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

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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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Vermont

ANALYSIS OF CONSTITUTIONAL PROVISIONS AFFECTING
PUBLIC WELFARE IN VERMONT¹

I. Incidence of Responsibility for Welfare Program

No provision.²

No charter of incorporation shall be granted, extended, changed or amended by special law, except for such municipal, charitable, educational, penal or reformatory corporations as are to be and remain under the patronage or control of the State;³ * * *.

II. Financial Powers and Limitations

A. Taxation and Assessments

(1) State

That every member of society hath a right to be protected in the enjoyment of life, liberty, and property, and therefore is bound to contribute his proportion towards the expence of that protection,⁴ * * * and previous to any law being made to raise a tax, the

¹Constitution (1793), with all amendments to May 1, 1937, as published in the Vermont Legislative Directory (1937), by authority of law. (Vermont Public Laws, Secs. 9091-2).

"The Constitution is not a grant of power to the Legislature, but is a limitation of its general powers. * * * The Legislature's power is practically absolute, except for constitutional limitations * * *." Rafus vs. Daley, 103 Vt. 428, 154 A. 895, 897 (1931).

"Referring to the police powers of a state, it has been said that they are nothing more or less than the powers of government inherent in every sovereignty. * * * It is inherent in the states of the Union, and is not a grant derived from or under a written Constitution. * * * Subject to constitutional limitations, a state Legislature is authorized to pass measures for the general welfare of the people of the state in the exercise of the police power, and is itself the judge of the necessity or expediency of the means adopted." Ex parte Guerra, 94 Vt. 1, 110 A. 224 (1920).

²The law is "solicitous" that poor persons should be supplied with needed assistance, but liability for poor relief is a statutory matter. Peabody vs. Town of Holland, 107 Vt. 237, 178 A. 888 (1935).

³Constitution, Ch. II, Sec. 65, as amended 1913.

⁴The requirement of this section of proportional contributions for the support of the government was not intended to restrict the State to methods of taxation that operate equally upon all of its inhabitants. The limitation imposed by this section does not prevent classification of property for purposes of taxation, or the adoption of any schemes of taxation, provided that they do not offend the Federal Constitution. In regard to taxation this section has the same meaning as the Fourteenth Amendment to the Federal Constitution. The Legislature has a wide discretion in classifying property for purposes of taxation under the State and Federal Constitution. It is only when the classification is manifestly unreasonable and arbitrary that the court will

II. Financial Powers and Limitations—Continued

A. Taxation and Assessments—Continued

(1) State—Continued

purpose for which it is to be raised ought to appear evident to the Legislature to be of more service to community than the money would be if not collected.⁵

(2) Counties and Other Local Units

No provision.⁶

B. Exemptions

* * * all religious societies, or bodies of men that may be united or incorporated for the advancement of religion and learning, or for other pious and charitable purposes, shall be encouraged and protected in the enjoyment of the privileges, immunities, and estates, which they in justice ought to enjoy, under such regulations as the General Assembly of this State shall direct.⁷

declare it unconstitutional. A statute which provided that the assessable value of shares of stock should be based on a determination of the total capital investment necessary to produce an income of 6 percent, computed from the actual dividends paid the preceding year, was held valid. *Clark vs. City of Burlington*, 143 A. 677 (1928).

The same principles were stated in *State vs. Caplan*, 100 Vt. 140, 135 A. 705 (1927).

"The equality clause in the Federal Constitution and the proportional clause in the Vermont Constitution are in effect the same as far as the question of classification is concerned." A gross retail sales tax statute, which contained graduated rates from one-eighth of 1 percent to 4 percent based on the volume of sales, and which exempted from 85 to 95 percent of retail merchants, was held to violate the Federal Constitution as providing for an arbitrary classification. *Great Atlantic and Pacific Tea Company vs. Harvey*, 107 Vt. 215, 177 A. 423 (1935).

⁵Constitution, Ch. I, Art. 9.

The meaning of this section is that "the purpose for which the tax is raised must be * * * public * * *. But what is a public purpose within that meaning is a question for the Legislature to decide, and concerning which it has a large discretion, which the courts can control only, if at all, in very exceptional cases." It was held that a statute authorizing a city to raise money to build a public wharf did not violate this section. *City of Burlington vs. Central Vermont Railway Company et al.*, 82 Vt. 5, 71 A. 826, 827 (1909).

⁶Municipal corporations whether cities, towns, villages, or counties are creatures of the State, holding and exercising only those powers and privileges granted by the Legislature. The State exercises control over all their activities including the power of taxation. The State may modify or withdraw all such powers. A statute providing that municipal light plants located outside of a city should not be exempt from taxation was held valid. *Village of Hardwick vs. Town of Wolcott*, 98 Vt. 343, 129 A. 159 (1925).

⁷Constitution, Ch. II, Sec. 64.

In a case which held a Masonic temple not exempt from taxation on the ground that the town had not voted a tax exemption as required by statute, the court stated that the rule that exemption statutes are to be strictly construed is not affected by this section. *Grand Lodge of Vermont F. and A. M. vs. City of Burlington*, 104 Vt. 515, 162 A. 368 (1932).

Under the statutes property used directly for charitable purposes may be exempt from taxation; but not property, the income from which only is used for charitable purposes. *Ibid.*

II. Financial Powers and Limitations—Continued

C. Borrowing and Use of Credit

(1) State

No provision.

(2) Counties and Other Local Units

No provision.⁸

D. Other Income

No provision.

E. Appropriations and Expenditures

No money shall be drawn out of the Treasury, unless first appropriated by act of legislation.⁹

III. Provisions Affecting Legislation

A. Regular Sessions of Legislature

The General Assembly shall meet biennially on the first Wednesday next after the first Monday of January, beginning in A.D. 1915.¹⁰

B. Special Sessions of Legislature

The Governor, * * * shall have power to call together the General Assembly, when necessary, before the day to which they shall stand adjourned.¹¹ * * *

C. Powers of Initiative and Referendum

No provision.

D. Legislative Enactment

(1) * * * all Revenue bills shall originate in the House of Representatives; but the Senate may propose or concur in amendments, as on other bills.¹² * * *

(2) The Representatives so chosen (a majority of whom shall constitute a quorum for transacting any other business than raising a

Where a town had voted an exemption to a manufacturing corporation for a period of 5 years, it was held that there was a binding contract and that the town could not rescind the exemption during the period for which it was granted. Rixford Manufacturing Company vs. Town of Highgate, 102 Vt. 1, 144 A. 680 (1929).

⁸See p. 2, footnote 6.

⁹Constitution, Ch. II, Sec. 27.

¹⁰Constitution, Ch. II, Sec. 7, as amended 1913.

¹¹Constitution, Ch. II, Sec. 20.

¹²Constitution, Ch. II, Sec. 6.

III. Provisions Affecting Legislation—Continued

D. Legislative Enactment—Continued

State tax, for which two-thirds of the members elected shall be present) * * * shall be styled the House of Representatives:¹³ * * *

(3) Every bill which shall have passed the Senate and House of Representatives shall, before it becomes a law, be presented to the Governor; if he approve, he shall sign it; if not, he shall return it, with his objections in writing, to the House in which it shall have originated; which shall proceed to reconsider it. If, upon such reconsideration, two-thirds of the members present of that House shall pass the bill, it shall, together with the objections, be sent to the other House, by which it shall likewise be reconsidered, and, if approved by two-thirds of the members present of that House, it shall become a law.

* * * If any bill shall not be returned by the Governor, as aforesaid, within five days (Sundays excepted) after it shall have been presented to him, the same shall become a law in like manner as if he had signed it; unless the two Houses by their adjournment within three days after the presentation of such bill shall prevent its return; in which case it shall not become a law.¹⁴

IV. Constitutional Amendment or Revision

A. By Proposal of Legislature or People

At the fifth biennial session of the General Assembly of this State following that of A.D. 1910, and at the session thereof every tenth year thereafter, the Senate may, by a vote of two-thirds of its members, make proposals of amendment to the Constitution of the State, which proposals of amendment, if concurred in by a majority of the members of the House of Representatives, shall be entered on the journals of the two Houses, and referred to the General Assembly then next to be chosen, and be published in the principal newspapers of the State; and if a majority of the members of the Senate and of the House of Representatives of the next following General Assembly shall respectively concur in the same proposals of amendment, or any of them, it shall be the duty of the General Assembly to submit the proposals of amendment so concurred

¹³ Constitution, Ch. II, Sec. 14.

¹⁴ Constitution, Ch. II, Sec. 11.

Under this section it was held that bills which were presented to the Governor after the Legislature had adjourned would become law if signed by him within 5 days after the time they were presented to him. *Hartness vs. Black*, 95 Vt. 190, 114 A. 44 (1921).

IV. Constitutional Amendment or Revision—Continued

A. By Proposal of Legislature or People—Continued

in to a direct vote of the freemen of the State; and such of said proposals of amendment as shall receive a majority of the votes of the freemen voting thereon shall become a part of the Constitution of this State.¹⁵

* * *

B. By Constitutional Convention

No provision.

¹⁵Constitution, Ch. II, Sec. 68.

