

X3.1W892
36
Al1b



WORKS PROGRESS ADMINISTRATION
HARRY L. HOPKINS, ADMINISTRATOR

CORRINGTON GILL
ASSISTANT ADMINISTRATOR

HOWARD B. MYERS, DIRECTOR
SOCIAL RESEARCH DIVISION

LIBRARY
UNIVERSITY of KENTUCKY

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

NOVEMBER 1, 1936

PREPARED BY
ROBERT C. LOWE AND DAVID S. LANDER
LEGAL RESEARCH SECTION

UNDER THE SUPERVISION OF
A. ROSS ECKLER, COORDINATOR OF SPECIAL INQUIRIES
DIVISION OF SOCIAL RESEARCH

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.

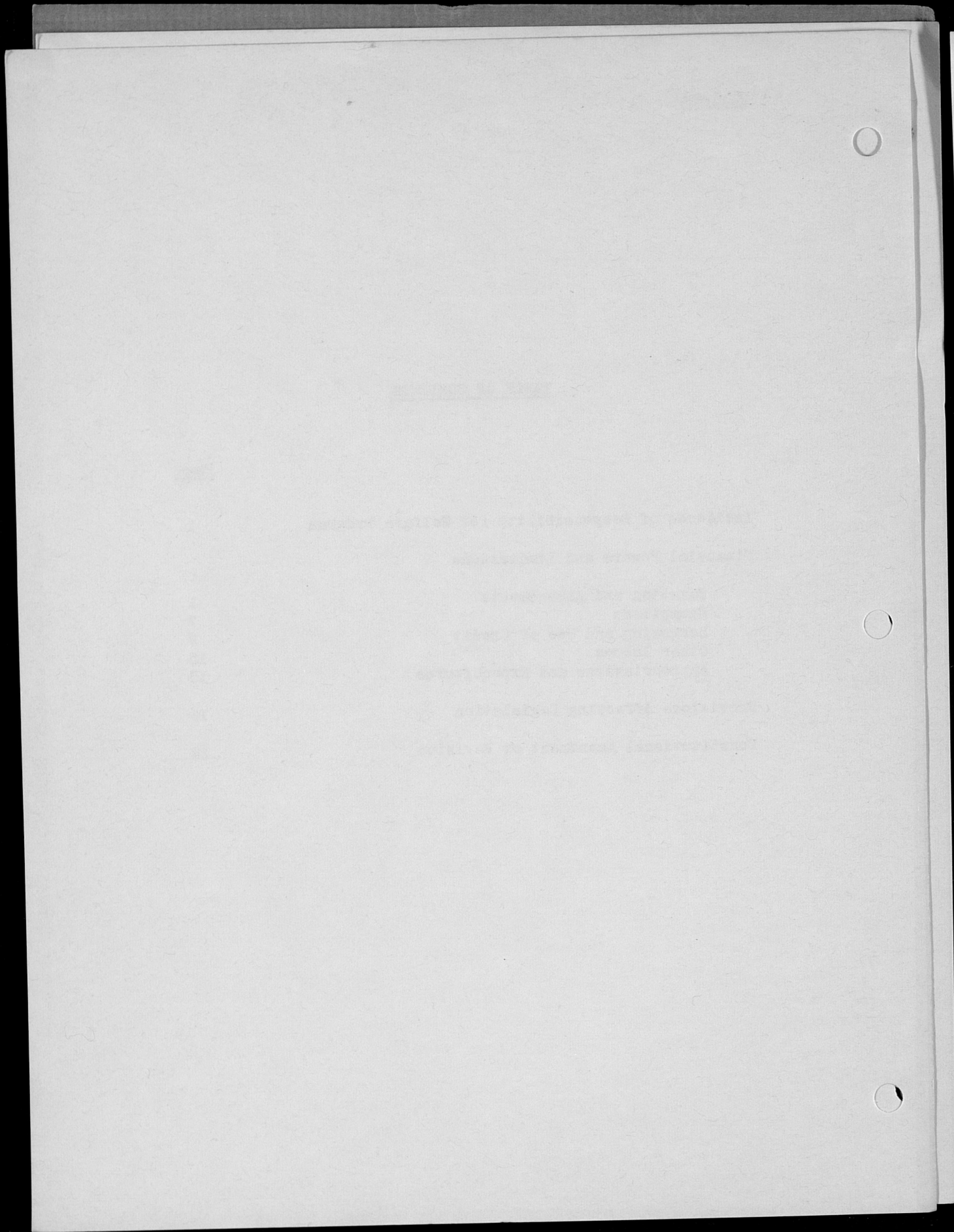
An attempt has been made, by a careful selection of the most recent cases decided by the highest courts of the States, to indicate wherever possible how these provisions have been construed. These cases are included in footnotes appended to the constitutional provisions shown.

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.

Alabama

TABLE OF CONTENTS

	<u>Page</u>
Incidence of Responsibility for Welfare Program	1
Financial Powers and Limitations	
Taxation and Assessments	1
Exemptions	7
Borrowing and Use of Credit	9
Other Income	15
Appropriations and Expenditures	15
Provisions Affecting Legislation	16
Constitutional Amendment or Revision	18



ANALYSIS OF CONSTITUTIONAL PROVISIONS AFFECTING
PUBLIC WELFARE IN ALABAMA 1/

I. Incidence of Responsibility for Welfare Program

A. It shall be the duty of the legislature to require the several counties of this state to make adequate provision for the maintenance of the poor. 2/

II. Financial Powers and Limitations

A. Taxation and Assessments

(1) State

(a) All taxes levied on property in this state shall be assessed in exact proportion to the value of such property, ... 3/

-
1. Constitution (1901) with all amendments to October 15, 1936 and proposed amendments to be voted upon November 1936.

All citations to the Constitution are to Michie's Alabama Code of 1928 and Michie's 1936 cumulative supplement.

2. Constitution, Art. IV, Sec. 88.

No cases construing this section have been located. Apparently there is nothing in the Constitution to prevent the granting of direct relief by the State. The Legislature may make appropriations for charitable or educational institutions. See page 11, Sec. II, par. C, (1), (c), and footnote 18.

A firemen's pension statute does not violate the Constitution. See page 12, footnote 19.

Provisions of the Alabama Code provide for the care of paupers by the counties and for municipal poorhouses. Michie's Code 1928, Sec. 2787-2806, 2033.

3. Constitution, Art. XI, Sec. 211.

This section and section 217 relate only to direct taxes on property, and have no relation to privilege, license, or occupation taxes, or to franchise taxes of corporations. Phoenix Carpet Company vs. State, 118 Ala. 143, 22 So. 627 (1897) construing same section in former Constitution.

Under this section and section 217 the State may tax and exempt such property as it sees fit so long as no arbitrary classifications result in the subjects taxed and those made the subject of exemptions, so the State may levy an ad valorem tax on securities of domestic corporations and exempt securities of foreign corporations owned by residents in this State, or it can exempt such foreign securities from all ad valorem taxation and levy an excise or privilege tax in lieu thereof. Lee vs. State (Footnotes forwarded)

2. Alabama

II. Financial Powers and Limitations (Cont'd)

A. Taxation and Assessments (Cont'd)

(1) State (Cont'd)

(b) The property of private corporations, associations, and individuals of this state shall forever be taxed at the same rate; provided, this section shall not apply to institutions devoted exclusively to religious, educational, or charitable purposes. 4/

(c) The legislature shall not have the power to levy in any one year a greater rate of taxation than sixty-five one-hundredths of one percentum on the value of the taxable property within this state. 5/

(Footnote #3 - Continued)

Tax Commission, 219 Ala. 513, 123 So. 6 (1929). As to exemptions see page 7, footnote 13.

A tax upon the gross amount of sales or business done is not a tax on the goods or property, but is an occupation or privilege tax. Goldsmith vs. Mayor, etc., of City of Huntsville, 120 Ala. 182, 24 So. 509 (1898).

General Revenue Act of 1927 imposing State license or privilege tax on sale of cigars, cigarettes, and cheroots, based on percentage of wholesale price, held not to violate this section and section 217 because tax involved is a privilege or occupation tax and not a property tax. Exchange Drug Company vs. State Tax Commission, 218 Ala. 115, 117 So. 673 (1928).

4. Constitution, Art. XI, Sec. 217.

See page 1, footnote 3.

5. Constitution, Art. XI, Sec. 214.

This section applies to direct taxes on property only and the limitation upon the rate of taxation does not apply to an excise tax levied upon banks for the privilege of doing business in the State. Title Guarantee Loan and Trust Company vs. State, 228 Ala. 636, 155 So. 305 (1934).

This limitation applies only to State taxes levied for State purposes. Hare vs. Kennerly, 83 Ala. 608, 3 So. 683 (1888).

A tax on income is a tax on property within the meaning of this section, consequently the Income Tax Law of 1919 which imposed a graduated tax of from two to four percent upon incomes was void since the rate of taxation exceeded the rate of sixty-five hundredths of one percent on the value of taxable property allowed by this section. Eliasberg Bros. Mercantile Company vs. Grives, 204 Ala. 492, 86 So. 56 (1920).

Subsequent to this decision an amendment to the Constitution was passed allowing an income tax. See page 3, Sec. II, par. A, (1), (e).

See Constitution, Art. XIV, Sec. 260, which provides for the annual levy of a special tax of thirty cents on each one hundred dollars of taxable property, the proceeds to be applied to the support and maintenance of the public schools.

II. Financial Powers and Limitations (Cont'd)

A. Taxation and Assessments (Cont'd)

(1) State (Cont'd)

(d) Section 219 of the present constitution is hereby annulled and set aside and hereafter the legislature of Alabama may provide for the assessment, levy and collection of a tax upon inheritances and for the levying of estate taxes not to exceed 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. The legislature shall have the power to levy such inheritance or estate taxes in the state of Alabama only so long as and during the time an inheritance or estate tax is enforced by the United States against Alabama inheritances or estate, 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 deduction or credit against such similar tax of the United States applicable to Alabama inheritances or estates. 6/

(e) The legislature shall have the power to levy and collect taxes for state purposes on net incomes from whatever source derived within this state, . . . for the calendar year, 1933, and thereafter and to designate and define the incomes to be taxed and to fix the rates of taxes provided that the rate shall not exceed 5 percent nor 3 percent on corporations. Income shall not be deemed property for purpose of ad valorem taxes. From net income an exemption of not less than fifteen hundred dollars (\$1,500.00) shall be allowed to unmarried persons and an exemption of not less than three thousand dollars (\$3,000.00) shall be allowed to the head of a family, . . . An exemption of not less than three hundred dollars (\$300.00) shall be allowed for each dependent member of the family of an income tax payer under the age of 18 years. . . . In the event the legislature levies an income tax, such tax must be levied upon salaries, income, fees or other compensation of state, county and municipal officers and employees on the same basis as

6. Amendment XXVIII, adopted 1931.

Repeals former Sec. 219 which provided for a tax on inheritances not to exceed two and one-half percent of the value of the estate. Constitution (1901), Sec. 219. Ibid.

4. Alabama

II. Financial Powers and Limitations (Cont'd)

A. Taxation and Assessments (Cont'd)

(1) State (Cont'd)

such income taxes are levied upon other persons. All income derived from such tax shall be held in trust for the payment of the floating debt of Alabama until all debts due on Oct. 1st, 1932, are paid and thereafter used exclusively for the reduction of state ad valorem taxes. 7/

(f) The poll tax mentioned in this article shall be one dollar and fifty cents upon each male inhabitant of the state, over the age of twenty-one years, and under the age of forty-five years, who would not now be exempt by law; . . . 8/

(2) County

(a) No county in this state shall be authorized to levy a greater rate of taxation in any one year on the value of the taxable property therein than one-half of one per centum; . . . provided, further, that to pay any debt or liability now existing against any county, incurred for the erection, construction, or maintenance of the necessary public buildings or bridges or that may hereafter be created for the erection of necessary public buildings, bridges, or roads, any county may levy and collect such special

7. Amendment XXV, Adopted 1933.

This amendment was adopted subsequent to a decision of the Supreme Court of Alabama holding an income tax to be a tax on property and hence the law void as being in excess of the rate of taxation allowed on property for State purposes. See page 2, footnote 5.

The State has the power to tax its own citizens with respect to their net incomes, flowing from sources within or without the State, without violating the Fourteenth Amendment of the Constitution of the United States. State vs. Weil, - Ala. -, 168 So. 679 (1936).

8. Constitution, Art. VIII, Sec. 194.

An amendment exempts soldiers and sailors who served in the World War from this poll tax. Amendment XIV, Adopted 1924.

Amendment 19 to the United States Constitution, providing that the right to vote shall not be denied or abridged on account of sex, automatically struck the word "male" from this section, so that this section making the payment of a poll tax a condition precedent to the right to vote is now applicable to women as well as to men. Graves vs. Eubank, 205 Ala. 174, 87 So. 587 (1921).

AlabamaII. Financial Powers and Limitations (Cont'd)A. Taxation and Assessments (Cont'd)(2) County (Cont'd)

taxes, not to exceed one-fourth of one percentum, as may have been or may hereafter be authorized by law, which taxes so levied and collected shall be applied exclusively to the purposes for which the same were so levied and collected. 9/

(b) The several counties in this state shall have power to levy and collect a special tax not exceeding ten cents on each one hundred dollars of taxable property in such counties, for the support of public schools; . . . 10/

9. Constitution, Art. XI, Sec. 215.

The County of Mobile is authorized to collect a tax for public school purposes, in addition to the taxes allowed by this section, the rate of such additional tax not to exceed one-fifth of one percent of the property valuation. Amendment XVI, Adopted 1924.

The County of Walker is authorized to collect a special road tax, not exceeding fifty cents on each hundred dollars worth of taxable property, in addition to the taxes allowed by this section. Such tax must be approved by a majority of the qualified electors voting at the election. Amendment XIX, Adopted 1924.

If a tax is levied by a county in excess of one-half of one percent as allowed in this section it is void. This provision is not only a limitation upon the taxing power of a county, but it is also a grant of power of taxation to the extent of one-half of one percentum. State vs. Street, 117 Ala. 203, 23 So. 807 (1898).

10. Constitution, Art. XIV, Sec. 269.

This section further provides that such special tax must be approved by three-fifths of the qualified voters voting upon it. Also that such special tax shall not increase the rate of taxation, State and county combined, to more than one dollar and twenty-five cents on each one hundred dollars of valuation. The section does not apply to the cities of Decatur, New Decatur, and Cullman. Ibid.

An amendment authorizes the counties to levy a special tax for school purposes not to exceed thirty cents on each one hundred dollars worth of taxable property in addition to the tax authorized by this section. Amendment III, Adopted 1916.

The above amendment held impliedly to amend this section. Whereas before the amendment the maximum combined county and State tax rate was one dollar and twenty-five cents, after the amendment the maximum combined county and State tax rate was one dollar and fifty-five cents. Pierson vs. Phillips, 214 Ala. 88, 106, So. 501 (1925).

II. Financial Powers and Limitations (Cont'd)

A. Taxation and Assessments (Cont'd)

(3) Other Local Units

(a) No city, town, village, or other municipal corporation, other than as provided in this article, shall levy or collect a higher rate of taxation in any one year on the property situated therein than one-half of one percentum of the value of such property as assessed for state taxation during the preceding year; provided, that for the purpose of paying debts existing on the sixth day of December, eighteen hundred and seventy-five, and the interest thereon, a tax of one percentum may be levied and collected, to be appropriated exclusively to the payment of such indebtedness; . . . 11/

11. Constitution, Art. XI, Sec. 216.

The section goes on to make special exceptions for the following cities. Mobile may levy special taxes. Birmingham, Huntsville, Bessemer and Andalusia may levy an additional tax of one half of one percentum to pay off bond issues. Montgomery may levy special taxes. Troy, Attalla, Gladsden, Woodlawn, Brewton, Pratt City, Ensley, Wylam, Avondale, Decatur, New Decatur and Cullman are specially provided for. Ibid.

The city of Selma shall levy additional taxes of two-tenths of one percent and one-tenth of one percent for school purposes and for maintenance of school buildings respectively. Amendment VI, Adopted 1916.

The municipalities of Tuscumbia, Sheffield, Huntsboro, Russellville, Lanett, Demopolis, Pell City, Heflin, Columbiana, Carrollton, Opelike, Fairhope, Pine Hill, Scottsboro, Stevenson, Ashland, Brewton, Pollard, Flomaton Atmore, Inglenook, Tuskegee, Aliceville, Gordo, Reform, Livingston, Camden, Monroeville, Phoenix, and Gerard, Birmingham, Bessemer, Florence, Huntsville, Selma, Fairfield, Anniston, Athens, Jacksonville, Aubrum, Carbon Hall, and Lafayette are authorized to levy special taxes to pay off bonded indebtedness, and also additional taxes to retire new bond issues upon approval by the voters. Amendment VIII, Adopted 1919.

The municipalities of Jasper, Cordova Dora, Oxford, Talladega, Citronelle, Girard, Albany, and Tuscaloosa are authorized to levy taxes up to one percent of property values. Amendment XIII, Adopted 1922.

The municipalities of Thorsby, Piedmont, Greenville, Roanoke, Greensboro, Calera, Florala, Opp, Evergreen, Fayette, Clayton, and Clio may levy special taxes to pay off bonded indebtedness and also taxes to retire new indebtedness of the new bond issues are approved by a majority of the voters. Amendment XVII, Adopted 1924.

The municipality of Attala may levy a tax not to exceed one percent upon approval of the voters. Amendment XXXI, Adopted 1935. (Footnote forwarded)

II. Financial Powers and Limitations (Cont'd)

A. Taxation and Assessments (Cont'd)

(3) Other Local Units (Cont'd)

(b) No city, town, or other municipality shall make any assessment for the cost of sidewalks or street paving, or for the cost of the construction of any sewers against property abutting on such street or sidewalks so paved, or drained by such sewers, in excess of the increased value of such property by reason of the special benefits derived from such improvements. 12/

B. Exemptions

(1) State

(a) The legislature shall not tax the property, real or personal, of the state, counties, or other municipal corporations, or cemeteries, nor lots in incorporated cities and towns, or within one mile of any city or town to the extent of one acre, nor lots one mile or more distant from such cities or towns to the extent of five acres, with the buildings thereon, when same are used exclusively for religious worship, for schools, or for purposes purely charitable. 13/

(Footnote #11 - Continued)

Certain school districts are authorized to levy an additional tax of not more than three mills for school purposes upon approval of the voters. Amendment XXXII, Adopted 1935.

Two proposed amendments passed by a special session of the Legislature, which began in February 1936, provide for special taxes for the town of Montevallo and for special taxes for certain named school districts to be used for educational purposes. Acts. No. 158, 166 Extra Session 1936, to be voted upon by the people at the November 1936 election.

12. Constitution, Art. XII, Sec. 223.

Special or peculiar benefits within the meaning of this section simply mean the increase in the market value of the property resulting from the improvements, and even if the improvements increase the value of all other property in the immediate locality, such generally enjoyed increase in value is not a part of the special increase in value of the assessed property, and not to be used as a basis in computing assessments. City of Tuscaloosa vs. Hill, 14 Ala. App. 541, 69 So. 486, 491 (1915).

13. Constitution, Art. IV, Sec. 91.

This section held not intended to prohibit Legislature from granting other exemptions to religious, educational and charitable institutions so a State statute approved in 1927 by which "there is exempted from taxation . . . all property, by whomsoever owned, the net income, rents and returns from which are used, exclusively for educational purposes, . . ." held constitutional. State vs. Alabama Educational Foundation, - Ala. -, 163 So. 527 (1935).

A statute authorized the constituted authorities of any city or county to exempt from taxation, for a period of not longer than (Footnote forwarded)

8. Alabama

II. Financial Powers and Limitations (Cont'd)

B. Exemptions (Cont'd)

(1) State (Cont'd)

(b) . . . The legislature shall, by general laws, provide for the payment to the state of Alabama of a franchise tax by corporations organized under the laws of this state which shall be in proportion to the amount of capital stock; but strictly benevolent, educational or religious corporations or federal building and loan associations organized pursuant to an act of congress known as the home owners' loan act of 1933, as amended, and as the same may hereafter be amended, or building and loan associations organized under or authorized to do business by the laws of Alabama shall not be required to pay such a tax on their withdrawable or repurchaseable shares . . . 14/

(Footnote #13 - Continued)

five years, the property of any shipbuilding yard, or factories for the manufacture of textiles, wood pulp products, farm implements, or any other manufactured products. Acts of 1927, pages 55, 56, 641 and 642. The Court in holding this statute constitutional said that the exercise of the power of taxation within constitutional limits is purely legislative, and the power to exempt any class of property from taxation is likewise a matter for the exercise of legislative judgment. Pullman Car and Mfg. Corp. of Ala. vs. Hamilton, 229 Ala. 184, 155 So. 616 (1934).

Under this section a tract of land owned by a private company, and leased to an individual who conducted a boarding school for young ladies thereon held exempt because used exclusively for educational purposes. Anniston City Land Company vs. State, 160 Ala. 253, 48 So. 659 (1909).

But on second appeal to the supreme court this same property was held not exempt because not used exclusively for educational purposes since part of the property was used for a lodging and boarding house. Ibid.

Property owned by a religious corporation, but rented by it for the business of conducting a rooming house, is not exempt under this section, though the rent is applied to a religious purpose. State vs. Church of the Advent, 208 Ala. 632, 95 So. 3 (1923).

Property of a privately owned hospital, devoting over 15 percent of its average annual gross revenues to the treatment of charity patients held exempt from taxation in the light of a State statute exempting from taxation all hospitals where treatment of charity patients constitutes at least 15 percent of the business of such hospital. Gay vs. State, 228 Ala. 253, 153 So. 767 (1934).

14. Amendment XXVII, Adopted 1935, amending Art. XII, Sec. 229 of the Constitution.

Under this section statutes exempting banks from franchise taxes were held unconstitutional, and were void as to this provision. State ex rel. Smith vs. Elba Bank and Trust Company, 18 Ala. App. 253, 91 So. 917 (1921).

II. Financial Powers and Limitations (Cont'd)

B. Exemptions (Cont'd)

(1) State (Cont'd)

(c) . . . The legislature shall, by general law, provide for the payment to the State of Alabama of a franchise tax by such (foreign) corporation, but such franchise tax shall be based on the actual amount of capital employed in this state. Strictly benevolent, educational, or religious corporations shall not be required to pay such a tax. 15/

(2) Counties

No provisions.

(3) Other Local Units

No provisions

C. Borrowing and Use of Credit

(1) State

(a) After the ratification of this Constitution, no new debt shall be created against, or incurred by the state, or its authority except to repel invasion or to suppress insurrection, and then only by a concurrence of two-thirds of the members of each house of the legislature, . . . provided, the governor may be authorized to negotiate temporary loans, never to exceed three hundred thousand dollars, to meet the deficiencies in the treasury, and until the same is paid no new loan shall be negotiated; . . . 16/

15. Constitution, Art. XII, Sec. 232.

16. Amendment XXVI, Adopted 1933.

This amendment replaces section 213 which contained the same prohibition against the State's borrowing money. The amendment makes certain new provisions. It provides that bonds may be issued for the refunding of existing bonded indebtedness of the State. The net revenue of income taxes is pledged to pay off this old indebtedness. It further provides that it shall be unlawful for the State Treasurer to draw a warrant, unless there is money appropriated and available for its full payment. Furthermore if, at the end of any fiscal year, the amount of the just claims against the State is more than the amount of money in the treasury, the amount of money available shall be prorated, and a pro rata share of each claim paid, and the remainder declared null and void. Ibid.

(Footnote forwarded)

II. Financial Powers and Limitations (Cont'd)

C. Borrowing and Use of Credit (Cont'd)

(1) State (Cont'd)

(Footnote #16 - Continued)

This amendment was for the purpose of validating a floating debt heretofore incurred under appropriations in excess of revenues, and intended to prevent future deficits in the State treasury by providing that in case of a deficit, available funds were to be prorated, and all excess unpaid appropriations declared null and void. In re Opinion of the Justices, 227 Ala. 289, 149 So. 775 (1933).

Under this section the Legislature cannot create debt by appropriations in excess of revenues, by the creation of new offices or by expanding the functions of government, however important, or however insistent the public demand. Nor can executive officers create debt by issuance of warrants pursuant to appropriations, notwithstanding the holder has rendered a public service, advanced money, or materials for government uses. Hall vs. Blan, 227 Ala. 64, 148 So. 601 (1933).

An act providing for the issuance of bonds to permit construction of bridges where the bonds were payable solely out of tolls to be collected from the bridges and from the residue of the gasoline tax held not to violate section 213 of the Constitution since such bonds did not create a debt within the meaning of this section. A debt is created only when there is a pledge of the general credit of the State. Alabama State Bridge Corporation vs. Smith, 217 Ala. 311, 116 So. 695 (1928).

Yet a proposed act providing for the issuance of bonds to maintain and construct school buildings, the bonds to be payable solely out of funds in the State treasury appropriated for school purposes, and any special school taxes, held to violate section 213. The Justices stated that such an act was to be distinguished from the act mentioned in the case above and did create a debt within the meaning of section 213 without in any way explaining their reasons for this opinion. In re Opinions of Justices, 225 Ala. 356, 143 So. 289 (1932).

Also a proposed law providing for the issuance of special revenue certificates payable only out of a special fund to be created by setting aside a certain sum each year out of general funds to be used for the purpose of paying teachers' salaries held invalid under this section as creating a debt against the State. In re Opinion of the Justices, - Ala. -, 143 So. 808 (1932).

II. Financial Powers and Limitations (Cont'd)C. Borrowing and Use of Credit (Cont'd)(1) State (Cont'd)

(b) The State shall not engage in works of internal improvement, nor lend money or its credit in aid of such, except as may be authorized by the Constitution of Alabama or amendments thereto; nor shall the state be interested in any private or corporate enterprise, or lend money or its credit to any individual, association, or corporation, except as may be expressly authorized by the Constitution of Alabama, or amendments thereto; but when authorized by laws passed by the Legislature the state may appropriate funds to be applied to the construction, repair, and maintenance of public roads, highways and bridges in the state; and when authorized by appropriate laws passed by the Legislature the state may at a cost not exceeding ten million dollars engage in the work of internal improvements, or promoting, developing, constructing, maintaining, and operating all harbors and seaports within the state or its jurisdiction, . . . 17/

(c) The State is authorized to engage in the construction, improvement, repair and maintenance of public roads, highways, and bridges in the State of Alabama. To this end, and for this purpose, the State is authorized to appropriate funds; and also to issue and sell interest-bearing negotiable State bonds, in an amount not to exceed the sum of twenty-five million dollars (\$25,000,000.00) to be issued in such denominations, numbers, and series, and maturing at such time, as may be provided by law; but such bonds shall bear a rate of interest not greater than six percentum per annum, payable semi-annually, and shall be sold at a price not less than the par value thereof. Provided, that no bonds shall be issued or sold under this provision to such an amount that the interest thereon will exceed the net amount of vehicle license tax collected for the year preceding the issuance of the same, and which is set apart for the payment of interest on said bonds. . . 18/

17. Amendment XII, Adopted 1922.

This section replaces the original section 93 which contained no exceptions to the general prohibitory clause. It also replaces an amendment to the original section ratified in 1908 and allowing the use of the net proceeds from the State convict fund on the construction and repair of public roads. Amendment I, Adopted 1908.

Under this amendment the State may incur an indebtedness of not exceeding \$10,000,000 for port development, notwithstanding section 213 of the Constitution prohibiting borrowing by the State except in certain emergencies. In re Opinion of the Justices, 209 Ala. 593, 96 So. 487 (1923), see page 9, footnote 16.

18. Amendment XI, Adopted 1922.

An amendment authorizing the issuance of an additional
(Footnote forwarded)

II. Financial Powers and Limitations (Cont'd)

C. Borrowing and Use of Credit (Cont'd)

(2) Counties

(a) The legislature shall not have power to authorize any county, city, or town, or other subdivision of this state to lend its credit, or to grant public money or thing of value in aid of, or to any individual, association or corporation whatsoever, or to become a stockholder in any such corporation, association, or company, by issuing bonds or otherwise. 19/

(b) The legislature . . . shall have authority to pass general laws authorizing the counties, cities, towns, villages, districts, or other political subdivisions of counties to issue bonds, but no bonds shall be issued under authority of a general law unless such issue of bonds be first authorized by a majority vote by ballot of the qualified voters of such county, city, town, village, district, or other political subdivision of a county, voting upon such proposition. . . . This section shall not apply to the renewal, refunding, or issue of bonds lawfully issued, . . . 20/

(c) No county shall become indebted in an amount including present indebtedness, greater than three and one-half per centum of the assessed value of the property therein; provided, this limitation shall not affect any existing indebtedness in excess of such three and one-half per centum, which has already been created . . . provided, that any county which has already incurred a debt

(Footnote #18 - Continued)

\$25,000,000 in bonds for further construction of roads with similar provisions for retirement was adopted in 1927. The Legislature was directed to levy license and gasoline taxes to retire these bonds. Amendment XXI, Adopted 1927.

19. Constitution, Art. IV, Sec. 94.

The creation of a firemen's pension fund for retired firemen and for widows and orphans of deceased firemen does not violate this section because by such a system a municipality can increase the efficiency of its fire department, and it is not a gratuity but a part of the stipulated consideration for which firemen serve. *Cobbs vs. Home Insurance Company of New York*, 18 Ala. App. 206, 91 So. 627 (1921).

A statute appropriating county funds for the payment of compensation to a widow for a county employee's death held constitutional under this section as a recognition of an honorable claim against the public and therefore for a public purpose. *Board of Revenue & Road Commissioners vs. Puckett*, 227 Ala. 374, 149 So. 850 (1933).

20. Constitution, Art. XII, Sec. 222.

See page 13, footnote 21, and pages 13 and 14, footnote 22.

II. Financial Powers and Limitations (Cont'd)

C. Borrowing and Use of Credit (Cont'd)

(2) Counties (Cont'd)

exceeding three and one-half percentum of the assessed value of the property therein shall be authorized to incur an indebtedness of one and one-half percentum of the assessed value of such property in addition to the debt already existing. . . 21/

(3) Other Local Units

(a) No city, town, or other municipal corporation having a population of less than six thousand, except as hereafter provided, shall become indebted in an amount including present indebtedness, exceeding five percentum of the assessed value of the property therein, except for the construction of or purchase of water works, gas, or electric lighting plants, or sewerage, or for which purposes an additional indebtedness not exceeding three percentum may be credited; . . . All towns and cities having a population of six thousand or more, also Gadsden, Ensley, Decatur, and New Decatur, are hereby authorized to become indebted in an amount including present indebtedness, not exceeding seven percentum of the assessed valuation of the property therein, . . . 22/

21. Constitution, Art. XII, Sec. 224.

By amendment Mobile County is authorized to issue additional bonds for road purposes not to exceed six and one-half percentum of assessed property valuation, upon approval of the voters. Amendment XVIII, Adopted 1924.

A later amendment authorizes Mobile County to issue \$1,600,000 in bonds to be used exclusively in paying unbonded obligations of Mobile County and bonded obligations of said county existing September 30, 1936. Amendment XXIX, Adopted 1935.

Lawrence County is authorized by amendment to issue additional bonds not to exceed \$130,000 for the construction of a court house. Amendment XXX, Adopted 1935.

Although a county has reached its constitutional debt limit, it may nevertheless appropriate its anticipated revenues already assessed for the payment of its current obligations incurred for the year for which such revenues are assessed and payable. *Brown vs. Gay-Padgett Hardware Company*, 188 Ala. 423, 66 So. 161 (1914).

For cases defining what is a debt within the meaning of the Constitution see page 12, footnote 22.

22. Constitution, Art. XII, Sec. 225.

The section goes on to provide that these limits shall not apply to temporary loans, or for loans for public improvements which are to be paid for out of special assessments. The section does not apply to Sheffield or Tuscumbia. *Ibid.* (Footnote forwarded)

II. Financial Powers and Limitations (Cont'd)

C. Borrowing and Use of Credit (Cont'd)

(3) Other Local Units (Cont'd)

(b) No city, town, or village, whose present indebtedness exceeds the limitation imposed by this constitution, shall be allowed to become indebted in any further amount, except as otherwise provided in this constitution, until such indebtedness shall be reduced within such limit; provided, however, that nothing herein contained shall prevent any municipality, except the city of Gadsden, from issuing bonds already authorized by law; provided, further, that this section shall not apply to the cities of Sheffield and Tuscumbia. 23/

(Footnote #22 - Continued)

The Legislature may provide for Drainage Districts which districts are authorized to issue bonds to be paid for out of special assessments on the land improved. Amendments XXII Adopted 1928, and XV Adopted 1924.

Where a municipality issues bonds for the construction or purchase of a waterworks system, and pledges revenues therefrom for payment, and the municipality does not obligate itself otherwise to pay, the bond issue does not create "an indebtedness" within the meaning of this section. But where a municipality issues bonds for constructing extensions or improvements on an existing waterworks system and pledges revenues of the entire system for payment, such a bond issue does create "an indebtedness" within the meaning of this section because a fund other than that derived from the improvement is pledged in payment. In re Opinions of the Justices, 226 Ala. 570, 148 So. 111 (1933).

Also bonds issued to acquire an electric distribution system payable only out of revenues derived from the operation of this system do not constitute a "debt" within the meaning of this section. Oppenheim vs. City of Florence, 229 Ala. 50, 155 So. 859 (1934).

City warrants, to be issued in evidence of a loan, payable solely out of income to be derived from the wharf and improvements to be erected with the proceeds of the loan, and secured by a mortgage on such improvements, do not constitute a "debt" within the meaning of this section and so the limitations of this section do not apply. State ex rel. Radcliff vs. City of Mobile, 229 Ala. 93, 155 So. 872 (1934).

Improvement bonds are not subject to the limitations of this section provided that they are payable solely out of funds collected from the special assessments upon the property improved, and are not a general obligation of the city.

Baisden vs. City of Greenville, 215 Ala. 512, 111 So. 2 (1927).

23. Constitution, Art. XII, Sec. 226.

II. Financial Powers and Limitations (Cont'd)

D. Other Income

The income arising from the sixteenth section trust fund, the surplus revenue fund, until it is called for by the United States government, and the funds enumerated in sections 257 and 258 of this constitution, . . . shall be applied to the support and maintenance of the public schools, . . . 24/

E. Appropriations and Expenditures

(1) State

(a) No appropriation shall be made to any charitable or educational institution not under the absolute control of the state, other than normal schools established by law for the professional training of teachers for the public schools of the state, except by a vote of two-thirds of all the members elected to each house. 25/

(b) No money shall be paid out of the treasury except upon appropriations made by law, . . . 26/

(2) Counties

No provisions.

(3) Other Local Units

No provisions.

24. Constitution, Art. XIV, Sec. 260.

Sections 257 and 258 set aside for school purposes such funds as revenue from public lands, and escheats to the State. Constitution, Art. XIII, Sec. 257 and 258. Also all poll taxes shall be applied to the support of the public schools. Constitution, Art. XIII, Sec. 259.

25. Constitution, Art. IV, Sec. 73.

Medical College of Alabama is not under the absolute control of the State and hence an appropriation act for its benefit passed by less than two-thirds of all the members of the Legislature was invalid under this section. State ex rel. Medical College of Ala. vs. Sowell, 143 Ala. 494, 39 So. 246 (1905).

26. Constitution, Art. IV, Sec. 72.

16. Alabama

III. Provisions Affecting Legislation

A. Regular Sessions of the Legislature

The legislature shall meet quadrennially . . . on the second Tuesday in January next succeeding their election, or on such other day as may be prescribed by law; and shall not remain in session longer than sixty days at the first session held under the Constitution, nor longer than fifty days at any subsequent session . . . 27/

B. Special Sessions of the Legislature

(1) The Governor may, by proclamation, on extraordinary occasions, convene the legislature at the seat of government, . . . and he shall state specifically in such proclamation each matter concerning which the action of that body is deemed necessary. 28/

(2) When the legislature shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the Governor calling such session, except by a vote of two-thirds of each house. Special Sessions shall be limited to thirty days. 29/

C. Powers of Initiative and Referendum

No provisions.

27. Constitution, Art. IV, Sec. 48.

Under this section when a session of the Legislature is begun, it must proceed continuously for 50 days, not counting Sundays, unless by joint or concurrent actions of both houses adjournments over should be declared. By such joint or concurrent action the session may be extended until the time appointed by law for the meeting of the next Legislature, so long as 50 working days have not been used in actual session. In re Opinions of the Justices, rendered by request to the Governor. 216 Ala. 545, 546, 113 So. 621 (1927).

28. Constitution, Art. V, Sec. 122.

In case of a lengthy recess of the regular session of the Legislature, the Governor may convene the Legislature in extra session during the recess of the regular session. In re Opinions of the Justices, 222 Ala. 353, 132 So. 311 (1931).

29. Constitution, Art. IV, Sec. 76.

Here as in other cases two-thirds of the house means two-thirds of the members voting providing that those who vote constitute a quorum. In re Opinions of the Justices, 228 Ala. 140, 152 So. 901 (1934).

III. Provisions Affecting Legislation (Cont'd)

D. Legislative Enactments

(1) The legislature shall not pass a special, private, or local law in any of the following cases: . . . 30/

(2) Every bill shall be read on three different days in each house, . . . 31/

(3) The general appropriation bill shall embrace nothing but appropriations for the ordinary expenses of the executive, legislative, and judicial departments of the state, for interest on the public debt, and for the public schools. . . All other appropriations shall be made by separate bills, each embracing but one subject. 32/

(4) It shall be the duty of the legislature, at its first session after the ratification of this Constitution, and within every subsequent period of twelve years, to make provision by law for revising, digesting, and promulgating the public statutes of this state, of a general nature, both civil and criminal. 33/

IV. Constitution Amendment or Revision

A. By Proposal of Legislature

Amendments may be proposed to this constitution by the legislature in the manner following: 34/

30. Constitution, Art. IV, Sec. 104.

This section lists some 31 cases in which the Legislature shall not pass a special or private law. Among these cases are those authorizing local units to issue bonds, unless already approved by two-thirds of the voters, and the exemption of any property from taxation.

Other sections of the Constitution provide in more detail for the passage of local or special laws. Constitution, Art. IV, Sec. 105, 106, 107, 108, 109, 110, and 111.

The dominating purpose of this section was to compel the enactment of general laws, effective throughout the State, covering the subjects enumerated, and this applies with regard to provisions for the county agencies covering the assessment and collection of taxes. *Bridges vs. McWilliams*, 228 Ala. 135, 152 So. 457 (1934).

31. Constitution, Art. IV, Sec. 63.

32. Constitution, Art. IV, Sec. 71.

33. Constitution, Art. IV, Sec. 85.

34. Amendment XXIV, adopted 1933, replacing Art. XVIII, Sec. 284 of the Constitution.

The section provides that amendments may be introduced like other bills, that a proposed amendment to become law must be passed by a three-fifths majority of each house, and then approved (Footnote forwarded)

18. Alabama

IV. Constitutional Amendment or Revision (Cont'd)

B. By Proposal of People

No provision.

C. By Constitutional Convention

No convention shall hereafter be held for the purpose of altering or amending the constitution of this state, unless after the legislature by a vote of a majority of all the members elected to each house has passed an act or resolution calling a convention for such purpose the question of convention or no convention shall be first submitted to a vote of all the qualified electors of the state, and approved by a majority of those voting at such election. . . 35/

(Footnote #34 - Continued)

by a majority of the voters voting upon the issue at the general or special election at which submitted. The section provides the procedure for the election. Ibid.

Another section provides the form of the ballots to be used at the election. Constitution, Art. XVIII, Sec. 285.

A further section provides that the approval of the Governor shall not be necessary for acts proposing amendments to the Constitution or calling a constitutional convention. Constitution, Art. XVIII, Sec. 287.

35. Constitution, Art. XVIII, Sec. 286.



