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ANALYSIS OF CONSTITUTIONAL PROVISIONS
AFFECTING PUBLIC WELFARE IN THE STATE OF
RHODE ISLAND

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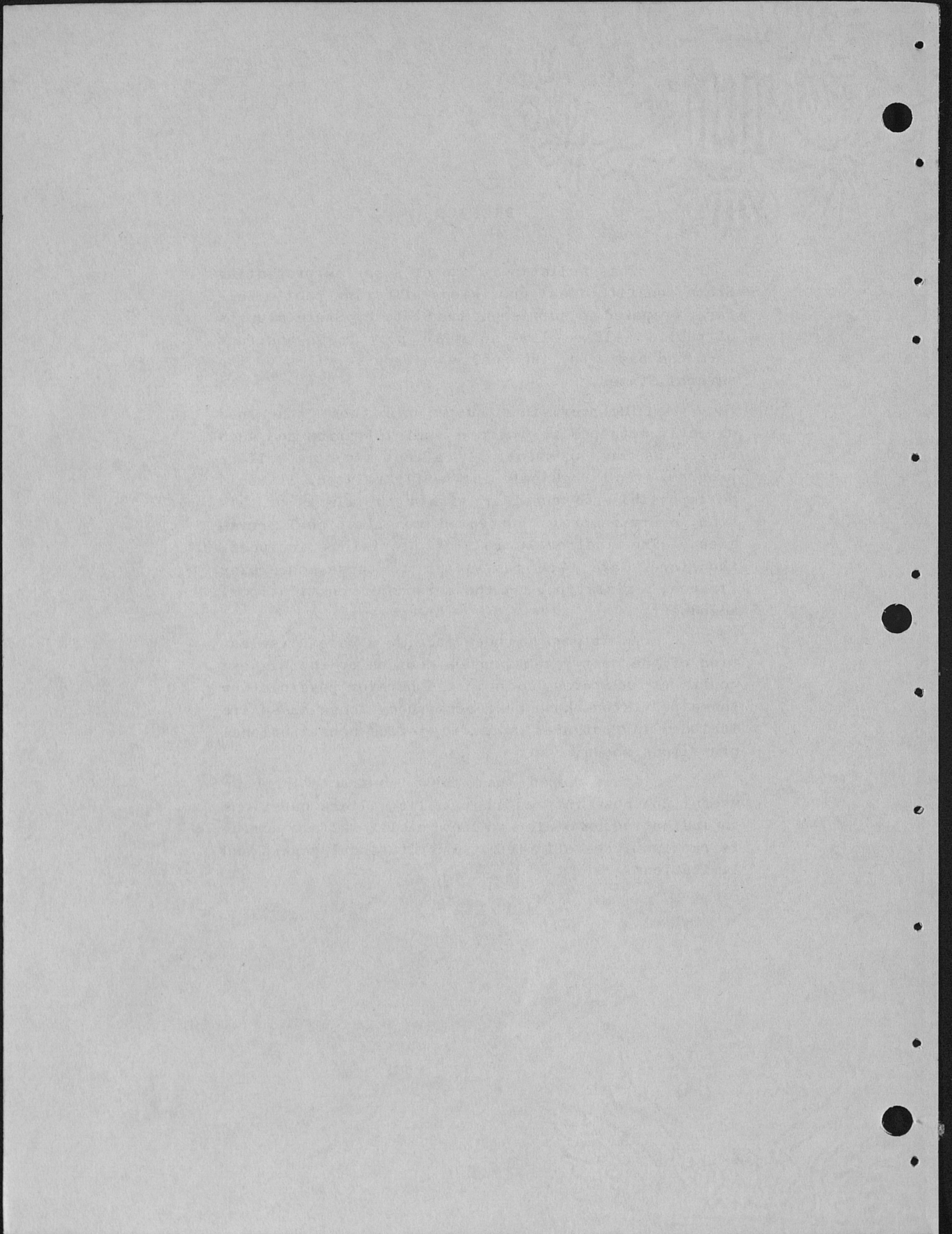
PREFACE

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.

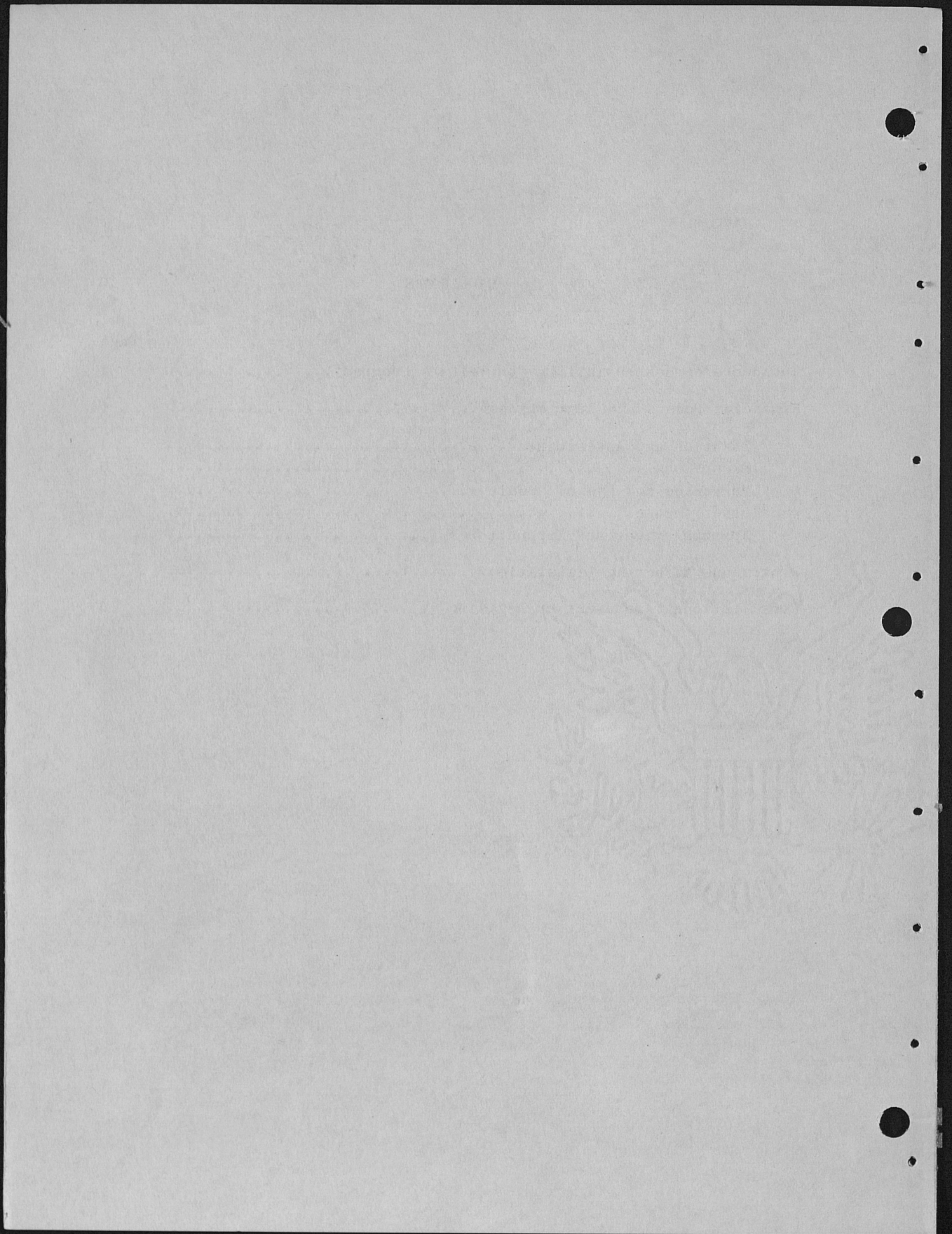
An attempt has been made, by a careful selection of the most recent cases decided by the highest courts of the States, to indicate wherever possible how these provisions have been construed. These cases are included in footnotes appended to the constitutional provisions shown.

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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Rhode Island

ANALYSIS OF CONSTITUTIONAL PROVISIONS AFFECTING
PUBLIC WELFARE IN RHODE ISLAND¹

I. Incidence of Responsibility for Welfare Program

No provision.²

II. Financial Powers and Limitations

A. Taxation and Assessments

(1) State

(a) All free governments are instituted for the protection, safety and happiness of the people. All laws, therefore, should

¹Constitution (1843), as published in the Rhode Island Manual (1933-1934), by authority of the State of Rhode Island; with all amendments to May 20, 1937.

Art. IV, Sec. 1 of the Constitution provides that: "This Constitution shall be the supreme law of the state, and any law inconsistent therewith shall be void. * * *"
Amendment XII, Sec. 2 of the Constitution provides that: "The judges of the supreme court shall give their written opinion upon any question of law whenever requested by the governor or by either house of the general assembly."

Art. IV, Sec. 10 of the Constitution provides that: "The general assembly shall continue to exercise the powers they have heretofore exercised, unless prohibited in this Constitution." The Supreme Court in an advisory opinion held that this means that the Legislature may exercise all powers not prohibited by the Constitution, and that the Legislature had the power to call a convention to revise the Constitution since there was nothing in the Constitution expressly prohibiting it. In re Opinion to the Governor, 178 A. 433 (1935).

In a case holding that the legislative power over municipalities was absolute since the Constitution nowhere restrained it the Supreme Court stated: "The lawmaking power of the state * * * recognizes no restraints and is bound by none, except such as are imposed by the Constitution. * * * Its object is not to grant legislative power, but to *confine* and *restrain* it. * * *" In re Opinion of the Justices, 34 R. I. 191, 83 A. 3 (1912).

In holding parts of a statute regulating the undertaking business to constitute a valid exercise of the police power as relating to the public health, the Supreme Court stated: "* * * the Legislature has a wide scope in exercising the police power. As long as the act in question bears a substantial relation to the welfare of the general public, protects and conserves constitutional guarantees, and appears to be a reasonable exercise of the power in relation to the purpose involved, it will be held valid. Within these limits the exercise of legislative discretion is not subject to judicial review." Prata Undertaking Company vs. State Board of Embalming and Funeral Directing, 55 R. I. 454, 182 A. 808 (1936).

²Art. II, Sec. 4 of the Constitution provides that no pauper shall be permitted to be registered or to vote.

II. Financial Powers and Limitations—Continued

A. Taxation and Assessments—Continued

(1) State—Continued

be made for the good of the whole; and the burdens of the state ought to be fairly distributed among its citizens.³

(b) The general assembly shall, from time to time, provide for making new valuations of property, for the assessment of taxes, in such manner as they may deem best.⁴ * * *

(2) Counties and Other Local Units⁵

The assessors of each town and city shall annually assess upon every person who, if registered, would be qualified to vote, a tax of one dollar, or such sum as with his other taxes shall amount to

³Constitution, Art. I, Sec. 2.

A statute which provided that commissioners should set the amount which each city or town in a metropolitan park district should contribute toward the support of the district was held not to violate this section. In discussing this section the court stated: "the language in question can hardly be said to impose any restriction upon the assembly at all, except what would be imposed by the fact of our free institutions, and the general principles of constitutional law, here and everywhere in this country prevalent, * * *. The question, How shall the burdens of the state be fairly distributed? is one of a purely legislative character, to be answered by the lawmaking branch of the government in the exercise of a wise and wide legislative discretion, with which the judicial department has no concern, and over which it will not attempt to assume control, where the same has been exercised honestly and in good faith, and not for the purpose of personal oppression under color of law." In re Opinion of the Justices, 34 R. I. 191, 83 A. 3 (1912).

In upholding a statute which in effect imposed a tax on two cities for the purpose of erecting a bridge, the Supreme Court quoted with approval the following language from an early case: "* * * a wide discretion with regard to the distribution of the burdens of state amongst the citizens was intended to be reposed in the General Assembly by the will of the people, as signified in this clause of the Constitution. The form is 'ought to be,' the word is 'fairly' distributed, not 'equally.'" In re Opinion to the Governor, 142 A. 661 (1928).

In a case under this section holding a statute valid which taxed the intangible property of mutual fire insurance companies and did not tax the intangible property of stock fire insurance companies the Supreme Court stated: "It is within the power of the Legislature to classify persons and property for the purpose of taxation, and to impose different burdens upon different classes, provided such classification is not unreasonable nor arbitrary, but is based upon differences indicating 'a reasonable and just relation to the act in respect to which the classification is proposed.'" *Manufacturers' Mutual Fire Insurance Company vs. Clarke*, 41 R. I. 277, 103 A. 931, 933 (1918).

⁴Constitution, Art. IV, Sec. 15.

⁵Municipalities are the creatures of the State. Since there is no provision in the State Constitution limiting the power of the Legislature in regard to municipalities they "have no inherent right of self-government which is beyond the legislative control of the state * * * and the state may *withhold, grant, or withdraw* powers and privileges as it sees fit." *City of Providence vs. Moulton*, 52 R. I. 236, 160 A. 75 (1932).

"The power of taxation is vested primarily in the state, and may be lawfully exercised by the subordinate political bodies of the state only insofar as and in the manner in which said power is delegated to them by the Legislature." In re Opinion of the Judges, 39 R. I. 1, 97 A. 21 (1916).

II. Financial Powers and Limitations—Continued

A. Taxation and Assessments—Continued

(2) Counties and Other Local Units—Continued

one dollar, which tax shall be paid into the treasury of such town or city and be applied to the support of public schools therein:⁶ * * *

B. Exemptions

* * * All laws, therefore, should be made for the good of the whole; and the burdens of the state ought to be fairly distributed among its citizens.⁷

⁶ Constitution, Art. of Amendment VII, Sec. 2 (1888).

Exempted from payment of this tax are persons who perform military duty, mariners at sea, and persons of extreme poverty. Ibid.

Women who, if registered, would be entitled to vote for President of the United States were held not liable for assessment for poll taxes because they were not "voters" within the meaning of the Constitution since they were not entitled to vote for local officers. In re Opinion to the Governor, 42 R. I. 558, 109 A. 84 (1920).

⁷ Constitution, Art. I, Sec. 2.

See p. 1, par. (a).

A statute ratifying the action of a town in exempting from taxation the property of a manufacturing plant for a period of 10 years was held valid under this section. The court stated: "the power to tax necessarily implies the power to exempt. * * * The form of this clause is advisory not mandatory. * * * We do not mean to say that a law * * * may not be * * * so outrageously subversive of all the rules of fairness * * * as to enable the court to save the citizen from oppression by declaring it to be void. But evidently a wide discretion with regard to the distribution of the burdens of the state amongst the citizens was intended to be reposed in the general assembly by the will of the people, as signified in this clause of the Constitution. * * * Indeed the language in question can hardly be said to impose any restriction upon the general assembly at all, except what would be imposed by the fact of our free institutions, and the general principles of constitutional law, here and everywhere in this country prevalent." *Crafts vs. Ray*, 22 R. I. 179, 46 A. 1043 (1900).

A charter granted the Woonsocket Hospital provided that the property of the corporation should be exempt from taxation as long as it was used for the purposes for which incorporated. Part of the real property owned by the corporation was leased to the F. W. Woolworth Company and used for mercantile purposes. The income accruing from the lease was used for the benefit of the hospital. The property leased and the income accruing from the lease were held to be both exempt from taxation. The court stated that while provisions for exemption must be strictly construed, the above interpretation coincided with the terms of the charter and the general policy of the State in regard to exemptions. *Woonsocket Hospital vs. Quinn*, 173 A. 550 (1934).

Property owned by a city and used as a part of its waterworks system located within the limits of another town was held not exempt from taxation by the town. It was admitted that such property was not expressly exempted by statute but the city contended that since it was public property devoted to a public use it was exempt unless specifically made taxable by statute. The court held, however, that since such property was not specifically exempted by statute that it was taxable, although it was indicated that if city property were used for a "governmental function" that a different result might follow. *City of Providence vs. Hall*, 49 R. I. 230, 142 A. 156 (1928).

Property of a nonprofit corporation used as a summer resort for girls was held not to come within the meaning of a statute exempting from taxation property of educational institutions, and so was not exempt from taxation. *Girls Friendly Society vs. Stafford*, 46 R. I. 29, 124 A. 470 (1924).

II. Financial Powers and Limitations—Continued

C. Borrowing and Use of Credit

(1) State

The general assembly shall have no power, hereafter, without the express consent of the people, to incur state debts to an amount exceeding fifty thousand dollars, except in time of war, or in case of insurrection or invasion; nor shall they in any case, without such consent, pledge the faith of the state for the payment of the obligations of others. This section shall not be construed to refer to any money that may be deposited with this state by the government of the United States.⁸

(2) Counties and Other Local Units

No provision.⁹

D. Other Income

(1) The money which now is or which may hereafter be appropriated by law for the establishment of a permanent fund for the support of public schools, shall be securely invested, and remain a perpetual fund for that purpose.¹⁰

(2) All donations for the support of public schools, or for other purposes of education, which may be received by the general assembly, shall be applied according to the terms prescribed by the donors.¹¹

⁸Constitution, Art. IV, Sec. 13.

The people by referendum vote may approve a State debt in excess of \$50,000. Higgins vs. Green, 185 A. 686 (1936).

In an advisory opinion the Supreme Court stated that sums borrowed from the Federal Government by the Rhode Island Emergency Public Works Corporation, which was a public corporation with one share of no par value stock owned by the State, would not constitute a "State debt" within the meaning of this section because they were corporate debts and not debts of the State. However, if State property were pledged to secure these debts this would constitute a "State debt" within the meaning of this section at least to the amount of the property pledged. In re Opinion to the Governor, 54 R. I. 45, 169 A. 748 (1933).

A statute which provided for the construction of a bridge involving borrowing by two cities was held not to create a "debt" within the meaning of this section because the term "State debts" was held not to include debts of cities even though the incurring of such debts was directed or authorized by the State. Blais vs. Franklin, 31 R. I. 95, 77 A. 172 (1910).

⁹Municipalities being political entities created by the State, the Legislature may withhold, grant, or withdraw their powers and privileges as it sees fit. City of Providence vs. Moulton, 52 R. I. 236, 160 A. 75 (1932).

See p. 2, Footnote 5.

¹⁰Constitution, Art. XII, Sec. 2.

¹¹Constitution, Art. XII, Sec. 3.

II. Financial Powers and Limitations—Continued

E. Appropriations and Expenditures

No provision.

III. Provisions Affecting Legislation

A. Regular Sessions of Legislature

There shall be a session of the general assembly at Providence commencing on the first Tuesday of January in each year.¹² * * *

B. Special Sessions of Legislature

He (the Governor) may, on extraordinary occasions, convene the general assembly at any town or city in this state, at any time not provided for by law;¹³ * * *.

C. Powers of Initiative and Referendum

No provision.

D. Legislative Enactment

(1) The legislative power, under this constitution, shall be vested in two houses, the one to be called the senate, the other the house of representatives; and both together the general assembly. The concurrence of the two houses shall be necessary to the enactment of laws.¹⁴ * * *

(2) The assent of two-thirds of the members elected to each house of the general assembly shall be required to every bill appropriating the public money or property for local or private purposes.¹⁵

(3) Every bill, resolution, or vote (except such as relate to adjournment, the organization or conduct of either or both houses of the general assembly, and resolutions proposing amendment to the constitution) which shall have passed both houses of the general assembly shall

¹²Constitution, Art. of Amendment XI, Sec. 1 (1900).

Art. of Amendment XVI, Sec. 1 of the Constitution provides that State officers "shall be elected * * * on the Tuesday next after the first Monday in November, biennially, commencing A. D. 1912."

¹³Constitution, Art. VII, Sec. 7.

¹⁴Constitution, Art. IV, Sec. 2.

¹⁵Constitution, Art. IV, Sec. 14.

The Supreme Court in an advisory opinion stated that if a general appropriation act contained items for both public and private purposes and was passed by a majority but not by two-thirds of the members elected to each house, only the items of appropriation for private purposes would be invalid. In re Opinion of the Justices, 45 R. I. 289, 120 A. 868 (1923).

III. Provisions Affecting Legislation—Continued

D. Legislative Enactment—Continued

be presented to the governor. If he approve it he shall sign it, and thereupon it shall become operative, but if he does not approve it he shall return it, accompanied by his objections in writing, to the house in which it originated, which shall * * * proceed to reconsider it. If, after such reconsideration, three-fifths of the members present and voting in that house shall vote to pass the measure, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by three-fifths of the members present and voting in that house, it shall become operative in the same manner as if the governor had approved it, * * *. If the measure shall not be returned by the governor within six (6) days (Sundays excepted) after it shall have been presented to him, the same shall become operative unless the general assembly, by adjournment, prevents its return, in which case it shall become operative unless transmitted by the governor to the secretary of state, with his disapproval in writing, within ten days after such adjournment.¹⁶

IV. Constitutional Amendment or Revision

A. By Proposal of Legislature or People

The general assembly may propose amendments to this constitution by the votes of a majority of all the members elected to each house. Such propositions for amendment shall be published in the newspapers, and printed copies of them shall be sent by the secretary of state, with the names of all the members who shall have voted thereon, with the yeas and nays, to all the town and city clerks in the state. The said propositions shall be, by said clerks, inserted in the warrants or notices by them issued, for warning the next annual town and ward meetings in April; and the clerks shall read said propositions to the electors when thus assembled, with the names of all the representatives and senators who shall have voted thereon, with the yeas and nays, before the election of senators and representatives shall be had. If a majority of all the members elected to each house, at said annual meeting, shall approve any proposition thus made, the same shall be published and submitted to the electors in the mode provided in the act of approval; and if then approved by three-fifths of the electors of the state present and voting thereon in town and ward meetings, it shall become a part of the constitution of the state.¹⁷

¹⁶Constitution, Art. of Amendment XV, Sec. 1 (1909).

¹⁷Constitution, Art. XIII.

IV. Constitutional Amendment or Revision—Continued

B. By Constitutional Convention

No provision.¹⁸

¹⁸The Legislature was held to have the power to call a convention for the purpose of revising the Constitution since there was nothing in the Constitution denying the Legislature this power. In re Opinion to the Governor, 178 A. 433 (1935).

