that the State be reorganized into a more compact and unified system. The Commission has further recommended that the State be reorganized into a more compact and unified system. The Commission has further recommended that the State be reorganized into a more compact and unified system.

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