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

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Preface

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

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

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

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

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ANALYSIS OF CONSTITUTIONAL PROVISIONS AFFECTING
PUBLIC WELFARE IN IOWA 1/

I. Incidence of Responsibility for Welfare Program

No provision.

See page 8, footnote 26.

II. Financial Powers and Limitations

A. Taxation and Assessments

(1) State

(a) The General Assembly shall not pass local or special 2/ laws in the following cases: . . . For the assessment and collection of taxes for State, county, or road purposes; . . . In all the cases above enumerated, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the State. 3/

(b) All laws of a general nature shall have a uniform operation; the General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms shall not equally belong to all citizens. 4/

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1. Constitution (1857), with all amendments to November 15, 1936.
 2. The words "local" and "special" as here used are synonymous. Eckerson vs. City of Des Moines, 137 Iowa 452, 115 N. W. 177 (1908).
 3. Constitution, Art. III, Legislative Department, Sec. 30.
 4. Constitution, Art. I, Sec. 6.

An inheritance tax is not a tax upon property, but is an excise tax or duty upon the privilege of taking property by will or descent. Such a tax, classifying separately and taxing at a different rate, the estates of persons dying before the effective date of the act, from the estates of persons dying after the effective date, was held to have a uniform operation under this section since it applied uniformly throughout the State to all who came within the respective classes. In re Pedersen's Estate, 198 Iowa 166, 196 N. W. 785 (1924).

The Legislature may classify the occupations or kinds of business for which license fees or occupation taxes shall be exacted, but the classification must not be arbitrary, and the fees or taxes must be uniform and operate equally upon each person or kind of business coming within each classification. Thus an act requiring a license fee from every transient merchant desiring to do business in cities, and hiring, leasing or occupying a building or car for the exhibition and sale of goods, and exempting those transient merchants doing business outside city limits and exhibiting and selling their (Footnote forwarded)

2. Iowa

II. Financial Powers and Limitations (Cont'd)

A. Taxation and Assessments (Cont'd)

(1) State (Cont'd)

(c) See page 4, Sec. II, par. C, (1), (c); and page 5, Sec. II, par. C, (1), (d).

(2) Counties 5/

See page 1, Sec. II, par. A, (1), (a).

(3) Other Local Units 6/

(Footnote #4 - Continued)

goods in vacant lots, etc., was held an arbitrary classification of occupations. *State vs. Osborne*, 171 Iowa 678, 154 N. W. 294 (1915).

A situation bearing no relation to the power of taxation but presenting for application the uniformity requirement of the above section was one where an act providing for the establishment of a permanent park board in cities having a population of 125,000 or more was held not invalid as lacking uniformity, notwithstanding the fact that the classification limited the application of the act to the City of Des Moines. *State ex rel. Welsh vs. Darling*, 216 Iowa 553, 246 N. W. 390 (1933).

5. The General Assembly may delegate to the counties and municipalities the power to levy taxes. It necessarily follows that where such political subdivisions have levied taxes without the authority of the General Assembly, that body may pass a retroactive curative act legalizing such taxes, unless vested rights would thereby be impaired. *Chicago, R. I. & P. Railway Company vs. Streepy*, 211 Iowa 1334, 236 N. W. 24 (1931).
6. Except for the restrictions imposed by Art. III, Legislative Department, Sec. 30, prohibiting local laws for the incorporation of cities and towns, and those placed on the debt limit of municipalities (see page 6, Sec. II, par. C, (2)), the Constitution is silent as to the means and manner by which local self-government is to be accomplished. The General Assembly has full power to select the agencies appropriate in its judgment to accomplish this purpose and to confer on such agencies the requisite powers to be exercised in the manner and form by it prescribed. *Eckerson vs. City of Des Moines*, 137 Iowa 452, 115 N. W. 177 (1908).

See footnote 5, above.

When the Legislature delegates its taxing power to municipalities, such delegation must be in express terms or by necessary implication, and cannot be implied from a grant of power "to license and regulate" certain occupations, since license fees are merely police measures and must be charged only in proportion to the expenses involved in regulating and supervising such occupation. *City of Ottumwa vs. Zekind*, 95 Iowa 622, 64 N. W. 646 (1895).

(Footnote forwarded)

II. Financial Powers and Limitations (Cont'd)

B. Exemptions

No provision. 7/

C. Borrowing and Use of Credit

(1) State

(a) The State may contract debts 8/ to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the General Assembly,

(Footnote #6 - Continued)

There is a definite distinction between a license fee imposed under the police power and a tax imposed for revenue purposes under the power of taxation. Where the amount imposed is substantially in excess of and out of proportion to the expense incurred, it is regarded as a revenue measure. *Solberg vs. Davenport*, 211 Iowa 612, 232 N. W. 477 (1930).

A license fee enacted as a police regulation for an occupation or business which is not of itself harmful must bear some fair relation to the cost of making and issuing the license and the expense of police supervision. *State vs. Osborne*, 171 Iowa 678, 154 N. W. 294 (1915).

See footnote 7, below.

7. A grant of exemption from taxation by virtue of a statute is never presumed, and a claim of exemption thereunder is strictly construed. *Grand Lodge A. O. U. W. of Iowa vs. Madigan*, 207 Iowa 24, 222 N. W. 545 (1928).

An act exempting from municipal taxes lots containing more than ten acres used for agricultural and horticultural purposes, and not exempting lots of less size was held not in violation of Art. I, Sec. 6 (page 1, Sec. II, par. A, (1), (b)), impliedly requiring uniformity in taxation and forbidding immunities to certain citizens not enjoyed by others, since the act was not applicable to any one citizen or class of citizens, but applied to all those who happened to be owners of a certain class of property. *Leicht vs. City of Burlington*, 73 Iowa 29, 34 N. W. 494 (1887).

Under a statute exempting realty owned by an "educational institution" as part of its endowment fund, it was held that such lands owned by a "public library" and situated in a county other than that in which was located the library, were properly exempted from taxation. *Webster City vs. Wright County*, 144 Iowa 502, 123 N. W. 193 (1909).

8. "Certificates or warrants issued in anticipation of revenues collectible within the biennial period of the legislature and payable therefrom do not create a 'debt' within the meaning of that term as used in this section". *Rowley vs. Clarke*, 162 Iowa 732, 144 N. W. 908 (1913); reaffirmed in *Hubbell vs. Herring*, 216 Iowa 728, 249 N. W. 430 (1933).

II. Financial Powers and Limitations (Cont'd)

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

(1) State (Cont'd)

or at different periods of time, shall never exceed the sum of two hundred and fifty thousand dollars; and the money arising from the creation of such debts, shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever. 9/

(b) In addition to the above limited power to contract debts, the State may contract debts to repel invasion, suppress insurrection, or defend the State in war; but the money arising from the debts so contracted shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever. 10/

(c) Except the debts hereinbefore specified in this article 11/, no debt shall be hereafter contracted by or on behalf of this State, unless such debt shall be authorized by some law for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax, sufficient to pay the interest on such debt, as it falls due, and also to pay and discharge the principal of such debt, within twenty years from the time of the contracting thereof 12/; but no such law shall take effect until at a general election it shall have been submitted to the people, and have received a majority of all the votes cast for and against it at such election; and

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

10. Constitution, Art. VII, Sec. 4.

11. See page 3, Sec. II, par. C, (1), (a), and Sec. II, par. C, (1), (b) above.

12. The 20 year period within which the "debt", mentioned in this section, must be paid and discharged must cover the beginning and ending of the indebtedness. Thus an act providing for serial bonds, to be sold in installments extending over a period of six years from 1929 to 1935, and each series to mature within 20 years from the date of issue, would be unconstitutional since the period from the creation of the first installment to the maturity of the sixth installment would constitute 26 years. State ex rel. Fletcher vs. Executive Council of State of Iowa, 207 Iowa 923, 223 N. W. 737 (1929).

II. Financial Powers and Limitations (Cont'd)

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

(1) State (Cont'd)

all the money raised by authority of such law, shall be applied only to the specific object therein stated, or to the payment of the debt created thereby 13/; and such law shall be published in at least one newspaper in each County . . . for three months preceding the election at which it is submitted to the people. 14/

(d) The Legislature may, at any time, after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may, at any time, forbid the contracting of any further debt, or liability, under such law; but the tax imposed by such law, in proportion to the debt or liability, which may have been contracted in pursuance thereof, shall remain in force and be irrevocable, and be annually collected, until the principal and interest are fully paid. 15/

13. Where it was provided that a direct property tax and an indirect excise tax might be levied to retire debt incurred under this section, with the added proviso that if the indirect tax levied was sufficient for the purpose the direct tax need not be collected, such an attempted substitution of an indirect tax for a direct tax was held to be invalid.

The court held the terms of this section to be mandatory in requiring the levy of a direct tax to retire such debt. Further, that legislation establishing such direct tax cannot be repealed until the debt is discharged and that this amounts to an exception to the general rule that no Legislature may enact legislation which may not be later modified or revoked by a succeeding Legislature.

However, in the case of funds realized from indirect excise taxes, the court said that such were always subject to the control of the Legislature currently in power. State ex rel. Fletcher vs. Executive Council of State of Iowa, 207 Iowa 923, 223 N. W. 737 (1929).

14. Constitution, Art. VII, Sec. 5.

15. Constitution, Art. VII, Sec. 6. See page 4, footnote 13.

II. Financial Powers and Limitations (Cont'd)

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

(1) State (Cont'd)

(e) The credit of the State shall not, in any manner, be given or loaned to, or in aid of, any individual, association, or corporation; and the State shall never assume, or become responsible for, the debts or liabilities of any individual, association, or corporation 16/, unless incurred in time of war for the benefit of the State. 17/

(f) The State shall not become a stockholder in any corporation, nor shall it assume or pay the debt or liability of any corporation, unless incurred in time of war for the benefit of the State. 18/

(2) Counties

No county, or other political or municipal corporation shall be allowed to become indebted in any manner, or for any purpose, to an amount, in the aggregate, exceeding five per centum on the value of the taxable property within such county or corporation to be ascertained by the last State and county tax lists, previous to the incurring of such indebtedness. 19/

16. A county is not a "corporation" within the meaning of this section so as to prevent the State from assuming the payment of road bonds issued by the counties, since the State has control over the construction and maintenance of highways and a county's relation thereto is only as a component part of the State. State ex rel. Fletcher vs. Executive Council of State of Iowa, 207 Iowa 923, 223 N. W. 737 (1929).

17. Constitution, Art. VII, Sec. 1.

This section refers to suretyship on secondary liability; it does not purport to deal with primary indebtedness of the State. Grout vs. Kendall, 195 Iowa 467, 192 N. W. 529 (1923).

See page 8, footnote 26, Grout vs. Kendall.

18. Constitution, Art. VIII, Sec. 3.

19. Constitution, Art. XI, Sec. 3.

See page 2, footnote 6, Eckerson vs. City of Des Moines.

Where bonds issued by a county did not exceed the five per cent debt limit of such county, refunding bonds issued at a later time when the depreciation of the valuation of the county's taxable property brought the former indebtedness over the five per cent limit, would be valid under this section whether the new bonds were exchanged for the old, or whether the new bonds were sold to obtain the means with which to liquidate the old. In neither case is a new indebtedness created. Banta vs. Clarke County, 219 Iowa 1195, 260 N. W. 329 (1935).

(Footnote forwarded)

II. Financial Powers and Limitations (Cont'd)

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

(3) Other Local Units

(a) No political or municipal corporation shall become a stockholder in any banking corporation, directly or indirectly. 20/

(b) See page 6, Sec. II, par. C, (2); and footnote 19.

D. Other Income

(1) The General Assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State, for the support of schools, which may have been, or shall hereafter be sold, or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress, distributing the proceeds of the public lands among the several States of the Union, approved in the year . . . one thousand eight hundred and forty one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent as has been or may hereafter be granted by Congress, on the sale of lands in this State, shall be, and remain a perpetual fund, the interest of which, together with all rents of the unsold lands, and such other means as the General Assembly may provide, shall be inviolably appropriated to the support of Common schools throughout the State. 21/

(Footnote #19 - Continued)

A contract for the acquisition of a municipally owned electric light plant, whereby title should remain in the contractor until the municipality had paid for the plant in installments solely to be derived from the net earnings of the plant, was held not to create a municipal debt within the purview of this section since the liability for the purchase price was not a general obligation of the municipality. *Iowa Southern Utilities Company vs. Cassill*, 69 F. (2d) 703 (C.C.A. 8th, 1934).

A contract for the construction of a municipally owned waterworks by the issuance of bonds the payment of which was to be derived from a sinking fund comprised of the proceeds from a special water tax, and such payment secured by a purchase money mortgage on the waterworks was held not to create a debt by the municipality since the contract expressly provided that the city would not be liable out of its general funds. *Swanson vs. City of Ottumwa*, 118 Iowa 161, 91 N. W. 1048 (1902).

See page 6, footnote 16.

20. Constitution, Art. VIII, Sec. 4.

21. Constitution, Art. IX, 2nd, Sec. 3.

II. Financial Powers and Limitations (Cont'd)

D. Other Income (Cont'd)

(2) The money which may have been or shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several Counties for any breach of the penal laws, shall be exclusively applied, in the several Counties in which such money is paid, or fine collected, among the several school districts of said Counties, in proportion to the number of youths subject to enumeration in such districts, to the support of Common Schools, or the establishment of libraries, as the Board of Education shall, from time to time provide. 22/

(3) All fines, penalties, or forfeitures due, or to become due, or accruing (accruing) to the State, or to any County therein, or to the school fund, shall inure to the State, county, or school fund, in the manner prescribed by law. 23/

(4) The General Assembly shall take measures for the protection, improvement, or other disposition of such lands as have been, or may hereafter be reserved, or granted by the United States, or any person or persons, to this State, for the use of the University, and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be, and remain, a permanent fund, the interest of which shall be applied to the support of said University, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant . . . 24/

E. Appropriations and Expenditures

(1) No money shall be drawn from the treasury but in consequence of appropriations made by law. 25/

(2) . . . no public money or property shall be appropriated for local, or private purposes, unless such appropriation . . . be allowed by two-thirds of the members elected to each branch of the General Assembly. 26/

22. Constitution, Art. IX, 2nd, Sec. 4.

23. Constitution, Art. XII, Sec. 4.

24. Constitution, Art. IX, 2nd, Sec. 5.

25. Constitution, Art. III, Legislative Department, Sec. 24.

26. Constitution, Art. III, Legislative Department, Sec. 31.

The court, interpreting this section, states that the words "such appropriation" implied that the discretion of the Legislature was confined to one particular proposed appropriation which should command a two-thirds vote, and could not be interpreted to allow general legislation on the subject of appropriations, either by the Legislature itself or by delegation to municipal authorities. Love vs. City of Des Moines, 210 Iowa 90, 230 N. W. 373 (1930).

(Footnote forwarded)

III. Provisions Affecting LegislationA. Regular Sessions of Legislature

(1) The Legislative authority of this State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives; . . . 27/

(2) The sessions of the General Assembly shall be biennial, and shall commence on the second Monday in January next ensuing the election of its members; unless the Governor of the State shall, in the meantime, convene the General Assembly by proclamation. 28/

B. Special Sessions of Legislature

He (The Governor) may, on extraordinary occasions, convene the General Assembly by proclamation, and shall state to both Houses, when assembled, the purpose for which they shall have been convened. 29/

C. Powers of Initiative and Referendum

See page 4, Sec. II, par. C, (1), (c).

(Footnote #26 - Continued)

In holding valid the Soldiers Bonus Act which provided for a bond issue and tax levy, the proceeds to be used for payment of bonuses to World War veterans, the court said that there is no express constitutional prohibition on the Legislature to appropriate money to an individual or class but that it was inherent in the fundamental law that the Legislature might not grant private charities or gratuities. The court said further however that the Legislature is bound to confine its appropriations to the field of public purpose and moral obligations of the State, the criterion of which within reasonable grounds should rest in the sound judgment of the Legislature, and that even though the bonuses provided for under this act were gratuities and not compulsory obligations of the State they were valid under these principles. The above section relating to appropriations for private purposes was not considered in arriving at this decision. Grout vs. Kendall, 195 Iowa 467, 192 N. W. 529 (1923).

See page 6, Sec. II, par. C, (1), (e).

27. Constitution, Art. III, Legislative Department, Sec. 1.

The Legislature may not call upon the Attorney General or any one else to test the constitutionality of an act. The judiciary of Iowa has no power to render declaratory judgments; but may entertain only justiciable causes, prosecuted by a bona fide litigant, whose private rights are alleged to be violated by an unconstitutional act. State ex rel. Fletcher vs. Executive Council of State of Iowa, 207 Iowa 923, 223 N. W. 737 (1929).

28. Constitution, Art. III, Legislative Department, Sec. 2.

An amendment, adopted in 1904 (Art. XII, Sec. 16) provides that the biennial sessions of the Legislature shall commence in the odd years.

29. Constitution, Art. IV, Sec. 11.

III. Provisions Affecting Legislation (Cont'd)

D. Legislative Enactment

(1) Bills may originate in either house, and may be amended, altered or rejected by the other; and every bill having passed both houses, shall be signed by the Speaker and President of their respective houses. 30/

(2) Every bill which shall have passed the General Assembly, shall, before it becomes a law, be presented to the Governor. If he approve, he shall sign it; but if not, he shall return it with his objections, to the house in which it originated, which shall . . . reconsider it; if, after such reconsideration, it again pass both houses, by yeas and nays, by a majority of two-thirds of the members of each house, it shall become a law, notwithstanding the Governor's objections. If any bill shall not be returned within three days after it shall have been presented to him, Sunday excepted, the same shall be a law in like manner as if he had signed it, unless the General Assembly, by adjournment, prevent such return. Any bill submitted to the Governor for his approval during the last three days of a session of the General Assembly, shall be deposited by him in the office of the Secretary of State, within thirty days after the adjournment, with his approval, if approved by him, and with his objections, if he disapproves thereof. 31/

(3) No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the General Assembly, and the question upon the final passage 32/ shall be taken

30. Constitution, Art. III, Legislative Department, Sec. 15.

"A bill which has been enrolled, properly authenticated by the presiding officers of both houses . . . and approved by the executive, is conclusively presumed to have been regularly and legally enacted and . . . the courts have no power to go behind it and look at the legislative journals, or other records, for the purpose of determining whether constitutional requirements as to form and procedure were observed." Davidson Building Company vs. Mulock, 212 Iowa 730, 235 N. W. 45 (1931), and cases cited therein.

31. Constitution, Art. III, Legislative Department, Sec. 16.

Where the Governor, presented with a bill for his approval, during the last three days of the session, deposited the bill in the office of the Secretary of State in 30 days without objecting but without signing, the bill was held not to have become a law. Darling vs. Boesch, 67 Iowa 702, 25 N. W. 887 (1885).

32. The procedure laid down in this section has reference to the proceedings in each House of the General Assembly; and the words "final passage" have reference to the passage of a bill after certain prescribed procedure in one House. Thus in a case where the House of origin passes the bill after three readings without change, and the receiving House passes the bill in amended form (Footnote forwarded)

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

immediately upon its last reading 33/, and the yeas and nays entered on the journal. 34/

(4) . . . no public money or property shall be appropriated for local, or private purposes, unless such appropriation . . . be allowed by two-thirds of the members elected to each branch of the General Assembly. 35/

(5) Every act shall embrace but one subject, and matters properly connected therewith; which subject shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title. 36/

(6) No law of the General Assembly, passed at a regular session, of a public nature, shall take effect until the fourth day of July next after the passage thereof. Laws passed at a special session, shall take effect ninety days after the adjournment of the General Assembly by which they were passed. 37/ If the General Assembly shall

(Footnote #32 - Continued)

after three readings, after which the two Houses compromise their differences through a joint conference committee, the bill as agreed to and set out in the conference committee report, is not required to be read again three successive times, but may be voted upon immediately and the yeas and nays entered on the journal.

Scott vs. State Board of Assessment and Review, 267 N. W. 111 (1936). See footnote 33, below.

33. Because this section contemplates a "last reading" it is evident that the framers of the Constitution intended that the established practice of reading proposed bills three times should be followed. Scott vs. State Board of Assessment and Review, 267 N. W. 111 (1936). See page 10, footnote 32.

34. Constitution, Art. III, Legislative Department, Sec. 17.

35. Constitution, Art. III, Legislative Department, Sec. 31.

36. Constitution, Art. III, Legislative Department, Sec. 29.

"It is the uniform rule that this constitutional requirement is not to be given a narrow or limited construction. . . 'The constitution is obeyed if all the provisions relate to the one subject indicated in the title, and parts of it, or incident to it, or reasonably connected with it, or in some sense auxiliary to the object in view.'" Davidson Building Company vs. Mulock, 212 Iowa 730, 235 N. W. 45 (1931), and cases cited therein.

37. In computing the ninety day period between the adjournment of the Legislature and the effective date of an act, the date of adjournment is excluded and the last day is included. Clingsmith vs. Jackson Dairy Company, 202 Iowa 773, 211 N. W. 413 (1926).

III. Provisions Affecting Legislation (Cont'd)

D. Legislative Enactment (Cont'd)

deem any law of immediate importance 38/, they may provide that the same shall take effect by publication in newspapers in the State. 39/

(7) Every law which imposes, continues, or revives a tax, shall distinctly state the tax, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such tax or object. 40/

IV. Constitutional Amendment or Revision

A. By Proposal of Legislature or People

(1) Any amendment or amendments to this Constitution may be proposed in either House of the General Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two Houses, such proposed amendment shall be . . . referred to the Legislature to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice; and if, in the General Assembly so next chosen as aforesaid, such proposed amendment or amendments shall be agreed to, by a majority of all the members elected to each House, then it shall be the duty of the General Assembly to submit such proposed amendment or amendments to the people, in such manner, and at such time as the General Assembly shall provide; and if the people shall approve and

38. The emergency character of legislation is not subject to review by the courts unless under the guise of an emergency measure the Legislature attempts to exercise power forbidden by the Constitution. Hence, a declaration of emergency in a statute authorizing municipalities to regulate fair competition in personal service trades was held not to validate the statute which was otherwise in conflict with the due process clause of the Iowa Constitution, (Art. I, Sec. 9) and the Federal Constitution (14th Amendment). *Duncan vs. City of Des Moines*, - Iowa -, 268 N. W. 547 (1936).

39. Constitution, Art. III, Legislative Department, Sec. 26.

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

This section applies only to an act which in and of itself imposes, continues, or revives a tax. It does not apply to an act delegating to a county or municipality the power to levy a tax for an emergency fund. *Chicago, R. I. & P. Railway Company vs. Rosenbaum*, 212 Iowa 227, 231 N. W. 646 (1930).

This section is interpreted as applying only to property taxes, and not to license, occupation and privilege taxes. *Solberg vs. Davenport*, 211 Iowa 612, 232 N. W. 477 (1930), and cases cited therein.

IV. Constitutional Amendment or Revision (Cont'd)A. By Proposal of Legislature or People (Cont'd)

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 the Constitution of this State. 41/

(2) If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately. 42/

B. By Constitutional Convention

At the general election to be held in the year one thousand eight hundred and seventy, and in each tenth year thereafter, and also at such times as the General Assembly may, by law, provide, the question, "Shall there be a Convention to revise the Constitution, and amend the same?" shall be decided by the electors qualified to vote for members of the General Assembly; and in case a majority of the electors so qualified, voting at such election, for and against such proposition, shall decide in favor of a Convention for such purpose, the General Assembly, at its next session, shall provide by law for the election of delegates to such Convention. 43/

41. Constitution, Art. X, Sec. 1.

42. Constitution, Art. X, Sec. 2.

A proposed amendment authorizing the Legislature in section 1 to pass an act creating a State indebtedness of \$100,000,000 by the issuance of bonds for the improvement of highways, and for the retirement of county road bonds, and pledging to the payment of such State bonds excise taxes and property taxes, and in section 4 providing that upon the issuance of the first State bonds under such act, the authority of the counties to issue county road bonds should cease, was held unconstitutional under this section. The court stated inter alia that after the payment of the State bonds, the provisions in section 1, being temporary, would cease to function, whereas the prohibition on the issuance of county road bonds would be permanent. Two distinct propositions being set forth, they should have been presented in two amendments. Mathews vs. Turner, 212 Iowa 424, 236 N. W. 412 (1931).

43. Constitution, Art. X, Sec. 3.

This section is mandatory. However, at the general election of 1920 the people voted to call a convention but the Legislature did not provide for the election of delegates. Duncan vs. City of Des Moines, 268 N. W. 547 (1936).

