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

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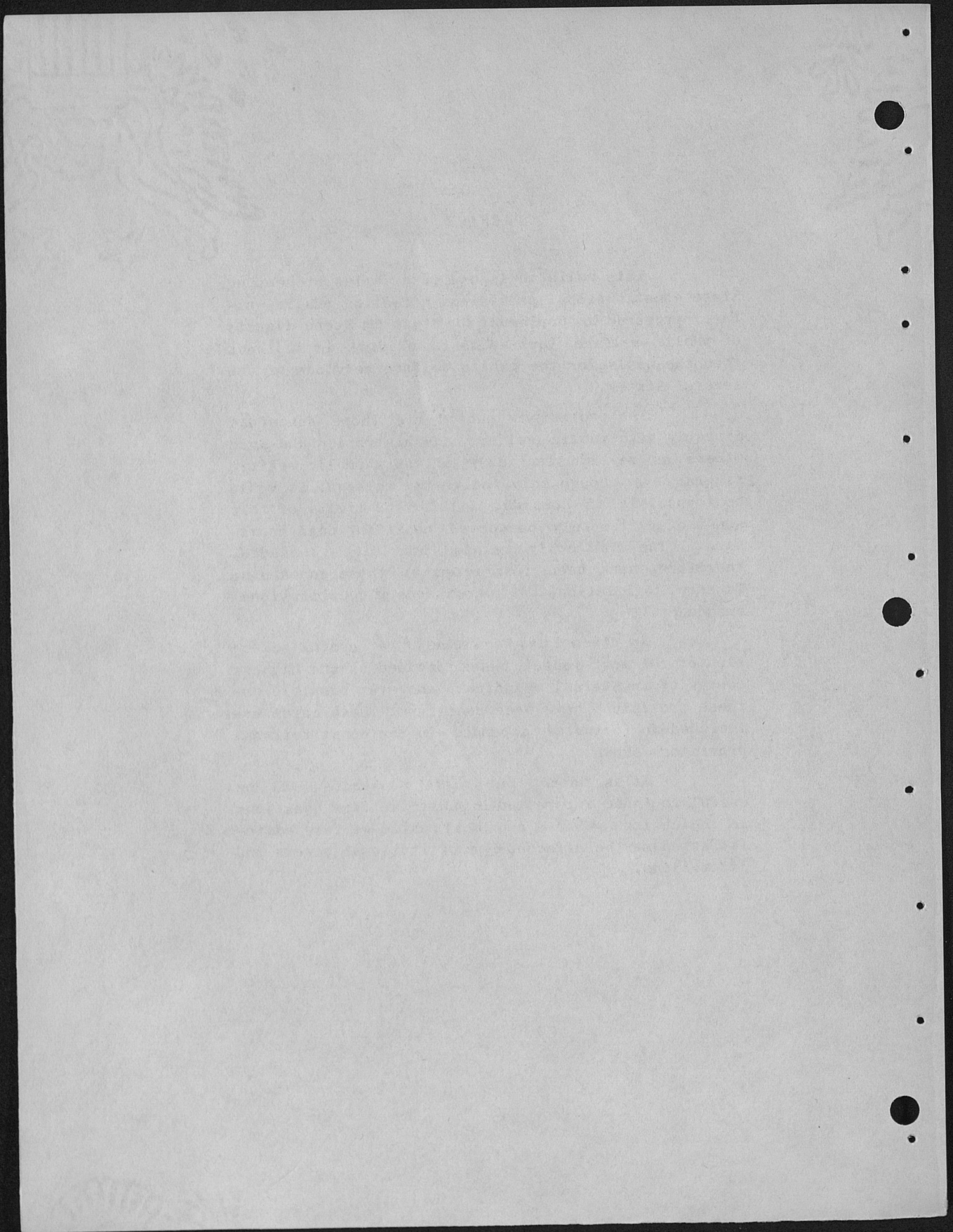
PREFACE

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.

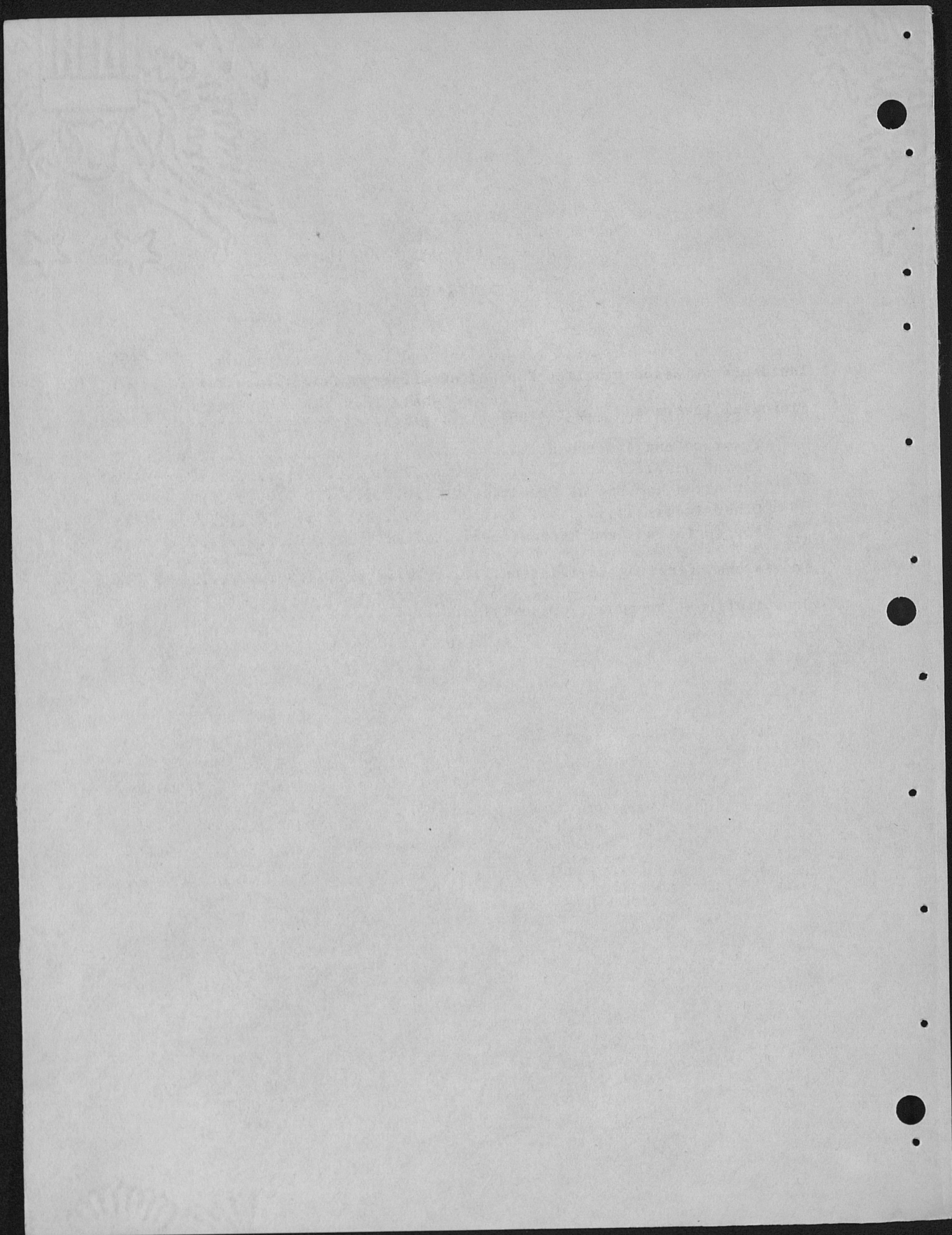
An attempt has been made, by a careful selection of the most recent cases decided by the highest courts of the States, to indicate wherever possible how these provisions have been construed. These cases are included in footnotes appended to the constitutional provisions shown.

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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Colorado

ANALYSIS OF CONSTITUTIONAL PROVISIONS AFFECTING
PUBLIC WELFARE IN COLORADO¹

I. Incidence of Responsibility for Welfare Program

A. Educational, reformatory and penal institutions, and those for the benefit of insane, blind, deaf and mute, and such other institutions as the public good may require, shall be established and supported by the state, in such manner as may be prescribed by law.²

B. From and after January 1, 1937, every citizen of the United States who has been a resident of the state of Colorado for such period as the general assembly may determine, who has attained the age of sixty years or more, and who qualifies under the laws of Colorado to receive a pension, shall be entitled to receive the same; provided, however, that no person otherwise qualified shall be denied a pension by reason of the fact that he is the owner of real estate occupied by him as a residence; nor shall any person be denied a pension for the reason that he owns personal property which by law is exempt from execution or attachment; nor shall any person be required, in order to receive a pension, to repay, or

¹Constitution (1876), as published in the 1935 Colorado Statutes Annotated; with all amendments to June 1, 1937.

A State Constitution sets out limitations upon the exercise of, rather than grants of, power. In relation to all matters which are proper subjects of legislation, the power of the Legislature is plenary, unless limited specifically by the Constitution or by necessary implication arising therefrom.

²Constitution, Art. VIII, Sec. 1.

The Constitution establishes the Institute for the Education of Mutes, otherwise known as the Colorado School for Deaf and Blind, as a State educational institution, and provides that its management shall be subject to the control of the State under such laws and regulations as the Legislature may provide. Art. VIII, Sec. 5.

An act prohibiting the sale of goods produced in the Colorado penal institutions in competition with similar goods manufactured by free labor was held to be in violation of this section of the Constitution, for the reason that it is the Legislature's duty to support such institutions by something more than mere appropriation bills, and that the act if carried out would deprive the penitentiary and reformatory of large sums of money lawfully acquired by convict labor. *Hessick vs. Moynihan*, 83 Colo. 43, 262 Pac. 907 (1927).

All arguments with reference to the relative necessities of the various State institutions, and the amount of appropriations sufficient for their maintenance must be determined by the Legislature and not by the courts. *Parks vs. Commissioners of Soldiers' and Sailors' Home*, 22 Colo. 86, 43 Pac. 542 (1896).

The State Highway Department was held to be a State institution within the meaning of this section. *Johnson vs. McDonald*, 97 Colo. 324, 49 P. (2d) 1017, 1020 (1935).

I. Incidence of Responsibility for Welfare Program—Continued

promise to repay, the state of Colorado any money paid to him as an old age pension.³

C. Beginning January 1, 1937, a minimum pension of forty-five dollars (\$45.00) per month shall be paid to those who qualify to receive a pension; and no variation in the amount paid, or other discrimination between persons eligible, shall be permitted; provided, however, that the amount of net income, from whatever source, that any person eligible for a pension may have, shall be deducted from the amount of the pension which such person would otherwise receive.⁴

D. No appropriation shall be made for charitable, industrial, educational or benevolent purposes to any person, corporation or community not under the absolute control of the state, nor to any denominational or sectarian institution or association.⁵

II. Financial Powers and Limitations

A. Taxation and Assessments

(1) State⁶

(a) The general assembly shall provide by law for an annual tax sufficient, with other resources, to defray the estimated expenses of the state government for each fiscal year.⁷

³Constitution, Art. XXIV, Sec. 3.

These provisions are not self-executing. In re Interrogatories by the Governor Concerning Initiated Amendment No. 4, 65 P. (2d) 7 (1937). See p. 5, footnote 13.

For further sections of the article establishing the Old Age Pension Fund, and providing for the allocation of certain moneys to the fund, see p. 4, par. (g) and p. 5, pars. (h) and (i).

⁴Constitution, Art. XXIV, Sec. 6.

See p. 1, par. B.

Footnote 3, above, applies to this section also.

⁵Constitution, Art. V, Sec. 34.

This section relates only to the disbursement of State funds, and is, therefore, not violated by an act conferring upon the counties the power to devote county funds for the treatment of their indigent inebriates. In re House, 23 Colo. 87, 46 Pac. 117 (1896).

⁶In holding that the Legislature could levy taxes for public purposes only, the Supreme Court stated: "What are public purposes, and what does properly constitute a public burden, are questions which the Legislature must decide upon its own judgment, and in respect to which it is vested with a large discretion which cannot be controlled by the courts, except perhaps where its action is clearly evasive, and where, under pretense of a lawful authority, it has assumed to exercise one that is unlawful." *Milheim et al., vs. Moffat Tunnel Improvement District, et al.*, 72 Colo. 268, 211 Pac. 649 (1922); affirmed, 262 U. S. 710, 43 Sup. Ct. 694, 67 L. Ed. 1194 (1923).

⁷Constitution, Art. X, Sec. 2.

The "annual tax" provided for in this section refers to a property tax, but the "other resources" mentioned include excise taxes, such as poll taxes, privilege, and occupation taxes. *Parsons vs. People*, 32 Colo. 221, 76 Pac. 666 (1904).

II. Financial Powers and Limitations—Continued

A. Taxation and Assessments—Continued

(1) State—Continued

(b) All taxes shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws, which shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal;⁸ * * *

(c) The rate of taxation on property, for state purposes, shall never exceed four mills on each dollar of valuation; provided, however, that in the discretion of the general assembly an additional levy of not to exceed one mill on each dollar of valuation may from time to time be authorized for the erection of additional buildings at, and for the use, benefit, maintenance, and support of the state educational institutions; provided, further, that the rate of taxation on property for all state purposes, including the additional levy herein provided for shall never exceed five mills on each dollar of valuation, unless otherwise provided in the constitution.⁹

This section means that the Legislature is not required to levy the "annual tax" unless the other sources of revenue, such as excise taxes, prove insufficient to defray the estimated expenses of the State government. *Johnson vs. McDonald*, 97 Colo. 324, 49 P. (2d) 1017 (1935).

This section was held not to require that all expenses of the State government be borne by the State. Consequently, it was within the Legislature's power to require the city and county of Denver to pay for the registration of all local births and deaths under an act creating and defining the duties of the State board of health. Further, that cities having exclusive control of their local affairs are nevertheless mere agencies of the State government as to matters of a public character, and as such may be required to perform at their own expense many duties of a governmental nature. *People ex rel. Hershey vs. McNichols*, 91 Colo. 141, 13 P. (2d) 266 (1932).

⁸ Constitution, Art. X, Sec. 3.

It was held that the word "property" within the meaning of this section is used in its broad and general sense to include all property, tangible and intangible, subject to absolute or qualified ownership. *Board of Commissioners of Arapahoe County vs. Rocky Mountain News Printing Company*, 15 Colo. App. 189, 61 Pac. 494 (1900).

The uniformity requirement of this section applies only to direct or ad valorem property taxes, and requires only that *in its imposition* a tax must operate equally on all subjects under like circumstances. The section does not concern itself with the distribution of the tax after it is collected. *In re Hunter's Estate*, 97 Colo. 279, 49 P. (2d) 1009 (1935).

An inheritance tax is not a property tax, but is an excise tax imposed upon the privilege of taking property by will or descent. Such a tax is, therefore, not subject to the uniformity requirement of this section. *In re Hunter's Estate*, 97 Colo. 279, 49 P. (2d) 1009 (1935).

Similarly specific taxes on privileges, occupations, trades, or professions do not come within the uniformity clause of this section. *Parsons vs. People*, 32 Colo. 221, 76 Pac. 666 (1904).

⁹ Constitution, Art. X, Sec. 11.

The Legislature may not exceed the rate of 4 mills in levying taxes on property, but it is not precluded from levying other kinds of taxes, such as on privileges and occupations. *In re Magnes' Estate*, 32 Colo. 527, 77 Pac. 853 (1904).

II. Financial Powers and Limitations—Continued

A. Taxation and Assessments—Continued

(1) State—Continued

(d) The general assembly may levy income taxes, either graduated or proportional, or both graduated and proportional, for the support of the state, or any political subdivision thereof, or for public schools, and may, in the administration of an income tax law, provide for special classified or limited taxation or the exemption of tangible and intangible personal property.¹⁰

(e) * * * the general assembly shall enact laws classifying motor vehicles, trailers and semi-trailers and requiring the payment of a graduated annual specific ownership tax thereon, which said tax shall be in addition to, and payable to the proper county officer at the same time as state registration or license fees.

Said graduated annual specific ownership tax shall be in lieu of all ad valorem taxes upon such property, and shall be distributed, apportioned, credited and paid over to the state and its political subdivisions as provided by law with reference to ad valorem taxes; provided * * * that such laws shall not exempt from ad valorem taxation motor vehicles, trailers and semi-trailers in process of manufacture, or held in storage, or which constitute the stock of manufacturers, or distributors thereof or of dealers therein.¹¹

(f) On and after July 1, 1935, the proceeds from the imposition of any license, registration fee or other charge with respect to the operation of any motor vehicle upon any public highway in this state and the proceeds from the imposition of any excise tax on gasoline or other liquid motor fuel shall, except costs of administration, be used exclusively for the construction, maintenance, and supervision of the public highways of this state.¹²

(g) A fund to be known as the old age pension fund is hereby created and established in the treasury of the state of Colorado. There is hereby set aside, allocated and allotted to the old age pension fund sums and money as follows:

Beginning January 1, 1937, eighty-five per cent. of all net revenue accrued or accruing, received or receivable from any and all excise taxes now or hereafter levied upon sales at retail, or any other purchase transaction; together with eighty-five per cent. of the net revenue derived from any excise taxes now or hereafter levied upon

¹⁰Constitution, Art. X, Sec. 17.

¹¹Constitution, Art. X, Sec. 6, adopted November 1936.

¹²Constitution, Art. X, Sec. 18.

II. Financial Powers and Limitations—Continued

A. Taxation and Assessments—Continued

(1) State—Continued

the storage, use, or consumption of any commodity or product; together with eighty-five per cent. of all license fees imposed by the provisions of sections 1 to 36, both inclusive, of chapter 144 of volume 4 of the 1935 Colorado Statutes Annotated, and amendments thereto; provided, however, that no part of the revenue derived from excise taxes now or hereafter levied, for highway purposes, upon gasoline or other motor fuel, shall be made a part of said old age pension fund.

Beginning January 1, 1937, eighty-five per cent. of all net revenue accrued or accruing, received or receivable from taxes of whatever kind upon all malt, vinous, or spirituous liquor, both intoxicating and non-intoxicating, and license fees connected therewith.

All unexpended money in any fund of the state of Colorado, or political subdivision thereof, as of January 1, 1937, which prior to said date has been allocated to the payment of an old age pension.

All grants in aid from the federal government for old age assistance.

All inheritance taxes and incorporation fees appropriated under sections 29, 30 and 31 of chapter 119, of volume 4 of the 1935 Colorado Statutes Annotated, for old age pensions.

Such other money as may be allocated to said fund by the general assembly.¹³

(h) All the moneys deposited in the old age pension fund shall remain inviolate for the purposes for which created, and no part thereof shall be transferred to any other fund, or used or appropriated for any other purpose.¹⁴

(i) * * * no law providing revenue for the old age pension fund shall be repealed, nor shall any such law be amended so as to reduce the revenue provided for the old age pension fund, except in

¹³Constitution, Art. XXIV, Secs. 1 and 2, adopted November 1936.

See p. 1, par. B and p. 2, par. C.

In an advisory opinion the Supreme Court stated that this section was self-executing insofar as it relates to the establishment of the above specified "old age pension fund." However, other sections of the amendment setting out provisions relating to the payment of the pensions (see p. 1, par. B and p. 2, par. C for these provisions) were in the same opinion held to be not self-executing, and to require enabling legislation in order to effectuate them.

Until further enabling acts were passed the statutes governing old age assistance and the administration of the State Welfare Fund remained in effect except as modified by the establishment of the Old Age Pension Fund which became the fund from which payments to recipients are paid. In re Interrogatories by the Governor Concerning Initiated Amendment No. 4, 65 P. (2d) 7 (1937).

¹⁴Constitution, Art. XXIV, Sec. 7.

See footnote 13, above.

II. Financial Powers and Limitations—Continued

A. Taxation and Assessments—Continued

(1) State—Continued

the event that at the time of such repeal or amendment, revenue is provided for the old age pension fund in an amount at least equal to that provided by the measure amended or repealed during the calendar year immediately preceding the proposed amendment or repeal.¹⁵

(j) No county, city, town or other municipal corporation, the inhabitants thereof, nor the property therein, shall be released or discharged from their or its proportionate share of taxes to be levied for state purposes.¹⁶

(k) See page 9, paragraph (b).

(2) Counties and Other Local Units¹⁷

(a) The general assembly shall not impose taxes for the purposes of any county, city, town or other municipal corporation, but may by law, vest in the corporate authorities thereof respectively, the power to assess and collect taxes for all purposes of such corporation.¹⁸

¹⁵Constitution, Art. XXIV, Sec. 5.
See p. 5, footnote 13.

¹⁶Constitution, Art. X, Sec. 8.

¹⁷Sec. 13 of Art. XIV of the Constitution provides that the organization and classification of cities and towns, and the powers of same within each class, shall be provided for by general laws.

Sec. 6 of Art. XX of the Constitution provides that cities and towns of 2,000 population or over may adopt charters for *the government and administration of their local and municipal matters*. It is expressly provided that such charters and ordinances adopted pursuant thereto shall supersede within the territorial limits of such city or town *any state law in conflict therewith*. The charters may provide for the levy of taxes and assessments; the issuance, liquidation, and refunding of municipal bonds and district improvement bonds. The terms of this section also apply to the city and county of Denver. Secs. 1 and 4 of Art. XX of the Constitution provide for the incorporation of the city and county of Denver as a single body politic, and vest the council with the power to fix the annual rate of taxation on property for city and county purposes.

See footnote 18, below.

¹⁸Constitution, Art. X, Sec. 7.

An act which set the maximum upon levies which might be made for county purposes, and which provided that this limit might be exceeded by the county commissioners with the approval of the State Tax Commission was held valid under this section. The Supreme Court stated that the right to impose taxes for county expenses is vested exclusively in the counties by the Constitution but that the Constitution does not prohibit curtailment by the Legislature of the total amount of such taxes. *Tallon vs. Vindicator Consolidated Gold Mining Company, et al.*, 59 Colo. 316, 149 Pac. 108 (1915).

Municipal corporations were defined as being bodies corporate and politic, created by law chiefly for the purpose of administering their local affairs, but also for the purpose of acting as State agencies to assist in the civil government of the State. They are " * * * endowed with such powers * * * as are conferred upon them by statute and none other, except such powers as arise by necessary

II. Financial Powers and Limitations—Continued

A. Taxation and Assessments—Continued

(2) Counties and Other Local Units—Continued

- (b) See page 4, paragraph (d).
- (c) See page 3, paragraph (b), and footnote 8.
- (d) See page 6, paragraph (j).
- (e) See page 12, paragraph (a).

B. Exemptions

(1) The property, real and personal, of the state, counties, cities, towns and other municipal corporations and public libraries, shall be exempt from taxation.¹⁹

(2) * * * the personal property of every person being the head of a family to the value of \$200 shall be exempt from taxation.²⁰
* * *

or reasonable implication, to enable them to execute their functions; the Legislature, in the absence of limiting constitutional provisions, has plenary power to adopt, for their government, such measures as shall * * * best accomplish the purpose for which they are created * * *." *Milheim, et al., vs. Moffat Tunnel Improvement District, et al.*, 72 Colo. 268, 211 Pac. 649 (1922); affirmed, 262 U. S. 710, 43 Sup. Ct. 694, 67 L. Ed. 1194 (1923).

An act creating a State board of health and requiring each municipality to bear the expense of the registration of local births and deaths was held to be a valid exercise of the State police power and promotive of the public health, safety, and welfare. The court stated that notwithstanding constitutional provisions granting to certain cities exclusive control of local government, such "a municipality continued to be * * * an agency of the state for the purpose of government, and * * * amenable to state control in all matters of a public, as distinguished from matters of a local character." *People ex rel. Hershey vs. McNichols*, 91 Colo. 141, 13 P. (2d) 266 (1932).

An act levying a State-wide inheritance tax for the purpose of providing old age pensions and declaring that the revenues collected by the State under the act should be paid out by the county authorities was held valid under this section as being for a State-wide public purpose. *In re Hunter's Estate*, 97 Colo. 279, 49 P. (2d) 1009 (1935).

"The municipality of Denver, though created by a constitutional amendment * * * is just as much an agency of the state for the purpose of government as if it was organized under a general law passed by the General Assembly * * *. It is as much amenable to state control in all matters of a public, as distinguished from matters of a local character, as are other municipalities." *Keefe vs. People*, 37 Colo. 317, 87 Pac. 791 (1906). See *People ex rel. Hershey vs. McNichols*, p. 1, footnote 2.

See p. 12, last two pars. of footnote 32.

¹⁹Constitution, Art. X, Sec. 4.

City-owned land not necessary for municipal purposes was held exempt from taxation. Referring to this section the Supreme Court stated, "the framers of the Constitution must have intended to exempt all classes of municipally owned property * * * there is but one condition essential to * * * exemption from taxation, and that is, ownership by the city * * *." *Stewart vs. City and County of Denver*, 70 Colo. 514, 202 Pac. 1085 (1922).

A State tax upon the right to sell or use gasoline was held to be validly imposed upon cities for the reason that such tax was not a tax upon the city's property, but was an excise or privilege tax. *People vs. City and County of Denver*, 84 Colo. 576, 272 Pac. 629 (1928).

²⁰Constitution, Art. X, Sec. 3.

II. Financial Powers and Limitations—Continued

B. Exemptions—Continued

(3) * * * (The General Assembly) may, in the administration of an income tax law, provide for special classified or limited taxation or the exemption of tangible and intangible personal property.²¹

(4) Property, real and personal, that is used solely and exclusively for religious worship, for schools or for strictly charitable purposes, also cemeteries not used or held for private or corporate profit, shall be exempt from taxation, unless otherwise provided by general law.²²

(5) All laws exempting from taxation, property other than that hereinbefore mentioned, shall be void;²³ * * *.

C. Borrowing and Use of Credit

(1) State

(a) The state shall not contract any debt by loan in any form, except to provide for casual deficiencies of revenue, erect public buildings for the use of the state, suppress insurrection, defend the state, or, in time of war, assist in defending the United States; and the amount of debt contracted in any one year to provide for deficiencies of revenue, shall not exceed one-fourth of a mill on each dollar of valuation of taxable property within the state, and the aggregate amount of such debt shall not any time exceed three-fourths of a mill on each dollar of said valuation, until the valuation shall equal one hundred millions

²¹ Constitution, Art. X, Sec. 17.

²² Constitution, Art. X, Sec. 5, as amended November 1936.

Under this section as it formerly read exempting "lots, with the buildings thereon, if said buildings are used solely and exclusively * * * for schools," etc., the property of a private school was held exempt from taxation. In its opinion the Supreme Court stated that: "The term 'schools' is broad enough to include institutions run for profit, and we find no reason for limiting its plain meaning." *Pitcher vs. Miss Wolcott School Association*, 63 Colo. 294, 165 Pac. 608 (1917).

The property of a nonprofit institution conducted as a home for consumptives with a charge made to all patients was held tax exempt as dedicated to charitable purposes. The right to exemption not being affected by the fact that patients were required to pay for their care, as long as the receipts did not exceed the expenses and were devoted to the purposes for which the institution was founded. *Bishop and Chapter of Cathedral, etc., vs. Treasurer of City and County of Denver*, 37 Colo. 378, 86 Pac. 1021 (1906).

It was held unnecessary in claiming a tax exemption to prove that property of an organization was used solely for *public* charitable purposes, it being sufficient if the property was used principally for the benefit of a certain class; i.e., wives, widows, and orphans of members of the organization. *Horton vs. Colorado Springs Masonic Building Society*, 64 Colo. 529, 173 Pac. 61 (1918).

²³ Constitution, Art. X, Sec. 6.

The remainder of this section, adopted November 1936, is set forth on p. 4, par. (e).

II. Financial Powers and Limitations—Continued

C. Borrowing and Use of Credit—Continued

(1) State—Continued

of dollars, and thereafter such debt shall not exceed one hundred thousand dollars; and the debt incurred in any one year for erection of public buildings shall not exceed one-half million each dollar of said valuation; and the aggregate amount of such debt shall never at any time exceed the sum of fifty thousand dollars (except as provided in section five of this article),²⁴ * * *.

(b) In no case shall any debt above mentioned in this article²⁵ be created except by a law which shall be irrevocable, until the indebtedness therein provided for shall have been fully paid or discharged; such law shall * * * provide for the levy of a tax sufficient to pay the interest on and extinguish the principal of such debt within the time limited by such law for the payment thereof, which in the case of debts contracted for the erection of public buildings and supplying deficiencies of revenue shall not be less than ten nor more than fifteen years, and the funds arising from the collection of any such tax shall not be applied to any other purpose than that provided in the law levying the same, and when the debt thereby created shall be paid or discharged,

²⁴Constitution, Art. XI, Sec. 3.

This section further provides for specific bond issues totaling \$11,000 for highway purposes, and \$2,115,000 for State warrants issued during the years 1887 and 1897.

"This section gives to the state the power to contract a debt, by loan, to provide for the payment of expenses incurred to suppress insurrection, subject to no limitation as to the amount." In re Contracting of State Debt by Loan, 21 Colo. 399, 41 Pac. 1110 (1895).

"A casual deficiency of the revenue is one that happens by chance or accident, and without design or intention to evade the constitutional inhibition." In re Appropriations by General Assembly, 13 Colo. 316, 22 Pac. 464 (1889).

An amendment to Art. X of the Constitution (see p. 4, par. (f)) provides that all receipts from excise taxes on motor vehicle registrations and motor fuels shall be devoted exclusively to highway purposes. An act passed subsequent to the adoption of this amendment authorized the State highway department to enter into a contract with the Federal Government whereby the Federal Government was to advance \$25,000,000 to the department for the construction and maintenance of highways. The highway department was authorized to issue to the Federal Government revenue anticipation warrants payable annually beginning not later than 3 and extending not more than 30 years thereafter and payable only out of the special fund authorized by the amendment. The act was held not to create a debt within the meaning of the Constitution for the reason that the payment of the warrants could never burden revenues available for general State purposes, but only pledged a special fund already allocated to highway purposes. Johnson vs. McDonald, 97 Colo. 324, 49 P. (2d) 1017 (1935).

"Since the purpose of section 3 of article 11 is to prevent the pledging of revenues of future years, a statute which at the * * * time it creates a debt creates the fund to pay it, and which fund would not be otherwise available for general purposes, is clearly outside the constitutional prohibition." In re Senate Resolution No. 2, 94 Colo. 101, 31 P. (2d) 325 (1933); Johnson vs. McDonald, 97 Colo. 324, 49 P. (2d) 1017 (1935).

²⁵These debts are set out on p. 8, par. (a).

II. Financial Powers and Limitations—Continued

C. Borrowing and Use of Credit—Continued

(1) State—Continued

such tax shall cease and the balance, if any, to the credit of the fund shall immediately be placed to the credit of the general fund of the state.²⁶

(c) A debt for the purpose of erecting public buildings may be created by law as provided for in section four of this article, [p. 9, par. (b)] not exceeding in the aggregate three mills on each dollar of said valuation; provided, that before going into effect, such law shall be ratified by the vote of a majority of such qualified electors of the state as shall vote thereon at a general election under such regulations as the general assembly may prescribe.²⁷

(d) Neither the state, nor any county, city, town, township or school district shall lend or pledge the credit or faith thereof, directly or indirectly, in any manner to, or in aid of, any person, company or corporation, public or private, for any amount, or for any purpose whatever; or become responsible for any debt, contract or liability of any person, company or corporation, public or private, in or out of the state.²⁸

(e) Neither the state, nor any county, city, town, township or school district shall make any donation or grant to, or in aid of, or become a subscriber to, or shareholder in any corporation or company, or a joint owner with any person, company or corporation, public or private, in or out of the state, except as to such ownership as may accrue to the state by escheat, or by forfeiture, by operation or provision of law;²⁹ * * *

²⁶ Constitution, Art. XI, Sec. 4.

²⁷ Constitution, Art. XI, Sec. 5.

²⁸ Constitution, Art. XI, Sec. 1.

²⁹ Constitution, Art. XI, Sec. 2.

A contract between a city and a railroad company for the construction of a tunnel provided that the city was to pay two-thirds of the cost by a bond issue of the city, and the railroad was to pay the other one-third in consideration of the right to operate its trains through the tunnel; further, that title to the tunnel should remain in the city until the railroad should pay the entire principal and interest on the bonds, at which time title would vest in the railroad. The contract was held to violate this section in that it constituted a pledge of the faith and credit of the city for the benefit of the railroad, and a joint enterprise or partnership between the city and the railroad to last until the railroad purchased the city's interests. *Lord vs. City and County of Denver*, 58 Colo. 1, 143 Pac. 284 (1914).

An act creating a public tunnel improvement district and authorizing it to own and control the tunnel, and to contract with private persons for the use of the tunnel upon a rental basis was held not to violate this section. *Milheim et al., vs. Moffat Tunnel Improvement District, et al.*, 72 Colo. 268, 211 Pac. 649 (1922); affirmed, 262 U. S. 710, 43 Sup. Ct. 694, 67 L. Ed. 1194 (1923).

II. Financial Powers and Limitations—Continued

C. Borrowing and Use of Credit—Continued

(2) Counties

(a) No county shall contract any debt by loan in any form except for the purpose of erecting necessary public buildings, making or repairing public roads and bridges; and such indebtedness contracted in any one year shall not exceed the rates upon the taxable property in such county following, to-wit: Counties in which the assessed valuation of taxable property shall exceed five millions of dollars, one dollar and fifty cents on each thousand dollars thereof; counties in which such valuation shall be less than five millions of dollars, three dollars on each thousand dollars thereof, and the aggregate amount of indebtedness of any county for all purposes, * * * shall not at any time exceed twice the amount above herein limited, unless when in manner provided by law, the question of incurring such debt shall, at a general election, be submitted to such of the qualified electors of such county as in the year last preceding such election shall have paid a tax upon property assessed to them in such county, and a majority of those voting thereon shall vote in favor of incurring the debt; but the bonds, if any be issued therefor, shall not run less than ten years, and the aggregate amount of debt so contracted shall not at any time exceed twice the rate upon the valuation last herein mentioned;³⁰ * * *.

(b) See page 10, paragraphs (d) and (e), and footnote 29.

³⁰Constitution, Art. XI, Sec. 6.

The provisions of this section divide themselves into two distinct clauses: The first clause prohibits the county from borrowing in any way except for the construction of buildings and roads. For these purposes the loans in any 1 year are limited to 1.5 mills on the assessed valuation in one class of counties, and 3 mills on the same in another class. The second clause places a limit upon the aggregate debt of any county for all purposes at 3 or 6 mills, according to the class of the county, with the exception that on the approval of the electors the aggregate debt may be increased to the sum of 6 or 12 mills, according to the class of the county. *Lake County vs. Rollins*, 130 U. S. 662, 9 Sup. Ct. 651, 32 L. Ed. 1060 (1889).

The drawing of warrants against a special fund available for road purposes only, which fund is certain to be paid in by taxes levied and collected during the fiscal year, is not the creation of a debt or debts within the meaning of this section, although it anticipates revenue to be collected, for the reason that such warrants "are drawn against existing values." *Hockaday vs. Board of County Commissioners of Chaffee County*, 1 Colo. App. 362, 29 Pac. 287 (1892).

Funding bonds issued in exchange for warrants which represent a valid county indebtedness do not create a new debt, but merely change the form of a pre-existing debt. *Board of Commissioners of Lake County vs. Standley*, 24 Colo. 1, 49 Pac. 23 (1897).

This section is an absolute limitation upon the power of the county to contract any and all indebtedness, not only for the purposes named in the Constitution but for every other purpose whatever, including county warrants issued for ordinary county expenses, such as witness' and jurors' fees, and county treasurer's commissions, etc., *Lake County vs. Rollins*, 130 U. S. 662, 9 Sup. Ct. 651, 32 L. Ed. 1060 (1889).

II. Financial Powers and Limitations—Continued

C. Borrowing and Use of Credit—Continued

(3) Other Local Units³¹

(a) No city or town shall contract any debt by loan in any form, except by means of an ordinance, which shall be irrevocable, until the indebtedness therein provided for shall have been fully paid or discharged, * * * and providing for the levy of a tax, not exceeding twelve (12) mills on each dollar of valuation of taxable property within such city or town sufficient to pay the annual interest and extinguish the principal of such debt within fifteen, but not less than ten years from the creation thereof, and such tax when collected shall be applied only to the purposes in such ordinance specified until the indebtedness shall be paid or discharged. But no such debt shall be created unless the question of incurring the same shall at a regular election for councilmen, aldermen or officers of such city or town be submitted to a vote of such qualified electors thereof as shall in the year next preceding have paid a property tax therein, and a majority of those voting on the question * * * shall vote in favor of creating such debt; but the aggregate amount of debt so created, together with the debt existing at the time of such election, shall not at any time exceed three per cent. of the valuation last aforesaid.³² * * *

³¹ See p. 6, footnote 17 for the purposes for which municipal indebtedness may be created.

³² Constitution, Art. XI, Sec. 8.

"Debts contracted for supplying water to such city or town are excepted from the operation of this section." Ibid.

The requirement of this section that no municipal debt shall be created except by ordinance is mandatory. An agreement by the town authorities to issue and sell municipal bonds, not made by ordinance, creates no obligation on the part of the town. *Bosworth-Chanute & Company vs. Town of Brighton*, 272 Fed. 964 (C.C.A. 8th, 1921).

A city ordinance authorizing the construction and maintenance of a municipally owned electric light plant by the issuance of revenue bonds, payable solely out of the income derived from the operation of the plant, was held not to create a debt within the meaning of the Constitution. *Shields vs. City of Loveland*, 74 Colo. 27, 218 Pac. 913 (1923).

This section, in terms, applies only to cities and towns and has no application to an incorporated tunnel improvement district. *Milheim, et al., vs. Moffat Tunnel Improvement District, et al.*, 72 Colo. 268, 211 Pac. 649 (1922); affirmed, 262 U. S. 710, 43 Sup. Ct. 694, 67 L. Ed. 1194 (1923).

Debts of a district were held not to be the debts of a municipality contained in the district. *People by Keyes ex rel. Setters vs. Lee*, 72 Colo. 598, 213 Pac. 583 (1923).

Art. XX, Sec. 1 of the Constitution provides for the incorporation of the "City and County of Denver" as a single body politic and gives it the power, among others, to construct, purchase, lease, and operate, in whole or in part, any public utilities or works or ways, local in use and extent, and to issue bonds upon the vote of the taxing electors, *in any amount* necessary to carry out such purposes, as may be provided by its charter. For other powers and limitations of the city and county of Denver under the Home-Rule Amendment, see p. 6, footnote 17.

The provisions of Art. XX, above were held not to expressly confer upon the municipality of Denver the power to erect an auditorium; therefore, the provisions

II. Financial Powers and Limitations—Continued

C. Borrowing and Use of Credit—Continued

(3) Other Local Units—Continued

(b) See page 10, paragraphs (d) and (e), and footnote 29.

D. Other Income

No provision.

E. Appropriations and Expenditures

(1) No appropriation shall be made, nor any expenditure authorized by the general assembly, whereby the expenditure of the state, during any fiscal year, shall exceed the total tax then provided for by law and applicable for such appropriation or expenditure, unless the general assembly making such appropriation shall provide for levying a sufficient tax, not exceeding the rates allowed in section eleven of this article, to pay such appropriation or expenditure within such fiscal year.³³ * * *

(2) No money shall be paid out of the treasury except upon appropriations made by law, and on warrant drawn by the proper officer in pursuance thereof.³⁴

authorizing the issuance of bonds in an unlimited amount for the erection of public utilities did not authorize a bond issue for an auditorium. With respect to bonds for such purpose, this article was held not to amend Sec. 8 of Art. XI, which prescribes limitations on the contracting of municipal indebtedness, (see p. 12, par. (a)), and the provisions of that section must be followed. *City and County of Denver vs. Hallett*, 34 Colo. 393, 83 Pac. 1066 (1905).

³³Constitution, Art. X, Sec. 16.

The "rates allowed in section eleven of this article" are enumerated on p. 3, par. (c).

Art. X, Sec. 16 of the Constitution provides that "This provision shall not apply to appropriations or expenditures to suppress insurrection, defend the state, or assist in defending the United States in time of war."

The Legislature is inhibited in absolute and unqualified terms from making appropriations or authorizing expenditures in time of peace in excess of the total tax then provided by law and applicable to such appropriations, unless the Legislature provides for levying a tax within constitutional limits sufficient to pay the same within the fiscal year. Acts authorizing appropriations or expenditures in excess of the limits imposed by this section are void and of no effect. In the event of a deficiency in revenue to meet the appropriations, the necessary expenses of the executive, legislative, and judicial departments of the State, and the interest on the public debt are entitled to preference. In re Appropriations by General Assembly, 13 Colo. 316, 22 Pac. 464 (1899).

After the preferred appropriations, mentioned above, are discharged, the order of precedence to be given the remaining appropriations is determined by the priority of the effective date of such acts. *Goodykoontz vs. People ex rel. Sawyer*, 20 Colo. 374, 38 Pac. 473 (1894); *Parks vs. Commissioners of Soldiers' and Sailors' Home*, 22 Colo. 86, 43 Pac. 542 (1896).

³⁴Constitution, Art. V, Sec. 33.

II. Financial Powers and Limitations—Continued

E. Appropriations and Expenditures—Continued

- (3) See page 2, paragraph D, and footnote 5.
- (4) See page 18, paragraphs (5) and (7).
- (5) See page 15, paragraph (3).

III. Provisions Affecting Legislation

A. Regular Sessions of Legislature

(1) The legislative power of the state shall be vested in the general assembly consisting of a senate and house of representatives,³⁵ * * *.

(2) The general assembly shall meet * * * on the first Wednesday in January, A. D. 1879, and * * * on the first Wednesday in January of each alternate year forever thereafter; and at other times when convened by the governor.³⁶ * * *

B. Special Sessions of Legislature

The governor may, on extraordinary occasions convene the general assembly, by proclamation, stating therein the purpose for which it is to assemble; but at such special session no business shall be transacted other than that specially named in the proclamation. He may by proclamation, convene the senate in extraordinary session for the transaction of executive business.³⁷

³⁵ Constitution, Art. V, Sec. 1.

³⁶ Constitution, Art. V, Sec. 7.

³⁷ Constitution, Art. IV, Sec. 9.

"Whether or not an occasion exists of such extraordinary character as demands a convention of the general assembly in special session * * * is a matter resting entirely in the judgment of the executive." In re State Census, 9 Colo. 642, 21 Pac. 477 (1886).

Within the limits of the business specially named in the proclamation, the Legislature "may act freely, in whole or in part, or not at all, as may be deemed expedient, according to its own judgment." In re Governor's Proclamation, 19 Colo. 333, 35 Pac. 530 (1894).

In his proclamation convening a special session of the Legislature, the Governor may include proposals for amendments to the Constitution. Pearce vs. People ex rel. Tate, 63 Colo. 399, 127 Pac. 224 (1912).

Where the purpose of the Governor's call was "to provide revenue for the relief of the unemployed, destitute, and suffering," and pursuant thereto an act was passed providing for a comprehensive liquor control code, and diverting only a small amount of the revenue to the purposes named in the call, such act was held not to come within the Governor's proclamation for the reason that the relief of the destitute was merely a remote incident to the main purpose of the act. In re Opinion of the Justices, 94 Colo. 215, 29 P. (2d) 705 (1934).

III. Provisions Affecting Legislation—Continued

C. Powers of Initiative and Referendum

(1) * * * the people reserve to themselves the power to propose laws and amendments to the constitution and to enact or reject the same at the polls independent of the general assembly, and also reserve power at their own option to approve or reject at the polls any act, item, section or part of any act of the general assembly.

* * * This section shall not be construed to deprive the general assembly of the right to enact any measure.³⁸

(2) * * * at least eight per cent. of the legal voters shall be required to propose any measure by petition, and every such petition shall include the full text of the measure so proposed. Initiative petitions for state legislation and amendments to the constitution, shall be addressed to and filed with the secretary of state at least four months before the election at which they are to be voted upon.³⁹ * * *

(3) * * * the referendum, * * * may be ordered, except as to laws necessary for the immediate preservation of the public peace, health or safety, and appropriations for the support and maintenance of the department of state and state institutions, against any act, section or part of any act of the general assembly, either by a petition signed by five per cent. of the legal voters or by the general assembly.

A proclamation of the Governor convening the Legislature in special session "to enact any and all legislation relating to or in any wise affecting corporations, both foreign and domestic, of a quasi-public nature" was held to be too broad to allow any legislation thereunder. In its opinion the Supreme Court stated that the proclamation did not specially name any subject matter for legislation as is required by this section, but that it only pointed out the persons, interests, and class to be affected, leaving the Legislature complete power to choose any subject matter of legislation it saw fit. *Denver & R. G. R. Company vs. Moss*, 50 Colo. 282, 115 Pac. 696 (1911).

³⁸ Constitution, Art. V, Sec. 1.

"This section * * * shall be in all respects self-executing." *Ibid.*

The power of the people to initiate laws is subject to this restriction: If the State through the Legislature has made a valid contract which requires for its execution the continued existence of a statute already passed by the Legislature, then the Federal Constitution forbidding a State from impairing the obligation of a contract (Art. I, Sec. 10, cl. 1) would prevent the people from initiating any law which would repeal the existing statute. *Johnson vs. McDonald*, 97 Colo. 324, 49 P. (2d) 1017 (1935).

The word "act" as used in this section, authorizing the approval or rejection thereof at the polls, includes statutes and laws enacted by bill, but does not include concurrent resolutions. *Prior vs. Noland*, 68 Colo. 263, 188 Pac. 729 (1920).

The provision of this section that the General Assembly shall not be deprived "of the right to enact any measure" was interpreted to give the Legislature the power to repeal any statute law, including those which may have been proposed by the initiative or submitted to the referendum. In re Senate Resolution No. 4, 54 Colo. 262, 130 Pac. 333 (1913).

The ratification by the Legislature of a proposed amendment to the Federal Constitution is not subject to the referendum power of the people because the Legislature acts pursuant to Art. V of the Federal Constitution which provides that proposed amendments to that Constitution shall be "ratified by the Legislatures of three-fourths of the several states." *Prior vs. Noland*, 68 Colo. 262, 188 Pac. 729 (1920).

³⁹ Constitution, Art. V, Sec. 1.

III. Provisions Affecting Legislation—Continued

C. Powers of Initiative and Referendum—Continued

Referendum petitions shall be addressed to and filed with the secretary of state not more than ninety days after the final adjournment of the session of the general assembly, that passed the bill on which the referendum is demanded. The filing of a referendum petition against any item, section or part of any act, shall not delay the remainder of the act from becoming operative.⁴⁰ * * *

(4) * * * The veto power of the governor shall not extend to measures initiated by, or referred to the people.⁴¹ * * *

(5) * * * The initiative and referendum powers * * * are hereby further reserved to the legal voters of every city, town and municipality as to all local, special and municipal legislation of every character in or for their respective municipalities. * * * Not more than ten per cent. of the legal voters may be required to order the referendum, nor more than fifteen per cent. to propose any measure by the initiative in any city, town or municipality.⁴² * * *

(6) See page 11, paragraph (a).

(7) See page 12, paragraph (a).

⁴⁰ Constitution, Art. V, Sec. 1.

This section further provides that elections on measures referred to the people shall be held at the biennial regular general election, and that such measures shall become a part of the law or the Constitution upon a majority vote of the electors, and shall take effect from the date of the declaration of the vote thereon by the Governor's proclamation, not later than 30 days after the vote has been canvassed.

A legislative declaration that an act is of such a character as to exempt it from the referendum is final and conclusive, and is not receivable in the courts. *Van Kleeck vs. Ramer*, 62 Colo. 4, 156 Pac. 1108 (1916).

The so-called "safety" clause of this section, which excepts from the referendum all laws necessary for the immediate preservation of the public peace, health, or safety, and appropriations for the support of the government, should be construed with the so-called "emergency" clause in Art. V, Sec. 19, which permits emergency legislation to take effect before the expiration. (See p. 19, par. (8)). All referable acts which contain the "emergency" clause, but not the "safety" clause, take effect 90 days after the adjournment of the session of the Legislature at which they were passed if they are not referred to the people. In the absence of the "safety" clause all acts are subject to the referendum even though they carry the "emergency" clause. All acts not carrying the "emergency" clause and not referable, because of the "safety" clause or because they show upon their face that they are excepted from the referendum, go into effect 90 days after their passage and approval by the Governor. All acts having both the "emergency" clause and "safety" clause go into effect immediately after their passage and approval by the Governor. In re Interrogatories by the Governor, 66 Colo. 319, 181 Pac. 197 (1919).

⁴¹ Constitution, Art. V, Sec. 1.

⁴² Constitution, Art. V, Sec. 1.

A recital in an ordinance of a city council that such ordinance was "necessary for the immediate preservation of the public peace, health, or safety" was held to preclude the right to referendum with the same force as such a recital would in an act of the Legislature. (See Art. V, Sec. 1, p. 15, par. (3).) Whether such legislation is, in fact, of an emergency character is a legislative question not reviewable in the courts. *Shields vs. City of Loveland*, 74 Colo. 27, 218 Pac. 913 (1923).

III. Provisions Affecting Legislation—Continued

D. Legislative Enactment

(1) * * * The governor shall, at the commencement of each session, and from time to time, by message, give to the general assembly information of the condition of the state, and shall recommend such measures as he shall deem expedient. * * * He shall, also, at the commencement of each session, present estimates of the amount of money required to be raised by taxation for all purposes of the state.⁴³

(2) All bills for raising revenue shall originate in the house of representatives; but the senate may propose amendments, as in case of other bills.⁴⁴

(3) No bill, except general appropriation bills,⁴⁵ shall be passed containing more than one subject, which shall be clearly expressed in its title; but if any subject shall be embraced in any act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed.⁴⁶

(4) The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the executive, legislative and judicial departments of the state, interest on the public debt, and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.⁴⁷

⁴³Constitution, Art. IV, Sec. 8.

⁴⁴Constitution, Art. V, Sec. 31.

An act providing for the establishment and maintenance of schools and containing provisions for the levy and collection of taxes therefor was held not to be a "revenue bill" within the meaning of this section. The court stated: "A bill for raising revenue * * * is one which provides for the levy and collection of taxes for the purpose of paying the officers and of defraying the expenses of the government." Chicago B. & Q. R. Company vs. School District No. 1, etc., 63 Colo. 159, 165 Pac. 260 (1917).

⁴⁵As to what constitutes a general appropriation bill, see par. (4), above.

⁴⁶Constitution, Art. V, Sec. 21.

"If legislation in the body of a statute is germane to the general subject expressed in the title; if it is relevant and appropriate to such subject, or is a necessary incident to the object of the act, as expressed in the title, it does not violate this provision of the Constitution." Driverless Car Company vs. Armstrong, 91 Colo. 334, 14 P. (2d) 1098 (1932).

An act entitled "An Act in relation to public revenue" which provided for direct taxes on property as well as indirect taxes on inheritances and succession to property was held to contain only one subject—the securing of public revenue for governmental purposes—which was clearly expressed in the title. In re Magnes' Estate, 32 Colo. 527, 77 Pac. 853 (1904).

⁴⁷Constitution, Art. V, Sec. 32.

The *general appropriation bill* is distinguished from other appropriation bills in that it is a temporary measure, and must be renewed at each session of the Legislature. It may contain as many subjects or purposes as are properly within the power of the Legislature to provide. In re House Bill 168, 21 Colo. 46, 39 Pac. 1096 (1895).

III. Provisions Affecting Legislation—Continued

D. Legislative Enactment—Continued

(5) Every bill shall be read by title when introduced, and at length on two different days in each house; * * * and no bill shall become a law except by a vote of a majority of all the members elected to each house, nor unless on its final passage the vote be taken by ayes and noes, and the names of those voting be entered on the journal.⁴⁸

(6) Every bill passed by the general assembly shall, before it becomes a law, be presented to the governor. If he approve he shall sign it, * * * but if he do not approve, he shall return it, with his objections, to the house in which it originated, which house shall * * * proceed to reconsider the bill. If then two-thirds of the members elected agree to pass the same, it shall be sent, * * * to the other house, * * * and if approved by two-thirds of the members elected to that house, it shall become a law, notwithstanding the objections of the governor. * * * If any bill shall not be returned by the governor within ten days after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the general assembly shall by their adjournment prevent its return, in which case it shall be filed * * * in the office of the secretary of state, within thirty days after such adjournment, or else become a law.⁴⁹

(7) The governor shall have power to disapprove of any item or items of any bill making appropriations of money, embracing distinct items, and the part or parts of the bill approved shall be law, and the item or items disapproved shall be void, unless enacted in manner following: If the general assembly be in session, he shall transmit to the house in which the bill originated a copy of the item or items thereof disapproved, together with his objections thereto, * * * and each item shall then take the same course as is prescribed for the passage of bills over the executive veto.⁵⁰

⁴⁸Constitution, Art. V, Sec. 22.

The provisions of this section are mandatory upon the Legislature. In re House Bill No. 250, 26 Colo. 234, 57 Pac. 49 (1899).

"While a properly signed, enrolled act of the General Assembly, filed with the Secretary of State, is, prima facie, the law, nevertheless * * * it is competent to establish by the journals of either house that a particular act was not passed in the mode prescribed by the Constitution * * *." People ex rel. Manville vs. Leddy, 53 Colo. 109, 123 Pac. 824 (1912).

⁴⁹Constitution, Art. IV, Sec. 11.

In computing the 10 days within which a bill is to be returned by the Governor, the rule is to exclude either the day he receives it or the day he must return it. A Sunday or legal holiday intervening between the first and last days of the prescribed period constitutes 1 of the 10 days; but if the return day falls on a Sunday, the Governor may return the bill the following Monday. In re Senate Resolution, etc., 9 Colo. 632, 21 Pac. 475 (1886).

See p. 16, par. (4).

⁵⁰Constitution, Art. IV, Sec. 12.

III. Provisions Affecting Legislation—Continued

D. Legislative Enactment—Continued

(8) No act of the general assembly shall take effect until ninety days after its passage unless in case of emergency (which shall be expressed in the act) the general assembly shall, by vote of two-thirds of all members elected to each house, otherwise direct. No bill except the general appropriation bill for the expenses of the government only,⁵¹ introduced in either house of the general assembly after the first fifteen days of the session shall become law.⁵²

(9) No law shall be revived, or amended, or the provisions thereof extended or conferred by reference to its title only, but so much thereof as is revived, amended, extended or conferred, shall be re-enacted and published at length.⁵³

(10) * * * where a general law can be made applicable, no special law shall be enacted.⁵⁴

(11) * * * The supreme court shall give its opinion upon important questions upon solemn occasions when required by the governor, the senate, or the house of representatives;⁵⁵ * * *.

⁵¹As to what constitutes a general appropriation bill, see p. 17, par. (4) and footnote 47.

⁵²Constitution, Art. V, Sec. 19.

For the effective date of emergency legislation, and the correlation between this section and Art. V, Sec. 1, dealing with acts immediately necessary for the public safety, see p. 15, par. (3) and p. 16, footnote 40.

⁵³Constitution, Art. V, Sec. 24.

This section does not require a reenactment or republication of the provisions of the general laws of the State when reference is made to them in later statutes for a definition of rights, or for a specification of the lawful method of procedure under the subsequent laws. *Denver Circle R. Company vs. Nester*, 10 Colo. 403, 15 Pac. 714 (1887); *Geer vs. Board of Commissioners of Ouray County*, 97 Fed. 435 (C.C.A. 8th, 1899).

⁵⁴Constitution, Art. V, Sec. 25.

This section enumerates 23 cases where special legislation is forbidden. "Whether laws are general or local or special does not depend upon the number of those within the scope of their operation. They are general not because they operate upon every place or person in the state, for they do not, but because every place or person brought within the relations and circumstances provided for is affected by the law * * *. A law may be general and yet operative in a single place or places where conditions necessary to its operation exist." *Maitland vs. People*, 93 Colo. 59, 23 P. (2d) 116 (1933).

⁵⁵Constitution, Art. VI, Sec. 3.

Legislative questions must be connected with pending legislation, and relate either to the constitutionality thereof or to matters pertaining to purely public rights. The duty rests finally upon the court to determine as to the solemnity of the occasion and the importance of the questions propounded. In re Interrogatories of the House, 62 Colo. 188, 162 Pac. 1144 (1917).

The court refused to answer legislative questions concerning the constitutionality of a bill which made it unlawful for a private corporation to contract with its employees for payment of wages in anything except money, upon the ground that no public rights but only private rights were involved. In re House Bill No. 99, 26 Colo. 140, 56 Pac. 181 (1899).

IV. Constitutional Amendment or Revision

A. By Proposal of Legislature or People

(1) Any amendment or amendments to this constitution may be proposed in either house of the general assembly, and if the same shall be voted for by two-thirds of all the members elected to each house, such proposed amendment or amendments, together with the ayes and noes of each house thereon, shall be entered in full on their respective journals; * * * and the secretary of state shall also cause the said amendment or amendments to be published in full in not more than one newspaper of general circulation in each county, for four successive weeks previous to the next general election for members of the general assembly; and at said election the said amendment or amendments shall be submitted to the qualified electors of the state for their approval or rejection, and such as are approved by a majority of those voting thereon shall become part of this constitution.

Provided, that if more than one amendment be submitted at any general election, each of said amendments shall be voted upon separately and votes thereon cast shall be separately counted the same as though but one amendment was submitted. But the general assembly shall have no power to propose amendments to more than six articles of this constitution at the same session.⁵⁶

(2) See page 15, paragraphs (1) and (2), and footnote 38.

B. By Constitutional Convention

The general assembly may at any time by a vote of two-thirds of the members elected to each house, recommend to the electors of the state, to vote at the next general election for or against a convention to revise, alter and amend this constitution; and if a majority of those

⁵⁶Constitution, Art. XIX, Sec. 2.

Passing upon the question of whether an amendment had been properly submitted to the electors, the Supreme Court stated "Whenever a constitutional amendment is attacked on account of some alleged violation of the Constitution in its submission, * * * it must appear beyond a reasonable doubt, both as to law and fact, that the Constitution has been thus violated before the amendment will be overthrown." People ex rel. Tate vs. Prevost, 55 Colo. 199, 134 Pac. 129 (1913).

The provision in this section forbidding the Legislature to propose at one session amendments to more than six articles of the Constitution imposes no limitation upon the number of amendments which may be proposed by the initiative under Art. V, Sec. 1. (See p. 15, par. (1).) Ibid.

"Under the Constitution, the Legislature may propose an amendment as an original article or as an amendment to an existing article; * * * the limitation that the Legislature may not propose amendments to more than six articles of the Constitution at the same session *does not apply to constructive amendments or amendments by implication*; * * * an amendment may embrace more than one subject; * * * said subjects need not be separately submitted, if they are germane to the general subject of the amendment, or if they are so connected with or dependent upon the general subject that it might not be desirable that one be adopted, and not the other." People ex rel. Elder vs. Sours, 31 Colo. 369, 74 Pac. 167 (1903).

IV. Constitutional Amendment or Revision—Continued

B. By Constitutional Convention—Continued

voting on the question shall declare in favor of such convention, the general assembly shall, at its next session, provide for the calling thereof. * * * Said convention shall meet within three months after such election and prepare such revisions, alterations or amendments to the constitution as may be deemed necessary; which shall be submitted to the electors for their ratification or rejection at an election appointed by the convention for that purpose, * * * and unless * * * approved by a majority of the electors voting at the election, no such revision, alteration or amendment shall take effect.⁵⁷

⁵⁷Constitution, Art. XIX, Sec. 1.

The election appointed by the convention for submitting to the electors the proposed changes in the Constitution shall take place not less than 2 nor more than 6 months after the adjournment of the constitutional convention. Ibid.

