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HARRY L. HOPKINS, ADMINISTRATOR

CORRINGTON GILL
ASSISTANT ADMINISTRATOR

HOWARD B. MYERS, DIRECTOR
SOCIAL RESEARCH DIVISION

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

OCTOBER 1, 1936

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.

Georgia

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ANALYSIS OF CONSTITUTIONAL PROVISIONS AFFECTING

PUBLIC WELFARE IN GEORGIA 1/

I. Incidence of Responsibility for Welfare Program

The Courts of Ordinary shall have such powers in relation to . . . paupers . . . as may be conferred on them by law. 2/

II. Financial Powers and Limitations

A. Taxation and Assessments

(1) State

(a) The powers of taxation over the whole State shall be exercised by the General Assembly for the following purposes, only:

-
1. Constitution (1877), with all amendments to September 1, 1936; and proposed amendments to be voted upon November, 1936.
 2. Constitution, Art. VI, Sec. 6, Par. 2.

Provision is made for one Ordinary for each county from whose decision appeals may be taken to the Superior Court. Constitution, Art. VI, Sec. 6, Par. 1.

When the administration of county affairs in a particular county is lodged with commissioners, the power over county matters usually exercised by the Ordinary devolves upon them, and they may discharge such functions with reference to county matters as are conferred on them by the act of their creation, which theretofore have been performed by the Ordinary. *Town of Decatur vs. De Kalb County*, 130 Ga. 483, 61 S. E. 23 (1908). *Dyer vs. Martin*, 132 Ga. 445, 64 S. E. 475 (1909).

The word "paupers" is defined as those persons only who are completely destitute, or those who are not able to maintain themselves by labor, or have not sufficient means to maintain themselves. "One desirous of sharing the provision for the county poor should make application to be provided for as a pauper to the commissioner of the poor or the ordinary, upon which a hearing must be had." *Clark vs. Walton*, 137 Ga. 277, 73 S. E. 392 (1911).

Since the State is authorized by the Constitution to provide pensions to Confederate veterans, whether or not they could be classified under the head of paupers, the counties may not provide for them from the pauper fund. *Clark vs. Walton*, 137 Ga. 277, 73 S. E. 392 (1911). See page 5, par. (c), and page 6, footnote 15.

See Constitution, Art. VIII, for provisions relating to education.

2. Georgia

II. Financial Powers and Limitations (Cont'd)

A. Taxation and Assessments (Cont'd)

(1) State (Cont'd)

For the support of the State Government and the public institutions. 3/

For educational purposes in instructing children in the elementary branches of an English education only. 3/

To pay the interest on the public debt. 3/

To pay the principal of the public debt. 4/

To suppress insurrection, to repel invasion, and defend the State in time of war. 3/

To supply the soldiers who lost a limb or limbs, in the military service of the Confederate States, with substantial artificial limbs during life; and make suitable provisions for such Confederate soldiers as may have been otherwise disabled or permanently injured in such service, or who may, by reason of age and poverty, or infirmity and poverty, or blindness and poverty, be unable to provide a living for themselves, and for the widows of such Confederate soldiers as may have died in the service of the Confederate States, or since, from wounds received therein, or disease contracted in the service, or who, by reason of age and poverty, or infirmity and poverty, or blindness and poverty, are unable to provide a living for themselves; . . . 5/

To make provisions for the payment of pensions to any ex-Confederate soldier, residing in this State January 1st, 1920, who enlisted in the military service of the Confederate States during the Civil War between the States of the United States, and who performed actual military service in the armies of the Confederate States or of the organized militia of this State and was honorably discharged therefrom; . . . Any soldier doing service in the Confederate army, whether he belonged to the Confederate army or whether he belonged to the militia of any Confederate State and served with the Confederate army, shall be eligible to draw a pension. 6/

To construct and maintain a system of State highways. 3/

3. Constitution, Art. VII, Sec. 1, Par. 1.

4. Ibid. See page 10, par. (c), and footnotes 33 and 34.

5. Ibid. This section applies only to widows married at the time of such service, and since remaining unmarried.

6. Ibid. Provision is also made for pensions to the widows of such soldiers who were married prior to January 1, 1881, unless such widow is receiving a pension on account of being also the widow of another such soldier. Ibid.

II. Financial Powers and Limitations (Cont'd)

A. Taxation and Assessments (Cont'd)

(1) State (Cont'd)

(b) The levy of taxes on property for any one year by the General Assembly for all purposes, except to provide for repelling invasion, suppressing insurrection, or defending the State in time of war, shall not exceed five mills on each dollar of the value of the property taxable in the State. 7/

(c) All taxation shall be uniform upon the same class of subjects, and ad valorem on all property subject to be taxed within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws. The General Assembly may however impose a tax upon such domestic animals as from their nature and habits are destructive of other property. 8/

7. Constitution, Art. VII, Sec. 1, Par. 2.

Since income is not property, a tax thereon does not come within the prohibitions of this section. *Featherstone vs. Norman*, 170 Ga. 370, 153 S. E. 58 (1930).

Inheritance tax, being "in the nature of a tax upon a privilege", does not come within the prohibitions of this section. *Martin vs. Pollock*, 144 Ga. 605, 87 S. E. 793 (1916); *Farkas vs. Smith*, 147 Ga. 503, 94 S. E. 1016 (1918).

8. Constitution, Art. VII, Sec. 2, Par. 1.

The General Assembly in imposing occupation taxes, may subdivide persons engaged in same business under different conditions, and tax only one of these subdivisions, provided classification is not arbitrary. Thus an act taxing lumber dealers and manufacturers located in or within three miles of certain specified municipalities, and exempting those located in rural districts was held constitutional under this section. *Guerry vs. Harrison*, 178 Ga. 669, 173 S. E. 831 (1934). *Milliron vs. Harrison*, 175 Ga. 764, 166 S. E. 231 (1932). But an occupation tax of \$15 to \$40 on grocery stores extending credit, and \$75 on cash and carry grocery stores was held to be arbitrary and unconstitutional under this section. *City of Douglas vs. South Georgia Grocery Co.*, 180 Ga. 519, 179 S. E. 768 (1934).

"A tax upon a business or occupation is not a tax upon property, within the ad valorem and uniformity clause." *City of Macon vs. Samples*, 165 Ga. 150, 145 S. E. 57 (1928); *Standard Oil Co. of Ky. vs. State Revenue Commission*, 179 Ga. 371, 176 S. E. 1 (1934).

A proposed amendment to be voted upon by the people in November, 1936, would, if ratified, substitute in the place of this provision the following: "All taxes shall be levied and collected under general laws for public purposes only. All (Footnote forwarded)

4. Georgia

II. Financial Powers and Limitations (Cont'd)

A. Taxation and Assessments (Cont'd)

(1) State (Cont'd)

(Footnote #8 - Continued)

taxation shall be uniform upon the same class of property subject to tax within the territorial limits of the authority levying the tax. Property which is subject to tax shall be divided into two (2) classes, to wit: Intangible property and tangible property.

"Intangible property shall consist of money, notes, accounts, stocks, bonds, and all other rights of action, and/or representative of value, but shall not include corporate franchises.

"Tangible properties shall include corporate franchises and all other classes of property not embraced in said definition of intangible properties.

"No tax in excess of five (5) mills on each dollar of the assessed value of such intangible properties shall be levied for all purposes of the State, the counties, the municipalities, and the other governmental subdivisions of the State. No tax shall be levied on the tangible property by this State or any governmental subdivision thereof, except as follows:

1. No tax in excess of five (5) mills on each dollar of the assessed value of tangible properties shall be levied by the counties of this State for all county purposes.

2. No tax in excess of five (5) mills on each dollar of the assessed value of tangible properties shall be levied for school purposes.

3. No tax in excess of five (5) mills on each dollar of the assessed value of tangible properties shall be levied by a municipality of this State for all municipal purposes.

"The General Assembly from time to time may provide the method of returning, assessing, levying, and collecting all taxes, and may apportion the same to the State and the governmental subdivisions thereof in accordance with the provisions of this section.

"Provided, that such property shall continue to be subject to taxation for the payment of the principal and interest of any legal indebtedness of the State and/or any political subdivisions thereof, existing as of January 1, 1936, and such bonded indebtedness as may be hereafter legally created and validated.

"Provided further, that nothing herein shall be construed to restrict or abridge the right of the General Assembly to assess and/or levy any form of taxes for governmental purposes, but the General Assembly is specifically authorized to assess and levy such forms of taxes as it may seem proper not in conflict herewith." Georgia Laws (1935), Part V, Title I, p. 1240.

II. Financial Powers and Limitations (Cont'd)

A. Taxation and Assessments (Cont'd)

(1) State (Cont'd)

(d) No poll tax shall be levied except for educational purposes, and such tax shall not exceed one dollar annually upon each poll. 9/

(e) No person shall be deprived of life, liberty, or property, except by due process of law. 10/

(2) Counties

(a) Each county shall be a body corporate, with such powers and limitations as may be prescribed by law . . . 11/

(b) The General Assembly shall have the power to consolidate and combine all governmental functions and powers now vested in and exercised by cities and municipalities having a population of more than 52,900 according to the Federal census of 1920, with the governmental functions and powers now vested in and exercised by the authorities of the county in which such cities or municipalities are situated; to create, designate, and give a name to political subdivisions composed of the entire area of such counties; . . . to divide such political subdivisions into districts; to fix a maximum rate of ad valorem taxation to be levied by authority of such political subdivisions, within the various districts, without regard to the uniformity of the rate; . . . 12/

(c) The General Assembly shall not have power to delegate to any county the right to levy a tax for any purpose, except for educational purposes 13/; to build and repair the public buildings and bridges; to maintain and support prisoners; to pay

9. Constitution, Art. VII, Sec. 2, Par. 3.

10. Constitution, Art. I, Sec. 1, Par. 3.

11. Constitution, Art. XI, Sec. 1, Par. 1.

12. Constitution, Art. XI, Sec. 1, Par. 2-a.

This provision does not apply to cities and municipalities, the corporate limits of which are included within more than one county. The section further provides for the method of ratification of a special act creating such political subdivisions by the voters therein. Ibid.

13. The Legislature may authorize the counties to levy a tax for the services of an itinerant demonstrator of agricultural and home economics. Bowers vs. Hanks, 152 Ga. 659, 111 S. E. 38 (1922).

II. Financial Powers and Limitations (Cont'd)

A. Taxation and Assessments (Cont'd)

(2) Counties (Cont'd)

jurors and coroners, and for litigation, quarantine 14/, roads, and expenses of courts; to support paupers 15/ and pay debts heretofore existing; to pay the county police, and to provide for necessary sanitation 16/, and for the collection and preservation of records of birth, death, disease, and health. 17/

(d) Any county, municipal corporation or political division of this State which shall incur any bonded indebtedness under the provisions of this Constitution shall 18/ at or before

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14. A county tax for the procurement of vaccine for the prevention of the spread of small pox held unconstitutional under this section since the term "quarantine" means only the confinement of those persons exposed to, or suspected of being afflicted with the disease. *Daniel vs. Putnam County*, 113 Ga. 570, 38 S. E. 980 (1901).
15. The General Assembly has and exercises the power of providing by State taxation for the payment of pensions to Confederate soldiers, and can confer no authority for paying pensions to indigent, blind soldiers out of the funds to be raised by county taxation. *Elder vs. Collier*, 100 Ga. 342, 28 S. E. 116 (1897); *Verdery vs. Walton*, 137 Ga. 213, 73 S. E. 390 (1911).
16. Building a county owned hospital for sick convicts, paupers, and indigent poor, with limited facilities for pay patients, by use of proceeds of highway department refunding certificates issued to county under statute, held a valid use of the county tax power. *Griner vs. Board of Commissioners of Bulloch County*, 180 Ga. 619, 180 S. E. 118 (1935).
17. Constitution, Art. VII, Sec. 6, Par. 2.
County may levy tax for accumulated debts and current expenses in amount equal to State tax. *Central of Georgia Railway Company vs. Wright*, 165 Ga. 631, 142 S. E. 292 (1928); *Central of Ga. Ry. Company vs. Effingham County*, 37 Ga. App. 763, 142 S. E. 303 (1928); *Southern Ry. Company vs. Gordon County*, 173 Ga. 907, 161 S. E. 824 (1931).
County funds not derived from taxation may be applied to any purpose for which the county has authority to apply public funds. *Tate vs. City of Elberton*, 136 Ga. 301, 71 S. E. 420 (1911); *McGinnis vs. McKinnon*, 165 Ga. 713, 141 S. E. 910 (1928).
So much of Workmen's Compensation Act as requires counties to insure employees against personal injuries and death, held unconstitutional under this section. *Floyd County vs. Scoggins*, 164 Ga. 485, 139 S. E. 11 (1927). But cf. *City of Atlanta vs. Pickens*, 176 Ga. 833, 169 S. E. 99 (1933) where the Compensation Act as applied to municipalities was held constitutional. See page 11, par. (e) and footnote 36.
18. The word "shall" is interpreted as mandatory. *Wilkins vs. City of Waynesboro*, 116 Ga. 359, 42 S. E. 767 (1902).

II. Financial Powers and Limitations (Cont'd)

A. Taxation and Assessments (Cont'd)

(2) Counties (Cont'd)

the time of so doing provide for the assessment and collection of an annual tax sufficient in amount to pay the principal and interest of said debt, within thirty years from the date of the incurring of said indebtedness. 19/

(3) Other Local Units

(a) See page 5, par. (b).

(b) See page 6, par. (d), and footnote 19 below.

B. Exemptions

(1) State

(a) The General Assembly may, by law, exempt from taxation all public property; places of religious worship or burial; all institutions of purely public charity 20/; all buildings 21/ erected for and used as a college 22/, incorporated academy, or other seminary

19. Constitution, Art. VII, Sec. 7, Par. 2.

An Act authorizing a municipality to issue bonds with provisions for an annual tax sufficient to pay the interest on the bonds, and a sinking fund to pay the principal, but without provision for an annual tax sufficient to pay the principal, held unconstitutional under this section. *Wilkins vs. City of Waynesboro*, 116 Ga. 359, 42 S. E. 767 (1902).

"This does not . . . mean that the municipal authorities are compelled to collect this tax, if when the time arrives for payment of any part of the debt, either principal or interest, there are funds in the treasury derived from other sources, which may be lawfully applied to the payment of the debt." *Epping vs. City of Columbus*, 117 Ga. 263, 43 S. E. 803 (1903).

Where a city has failed to levy a tax to pay the principal of its bonded indebtedness, a sinking fund set aside for such purpose, may not be diverted to another purpose. *Matthews vs. Darby*, 165 Ga. 509, 141 S. E. 304 (1928).

20. Hospital supported in substantial part by donations and largely by income derived from pay patients held not exempt as an institution of purely public charity not used for corporate profit. *Richardson vs. Executive Committee of Baptist Convention*, 176 Ga. 705, 169 S. E. 18 (1933).
21. Buildings are "construed to embrace the land upon which they are located and the land adjacent thereto necessary for their proper use, occupancy, and enjoyment". *Mayor of City of Gainesville vs. Brenau College*, 150 Ga. 156, 103 S. E. 164 (1920); *Baggett vs. Georgia Conference, Association of Seventh Day Adventists*, 157 Ga. 488, 121 S. E. 838 (1924).
22. College buildings are exempt where tuition is used only to pay for teachers' salaries and maintenance and repair of the institution. *Linton vs. Lucy Cobb Institute*, 117 Ga. 678, 45 S. E. 53 (1903).

II. Financial Powers and Limitations (Cont'd)

B. Exemptions (Cont'd)

(1) State (Cont'd)

of learning, and also all funds or property held or used as endowment by such colleges, incorporated academies or seminaries of learning, provided the same is not invested in real estate; and provided, further, that said exemption shall only apply to such colleges, incorporated academies or other seminaries of learning as are open to the general public; provided, further, that all endowments to institutions established for white people shall be limited to white people, and all endowments to institutions established for colored people shall be limited to colored people; the real and personal estate of any public library, and that of any other literary association, used by or connected with such library; all books and philosophical apparatus; and all paintings and statuary of any company or association, kept in a public hall, and not held as merchandise or for purposes of sale or gain; provided, the property so exempted be not used for purposes of private or corporate profit and income. 23/ The General Assembly shall further have power to exempt from taxation, farm products, including baled cotton, grown in this State and remaining in the hands of the producer, but not longer than for the year next after the production. 24/

(b) All laws exempting property from taxation other than the property herein enumerated shall be void. 25/

(2) Counties

Any person, natural or artificial, a resident of this State, who may after January 1st, 1924, build, equip, establish or enlarge a plant for the manufacture or processing of cotton 26/,

23. "Property used for raising income is not exempt, although the income may be used for charitable purposes, but property used for charitable purposes is not taxable, although in the operation of the charity incidental income may be derived." *Linton vs. Lucy Cobb Institute*, 117 Ga. 678, 45 S. E. 53 (1903).

24. Constitution, Art. VII, Sec. 2, Par. 2.

The Constitution, Art. IX, Sec. 1, Par. 1, defines a homestead covering personal and real property to the extent of \$1,600 and Art. IX, Sec. 4, Par. 1, recognizes another form of homestead previously created by statute covering miscellaneous property which might exceed \$1,600. Neither of these homesteads is exempted from taxation. Art. IX, Sec. 2, Par. 1.

25. Constitution, Art. VII, Sec. 2, Par. 4.

26. Held not to include a cotton ginnery, since "processing" only refers to manufacturing processes subsequent to ginning. *Georgia Warehouse Company vs. Jolley*, 172 Ga. 172, 157 S. E. 276 (1931).

II. Financial Powers and Limitations (Cont'd)

B. Exemptions (Cont'd)

(2) Counties (Cont'd)

wool, linen, silk, rubber, clay, wood, metal, metallic or non-metallic mineral or combination of same, creamery or cheese plant 27/; or for the production or development of electricity, may, as to such building, enlargement, or equipment, be exempt from all county, incorporated town or city ad valorem taxes for a period of time not exceeding five years from the date of the beginning of the building, enlargement or equipment of such plants. . . 28/

(3) Other Local Units

See page 8, par. 2, and footnote 26; also footnotes 27 and 28 below.

C. Borrowing and Use of Credit

(1) State

(a) No debt shall be contracted by, or on behalf of the State, except to supply such temporary deficit as may exist in the treasury in any year from necessary delay in collecting the taxes of that year, to repel invasion, suppress insurrection, and defend the State in time of war, or to pay the existing public debt; but the debt created to supply deficiencies in revenue shall not exceed, in the aggregate, five hundred thousand dollars, and any loan made for this purpose shall be repaid out of the taxes levied for the year in which the loan is made. 29/ However, said debt may be increased in the sum

27. Held to include a manufacturer of ice cream and related products. Miller vs. Pitts, 179 Ga. 789, 177 S. E. 587 (1934).

28. Constitution, Art. VII, Sec. 2, Par. 2-a.

Acquisition by a cotton manufacturing corporation of a warehouse held not an enlargement of its plant, and not essential to its operation so as to come within this section. City of Columbus vs. Muscogee Manufacturing Company, 165 Ga. 259, 140 S. E. 860 (1927).

29. An act authorizing the setting apart of the rentals due the State from a railroad as a special fund, and the drawing of warrants against the fund, and using the proceeds to meet the State's obligations then incurred, and for other purposes, held not to create a debt by or in behalf of the State, since the warrants were payable exclusively out of that fund. Wright vs. Hardwick, 152 Ga. 302, 109 S. E. 903 (1921); Harrison vs. Hardman, 169 Ga. 435, 150 S. E. 542 (1929).

II. Financial Powers and Limitations (Cont'd)

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

(1) State (Cont'd)

of three million, five hundred thousand dollars for the payment of the public school teachers of the State only. The principal amount borrowed for payment of teachers to be repaid each year out of the common school appropriation, and the interest paid thereon to be paid each year out of the general funds of the State. 30/

(b) The bonded debt 31/ of the State shall never be increased, except to repel invasion, suppress insurrection or defend the State in time of war. 32/

(c) The General Assembly shall raise, by taxation, each year, in addition to the sum required to pay the public expenses and interest on the public debt, the sum of one hundred thousand dollars, which shall be held as a sinking fund, to pay off and retire the bonds of the State which have not yet matured, and shall be applied to no other purpose whatever. 33/ If the bonds cannot at any time be purchased at or below par, then the sinking fund herein provided for may be loaned by the Governor and Treasurer of the State; provided, the security which shall be demanded for said loan shall consist only of the valid bonds of the State; . . . 34/

(d) The credit of the State shall not be pledged or loaned to any individual, company, corporation or association and the State shall not become a joint owner or stockholder in any company, association or corporation. 35/

30. Constitution, Art. VII, Sec. 3, Par. 1.

31. The word "debt" on a given date is the principal amount of all the State's obligations, plus the past-due and unpaid interest on that date. Epping vs. City of Columbus, 117 Ga. 263, 43 S. E. 803 (1903).

32. Constitution, Art. VII, Sec. 12, Par. 1.

33. The application of this fund to the bonded debt is legal only when it has the effect to pay off and cancel one or more obligations of the State. It may not be devoted to the payment of interest alone. Park vs. Candler, 114 Ga. 466, 40 S. E. 523 (1902).

34. Constitution, Art. VII, Sec. 14, Par. 1.

35. Constitution, Art. VII, Sec. 5, Par. 1.

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

(e) The General Assembly shall not, by vote, resolution or order grant any donation or gratuity in favor of any person, corporation or association. 36/

(2) Counties

(a) See page 12, par. (a), and footnotes 39 and 40.

(b) See page 6, par. (d), and footnote 18; also page 7, footnote 19.

(c) The State shall not assume the debt, nor any part thereof, of any county, municipal corporation, or political subdivision of the State, unless such debt be contracted to enable the State to repel invasion, suppress insurrection, or defend itself in time of war: . . . 37/

(d) The General Assembly shall not authorize any county, municipal corporation, or political division of this State to become a stockholder in any company, corporation, or association, or to appropriate money for, or loan its credit to any corporation, company, association, institution or individual except for purely charitable purposes. This restriction shall not operate to prevent the support of schools by municipal corporations within their respective limits. . . 38/

36. Constitution, Art. VII, Sec. 16, Par. 1.

Workmen's Compensation Act requiring municipal corporations to insure their employees against personal injury or death held constitutional under this section. Recognizing the unconstitutionality of similar county insurance under par. (c), page 5 (Art. VII, Sec. 6, Par. 2.) the court stated: "The Legislature has more liberal control of municipalities than of counties, since the latter are safeguarded more strictly in the Constitution." *City of Atlanta vs. Pickens*, 176 Ga. 833, 169 S. E. 99 (1933). See page 5, par. (c) and page 6, footnote 17.

A grant to a railroad without consideration of a right of way being in aid of a public purpose from which great benefit is expected is not a gratuity under this section. *State of Georgia vs. Trustees of the Cincinnati So. Ry. et al.*, 248 U. S. 26, 39 S. Ct. 14, 63 L. Ed. 104 (1918).

37. Constitution, Art. VII, Sec. 8, Par. 1.

38. Constitution, Art. VII, Sec. 6, Par. 1.

A contract between the State highway board and Hall County whereby the county agreed to grade that portion of the State-aid road within its borders, for a consideration to be paid by the State highway board, less a stipulated percentage to be borne by the county was held valid under this section. *Spain vs. Hall County*, 175 Ga. 600, 165 S. E. 612 (1932).

II. Financial Powers and Limitations (Cont'd)

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

3. Other Local Units

(a) The debt hereafter incurred by any county, municipal corporation or political division of this State except as in this Constitution provided for, shall never exceed seven per centum of the assessed value of all the taxable property therein and no such county, municipality or division shall incur any new debt except for a temporary loan or loans, to supply casual deficiencies of revenue, not to exceed one fifth of one per centum of the assessed value of the taxable property therein, without the assent of two thirds of the qualified voters thereof, voting at an election for that purpose to be held as prescribed by law: 39/ Provided, said two thirds so voting shall be a majority of the registered voters . . . any city the debt of which does not exceed seven per centum of the assessed value of the taxable property at the time of the adoption of this Constitution may be authorized by law to increase at any time the amount of said debt three per centum upon such assessed valuation. 40/

39. "Any liability which (is) not to be discharged by money already in the treasury, or by taxes to be levied during the year in which the contract under which the liability arose (is) made, is a debt, within the meaning of (this section), and cannot be incurred without the preliminary sanction of a popular vote, unless it be for a temporary loan to supply casual deficiencies of revenue." City Council of Dawson vs. Waterworks Company, 106 Ga. 696, 32 S. E. 907 (1899); Butts County vs. Jackson Banking Company, 129 Ga. 801, 60 S. E. 149 (1908).

"County commissioners have no authority to contract in behalf of a county for a loan of money (not to supply casual deficiencies of revenue) to be used in defraying current expenses, although the general design be to discharge the notes given for such loan from the anticipated revenues of the current year." Baker vs. Rockdale County, 161 Ga. 245, 130 S. E. 684 (1925).

40. Constitution, Art. VII, Sec. 7, Par. 1.

Twenty amendments to this section have been adopted, of purely local application, allowing additional indebtedness. One of these provided that the "County of Stephens, for the purpose of owning, erecting, equipping, and operating a hospital for medical and surgical treatment, may incur a bonded indebtedness of sixty thousand (\$60,000.00) dollars, in addition to and separate from the amount of debt hereinbefore in this paragraph allowed to be incurred, and may levy taxes to retire the principal and interest of said bonds; said bonds to be issued under the general law providing for county bond issues." Georgia Laws (1929), Part I, Title III, No. 195, page 142; ratified Nov. 4, 1930. (Footnote forwarded)

II. Financial Powers and Limitations (Cont'd)

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

(3) Other Local Units (Cont'd)

(b) Reserving to the municipal corporations the benefit of all provisions of the constitution of force in this State, the General Assembly is hereby empowered to authorize any municipal corporation within this State having a population of one hundred and fifty thousand or more, according to the census of the United States government taken next preceding the approval of any Act passed in pursuance hereof, to incur a bonded debt or debts for the public purposes of such municipality, the said debt or debts so to be incurred to be for such sums and to be secured after such manner, and to be paid principal and interest at such times and such places and by such means and upon such terms as the General Assembly may prescribe. Provided, however, That no act conferring the powers aforesaid or any of them shall become operative until the same shall have been affirmed at a general election held for the election of a mayor and general council in such municipality by two-thirds of the qualified voters thereof who may vote at said election. Such two-thirds to constitute at least a majority of the qualified voters of said municipality. 41/

(c) See page 6, par. (d), and footnote 18; also page 7, footnote 19.

(Footnote #40 - Continued)

Another such amendment authorized the County of Ware to increase its bonded indebtedness in the sum of two hundred and fifty thousand (\$250,000.00) dollars at an interest rate of not more than five per centum per annum, said bonds to run for no longer periods than thirty years, and in such denominations as the county authorities should determine, for the purpose of building, constructing, and equipping a hospital, said county authorities providing for payment for such medical and surgical treatment and care in such hospital, excepting only charity cases. Georgia Laws (1927), Part I, Title III, No. 370, page 124; ratified Nov. 6, 1928.

41. Laws (1918), page 915.

This section has no official citation, but has been held to be cumulative of the provisions of Art. VII, Sec. 7, par. 1. See page 12, par. (a) and footnote 40. Brown vs. City of Atlanta, 152 Ga. 283, 109 S. E. 666 (1921).

Until an enabling act has been passed, to carry this section into effect, such a municipality is limited by the provisions of Art. VII, Sec. 7, Par. 1. Ibid.

14. Georgia

II. Financial Powers and Limitations (Cont'd)

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

3. Other Local Units (Cont'd)

(d) Municipal corporations shall not incur any debt until provision therefor shall have been made by the municipal Government. 42/

(e) See page 11, par. (c), and footnote 37.

(f) See page 11, par. (d), and footnote 38.

D. Other Income

The proceeds of the sale of the Western and Atlantic, Macon and Brunswick or other railroads, held by the State and any other property owned by the State, whenever the General Assembly may authorize the sale of the whole or any part thereof, shall be applied to the payment of the bonded debt of the State, and shall not be used for any other purpose whatever, so long as the State has any existing bonded debt 43/; provided, that the proceeds of the sale of the Western and Atlantic Railroad shall be applied to the payment of the bonds for which said railroad has been mortgaged, in preference to all other bonds. 44/

E. Appropriations and Expenditures

(1) State

(a) No money shall be drawn from the Treasury except by appropriation made by law, and a regular statement and account of the receipts and expenditure of all public money be published every three months, and, also, with the laws passed by each session of the General Assembly. 45/

42. Constitution, Art. VII, Sec. 10, Par. 1.

"A municipal corporation cannot lawfully issue bonds until the consent of the qualified voters has been obtained in the manner prescribed by law." Epping vs. City of Columbus, 117 Ga. 263, 43 S. E. 803 (1903).

43. This mandate is met when such proceeds are devoted to the payment of the interest of the public debt, because the interest contracted to be paid is as much a part of that debt as the principal named in the bond. Park vs. Candler, 114 Ga. 466, 40 S. E. 523 (1902).

This fund known as the "public property fund" must remain a separate fund in the treasury, even during years "when it is not needed to discharge the public debt, and during a time when other demands due by the State must be discharged by taxation, which demands could be temporarily met by the use of the public property fund." Park vs. Candler, 113 Ga. 647, 39 S. E. 89 (1901).

44. Constitution, Art. VII, Sec. 13, Par. 1.

45. Constitution, Art. III, Sec. 7, Par. 11.

II. Financial Powers and Limitations (Cont'd)

E. Appropriations and Expenditures (Cont'd)

(1) State (Cont'd)

(b) No money shall ever be taken from the public treasury 46/, directly or indirectly, in aid of any church, sect, or denomination of religionists, or of any sectarian institution. 47/

(c) See page 11, par. (e), and footnote 36.

(2) Counties

See page 11, par. (d), and footnote 38.

(3) Other Local Units

See page 11, par. (d), and footnote 38.

III. Provisions Affecting Legislation

A. Regular Sessions of Legislature

The General Assembly shall meet on the second Monday in January, 1933, and biennially thereafter on the same date until the day shall be changed by law. Such session shall continue no longer than ten days, . . . 48/ The General Assembly shall reconvene in regular session on the second Monday after the 4th of July, 1933, and biennially thereafter on the same date until the date shall be changed by law. No such regular session . . . shall continue longer than sixty days: . . . Provided further, that the General Assembly, by concurrent resolution adopted by the votes of a majority of a quorum of House and Senate during said special session above provided for, and approved by the Governor, is hereby authorized to fix a date for reconvening in regular session prior to date above provided for, in lieu of the date definitely fixed hereinabove . . . 49/

46. This is interpreted to include State, county and municipal treasuries. Bennett vs. City of La Grange, 153 Ga. 428, 112 S. E. 482 (1922).

47. Constitution, Art. I, Sec. 1, Par. 14.

48. The business to be transacted at such meeting is limited to the election of the officers and committeemen of the General Assembly, inauguration or election of the Governor, and other State house officers, impeachment and trial of public officers, and introduction and first reading of bills and resolutions. Constitution, Art. III, Sec. 4, Par. 3.

49. Constitution, Art. III, Sec. 4, Par. 3.

Both of the above mentioned sessions may be prolonged if, at the time for adjournment, an election or trial of impeachment is uncompleted. Ibid.

III. Provisions Affecting Legislation (Cont'd)

B. Special 50/ Sessions of Legislature

. . . (The Governor) shall have power to convoke the General Assembly on extraordinary occasions, but no law shall be enacted at called sessions of the General Assembly, except such as shall relate to the object stated in his proclamation convening them. 51/

C. Powers of Initiative and Referendum

No provision.

50. The word "special" in this heading is used to promote uniformity in this series of bulletins. It should not be confused with the "special session" referred to on page 15, Sec. III, par. A.

51. Constitution, Art. V, Sec. 1, Par. 13.

"(The Governor) alone is to determine when there is an extraordinary occasion for convening the Legislature . . . Neither the legislative nor the judicial department of the Government has any power to call him to account, nor can they or either of them review his action in connection therewith . . . The Constitution places no limit upon the number of objects which may be stated by the Governor as the subject for legislation." *Bunger vs. State*, 146 Ga. 672, 92 S. E. 72 (1917).

An extraordinary session called "To consider legislation broadly upon the disposition . . . to be made of persons convicted of crime, . . . including the establishment of a plan . . . for the management, confinement, and labor of convicts . . . together with the raising of revenue and the appropriation of money to carry out such plans, and to provide for the establishment of juvenile courts and reformatories", held to authorize an act requiring a license from all persons selling imitations of beer, ale, wine, and whisky, for the purpose of obtaining revenue to be used in the development and conduct of the penitentiary system, and to buy farm lands and equipment as may be needed for the management, control, and employment of the convicts. *Carroll vs. Wright*, 131 Ga. 728, 63 S. E. 260 (1908).

An extraordinary session called "To consider the question of amending the automobile license tax . . . so as to secure the collection and disposition of the same", held not to authorize an act forbidding any person from operating any vehicle at a speed exceeding 30 miles per hour, or while the operator was intoxicated. *Jones vs. State*, 151 Ga. 502, 107 S. E. 765 (1921).

III. Provisions Affecting Legislation (Cont'd)D. Legislative Enactments

(1) Every bill, before it shall pass, shall be read three times 52/, and on three separate days, in each House, unless in cases of actual invasion or insurrection, but the first and second reading of each local bill, and bank and railroad charters, shall consist of the reading of the title only, unless said bill is ordered to be engrossed. 53/

(2) No law or ordinance shall pass which refers to more than one subject matter, or contains matter different from what is expressed in the title thereof. 54/

(3) The general appropriation bill shall embrace nothing except appropriations fixed by previous laws, the ordinary expenses of the Executive, Legislative and Judicial Departments of the Government, payment of the public debt and interest thereon, and for support of the public institutions and educational interests of the State. All other appropriations shall be made by separate bills, each embracing but one subject. 55/

(4) All bills for raising revenue, or appropriating money, shall originate in the House of Representatives, but the Senate may propose, or concur in amendments, as in other bills. 56/

(5) . . . no bill, ordinance or resolution, intended to have the effect of a law, which shall have been rejected by either house, shall be again proposed during the same session, under the same or any other title, without the consent of two-thirds of the house by which the same was rejected. 57/

52. See page 15, III, A, and footnote 48.

53. Constitution, Art. III, Sec. 7, Par. 7.

The various provisions of a Code of laws adopted by the Legislature need not be read provided that the adopting act is itself read three times. *Central of Georgia Ry. Company vs. State*, 104 Ga. 831, 31 S. E. 531, 42 L. R. A. 518 (1898); 55 L. R. A. 835 note.

54. Constitution, Art. III, Sec. 7, Par. 8.

"Provisions germane to the general subject-matter embraced in the title of an act, and which are designed to carry into effect the purposes for which it is passed, may be constitutionally enacted therein, though not referred to in the title otherwise than by use of the words "and for other purposes".' *Wright vs. Fulton County*, 169 Ga. 354, 150 S. E. 262 (1929)." *Southern Ry. Company vs. Bateman Fruit Exchange*, 173 Ga. 826; 162 S. E. 112 (1931); *Green vs. Harper*, 177 Ga. 680, 170 S. E. 872 (1933).

This provision has no application to municipal ordinances. *Watkins vs. Simmons*, 179 Ga. 162, 175 S. E. 493 (1934).

55. Constitution, Art. III, Sec. 7, Par. 9.

56. Constitution, Art. III, Sec. 7, Par. 10.

57. Constitution, Art. III, Sec. 7, Par. 13.

III. Provisions Affecting Legislation (Cont'd)

D. Legislative Enactments (Cont'd)

(6) No bill shall become a law unless it shall receive a majority of the votes of all the members elected to each House of the General Assembly, and it shall, in every instance, so appear in the Journal. 58/

(7) Laws of a general nature shall have uniform operation throughout the State, and no special law shall be enacted in any case for which provision has been made by an existing general law. No general law affecting private rights, shall be varied in any particular case, by special legislation, except with the free consent, in writing, of all persons to be affected thereby; . . . 59/

(8) No local or special bill shall be passed, unless notice of the intention to apply therefor shall have been published in the locality where the matter or thing to be affected, may be situated, which notice shall be given at least thirty days prior to

58. Constitution, Art. III, Sec. 7, Par. 14.

"When an enrolled act is signed by the presiding officers of both houses, approved by the Governor, and deposited in the office of the Secretary of State, it will be conclusively presumed that the measure was properly put to a vote in both houses and that it received a constitutional majority; and the court will not upset the act because the journals of the houses happen to show that it did not receive a majority of the votes of either or both branches of the Legislature." Atlantic Coast Line R. Company vs. State, 135 Ga. 545, 69 S. E. 725 (1910).

59. Constitution, Art. I, Sec. 4, Par. 1.

An act establishing a county manager form of government in all counties with a population of 44,051 (of which De Kalb County was the only one) upon a majority vote of the qualified voters in such county, voting at an election for that purpose was held to be a special act and unconstitutional under this section, in view of an existing general law providing for county manager form of government on a majority vote of all the qualified voters of a county. Marbut vs. Hollingshead, 172 Ga. 531, 158 S. E. 28 (1931).

Where a general act provided that the certificates of indebtedness issued to a county by the State highway department, should first be used to retire the outstanding indebtedness of the county incurred by it for road construction, and any surplus should be used "for any other proper and legal county purpose", a subsequent special act, requiring the commissioners of Dooly County to set aside \$50,000 of the certificates for the construction and equipment of the county high schools, was held unconstitutional as irreconcilable with the general act. Board of Education of Dooly County vs. Board of Commissioners etc., - Ga. -, 185 S. E. 331 (1936).

III. Provisions Affecting Legislation (Cont'd)

D. Legislative Enactments (Cont'd)

the introduction of such bill into the General Assembly, and in the manner to be prescribed by law. The evidence of such notice having been published, shall be exhibited in the General Assembly before such act shall be passed. 60/

(9) No law, or section of the Code, shall be amended or repealed by mere reference to its title, or to the number of the section of the Code, but the amending, or repealing act, shall distinctly describe the law to be amended or repealed, as well as the alteration to be made. 61/

(10) Every vote, resolution, or order, to which the concurrence of both houses may be necessary, except on a question of election or adjournment, shall be presented to the Governor, and before it shall take effect be approved by him, or, being disapproved, shall be re-passed by two-thirds of each house. 62/

(11) The Governor shall have the revision of all bills passed by the General Assembly before the same shall become laws, but two-thirds of each house may pass a law notwithstanding his dissent, and if any bill should not be returned by the Governor within five days (Sunday excepted) after it has been presented to him, the same shall be a law; unless the General Assembly, by their adjournment, shall prevent its return. He may approve any appropriation, and disapprove any other appropriation, in the same bill, and the latter shall not be effectual, unless passed by two-thirds of each house. 63/

(12) No provision in this Constitution, for a two-thirds vote of both houses of the General Assembly, shall be construed to waive the necessity for the signature of the Governor, as in any other case, except in the case of the two-thirds vote required to override the veto, and in case of prolongation of a session of the General Assembly. 64/

60. Constitution, Art. III, Sec. 7, Par. 16.

"The court must presume that the requisite publication was made." Cowan vs. City of Atlanta, 177 Ga. 470, 170 S. E. 356 (1933).

61. Constitution, Art. III, Sec. 7, Par. 17.

62. Constitution, Art. V, Sec. 1, Par. 17.

63. Constitution, Art. V, Sec. 1, Par. 16.

64. Constitution, Art. III, Sec. 7, Par. 23.

IV. Constitutional Amendment or Revision

A. By Proposal of Legislature or People

Any amendment or amendments to this Constitution may be proposed in the Senate or House of Representatives and if the same shall be agreed to by two-thirds of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon. And the General Assembly shall cause such amendment or amendments to be published in one or more newspapers in each Congressional District, for two months previous to the time of holding the next general election and shall also provide for a submission of such proposed amendment or amendments, to the people at said next general election, and if the people shall ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the General Assembly, voting thereon, such amendment or amendments, shall become a part of this Constitution. When more than one amendment is submitted at the same time they shall be so submitted as to enable the electors to vote on each amendment separately. 65/

B. By Constitutional Convention

No Convention of the people shall be called by the General Assembly to revise, amend or change this Constitution, unless by the concurrence of two-thirds of all the members of each house of the General Assembly. The representation in said convention shall be based on population as near as practicable. 66/

65. Constitution, Art. XIII, Sec. 1, Par. 1.

66. Constitution, Art. XIII, Sec. 1, Par. 2.

