

JOURNAL OF THE SENATE

Friday, June 28, 1968

The Senate was called to order by the President Pro Tempore at 9:30 a.m. A quorum present—45:

Mr. President	Elrod	Johnson	Slade
Askew	Fincher	Knopke	Spencer
Barron	Fisher	Lane	Stockton
Barrow	Friday	McClain	Stolzenburg
Bell	Gibson	Mathews	Thomas
Boyd	Gong	O'Grady	Weber
Chiles	Griffin	Ott	Weissenborn
Clayton	Gunter	Plante	Wilson
Cross	Haverfield	Poston	Young
Deeb	Henderson	Reuter	
de la Parte	Hollahan	Sayler	
Edwards	Horne	Shevin	

Excused: Senators Stone, Bafalis and Broxson. Senators Thomas, Gong and Poston for the afternoon session.

Prayer by Senator Bill Gunter:

Dear God, our father and our friend, bless all who serve us in this legislature—those who have unselfishly offered their lives to the ministry of people through governmental toil. Bless the Secretary of this Senate and his exceptional staff. Bless the Sergeant-At-Arms and his diligent co-workers. Bless the secretaries, and the aides, and the pages, and the messengers. Bless those who labor on the Legislative Council staff, and all of the individuals who assist the Senate and the House so effectively and patiently, yet, oftentimes with so little appreciation. In these days of stress and strain, hold up our fellow laborers in this crucible of democracy that they may know thy strength, thy power, and thy will. Give them and us a higher dedication to the citizens we serve and to the principles of representative government we seek to apply. May each of us be willing to be led of thee, such that selfish interests may be laid aside and thy constitutional program adopted in keeping with the needs and desires of the people of our beloved state. Through Jesus Christ our Lord we pray. Amen.

The Journal of June 27 was corrected and approved as follows:

Page 72, column 1, between lines 5 and 6 insert the following:

The Committee on Rules and Calendar recommends the following pass: HJR 1-2X with 1 amendment.

The joint resolution was placed on the Calendar.

REPORT OF COMMITTEE

The Committee on Rules and Calendar recommends the following pass: HJR 3-2X with 1 amendment.

The joint resolution was placed on the Calendar.

INTRODUCTION

By the required Constitutional two-thirds vote of the Senate SM 22-2X was admitted for introduction and consideration:

By Senator Reuter—

SM 22-2X—A Memorial to the President of the United States of America and to the Congress of the United States urging action to secure return of the U.S.S. Pueblo.

The President presiding.

Was read the first time in full and referred to the Committee on Apportionment, Resolutions and Memorials.

RECONSIDERATION

HJR 1-2X—A joint resolution proposing a revision of portions of the Constitution of the State of Florida, excepting therefrom revision of Articles V, VI, and VIII.

Was taken up, together with amendment by the Committee on Rules and Calendar which was pending reconsideration at the hour of adjournment on June 27.

The question recurred on the amendment which was adopted on motion by Senator Mathews.

On motion by Senator Mathews, HJR 1-2X as amended was read the third time in full, as follows:

HJR 1-2X—A joint resolution proposing a revision of portions of the Constitution of the State of Florida, excepting therefrom revision of Articles V, VI, and VIII.

*Be It Resolved by the Legislature of the State of Florida:*

That the following proposed revision of portions of the Constitution of the State of Florida, excepting therefrom revision of Articles V, VI, and VIII is hereby agreed to and shall be submitted to the electors of the state for ratification or rejection at the next general election to be held in November 1968:

PREAMBLE

We, the people of the State of Florida, being grateful to Almighty God for our constitutional liberty, in order to secure its benefits, perfect our government, insure domestic tranquility, maintain public order, and guarantee equal civil and political rights to all, do ordain and establish this constitution.

ARTICLE I

DECLARATION OF RIGHTS

Section 1. *POLITICAL POWER*.—All political power is inherent in the people. The enunciation herein of certain rights shall not be construed to deny or impair others retained by the people.

Section 2. *BASIC RIGHTS*.—All natural persons are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property; except that the ownership, inheritance, disposition and possession of real property by aliens ineligible for citizenship may be regulated or prohibited by law. No person shall be deprived of any right because of race or religion.

Section 3. *RELIGIOUS FREEDOM*.—There shall be no law respecting the establishment of religion or prohibiting or penalizing the free exercise thereof. Religious freedom shall not justify practices inconsistent with public morals, peace or safety. No revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.

Section 4. *FREEDOM OF SPEECH AND PRESS*.—Every person may speak, write and publish his sentiments on all subjects but shall be responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions and civil actions for defamation the truth may be given in evidence. If the matter charged as defamatory is true and was published with good motives, the party shall be acquitted or exonerated.

Section 5. *RIGHT TO ASSEMBLE*.—The people shall have the right peaceably to assemble, to instruct their representatives, and to petition for redress of grievances.

Section 6. *RIGHT TO WORK*.—The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization. The right of employees, public or private, by and through a labor union or labor organization, to bargain collectively shall not be denied or abridged. Public employees shall not have the right to strike.

Section 7. *MILITARY POWER*.—The military power shall be subordinate to the civil.

Section 8. *RIGHT TO BEAR ARMS*.—The right of the people to keep and bear arms in defense of themselves and of the lawful authority of the state shall not be infringed, except that the manner of bearing arms may be regulated by law.

Section 9. *DUE PROCESS*.—No person shall be deprived of life, liberty or property without due process of law, or be twice put in jeopardy for the same offense, or be compelled in any criminal matter to be a witness against himself.

Section 10. *PROHIBITED LAWS*.—No bill of attainder, ex post facto law or law impairing the obligation of contracts shall be passed.

Section 11. *IMPRISONMENT FOR DEBT*.—No person shall be imprisoned for debt, except in cases of fraud.

Section 12. *SEARCHES AND SEIZURES*.—The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, and against the unreasonable interception of private communications by any means, shall not be violated. No warrant shall be issued except upon probable cause, supported by affidavit, particularly describing the place or places to be searched, the person or persons, thing or things to be seized, the communication to be intercepted, and the nature of evidence to be obtained. Articles or information obtained in violation of this right shall not be admissible in evidence.

Section 13. *HABEAS CORPUS*.—The writ of habeas corpus shall be grantable of right, freely and without cost. It shall be returnable without delay, and shall never be suspended unless, in case of rebellion or invasion, suspension is essential to the public safety.

Section 14. *BAIL*.—Until adjudged guilty, every person charged with a crime or violation of municipal or county ordinance shall be entitled to release on reasonable bail with sufficient surety unless charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great.

Section 15. *PROSECUTION FOR CRIME—OFFENSES COMMITTED BY CHILDREN*.—

(a) No person shall be tried for capital crime without presentment or indictment by a grand jury, or for other felony without such presentment or indictment or an information under oath filed by the prosecuting officer of the court, except persons on active duty in the militia when tried by courts martial.

(b) When authorized by law, a child as therein defined may be charged with a violation of law as an act of delinquency instead of crime and tried without a jury or other requirements applicable to criminal cases. Any child so charged shall, upon demand made as provided by law before a trial in a juvenile proceeding, be tried in an appropriate court as an adult. A child found delinquent shall be disciplined as provided by law.

Section 16. *RIGHTS OF ACCUSED*.—In all criminal prosecutions the accused shall, upon demand, be informed of the nature and cause of the accusation against him, and shall be furnished a copy of the charges, and shall have the right to have compulsory process for witnesses, to confront at trial adverse witnesses, to be heard in person, by counsel or both, and to have a speedy and public trial by impartial jury in the county where the crime was committed. If the county is not known, the indictment or information may charge venue in two or more counties conjunctively and proof that the crime was committed in that area shall be sufficient; but before pleading the accused may elect in which of those counties he will be tried. Venue for prosecution of crimes committed beyond the boundaries of the state shall be fixed by law.

Section 17. *EXCESSIVE PUNISHMENTS*.—Excessive fines, cruel or unusual punishment, attainder, forfeiture of estate, indefinite imprisonment, and unreasonable detention of witnesses are forbidden.

Section 18. *ADMINISTRATIVE PENALTIES*.—No administrative agency shall impose a sentence of imprisonment, nor shall it impose any other penalty except as provided by law.

Section 19. *COSTS*.—No person charged with crime shall be compelled to pay costs before a judgment of conviction has become final.

Section 20. *TREASON*.—Treason against the state shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort or inciting the populace to riot for the purpose of overthrowing the government of the state or any of its political subdivisions, and no person shall be convicted of treason except on the testimony of two witnesses to the same overt act or on confession in open court.

Section 21. *ACCESS TO COURTS*.—The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.

Section 22. *TRIAL BY JURY*.—The right of trial by jury shall be secure to all and remain inviolate. The qualifications and the number of jurors, not fewer than six, shall be fixed by law.

## ARTICLE II

### GENERAL PROVISIONS

#### Section 1. *STATE BOUNDARIES*.—

(a) The state boundaries are: Begin at the mouth of the Perdido River, which for the purposes of this description is defined as the point where latitude 30°16'53" north and longitude 87°31'06" west intersect; thence to the point where latitude 30°17'02" north and longitude 87°31'06" west intersect; thence to the point where latitude 30°18'00" north and longitude 87°27'08" west intersect; thence to the point where the center line of the Intracoastal Canal (as the same existed on June 12, 1953) and longitude 87°27'00" west intersect; the same being in the middle of the Perdido River; thence up the middle of the Perdido River to the point where it intersects the south boundary of the State of Alabama, being also the point of intersection of the middle of the Perdido River with latitude 31°00'00" north; thence east, along the south boundary line of the State of Alabama, the same being latitude 31°00'00" north to the middle of the Chattahoochee River; thence down the middle of said river to its confluence with the Flint River; thence in a straight line to the head of the St. Marys River; thence down the middle of said river to the Atlantic Ocean; thence due east to the edge of the Gulf Stream or a distance of three geographic miles whichever is the greater distance; thence in a southerly direction along the edge of the Gulf Stream or along a line three geographic miles from the Atlantic coastline and three leagues distant from the Gulf of Mexico coastline, whichever is greater, to and through the Straits of Florida and westerly, including the Florida reefs, to a point due south of and three leagues from the southernmost point of the Marquesas Keys; thence westerly along a straight line to a point due south of and three leagues from Loggerhead Key, the westernmost of the Dry Tortugas Islands; thence westerly, northerly and easterly along the arc of a curve three leagues distant from Loggerhead Key to a point due north of Loggerhead Key; thence northeast along a straight line to a point three leagues from the coastline of Florida; thence northerly and westerly three leagues distant from the coastline to a point west of the mouth of the Perdido River three leagues from the coastline as measured on a line bearing 0°01'00" west from the point of beginning; thence along said line to the point of beginning. The State of Florida shall also include any additional territory within the United States adjacent to the Peninsula of Florida lying south of the St. Marys River, east of the Perdido River, and south of the States of Alabama and Georgia.

(b) The Legislature may extend the coastal boundaries to such limits as the laws of the United States or international law may permit.

Section 2. *SEAT OF GOVERNMENT*.—The seat of government shall be the City of Tallahassee, in Leon County, where the offices of the governor, lieutenant governor, cabinet members and the supreme court shall be maintained and the sessions of the legislature shall be held; provided that, in time of invasion or grave emergency, the governor by proclamation may for the period of the emergency transfer the seat of government to another place.

Section 3. *BRANCHES OF GOVERNMENT.*—The powers of the state government shall be divided into legislative, executive and judicial branches. No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein.

Section 4. *STATE SEAL AND FLAG.*—The design of the great seal and flag of the state shall be prescribed by law.

Section 5. *PUBLIC OFFICERS.*—

(a) No person holding any office of emolument under any foreign government, or civil office of emolument under the United States or any other state, shall hold any office of honor or of emolument under the government of this state. No person shall hold at the same time more than one office under the government of the state and the counties and municipalities therein, except that a notary public or military officer may hold another office, and any officer may be a member of a constitution revision commission, constitutional convention, or statutory body having only advisory powers.

(b) Each state and county officer, before entering upon the duties of the office, shall give bond as required by law, and shall swear or affirm:

"I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the state; and that I will well and faithfully perform the duties of (title of office) on which I am now about to enter. So help me God."

and thereafter shall devote personal attention to the duties of the office, and continue in office until his successor qualifies.

(c) The powers, duties, compensation and method of payment of state and county officers shall be fixed by law.

Section 6. *ENEMY ATTACK.*—In periods of emergency resulting from enemy attack the legislature shall have power to provide for prompt and temporary succession to the powers and duties of all public offices the incumbents of which may become unavailable to execute the functions of their offices, and to adopt such other measures as may be necessary and appropriate to insure the continuity of governmental operations during the emergency. In exercising these powers, the legislature may depart from other requirements of this constitution, but only to the extent necessary to meet the emergency.

Section 7. *NATURAL RESOURCES AND SCENIC BEAUTY.*—

(a) *The policy of the state shall be to conserve and protect its natural resources and scenic beauty. The legislature, in implementing this policy, shall adequately provide for the abatement of air and water pollution and of excessive and unnecessary noise, the protection of agricultural lands, wetlands and shorelines, and the conservation and regulation of water resources.*

(b) *The legislature shall also provide for the acquisition and dedication of structures, lands, and waters, which because of their natural beauty, wilderness character, or geological, ecological or historical significance shall be preserved and administered for the use and enjoyment of the people. Properties so dedicated shall constitute the state nature and historical preserve and they shall not be taken or disposed of except by law.*

### ARTICLE III LEGISLATURE

Section 1. *COMPOSITION.*—The legislative power of the state shall be vested in a legislature of the State of Florida, consisting of a senate composed of one senator elected from each senatorial district and a house of representatives composed of one member elected from each representative district.

Section 2. *MEMBERS—OFFICERS.*—Each house shall be the sole judge of the qualifications, elections, and returns of its members, and shall biennially choose its officers, including a permanent presiding officer selected from its membership, who shall be designated in the senate as President of the Senate, and in the house as Speaker of the House of Representatives. The senate shall designate a Secretary to serve at its pleasure, and the house of representatives shall designate a

Clerk to serve at its pleasure. The legislature shall appoint an auditor to serve at its pleasure who shall audit public records and perform related duties as prescribed by law or concurrent resolution.

Section 3. *SESSIONS OF THE LEGISLATURE.*—

(a) *ORGANIZATION SESSIONS.* On the fourteenth day following each general election the legislature shall convene for the exclusive purpose of organization and selection of officers.

(b) *REGULAR SESSIONS.* A regular session of the legislature shall convene on the first Tuesday after the first Monday in April of each odd-numbered year, and on the first Tuesday after the first Monday in April, or such other date as may be fixed by law, of each even-numbered year.

(c) *SPECIAL SESSIONS.*

(1) The governor, by proclamation stating the purpose, may convene the legislature in special session during which only such legislative business may be transacted as is within the purview of the proclamation, or of a communication from the governor, or is introduced by consent of two-thirds of the membership of each house.

(2) A special session of the legislature may be convened as provided by law.

(d) *LENGTH OF SESSIONS.* A regular session of the legislature shall not exceed sixty consecutive days and a special session shall not exceed twenty consecutive days, unless extended beyond such limit by a three-fifths vote of each house. During such an extension no new business may be taken up in either house without the consent of two-thirds of its membership.

(e) *ADJOURNMENT.* Neither house shall adjourn for more than seventy-two consecutive hours except pursuant to concurrent resolution.

(f) *ADJOURNMENT BY GOVERNOR.* If, during any regular or special session, the two houses cannot agree upon a time for adjournment, the governor may adjourn the session sine die or to any date within the period authorized for such session; provided that, at least twenty-four hours before adjourning the session, he shall, while neither house is in recess, give each house formal written notice of his intention to do so, and agreement reached within that period by [by] both houses on a time for adjournment shall prevail.

Section 4. *QUORUM AND PROCEDURE.*—

(a) A majority of the membership of each house shall constitute a quorum, but a smaller number may adjourn from day to day and compel the presence of absent members in such manner and under such penalties as it may prescribe. Each house shall determine its rules of procedure.

(b) Sessions of each house shall be public; except sessions of the senate when considering appointment to or removal from public office may be closed.

(c) Each house shall keep and publish a journal of its proceedings; and upon the request of five members present, the vote of each member voting on any question shall be entered on the journal.

(d) Each house may punish a member for contempt or disorderly conduct and, by a two-thirds vote of its membership, may expel a member.

Section 5. *INVESTIGATIONS — WITNESSES.*—Each house, when in session, may compel attendance of witnesses and production of documents and other evidence upon any matter under investigation before it or any of its committees, and may punish by fine not exceeding one thousand dollars or imprisonment not exceeding ninety days, or both, any person not a member who has been guilty of disorderly or contemptuous conduct in its presence, or has refused to obey its lawful summons or to answer lawful questions. Such powers, except the power to punish, may be conferred by law upon committees when the legislature is not in session. Punishment of contempt of an interim legislative committee shall be by judicial proceedings as prescribed by law.

Section 6. *LAWS.*—Every law shall embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title. No law shall be revised or

amended by reference to its title only. Laws to revise or amend shall set out in full the revised or amended act, section, subsection or paragraph of a subsection. The enacting clause of every law shall read: "Be It Enacted by the Legislature of the State of Florida:".

Section 7. *PASSAGE OF BILLS.*—Any bill may originate in either house and after passage in one may be amended in the other. It shall be read in each house on three separate days, unless this rule is waived by two-thirds vote. On each reading, it shall be read by title only, unless one-third of the members present desire it read in full. On final passage, the vote of each member voting shall be entered on the journal. Passage of a bill shall require a majority vote in each house. Each bill and joint resolution passed in both houses shall be signed by the presiding officers of the respective houses and by the secretary of the senate and the clerk of the house of representatives during the session or as soon as practicable after its adjournment sine die.

Section 8. *EXECUTIVE APPROVAL AND VETO.*—

(a) Every bill passed by the legislature shall be presented to the governor for his approval and shall become a law if he approves and signs it, or fails to veto it within seven consecutive days after presentation. If during that period or on the seventh day the legislature adjourns sine die or takes a recess of more than thirty days, he shall have fifteen consecutive days from the date of presentation to act on the bill. In all cases except general appropriation bills, the veto shall extend to the entire bill. The governor may veto any specific appropriation in a general appropriation bill, but may not veto any qualification or restriction without also vetoing the appropriation to which it relates.

(b) When a bill or any specific appropriation of a general appropriation bill has been vetoed by the governor, he shall transmit his signed objections thereto to the house in which the bill originated if in session. If that house is not in session, he shall file them with the secretary of state, who shall lay them before that house at its next regular or special session, and they shall be entered on its journal.

(c) If each house shall, by a two-thirds vote, re-enact the bill or reinstate the vetoed specific appropriation of a general appropriation bill, the vote of each member voting shall be entered on the respective journals, and the bill shall become law or the specific appropriation reinstated, the veto notwithstanding.

Section 9. *EFFECTIVE DATE OF LAWS.*—Each law shall take effect on the sixtieth day after adjournment sine die of the session of the legislature in which enacted or as otherwise provided therein. If the law is passed over the veto of the governor it shall take effect on the sixtieth day after adjournment sine die of the session in which the veto is overridden, on a later date fixed in the law, or on a date fixed by resolution passed by both houses of the legislature.

Section 10. *SPECIAL LAWS.*—No special law shall be passed unless notice of intention to seek enactment thereof has been published in the manner provided by general law. Such notice shall not be necessary when the law, except the provision for referendum, is conditioned to become effective only upon approval by vote of the electors of the area affected.

Section 11. *PROHIBITED SPECIAL LAWS.*—

(a) There shall be no special law or general law of local application pertaining to:

- (1) election, jurisdiction or duties of officers, except officers of municipalities, chartered counties, special districts or local governmental agencies;
- (2) assessment or collection of taxes for state or county purposes, including extension of time therefor, relief of tax officers from due performance of their duties, and relief of their sureties from liability;
- (3) rules of evidence in any court;
- (4) punishment for crime;
- (5) petit juries, including compensation of jurors, except establishment of jury commissions;
- (6) change of civil or criminal venue;
- (7) conditions precedent to bringing any civil or criminal proceedings, or limitations of time therefor;

(8) refund of money legally paid or remission of fines, penalties or forfeitures;

(9) creation, enforcement, extension or impairment of liens based on private contracts, or fixing of interest rates on private contracts;

(10) disposal of public property, including any interest therein, for private purposes;

(11) vacation of roads;

(12) private incorporation or grant of privilege to a private corporation;

(13) effectuation of invalid deeds, wills or other instruments, or change in the law of descent;

(14) change of name of any person;

(15) divorce;

(16) legitimation or adoption of persons;

(17) relief of minors from legal disabilities;

(18) transfer of any property interest of persons under legal disabilities or of estates of decedents;

(19) hunting or fresh water fishing;

(20) regulation of occupations which are regulated by a state agency; or

(21) any subject when prohibited by general law passed by a three-fifths vote of the membership of each house. Such law may be amended or repealed by like vote.

(b) In the enactment of general laws on other subjects, political subdivisions or other governmental entities may be classified only on a basis reasonably related to the subject of the law.

Section 12. *APPROPRIATION BILLS.*—Laws making appropriations for salaries of public officers and other current expenses of the state shall contain provisions on no other subject.

Section 13. *TERM OF OFFICE.*—No office shall be created the term of which shall exceed four years except as provided herein.

Section 14. *CIVIL SERVICE SYSTEM.*—By law there shall be created a civil service system for state employees, except those expressly exempted, and there may be created civil service systems and boards for county, district or municipal employees and for such offices thereof as are not elected or appointed by the governor, and there may be authorized such boards as are necessary to prescribe the qualifications, method of selection and tenure of such employees and officers.

Section 15. *TERMS AND QUALIFICATIONS OF LEGISLATORS.*—

(a) *SENATORS.* Senators shall be elected for terms of four years, those from odd-numbered districts in the years the numbers of which are multiples of four, and those from even-numbered districts in even-numbered years the numbers of which are not multiples of four; except, at the election next following a reapportionment, some senators shall be elected for terms of two years when necessary to maintain staggered terms.

(b) *REPRESENTATIVES.* Members of the house of representatives shall be elected for terms of two years in each even-numbered year.

(c) *QUALIFICATIONS.* Each legislator shall be at least twenty-one years of age, an elector and resident of the district from which elected and shall have resided in the state for a period of two years prior to election.

(d) *ASSUMING OFFICE—VACANCIES.* Members of the legislature shall take office upon election. Vacancies in legislative office shall be filled only by election as provided by law.

Section 16. *LEGISLATIVE APPORTIONMENT.*—

(a) *SENATORIAL AND REPRESENTATIVE DISTRICTS.* The legislature at its regular session in the second year following each decennial census, by joint resolution, shall apportion the state in accordance with the constitution of the state and of the United States into not less than thirty nor more

than forty consecutively numbered senatorial districts of either contiguous, overlapping or identical territory, and into not less than eighty nor more than one hundred [twenty] consecutively numbered representative districts of either contiguous, overlapping or identical territory. Should that session adjourn without adopting such joint resolution, the governor by proclamation shall reconvene the legislature within thirty days in special apportionment session which shall not exceed thirty consecutive days, during which no other business shall be transacted, and it shall be the mandatory duty of the legislature to adopt a joint resolution of apportionment.

(b) **FAILURE OF LEGISLATURE TO APPORTIONMENT—JUDICIAL REAPPORTIONMENT.** In the event a special apportionment session of the legislature finally adjourns without adopting a joint resolution of apportionment, the attorney general shall, within five days, petition the supreme court of the state to make such apportionment. No later than the sixtieth day after the filing of such petition, the supreme court shall file with the secretary of state an order making such apportionment.

(c) **JUDICIAL REVIEW OF APPORTIONMENT.** Within fifteen days after the passage of the joint resolution of apportionment, the attorney general shall petition the supreme court of the state for a declaratory judgment determining the validity of the apportionment. The supreme court, in accordance with its rules, shall permit adversary interests to present their views and, within thirty days from the filing of the petition, shall enter its judgment.

(d) **EFFECT OF JUDGMENT IN APPORTIONMENT—EXTRAORDINARY APPORTIONMENT SESSION.** A judgment of the supreme court of the state determining the apportionment to be valid shall be binding upon all the citizens of the state. Should the supreme court determine that the apportionment made by the legislature is invalid, the governor by proclamation shall reconvene the legislature within five days thereafter in extraordinary apportionment session which shall not exceed fifteen days, during which the legislature shall adopt a joint resolution of apportionment conforming to the judgment of the supreme court.

(e) **EXTRAORDINARY APPORTIONMENT SESSION—REVIEW OF APPORTIONMENT.** Within fifteen days after the adjournment of an extraordinary apportionment session, the attorney general shall file a petition in the supreme court of the state setting forth the apportionment resolution adopted by the legislature, or if none has been adopted, reporting that fact to the court. Consideration of the validity of a joint resolution of apportionment shall be had as provided for in cases of such joint resolution adopted at a regular or special apportionment session.

(f) **JUDICIAL REAPPORTIONMENT.** Should an extraordinary apportionment session fail to adopt a resolution of apportionment or should the supreme court determine that the apportionment made is invalid, the court shall, not later than sixty days after receiving the petition of the attorney general, file with the secretary of state an order making such apportionment.

#### Section 17. **IMPEACHMENT.**—

(a) The governor, lieutenant governor, members of the cabinet, justices of the supreme court and judges of other courts shall be liable to impeachment for misdemeanor in office. The house of representatives by two-thirds vote shall have the power to impeach an officer. The speaker of the house of representatives shall have power at any time to appoint a committee to investigate charges against any officer subject to impeachment.

(b) An officer impeached by the house of representatives shall be disqualified from performing any official duties until acquitted by the senate, and unless the governor is impeached he may by appointment fill the office until completion of the trial.

(c) All impeachments by the house of representatives shall be tried by the senate. The chief justice of the supreme court, or another justice designated by him, shall preside at the trial, except in a trial of the chief justice, in which case the governor shall preside. The senate shall determine the time for the trial of any impeachment and may sit for the trial whether the house of representatives be in session or not. The time fixed for trial shall not be more than six months after the impeachment. During an impeachment trial senators shall be upon their

oath or affirmation. No officer shall be convicted without the concurrence of two-thirds of the members of the senate present. Judgment of conviction in cases of impeachment shall remove the offender from office and, in the discretion of the senate, may include disqualifications to hold any office of honor, trust or profit. Conviction or acquittal shall not affect the civil or criminal responsibility of the officer.

Section 18. **CONFLICT OF INTEREST.**—A code of ethics for all state employees and non-judicial officers prohibiting conflict between public duty and private interests shall be prescribed by law.

### ARTICLE IV EXECUTIVE

#### Section 1. **GOVERNOR.**—

(a) The supreme executive power shall be vested in a governor. He shall be commander-in-chief of all military forces of the state not in active service of the United States. He shall take care that the laws be faithfully executed, commission all officers of the state and counties, and transact all necessary business with the officers of government. He may require information in writing from all executive or administrative state, county, or municipal officers upon any subject relating to the duties of their respective offices.

(b) The governor may initiate judicial proceedings in the name of the state against any executive or administrative state, county or municipal officer to enforce compliance with any duty or restrain any unauthorized act.

(c) The governor may request in writing the opinion of the justices of the supreme court as to the interpretation of any portion of this constitution upon any question affecting his executive powers and duties. The justices shall, subject to their rules of procedure, permit interested persons to be heard on the questions presented and shall render their written opinion not earlier than ten days from the filing and docketing of such request, unless in their judgment such delay would cause public injury.

(d) The governor shall have power to call out the militia to preserve the public peace, execute the laws of the state, suppress insurrection, or repel invasion.

(e) The governor shall by message at least once in each regular session inform the legislature concerning the condition of the state, propose such reorganization of the executive department as will promote efficiency and economy, and recommend measures in the public interest.

(f) When not otherwise provided for in this constitution, the governor shall fill by appointment any vacancy in state or county office for the remainder of the term of an appointive office, and for the remainder of the term of an elective office if less than twenty-eight months, otherwise until the first Tuesday after the first Monday following the next general election.

#### Section 2. **LIEUTENANT GOVERNOR.**—

[(a) **DUTIES.**] There shall be a lieutenant governor. He shall perform such duties pertaining to the office of governor as shall be assigned to him by the governor, *except when otherwise provided by law*, and such other duties as may be prescribed by law.

#### Section 3. [(b)] **SUCCESSION TO OFFICE OF GOVERNOR—ACTING GOVERNOR.**—

(a) Upon vacancy in the office of governor, the lieutenant governor shall become governor. Further succession to the office of governor shall be prescribed by law. A successor shall serve for the remainder of the term.

[(c) **ACTING GOVERNOR.**] (b) Upon impeachment of the governor and until completion of trial thereof, or during his physical or mental incapacity, the lieutenant governor shall act as governor. Further succession as acting governor shall be prescribed by law. Incapacity to serve as governor may be determined by the supreme court upon due notice after docketing of a written suggestion thereof by four cabinet members, and in such case restoration of capacity shall be similarly determined after docketing of written suggestion thereof by the governor, the legislature or four cabinet members. Incapacity to serve as governor may also be established by certificate

filed with the secretary of state by the governor declaring his incapacity for physical reasons to serve as governor, and in such case restoration of capacity shall be similarly established.

Section [3]. 4. *CABINET*.—

(a) There shall be a cabinet composed of a secretary of state, an attorney general, a comptroller, a treasurer, a commissioner of agriculture and a commissioner of education. In addition to the powers and duties specified herein, they shall exercise such powers and perform such duties as may be prescribed by law.

(b) The secretary of state shall keep the records of the official acts of the legislative and executive departments.

(c) The attorney general shall be the chief state legal officer.

(d) The comptroller shall serve as the chief fiscal officer of the state, and shall settle and approve accounts against the state.

(e) The treasurer shall keep all state funds and securities. He shall disburse state funds only upon the order of the comptroller, countersigned by the governor. The governor shall countersign as a ministerial duty subject to original mandamus.

(f) The commissioner of agriculture shall have supervision of matters pertaining to agriculture except as otherwise provided by law.

(g) The commissioner of education shall supervise the public education system in the manner prescribed by law.

Section [4.] 5. *ELECTION OF GOVERNOR, LIEUTENANT GOVERNOR AND CABINET MEMBERS—QUALIFICATIONS—TERMS*.—

(a) At a state-wide general election in each calendar year the number of which is even but not a multiple of four, the electors shall choose a governor and a lieutenant governor and members of the cabinet each for a term of four years beginning on the first Tuesday after the first Monday in January of the succeeding year. In the general election and in party primaries, if held, all candidates for the offices of governor and lieutenant governor shall form joint candidacies in a manner prescribed by law so that each voter shall cast a single vote for a candidate for governor and a candidate for lieutenant governor running together.

(b) When elected, the governor, lieutenant governor and each cabinet member must be an elector not less than thirty years of age who has resided in the state for the preceding seven years. The attorney general must have been a member of the bar of Florida for the preceding five years. No person who has, or but for resignation would have, served as governor or acting governor for more than six years in two consecutive terms shall be elected governor for the succeeding term.

Section [5.] 6. *EXECUTIVE DEPARTMENTS*.—All functions of the executive branch of state government shall be allotted among not more than twenty-five departments, exclusive of those specifically provided for or authorized in this constitution. The administration of each department, unless otherwise provided in this constitution, shall be placed by law under the direct supervision of the governor, the lieutenant governor, the governor and cabinet, a cabinet member, or an officer or board appointed by and serving at the pleasure of the governor, except:

(a) When provided by law, confirmation by the senate or the approval of three members of the cabinet shall be required for appointment to or removal from any designated statutory office.

(b) Boards authorized to grant and revoke licenses to engage in regulated occupations shall be assigned to appropriate departments and their members appointed for fixed terms, subject to removal only for cause.

Section [6.] 7. *SUSPENSIONS—FILLING OFFICE DURING SUSPENSIONS*.—

(a) By executive order stating the grounds and filed with the secretary of state, the governor may suspend from office any state officer not subject to impeachment, any officer of the militia not in the active service of the United States, or any county officer, for malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform his official duties, or commission of a felony, and may fill the office by appointment for the period of suspension. The suspended

officer may at any time before removal be reinstated by the governor.

(b) The senate may, in proceedings prescribed by law, remove from office or reinstate the suspended official and for such purpose the senate may be convened in special session by its president or by a majority of its membership.

(c) By order of the governor any elected municipal officer indicted for crime may be suspended from office until acquitted and the office filled by appointment for the period of suspension, not to extend beyond the term, unless these powers are vested elsewhere by law or the municipal charter.

Section [7.] 8. *CLEMENCY*.—

(a) Except in cases of treason and in cases where impeachment results in conviction, the governor may, by executive order filed with the secretary of state, suspend collection of fines and forfeitures, grant reprieves not exceeding sixty days and, with the approval of three members of the cabinet, grant full or conditional pardons, restore civil rights, commute punishment, and remit fines and forfeitures for offenses.

(b) In cases of treason the governor may grant reprieves until adjournment of the regular session of the legislature convening next after the conviction, at which session the legislature may grant a pardon or further reprieve; otherwise the sentence shall be executed.

(c) There may be created by law a parole and probation commission with power to supervise persons on probation and to grant paroles or conditional releases to persons under sentences for crime. The qualifications, method of selection and terms, not to exceed six years, of members of the commission shall be prescribed by law.

Section [8.] 9. *GAME AND FRESH WATER FISH COMMISSION*.—There shall be a game and fresh water fish commission, composed of five members appointed by the governor for staggered terms of five years. The commission shall exercise the non-judicial powers of the state with respect to wild animal life and fresh water aquatic life, except that all license fees for taking wild animal life and fresh water aquatic life and penalties for violating regulations of the commission shall be prescribed by specific statute.

ARTICLE VII

FINANCE AND TAXATION

Section 1. *TAXATION—APPROPRIATIONS—STATE EXPENSES*.—

(a) No tax shall be levied except in pursuance of law. No state ad valorem taxes shall be levied upon real estate or tangible personal property. All other forms of taxation shall be preempted to the state except as provided by general law.

(b) Motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes, as defined by law, shall be subject to a license tax for their operation in the amounts and for the purposes prescribed by law, but shall not be subject to ad valorem taxes.

(c) No money shall be drawn from the treasury except in pursuance of appropriation made by law.

(d) Provision shall be made by law for raising sufficient revenue to defray the expenses of the state for each fiscal period.

Section 2. *TAXES—RATE*.—All ad valorem taxation shall be at a uniform rate within each taxing unit except:

[(a) The tax on intangible personal property] *The taxes on intangible personal property may be at different rates but shall never exceed two mills on the dollar of assessed value; provided that as to any obligations secured by mortgage, deed of trust, or other lien on real estate wherever located, an intangible tax of not more than two mills on the dollar may be levied by law to be in lieu of all other intangible assessments on such obligations.*

Section 3. *TAXES—EXEMPTIONS*.—

[(b)] (a) All property owned by a municipality and used exclusively by such municipality for municipal or public purposes [within the county in which the municipality is located] shall be exempt from taxation. By general law other property owned by a municipality and used [exclusively] primarily for municipal or public purposes, [and] or property used [exclu-

sively] *primarily* for educational, literary, scientific, religious or charitable purposes may be exempted from taxation.

[(c)] (b) There shall be exempt from taxation, cumulatively, to every head of a family residing in this state, household goods and personal effects to the value fixed by general law, not less than one thousand dollars, and to every widow or person who is blind or totally and permanently disabled, property to the value fixed by general law not less than five hundred dollars.

Section [3] 4. **TAXATION—ASSESSMENTS.**—By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land or land used exclusively for non-commercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

(b) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value.

Section [4.] 5. **ESTATE, INHERITANCE AND INCOME TAXES.**—No tax upon estates or inheritances or upon the income of residents or citizens of the state shall be levied by the state, or under its authority, in excess of the aggregate of amounts which may be allowed to be credited upon or deducted from any similar tax levied by the United States or any state.

Section [5.] 6. **HOMESTEAD EXEMPTIONS.**—

(a) Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon, except assessments for special benefits, [to the extent of five thousand dollars of assessed value,] up to the assessed valuation of five thousand dollars on said home and contiguous real property, upon establishment of right thereto in the manner prescribed by law. The real estate may be held by legal or equitable title, by the [entities] *entireties*, jointly, in common, as a condominium, or indirectly by stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight years.

(b) Not more than one exemption shall be allowed any individual or family unit or with respect to any residential unit. No exemption shall exceed the value of the real estate assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which his interest in the corporation bears to the assessed value of the property.

(c) If the real estate be maintained as a bona fide permanent home for an owner who has been a resident of the state for the preceding five years and who is over the age of sixty-five or totally disabled as defined by law, the amount of the exemption shall be ten thousand dollars of assessed value.

Section [6.] 7. **ALLOCATION OF PARI-MUTUEL TAXES.**—Taxes upon the operation of pari-mutuel pools may be preempted to the state or allocated in whole or in part to the counties. When allocated to the counties, the distribution shall be in equal amounts to the several counties.

Section [7.] 8. **AID TO LOCAL GOVERNMENTS.**—State funds may be appropriated to the several counties, school districts, municipalities or special districts upon such conditions as may be provided by general law.

Section [8.] 9. **LOCAL TAXES.**—

(a) Counties, school districts, and municipalities shall, and special districts may, be authorized by law to levy ad valorem taxes and may be authorized by general law to levy other taxes, for their respective purposes, except ad valorem taxes on intangible personal property and taxes prohibited by this constitution.

(b) Ad valorem taxes, exclusive of taxes levied for the payment of bonds and taxes levied for periods not longer than two years when authorized by vote of the electors who are the owners of freeholds therein not wholly exempt from taxation, shall not be levied in excess of the following millages upon the assessed value of real estate and tangible personal property: for all county purposes, ten mills; for all municipal purposes, ten mills; for all school purposes, ten mills; and for special

districts a millage authorized by law approved by vote of the electors who are owners of freeholds therein not wholly exempt from taxation. A county furnishing municipal services in unincorporated areas may, to the extent authorized by law, levy therein additional taxes within the limits fixed for municipal purposes.

Section [9.] 10. **PLEDGING CREDIT.**—Neither the state nor any county, school district, municipality, special district, or agency of any of them, shall become a joint owner with, or stockholder of, or give, lend, or use its taxing power or credit to aid any corporation, association, partnership, or person; but this shall not prohibit laws authorizing:

(a) the investment of public trust funds;

(b) the investment of other public funds in obligations of, or insured by, the United States or any of its instrumentalities;

(c) the issuance and sale by any county, municipality, special district or other local governmental body of (1) revenue bonds to finance or refinance the cost of capital projects for airports or port facilities, or (2) revenue bonds to finance or refinance the cost of capital projects for industrial or manufacturing plants to the extent that the interest thereon is exempt from income taxes under the then existing laws of the United States, when, in either case, the revenue bonds are payable solely from revenue derived from the sale, operation, or leasing of the projects. If [Any] any project so financed, or any part thereof, [which] is occupied or operated by any private corporation, association, partnership or person pursuant to contract or lease with the issuing body, *the property interest created by such contract or lease* shall be subject to taxation to the same extent as other privately owned property.

Section [10.] 11. **STATE BONDS—REVENUE BONDS.**—

(a) State bonds pledging the full faith and credit of the state may be issued only to finance or refinance the cost of state capital projects upon approval by a vote of the electors; provided state bonds issued pursuant to this subsection (a) may be refunded without a vote of the electors at a lower net average interest cost rate. The total outstanding principal of state bonds issued pursuant to this subsection (a) shall never exceed fifty per cent of the total tax revenues of the state for the two preceding fiscal years.

(b) Moneys sufficient to pay debt service on state bonds as the same becomes due shall be appropriated by law.

(c) Revenue bonds may be issued by the state or its agencies without a vote of the electors only to finance or refinance the cost of state capital projects and shall be payable solely from funds derived from sources other than state tax revenues or rents or fees paid from state tax revenues.

Section [11.] 12. **LOCAL BONDS.**—Counties, school districts, municipalities, special districts and local governmental bodies with taxing powers may issue bonds, certificates of indebtedness or any form of tax anticipation certificates, payable from ad valorem taxation and maturing more than twelve months after issuance only:

(a) to finance or refinance capital projects authorized by law and only when approved by vote of the electors who are owners of freeholds therein not wholly exempt from taxation; or

(b) to refund outstanding bonds and interest and redemption premium thereon at a lower net average interest cost rate.

Section [12.] 13. **RELIEF FROM ILLEGAL TAXES.**—Until payment of all taxes which have been legally assessed upon the property of the same owner, no court shall grant relief from the payment of any tax that may be illegal or illegally assessed.

## ARTICLE IX

### EDUCATION

Section 1. **SYSTEM OF PUBLIC EDUCATION.**—Adequate provision shall be made by law for a uniform system of free public schools and for the establishment, maintenance and operation of institutions of higher learning and other public education programs that the needs of the people may require.

Section 2. **STATE BOARD OF EDUCATION.**—The governor and the members of the cabinet shall constitute a state

board of education, which shall be a body corporate and have such supervision of the system of public education as provided by law.

Section 3. *TERMS OF APPOINTIVE BOARD MEMBERS.*—Members of any appointive board dealing with education may serve terms in excess of four years as provided by law.

Section 4. *SCHOOL DISTRICTS—SCHOOL BOARDS.*—

(a) Each county shall constitute a school district; provided two or more contiguous counties, upon an affirmative vote of the electors of each county, may be combined by law into one school district. In each school district there shall be a school board composed of five or more members chosen by vote of the electors for appropriately staggered terms of four years, as provided by law.

(b) The school board shall operate, control and supervise all free public schools within the school district and determine the rate of school district taxes. Two or more school districts may operate and finance joint educational programs.

Section 5. *SUPERINTENDENT OF SCHOOLS.*—In each school district there shall be a superintendent of schools. He shall be elected at the general election in each year the number of which is a multiple of four for a term of four years; or, when provided by resolution of the district school board approved by vote of the electors, the office of district school superintendent in any school district shall be filled by appointment by the district school board. Such resolution may be rescinded by like procedure after four years.

Section 6. *STATE SCHOOL FUND.*—[The income derived from the state school fund shall, and the principal of such fund may, be appropriated only to the support and maintenance of free public schools.] *The income derived from the state school fund shall be appropriated to the support and maintenance of free public schools. The principal of such fund may be appropriated to the same purpose, but to no other.*

## ARTICLE X

### MISCELLANEOUS

Section 1. *AMENDMENTS TO UNITED STATES CONSTITUTION.*—The legislature shall not take action on any proposed amendment to the constitution of the United States unless a majority of the members thereof have been elected after the proposed amendment has been submitted for ratification.

Section 2. *MILITIA.*—

(a) The militia shall be composed of all able-bodied inhabitants of the state who are or have declared their intention to become citizens of the United States; and no person because of religious creed or opinion shall be exempted from military duty except upon conditions provided by law.

(b) The organizing, equipping, housing, maintaining, and disciplining of the militia, and the safekeeping of public arms may be provided for by law.

(c) The governor shall appoint all commissioned officers of the militia, including an adjutant general who shall be chief of staff. The appointment of all general officers shall be subject to confirmation by the senate.

(d) The qualification of personnel and officers of the federally recognized national guard, including the adjutant general, and the grounds and proceedings for their discipline and removal shall conform to the appropriate United States army or air force regulations and usages.

Section 3. *VACANCY IN OFFICE.*—Vacancy in office shall occur upon the creation of an office, upon the death of the incumbent or his removal from office, resignation, succession to another office, unexplained absence for sixty consecutive days, or failure to maintain the residence required when elected or appointed, and upon failure of one elected or appointed to office to qualify within thirty days from the commencement of the term.

Section 4. *HOMESTEAD—EXEMPTIONS.*—

(a) There shall be exempt from forced sale under process of any court, and no judgment, decree or execution shall be a

lien thereon, except for the payment of taxes and assessments thereon, obligations contracted for the purchase, improvement or repair thereof, or obligations contracted for house, field or other labor performed on the realty, the following property owned by the head of a family:

(1) a homestead, if located outside a municipality, to the extent of one hundred sixty acres of contiguous land and improvements thereon, which shall not be reduced without the owner's consent by reason of subsequent inclusion in a municipality; or if located within a municipality, to the extent of one-half acre of contiguous land, upon which the exemption shall be limited to the residence of the owner or his family;

(2) personal property to the value of one thousand dollars.

(b) These exemptions shall inure to the surviving spouse or heirs of the owner.

(c) The homestead shall not be subject to devise if the owner is survived by spouse or minor child. The owner of homestead real estate, joined by the spouse if married, may alienate the homestead by mortgage, sale or gift and, if married, may by deed transfer the title to an estate by the entirety with the spouse. If the owner or spouse is incompetent, the method of alienation or encumbrance shall be as provided by law.

Section 5. *COVERTURE AND PROPERTY.*—There shall be no distinction between married women and married men in the holding, control, disposition, or encumbering of their property, both real and personal; except that dower or curtesy may be established and regulated by law.

Section 6. *EMINENT DOMAIN.*—

(a) No private property shall be taken [or damaged] except for a public purpose and with [full] just compensation therefor [, including damages arising from the taking, as determined by a jury, and court costs, reasonable expenses and attorneys' fees, as determined by a court,] paid to each owner or secured by deposit in the registry of the court and available to the owner.

[(b) After judicial determination of necessity, title and possession of the property may be taken before final judgment upon deposit in the registry of the court, available to the owner, of a sum found by the judge of the court to be fair and reasonable after a hearing pursuant to reasonable notice as provided by law].

[(c) Any owner may withdraw from the registry of the court the amount found by the court to be fair and reasonable, made before judgment without waiving the right to jury trial, or the deposit of the sum awarded by judgment after trial without waiving the right of appeal. No appeal from any order or judgment of taking shall operate as a supersedeas.]

[(d) (b) Provision may be made by law for the taking, by like proceedings, of rights of access to, or for drainage or irrigation of, the land of one person over or through the land of another.

Section 7. *LOTTERIES.*—Lotteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution, are hereby prohibited in this state.

Section 8. *CENSUS.*—

(a) Each decennial census of the state taken by the United States shall be an official census of the state.

(b) Each decennial census, for the purpose of classifications based upon population, shall become effective on the thirtieth day after the final adjournment of the regular session of the legislature convened next after certification of the census.

Section 9. *REPEAL OF CRIMINAL STATUTES.*—Repeal or amendment of a criminal statute shall not affect prosecution or punishment for any crime previously committed.

Section 10. *FELONY—DEFINITION.*—The term "felony" as used herein and in the laws of this state shall mean any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by death or by imprisonment in the state penitentiary.

Section 11. *SOVEREIGNTY LANDS.*—The title to lands under navigable waters, within the boundaries of the state, which have not been alienated, including beaches below mean high water lines, is held by the state, by virtue of its sovereignty,

in trust for all the people. Sale or private use of portions of such lands may be authorized by law, but only when not contrary to the public interest.

Section 12. *RULES OF CONSTRUCTION.*—Unless qualified in the text the following rules of construction shall apply to this constitution.

- (a) "Herein" refers to the entire constitution.
- (b) The singular includes the plural.
- (c) The masculine includes the feminine.
- (d) "Vote of the electors" means the vote of the majority of those voting on the matter in an election, general or special, in which those participating are limited to the electors of the governmental unit referred to in the text.

(e) Vote or other action of a legislative house or other governmental body means the vote or action of a majority or other specified percentage of those members voting on the matter. "Of the membership" means "of all members thereof."

(f) The terms "judicial office," "justices" and "judges" shall not include judges of courts established solely for the trial of violations of ordinances.

(g) "Special law" means a special or local law.

(h) Titles and subtitles shall not be used in construction.

[Section 13. *SOVEREIGN IMMUNITY.*—The state, its agencies and political subdivisions, shall be liable on their contracts and responsible for their torts under the circumstances and subject to the limitations upon and methods, administrative or judicial, for determining liability as established by general law.]

*Section 13. SOVEREIGN IMMUNITY.*—*Sovereign immunity from liability in tort or contract shall not exist, provided however, the legislature may provide by general law for the method and procedure of bringing suits against the state or any public body therein.*

## ARTICLE XI

### AMENDMENTS

Section 1. *PROPOSAL BY LEGISLATURE.*—Amendment of a section or revision of one or more articles, or the whole, of this constitution may be proposed by joint resolution agreed to by three-fifths of the membership of each house of the legislature. The full text of the joint resolution and the vote of each member voting shall be entered on the journal of each house.

Section 2. *REVISION COMMISSION.*—

(a) Within thirty days after the adjournment of the regular session of the legislature convened in the tenth year following that in which this constitution is adopted, and each twentieth year thereafter, there shall be established a constitution revision commission composed of the following thirty-seven members:

- (1) the attorney general of the state;
- (2) fifteen members selected by the governor;
- (3) nine members selected by the speaker of the house of representatives and nine members selected by the president of the senate; and
- (4) three members selected by the chief justice of the supreme court of Florida with the advice of the justices.

(b) The governor shall designate one member of the commission as its chairman. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments.

(c) Each constitution revision commission shall convene at the call of its chairman, adopt its rules of procedure, examine the constitution of the state, hold public hearings, and, not later than one hundred eighty days prior to the next general election, file with the secretary of state its proposal, if any, of a revision of this constitution or any part of it.

Section 3. *INITIATIVE.*—The power to propose amendments to any section of this constitution by initiative is reserved to the people. It may be invoked by filing with the secretary of state a petition containing a copy of the proposed

amendment, signed by a number of electors in each of one half of the congressional districts of the state, and of the state as a whole, equal to eight per cent of the votes cast in each of such districts respectively and in the state as a whole in the last preceding election in which presidential electors were chosen.

Section 4. *CONSTITUTIONAL CONVENTION.*—

(a) The power to call a convention to consider a revision of the entire constitution is reserved to the people. It may be invoked by filing with the secretary of state a petition, containing a declaration that a constitutional convention is desired, signed by a number of electors in each of one half of the congressional districts of the state, and of the state as a whole, equal to fifteen per cent of the votes cast in each such district respectively and in the state as a whole in the last preceding election of presidential electors.

(b) At the next general election held more than ninety days after the filing of such petition there shall be submitted to the electors of the state the question: "Shall a constitutional convention be held?" If a majority voting on the question votes in the affirmative, at the next succeeding general election there shall be elected from each representative district a member of a constitutional convention. On the twenty-first day following that election, the convention shall sit at the capital, elect officers, adopt rules of procedure, judge the election of its membership, and fix a time and place for its future meetings. Not later than ninety days before the next succeeding general election, the convention shall cause to be filed with the secretary of state any revision of this constitution proposed by it.

Section 5. *AMENDMENT OR REVISION ELECTION.*—

(a) A proposed amendment to or revision of this constitution, or any part of it, shall be submitted to the electors at the next general election held more than ninety days after the joint resolution, initiative petition or report of revision commission or constitutional convention proposing it is filed with the secretary of state, unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing.

(b) Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, shall be published in one newspaper of general circulation in each county in which a newspaper is published.

(c) If the proposed amendment or revision is approved by vote of the electors, it shall be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.

## ARTICLE XII

### SCHEDULE

Section 1. *CONSTITUTION OF 1885 SUPERSEDED.*—The Constitution of Florida adopted in 1885, as amended from time to time, is superseded by this constitution except those sections expressly retained and made a part of this constitution by reference.

Section 2. *SARASOTA COUNTY—HOMESTEAD TAX EXEMPTION.*—[The status of Sarasota county as respects the deferred allowance of homestead tax exemption under Article X, Section 7, of the Constitution of 1885, as amended, shall continue in effect until changed by vote of the electors of the county to conform to Article VII, Section 5, of this constitution.]

Section [3.] 2. *OFFICERS TO CONTINUE IN OFFICE.*—Every person holding office when this constitution becomes effective shall continue in office for the remainder of the term if that office is not abolished. If the office is abolished the incumbent shall be paid adequate compensation, to be fixed by law, for the loss of emoluments for the remainder of the term.

Section [4.] 3. *STATE COMMISSIONER OF EDUCATION.*—The state superintendent of public instruction in office on the effective date of this constitution shall become and, for the remainder of the term being served, shall be the commissioner of education.

Section [5.] 4. *SUPERINTENDENT OF SCHOOLS.*—

(a) On the effective date of this constitution the county superintendent of public instruction of each county shall become and, for the remainder of the term being served, shall be the superintendent of schools of that district.

(b) The method of selection of the county superintendent of public instruction of each county, as provided by or under the Constitution of 1885, as amended, shall apply to the selection of the district superintendent of schools until changed as herein provided.

Section [6.] 5. *LAWS PRESERVED.*—

(a) All laws in effect upon the adoption of this constitution, to the extent not inconsistent with it, shall remain in force until they expire by their terms or are repealed.

(b) All statutes which, under the Constitution of 1885, as amended, apply to the state superintendent of public instruction and those which apply to the county superintendent of public instruction shall under this constitution apply, respectively, to the state commissioner of education and the district superintendent of schools.

Section [7.] 6. *RIGHTS RESERVED.*—

(a) All actions, rights of action, claims, contracts and obligations of individuals, corporations and public bodies or agencies existing on the date this constitution becomes effective shall continue to be valid as if this constitution had not been adopted. All taxes, penalties, fines and forfeitures owing to the state under the Constitution of 1885, as amended, shall inure to the state under this constitution, and all sentences as punishment for crime shall be executed according to their terms.

(b) This constitution shall not be retroactive so as to create any right or liability which did not exist under the Constitution of 1885, as amended, based upon matters occurring prior to the adoption of this constitution.

Section [8.] 7. *PUBLIC DEBTS RECOGNIZED.*—All bonds, revenue certificates, revenue bonds and tax anticipation certificates issued pursuant to the Constitution of 1885, as amended, by the state, any agency, political subdivision or public corporation of the state shall remain in full force and effect and shall be secured by the same sources of revenue as before the adoption of this constitution, and, to the extent necessary to effectuate this section, the applicable provisions of the Constitution of 1885, as amended, are retained as a part of this constitution until payment in full of these public securities.

Section [9.] 8. *BONDS.*—

(a) *ADDITIONAL SECURITIES.* No additional revenue bonds shall be issued pursuant to Article IX, Section 17, of the Constitution of 1885, as amended, or, after June 30, 1969, pursuant to Article XII, Section 19, of the Constitution of 1885, as amended. The provisions for interest rates contained in Subsection (d) of this section shall apply to such bonds as may be issued under this subsection (a).

(b) *REFUNDING BONDS.* Revenue bonds to finance the cost of state capital projects issued prior to the date this constitution becomes effective, including projects of the Florida state turnpike authority or its successor but excluding all portions of the state highway system, may be refunded as provided by law without vote of the electors, at a lower net average interest cost rate by the issuance of bonds, maturing not later than the obligations refunded, secured by the same revenues only, or secured by the same revenues and also by the full faith and credit of the state.

(c) *MOTOR VEHICLE FUEL TAXES.*

(1) A state tax, designated "second gas tax," of two cents per gallon upon gasoline and other like products of petroleum and an equivalent tax upon other sources of energy used to propel motor vehicles as levied by Article IX, Section 16, of the Constitution of 1885, as amended, is hereby continued for a period of forty consecutive years. The proceeds of said tax shall be placed monthly in the state roads distribution fund in the state treasury.

(2) Article IX, Section 16, of the Constitution of 1885, as amended, is adopted by this reference as a part of this constitution as completely as though incorporated herein verbatim for the purpose of providing that after the effective date of

this constitution the proceeds of the "second gas tax" as referred to therein shall be allocated among the several counties in accordance with the formula stated therein to the extent necessary to comply with all obligations to or for the benefit of holders of bonds, revenue certificates and tax anticipation certificates or any refundings thereof secured by any portion of the "second gas tax."

(3) No funds anticipated to be allocated under the formula stated in Article IX, Section 16, of the Constitution of 1885, as amended, shall be pledged as security for any obligation hereafter issued or entered into, except that any outstanding obligations previously issued pledging revenues allocated under said Article IX, Section 16, may be refunded at a lower net average interest cost rate by the issuance of refunding bonds, maturing not later than the obligations refunded, secured by the same revenues and any other security authorized in paragraph (5) of this subsection.

(4) Subject to the requirements of paragraph (2) of this subsection and after payment of administrative expenses, the "second gas tax" shall be allocated to the account of each of the several counties in amounts to be determined as follows: There shall be an initial allocation of one-fourth in the ratio of county area to state area, one-fourth in the ratio of the total county population to the total population of the state in accordance with the latest available federal census, and one-half in the ratio of the total "second gas tax" collected on retail sales or use in each county to the total collected in all counties of the state during the previous fiscal year. If the annual debt service requirements of any obligations issued for any county, including any deficiencies for prior years, secured under paragraph (2) of this subsection, exceeds the amount which would be allocated to that county under the formula set out in this paragraph, the amounts allocated to other counties shall be reduced proportionately.

(5) Funds allocated under paragraphs (2) and (4) of this subsection shall be administered by the state board of administration created under said Article IX, Section 16, of the Constitution of 1885, as amended, and which is continued as a body corporate for the life of this subsection 9(c). The board shall remit the proceeds of the "second gas tax" in each county account for use in said county as follows: eighty per cent to the state agency supervising the state road system and twenty per cent to the governing body of the county. The proceeds of the "second gas tax" subject to allocation to the several counties under this paragraph (5) shall be used first, for the payment of obligations pledging revenues allocated pursuant to Article IX, Section 16, of the Constitution of 1885, as amended, and any refundings thereof; second, for the payment of debt service on bonds issued as provided by this paragraph (5) to finance the acquisition and construction of roads as defined by law; and third, for the acquisition and construction of roads. When authorized by law, state bonds pledging the full faith and credit of the state may be issued without any election: (i) to refund obligations secured by any portion of the "second gas tax" allocated to a county under Article IX, Section 16, of the Constitution of 1885, as amended; (ii) to finance the acquisition and construction of roads in a county when approved by the governing body of the county and the state agency supervising the state road system; and (iii) to refund obligations secured by any portion of the "second gas tax" allocated under paragraph 9(c)(4). No such bonds shall be issued unless a state fiscal agency created by law has made a determination that in no state fiscal year will the debt service requirements of the bonds and all other bonds secured by the pledged portion of the "second gas tax" allocated to the county exceed seventy-five per cent of the pledged portion of the "second gas tax" allocated to that county for the preceding state fiscal year, of the pledged net tolls from existing facilities collected in the preceding state fiscal year, and of the annual average net tolls anticipated during the first five years of operation of new projects to be financed. Bonds issued pursuant to this subsection shall be payable primarily from the pledged tolls and portions of the "second gas tax" allocated to that county.

(d) *SCHOOL BONDS.* Article XII, Section 18, of the Constitution of 1885, as amended, as it existed immediately before this constitution becomes effective is adopted by this reference as part of this constitution as completely as though incorporated herein verbatim. Bonds or tax anticipation certificates hereafter issued thereunder may bear interest not in excess of five per cent per annum but higher interest may be authorized by statute passed by a two-thirds vote of the membership of each house of the legislature. Bonds issued pursuant to this subsection (d) shall be payable primarily from revenues as provided in Ar-

ticle XII, Section 18, of the Constitution of 1885, as amended, and, if authorized by law, may be additionally secured by pledging the full faith and credit of the state without an election. When authorized by law, bonds issued pursuant to Article XII, Section 18, of the Constitution of 1885, as amended, and bonds issued pursuant to this subsection (d) may be refunded by the issuance of bonds additionally secured by the full faith and credit of the state only at a lower net average interest cost rate.

(e) **DEBT LIMITATION.** Bonds issued pursuant to this [Section 10] *Section 9* of Article XII which are payable primarily from revenues pledged pursuant to this section shall not be included in applying the limits upon the amount of state bonds contained in Section 10, Article VII, of this constitution.

Section [10.] *9. PRESERVATION OF EXISTING GOVERNMENT.*—All provisions of the Constitution of 1885, as amended, not embraced herein which are not inconsistent with this constitution shall become statutes subject to modification or repeal as are other statutes.

Section [11.] *10. DELETION OF OBSOLETE SCHEDULE ITEMS.*—The legislature shall have power, by joint resolution, to delete from this constitution any section of this Article XII, including this section, when all events to which the section to be deleted is or could become applicable have occurred. A legislative determination of fact made as a basis for application of this section shall be subject to judicial review.

Section [12.] *11. SENATORS.*—The requirements of staggered terms of senators in Section 15(a) of Article III of this constitution shall apply only to senators elected in November, 1972, and thereafter.

Section [13.] *12. LEGISLATIVE APPORTIONMENT.*—The requirements of legislative apportionment in Section 16 of Article III of this constitution shall apply only to the apportionment of the legislature following the decennial census of 1970, and thereafter.

Section [14.] *13. CONFLICTING PROVISIONS.*—This schedule is designed to effect the orderly transition of government from the Constitution of 1885, as amended, to this constitution and shall control in all cases of conflict with any part of Articles I through IV, VII, and IX through XI.

Section [15.] *14. SPECIAL DISTRICT TAXES.*—Ad valorem taxing power vested by law in special districts existing when this constitution becomes effective shall not be abrogated by Section 8(b) of Article VII hereof, but such powers, except to the extent necessary to pay outstanding debts, may be restricted or withdrawn by law.

—was passed as amended by the required Constitutional three-fifths vote of all members elected to the Senate and certified to the House. The vote was:

Yeas—34

Mr. President	Fincher	Johnson	Shevin
Askew	Friday	Knopke	Slade
Bell	Gong	Lane	Spencer
Boyd	Griffin	McClain	Stockton
Chiles	Gunter	Mathews	Weber
Clayton	Haverfield	Ott	Weissenborn
Cross	Henderson	Plante	Young
Deeb	Hollahan	Poston	
Elrod	Horne	Reuter	

Nays—9

Barron	Fisher	Sayler	Thomas
Barrow	Gibson	Stolzenburg	Wilson
de la Parte			

## SECOND READING

**SJR 3-2X—A joint resolution proposing a revision of Article V of the Constitution of the State of Florida relating to the Judicial Department of the government.**

Was taken up and read the second time in full.

Pending consideration thereof, on motion by Senator Mathews, the Senate recessed at 10:56 a.m.

The Senate was called to order by the President Pro Tempore at 11:16 a.m. A quorum present.

The Senate resumed consideration of SJR 3-2X.

Unanimous consent was granted Senator Horne to take up the following amendment out of order:

Senator Horne offered the following amendment:

**Amendment 11—Article V, entire article on page 1 beginning at line 1, strike all after the resolving clause and insert in lieu thereof the following:**

## ARTICLE V

### JUDICIARY

Section 1. **COURTS.**—The judicial power shall be vested in a supreme court, district courts of appeal, circuit courts, county courts of record, magistrates courts and courts established solely for the trial of offenses against ordinances of counties or of municipalities. Administrative officers or bodies may be granted quasi-judicial power in matters connected with the functions of their offices, and their orders shall be judicially reviewed as provided by law. The jurisdiction of the courts shall be established uniformly by law except as authorized herein.

Section 2. **ADMINISTRATION—PRACTICE AND PROCEDURE.**—The supreme court shall adopt rules governing:

- the administration of all courts established by this article;
- the assignment of justices and judges, including consenting retired justices and judges, to temporary duty in any courts;
- practice and procedure in all courts, including the time for seeking appellate review;
- the transfer of any matter to the proper court when the jurisdiction of any court has been improvidently invoked.

Section 3. **CHIEF JUSTICE.**—

- The chief justice of the supreme court shall be the chief administrative officer of the judicial system.
- At the beginning of each regular session of the legislature the chief justice shall by message inform it of the condition of the judicial system and recommend measures for the improvement of the administration of justice.

Section 4. **SUPREME COURT.**—

- ORGANIZATION.** The supreme court shall consist of seven justices, one of whom shall be chosen the chief justice by the members of the court. Five justices shall constitute a quorum. The concurrence of four shall be necessary to a decision.
- JURISDICTION.** The supreme court:

(1) Shall hear appeals from final judgments of trial courts imposing the death penalty and from orders of trial courts and decisions of district courts of appeal initially and directly passing on the validity of a state statute or a federal statute or treaty, or construing a provision of the state or federal constitution.

(2) May review by certiorari any decision of a district court of appeal that affects a class of constitutional or state officers, that passes upon a question certified by the district court of appeal to be of great public interest, or that is in direct conflict with a decision of another district court of appeal or of the supreme court on the same question of law, and may issue writs of prohibition to courts and commissions in causes within the jurisdiction of the supreme court to review, and all writs necessary to the complete exercise of its jurisdiction.

(3) When provided by law, shall hear appeals from final judgments and orders of trial courts imposing life imprisonment or entered in proceedings for the validation of bonds or certificates of indebtedness and issue writs of certiorari to commissions established by law and writs of mandamus and quo warranto to state officers and state agencies.

Section 5. **DISTRICT COURTS OF APPEAL.**—

(a) **APPELLATE DISTRICTS.** The state by law shall be divided into not less than four appellate districts of one county or contiguous counties. There shall be a district court of appeal in each district consisting of not less than three judges. Three judges shall consider each case, and the concurrence of two shall be necessary to a decision.

## (b) JURISDICTION.

(1) District courts of appeal shall have jurisdiction to hear appeals, which may be taken as a matter of right, from final judgments or orders of trial courts, including those entered on review of administrative action, not directly appealable to the supreme court or a circuit court. They may review interlocutory orders or decrees in such cases to the extent provided in rules adopted by the supreme court.

(2) They shall have the powers of direct review of administrative action prescribed by law.

(3) A district court of appeal or any judge thereof may issue writs of habeas corpus returnable before that district court of appeal or before any circuit judge in that district. A district court of appeal may issue writs of mandamus, certiorari, prohibition, quo warranto, and other writs necessary to the complete exercise of its jurisdiction. To the extent necessary to dispose of all issues in a cause properly before it, a district court of appeal may exercise any of the appellate jurisdiction of the circuit courts.

Section 6. *CIRCUIT COURTS.*—

(a) JUDICIAL CIRCUITS. The state by law shall be divided into judicial circuits, each composed of one county or contiguous counties, and containing at least 100,000 inhabitants according to the last decennial census.

(b) CIRCUIT COURTS. There shall be a circuit court of each county.

(c) CIRCUIT JUDGES. There shall be at least one circuit judge in each circuit for each 50,000 inhabitants or major fraction thereof, according to the last census authorized by law. Each circuit judge shall be a judge of the circuit court of each county in the circuit. The county of residence of any circuit judge may be fixed by law but shall not be changed with respect to an incumbent during his continuous tenure in office without his consent.

(d) JURISDICTION. The circuit courts shall have exclusive original jurisdiction in all criminal cases in which capital punishment may be imposed; in all cases in equity except such equity jurisdiction as may be conferred by law on courts exercising juvenile or probate jurisdiction; in all cases involving the titles or boundaries of real estate, the legality of any tax, assessment, or toll; in all judicial proceedings, jurisdiction of which is not vested in other courts, and such jurisdiction of appeals from other trial courts as is prescribed by law. They shall have power to issue writs of mandamus, injunction, certiorari, prohibition, quo warranto, habeas corpus and all other writs necessary or proper to the complete exercise of their jurisdiction. They shall have the power of direct review of administrative action prescribed by law.

Section 7. *COUNTY COURTS OF RECORD.*—

(a) COUNTY COURTS OF RECORD. In each county there shall be a county court of record unless that court shall have been abolished and not re-established by vote of the electors pursuant to law.

(b) COUNTY COURT OF RECORD JUDGES. There shall be provided by law one or more judges for each county court of record.

(c) JURISDICTION. Except for the exclusive jurisdiction of the circuit courts, county courts of record shall have the original jurisdiction prescribed by general law, in the enactment of which counties may be reasonably classified on the basis of population into not more than three classes.

Section 8. *MAGISTRATES COURTS.*—

(a) COURTS. There shall be a magistrates court in each county or, if the county be divided into magistrates court districts, in each magistrates court district, unless that court shall be abolished, and not re-established, by vote of the electors pursuant to law. Magistrates courts districts may be consolidated or changed by law.

(b) NUMBER OF JUDGES. There shall be one or more judges for each magistrates court, as provided by law. When provided by law, the judge or judges of the county courts of record shall be ex officio judges of a magistrates court within the county.

(c) JURISDICTION. Except for the exclusive jurisdiction of the circuit courts, the judges of magistrates courts shall perform such duties and exercise such jurisdiction as shall be prescribed by general law.

Section 9. *ORDINANCES OF COUNTIES AND MUNICIPALITIES.*—In the manner and subject to the conditions prescribed by law any county or municipality may authorize an appropriate county court of record or magistrates court to issue process and try violations of its ordinances.

Section 10. *ADDITIONAL JUDGES.*—Additional judges for any court except the supreme court may be authorized by law upon certification of need by the supreme court.

Section 11. *DIVISIONS OF COURTS.*—The supreme court may provide by rule for the allocation of the work of trial courts into specialized divisions and for the assignment of judges to such divisions, but each judge shall have jurisdiction to hear all causes within the jurisdiction of his court.

Section 12. *ELIGIBILITY.*—A justice or judge shall be a citizen of the state and reside in the territorial jurisdiction of his court. A justice of the supreme court or judge of a district court of appeal must have been a member of the Bar of Florida for the preceding ten years. A judge of a circuit court and a judge of a county court of record having trial jurisdiction of felonies must have been a member of the Bar of Florida for the preceding five years. Judges of other county courts of record and judges of magistrates courts must be members of the Bar of Florida unless otherwise provided by general or special law.

Section 13. *ELECTIONS—TERMS.*—

(a) Justices and judges shall be chosen by the electors within the territorial jurisdiction of their respective courts by majority vote in non-partisan elections.

(b) The terms of all justices of the supreme court, judges of the district courts of appeal and circuit judges shall be for six years. The terms of judges of other courts, not longer than six years, shall be prescribed by law. The terms of justices of the supreme court and judges of the district courts of appeal shall be appropriately staggered.

Section 14. *VACANCIES.*—

(a) The governor shall fill each vacancy in judicial office by appointing for the remainder of the term one of not fewer than three persons nominated by the appropriate judicial nominating commission. If the governor fails to make the appointment within thirty days after the nominations have been certified to him, the supreme court shall make the appointment from those so nominated. Should the appropriate nominating commission fail to make nominations within the prescribed time the governor shall make the appointment.

(b) There shall be a separate judicial nominating commission for the supreme court, each district court of appeal and each judicial circuit composed of six electors of the area served; two appointed by the governor serving terms concurrent with that of the governor; two who have resided in the area served and been members of the bar of Florida for eight years, appointed by the governing body of the bar of Florida, serving staggered terms of four years; and two chosen in a manner prescribed by concurrent resolution of the legislature for terms of two years. Vacancies on a judicial nominating commission shall be filled for the unexpired term in the same manner as that office was originally filled.

(c) The nominating commission for the supreme court and the nominating commission for each district court of appeal shall make nominations for each vacancy in the office of justice or judge of the respective court, and the commission for each judicial circuit shall make nominations for each vacancy occurring in the office of judge of any court having territorial jurisdiction exclusively within the judicial circuit. Nominations shall be made within thirty days from the occurrence of a vacancy.

Section 15. *DISCIPLINE, RETIREMENT, REMOVAL.*—

(a) There shall be a judicial qualifications commission composed of:

(1) Two judges of district courts of appeal, two judges of circuit courts, one judge of a county court of record, and one judge of a magistrates court, selected by the judges of

the respective categories of courts;

(2) Three electors who have resided in, and been members of the bar of Florida for eight years, appointed by the governing body of the bar of Florida;

(3) Three electors who have resided in the state for five years and have never held judicial office or been members of the bar, appointed by the governor.

(b) The members of the judicial qualifications commission shall serve appropriately staggered terms fixed by law. No member of the commission shall hold office in a political party or, except as provided herein, public office. The commission shall elect one of its members as its chairman.

(c) The supreme court shall adopt rules regulating proceedings by the commission and the temporary replacement of disqualified or incapacitated members. After recommendation of removal of any justice or judge, the proceedings of the commission relating thereto shall be made public.

(d) Upon recommendation of the judicial qualifications commission, concurred in by two-thirds of its members, the supreme court may order that any justice or judge may be disciplined by private reprimand; removed from office, with termination of compensation, for wilful or persistent failure to perform his duties or for other conduct unbecoming a member of the judiciary; or involuntarily retired for any disability which seriously interferes with the performance of his duties and which is, or is likely to become, permanent.

(e) A justice or judge shall not serve after attaining the age of seventy years, except to complete a term, half of which he has served, or upon temporary assignment.

(f) The power of removal conferred by this section shall be cumulative to the power of impeachment or suspension.

(g) A justice or judge removed from office shall be subject to discipline as an attorney for professional misconduct which occurred prior to or during his tenure in office.

Section 16. *PROHIBITED ACTIVITIES.*—Justices of the supreme court, judges of district courts of appeal, judges of circuit courts and judges of county courts of record having trial jurisdiction of felonies shall devote full time to their judicial duties. They shall not engage in the practice of law or hold office in any political party. Similar prohibitions with respect to judges of other courts may be provided by law.

Section 17. *JUDICIAL SALARIES.*—All justices and judges shall be compensated by state salaries fixed by general law which shall not be diminished during the terms for which they have been elected or appointed, unless as a part of a general reduction of salaries applying uniformly to all salaried officers of the state, and which shall not be supplemented by any county or municipality. Judicial circuits and counties may be reasonably classified for the purpose of fixing judicial salaries. Judges of county courts of record and magistrates courts may also be compensated for non-judicial services as provided by law.

Section 18. *GRAND JURIES.*—

(a) The composition, length of service and number of grand juries shall be prescribed by general law. For these purposes, counties may be reasonably classified on the basis of population.

(b) A grand jury shall be convened in each county at least once in each year.

(c) The proceedings of grand juries shall be regulated by rules of the supreme court.

(d) Except as a reasonable incident to a report of its findings relating to the adequacy and care of public property and facilities, the conduct of public business or the performance of duties by public officers or employees, no grand jury shall make a presentment, other than a formal charge of crime, which is derogatory of any person.

Section 19. *STATE ATTORNEYS.*—In each judicial circuit a state attorney shall be elected for a term of four years by the electors to perform duties prescribed by law. State attorneys shall appoint such number of assistant state attorneys as may be authorized by law. The salaries of state attorneys and assistant state attorneys shall be fixed by general law, paid from

state funds, and shall not be supplemented by any county or municipality. Judicial circuits and counties may be reasonably classified for the purpose of fixing these salaries. A state attorney or assistant state attorney prosecuting persons charged with violations of county or municipal ordinances may be paid additional compensation by the county or municipality.

Section 20. *ATTORNEYS, ADMISSION AND DISCIPLINE.*—The supreme court shall have exclusive jurisdiction to regulate, in such manner and through such agencies as may be prescribed by its rules, the admission of persons to the practice of law and the discipline of persons admitted.

## SCHEDULE

### Section 11. JUDICIARY

(a) *EFFECTIVE DATE.* Article V of this constitution shall take effect at 12:01 o'clock A.M. January 1, A.D. 1970.

(b) *IMPLEMENTING LEGISLATION.* At the regular session of the legislature convened in the year 1969 statutes shall be enacted implementing Article V of this constitution which shall:

(1) Within the limits of this constitution fix initially the jurisdiction of all courts provided for in Article V.

(2) Provide for the transfer of all cases pending in courts abolished by this constitution to the courts which would have jurisdiction had they been instituted after the effective date of this constitution.

(3) Provide for the assignment of all judges of courts abolished by this constitution to serve for the remainder of their respective terms as judges of courts authorized by this constitution or for the payment of their compensation for the remainder of their respective terms.

(4) Provide for necessary additional judges in trial courts with initial terms expiring contemporaneously with those of other judges of the same courts. There shall not be fewer circuit judges than required by Article V, Section 6 (c), with one additional circuit judge in the circuit in which is located Duval County, one additional circuit judge in the circuit in which the state capitol is located and three additional circuit judges in the first judicial circuit.

(c) Should probate or juvenile jurisdiction in any county be vested in the circuit court of that county, the judges theretofore exercising such jurisdiction shall become circuit judges of the circuit in which that county is located provided they are otherwise eligible under Article V, section 12.

(d) Upon the effective date of Article V the judges of the court of record of Escambia County shall become circuit judges of the first judicial circuit and their terms of office shall be coextensive with the terms of all other circuit judges.

(e) Should the laws required by subsection (b) of this section not be enacted prior to July 1, 1969, the supreme court shall adopt rules implementing Article V of this constitution in the particulars specified in subsection (b) of this section, and these rules shall have the force and effect of law until such statutes have been enacted.

(f) Until otherwise provided by vote of the electors, the third, sixteenth and nineteenth circuits as they exist January 1, 1970, shall each constitute a judicial circuit.

(g) No justice or judge holding office immediately after this article becomes effective who held judicial office on June 30, 1957, shall be subject to retirement from judicial office pursuant to section 15(e).

Senator Lane offered the following amendment to the amendment which was adopted:

In Section 6, line 19, on page 4, strike: “.” and add:

, except that the county of Monroe shall constitute one of the circuits.

Senator Friday offered the following amendment to the amendment which failed:

Page 4, line 18, strike: “100,000” and insert 85,000

Pending further consideration of SJR 3-2X, the hour of recess having arrived, a point of order was called and the Senate recessed at 12:00 noon to reconvene at 1:30 p.m.

AFTERNOON SESSION

The Senate was called to order by the President Pro Tempore at 1:30 p.m. A quorum present—42:

Mr. President	Edwards	Horne	Shevin
Askew	Elrod	Johnson	Slade
Barron	Fincher	Knopke	Spencer
Barrow	Fisher	Lane	Stockton
Bell	Friday	McClain	Stolzenburg
Boyd	Gibson	Mathews	Weber
Chiles	Griffin	O'Grady	Weissenborn
Clayton	Gunter	Ott	Wilson
Cross	Haverfield	Plante	Young
Deeb	Henderson	Reuter	
de la Parte	Hollahan	Sayler	

The Senate resumed consideration of—

**SJR 3-2X—A joint resolution proposing a revision of Article V of the Constitution of the State of Florida relating to the Judicial Department of the government.**

Senators Bell, Stolzenburg and Lane offered the following amendment to amendment 11 which was adopted on motion by Senator Bell:

Article V, Section 13, Subsection (a), page 7, beginning at line 24, strike "non partisan" and insert partisan

Senators Mathews, de la Parte, Chiles, McClain, Friday, Plante and Lane offered the following substitute amendment for amendment 11 as amended:

Article V, page 1, beginning at line 3. Substantial rewording of Article. Strike all sections and insert in lieu thereof the following:

Section 1. *COURTS.*—The judicial power of the State of Florida shall be vested in a Supreme Court and such inferior courts as the legislature may prescribe by law.

Section 2. *ATTORNEYS, ADMISSION AND DISCIPLINE.*—The Supreme Court shall have exclusive jurisdiction over the admission to the practice of law and the discipline of persons admitted. It may provide for an agency to handle admissions subject to its supervision. It may also provide for the handling of disciplinary matters in the inferior courts, or by commissions consisting of members of the bar to be designated by it subject to its supervision and review.

Section 3. *ELECTIONS—TERMS.*—

(a) Justices and judges shall be chosen by the electors within the territorial jurisdiction of their respective courts.

(b) The terms of all justices of the Supreme Court shall be for six (6) years. The terms of all judges shall be prescribed by law.

Section 4. *RETIREMENT.*—A justice or judge shall not serve after attaining the age of seventy years; provided that any justice or judge in office on the effective date of this article shall continue to serve for the remainder of his term.

Section 5. *VACANCIES.*—The governor shall fill each vacancy in judicial office by appointing, subject to confirmation by the Senate, one of not fewer than three persons nominated by a judicial nominating commission. If the Senate be in recess, the appointment without confirmation shall be until the adjournment of the next session of the legislature. Judicial nominating commissions shall be established by law. Their members shall be appointed by, and serve terms concurrent with that of, the governor. They shall not be officers of any political party nor, after appointment to a full term, be eligible to serve any part of the succeeding term. No person who has been a member of a judicial nominating commission during the preceding twelve months shall be nominated for judicial office.

Section 6. *SCHEDULE.*—

(a) All provisions of Article V of the Constitution of 1885, as amended, not embraced herein shall become statutes subject to modification or repeal as are other statutes.

(b) All provisions of law and rules of court in force on the effective date of this article shall continue in effect until superseded by law.

Senator Elrod offered the following amendment to the substitute amendment which was adopted:

Article V, Section 1, paragraph 1, page 1, beginning at line 4, after the word "by" insert the word general

Senator Weissenborn offered the following amendment to the substitute amendment which failed:

Add a new section to read:

Section 6. The Legislature shall provide for one circuit judge in each circuit for each fifty thousand inhabitants or major fraction thereof according to the last census thereof.

Renumber present section 7 as section 6.

Senator Weissenborn also offered the following amendment to the substitute amendment which failed:

Strike all of subsection (b) of Section 3 and add a new subsection (b) of Section 3 to read as follows:

(b) The terms of all justices of the Supreme Court, the District Courts of Appeal, and the Circuit Court Judges shall be for six (6) years.

On motion by Senator Mathews, the substitute amendment as amended was adopted. The vote was:

Yeas—29

Barrow	Gibson	McClain	Slade
Bell	Griffin	Mathews	Stolzenburg
Boyd	Henderson	O'Grady	Weber
Chiles	Hollahan	Ott	Wilson
Clayton	Horne	Plante	Young
de la Parte	Johnson	Reuter	
Elrod	Knopke	Sayler	
Friday	Lane	Shevin	

Nays—9

Mr. President	Cross	Gunter	Stockton
Askew	Fisher	Haverfield	Weissenborn
Barron			

Senator Askew presiding.

On motion by Senator Mathews, the rules were waived and SJR 3-2X as amended was read the third time in full, as follows:

**SJR 3-2X—A joint resolution proposing a revision of Article V of the Constitution of the State of Florida relating to the Judicial Department of the government.**

*Be It Resolved by the Legislature of the State of Florida:*

That the following proposed revision of Article V of the Constitution of the State of Florida is hereby agreed to and shall be submitted to the electors of this state for ratification or rejection at the next general election to be held in November 1968.

ARTICLE V  
JUDICIARY

Section 1. *COURTS.*—The judicial power of the State of Florida shall be vested in a Supreme Court and such inferior courts as the legislature may prescribe by general law.

Section 2. *ATTORNEYS, ADMISSION AND DISCIPLINE.*—The Supreme Court shall have exclusive jurisdiction over the admission to the practice of law and the discipline of persons admitted. It may provide for an agency to handle admissions subject to its supervision. It may also provide for the handling of disciplinary matters in the inferior courts, or by commissions consisting of members of the bar to be designated by it subject to its supervision and review.

Section 3. *ELECTIONS—TERMS.*—

(a) Justices and judges shall be chosen by the electors within the territorial jurisdiction of their respective courts.

(b) The terms of all justices of the Supreme Court shall be for six (6) years. The terms of all judges shall be prescribed by law.

Section 4. *RETIREMENT.*—A justice or judge shall not serve after attaining the age of seventy years; provided that any justice or judge in office on the effective date of this article shall continue to serve for the remainder of his term.

Section 5. *VACANCIES.*—The governor shall fill each vacancy in judicial office by appointing, subject to confirmation

by the Senate, one of not fewer than three persons nominated by a judicial nominating commission. If the Senate be in recess, the appointment without confirmation shall be until the adjournment of the next session of the legislature. Judicial nominating commissions shall be established by law. Their members shall be appointed by, and serve terms concurrent with that of, the governor. They shall not be officers of any political party nor, after appointment to a full term, be eligible to serve any part of the succeeding term. No person who has been a member of a judicial nominating commission during the preceding twelve months shall be nominated for judicial office.

Section 6. *SCHEDULE.*—

(a) All provisions of Article V of the Constitution of 1885, as amended, not embraced herein shall become statutes subject to modification or repeal as are other statutes.

(b) All provisions of law and rules of court in force on the effective date of this article shall continue in effect until superseded by law.

—failed to receive the required Constitutional three-fifths vote of all members elected to the Senate. The vote was:

Yeas—28

Bell	Gibson	Lane	Sayler
Boyd	Griffin	McClain	Shevin
Chiles	Henderson	Mathews	Slade
Clayton	Hollahan	O'Grady	Stolzenburg
de la Parte	Horne	Ott	Weber
Elrod	Johnson	Plante	Wilson
Friday	Knopke	Reuter	Young

Nays—9

Askew	Cross	Haverfield	Weissenborn
Barron	Fisher	Stockton	
Barrow	Gunter		

The following statement was filed with the Secretary:

It was necessary that I be excused and out of the chamber at the time the vote was taken on SJR 3-2X. Accordingly, I left a pair with Senator Shevin with instructions that I be recorded as voting "nay". I advised Senator Shevin that in the event the vote was so close as to negate his affirmative vote it was not necessary that the pair be registered and that I, by unanimous consent, would cast my vote on this measure on Monday, July 1.

JERRY THOMAS, Senator, 35th District

SB 8-2X—A bill to be entitled An act authorizing the Board of Trustees for the Florida School for the Deaf and the Blind to employ teaching personnel and child care counselors for twelve months beginning July 1, 1968, providing an effective date.

Was taken up. On motions by Senator Mathews, the rules were waived and SB 8-2X was read the second time by title, the third time in full, passed and certified to the House. The vote was: Yeas—42 Nays—None

Mr. President	Edwards	Horne	Shevin
Askew	Elrod	Johnson	Slade
Barron	Fincher	Knopke	Spencer
Barrow	Fisher	Lane	Stockton
Bell	Friday	McClain	Stolzenburg
Boyd	Gibson	Mathews	Weber
Chiles	Griffin	O'Grady	Weissenborn
Clayton	Gunter	Ott	Wilson
Cross	Haverfield	Plante	Young
Deeb	Henderson	Reuter	
de la Parte	Hollahan	Sayler	

SB 9-2X—A bill to be entitled An act relating to the Florida School for the Deaf and the Blind; appropriating funds from the general revenue fund to the Board of Trustees and for its use and benefit; creating new positions; authorizing the Board of Trustees to establish salary scales for educational personnel; exempting same from State Personnel Board regulation; providing an effective date.

Was taken up. On motion by Senator Mathews, the rules were waived and SB 9-2X was read the second time by title.

The Committee on Appropriations offered the following amendment which was adopted on motion by Senator Askew:

In Section 1, line 15, page 1, strike: "The Board of Trustees

is directed to use a portion of the appropriated funds to create two additional vocational teacher positions and three additional mobility teacher positions, and ten non-academic supportive positions in addition to all positions previously authorized by the legislature." and insert the following: The Board of Trustees is authorized five additional instructional positions, and ten non-academic supportive positions in addition to all positions previously authorized by the legislature.

The Committee on Appropriations also offered the following amendment which was adopted on motion by Senator Askew:

In Section 2, line 26, page 1, strike: "the Board of Trustees for the Florida School for the Deaf and the Blind;" and insert: at least five members of the board of commissioners of state institutions;

The Committee on Appropriations also offered the following amendment which was adopted on motion by Senator Askew:

In title, line 4, page 1, strike: "to the Board of Trustees and for its use and benefit"

On motion by Senator Askew, the rules were waived and SB 9-2X as amended was read the third time in full, passed and ordered engrossed. The vote was:

Yeas—41

Mr. President	Edwards	Horne	Slade
Askew	Elrod	Johnson	Spencer
Barron	Fincher	Knopke	Stockton
Barrow	Fisher	Lane	Stolzenburg
Bell	Friday	McClain	Weber
Boyd	Gibson	Mathews	Weissenborn
Chiles	Griffin	O'Grady	Wilson
Clayton	Gunter	Ott	Young
Cross	Haverfield	Plante	
Deeb	Henderson	Reuter	
de la Parte	Hollahan	Shevin	

Nays—1

Sayler

On motion by Senator Mathews, the Senate reconsidered the vote by which SJR 3-2X failed to pass.

The question recurred on the passage of SJR 3-2X which failed to receive the required Constitutional three-fifths vote of all members elected to the Senate. The vote was:

Yeas—28

Bell	Friday	Lane	Sayler
Boyd	Griffin	McClain	Shevin
Chiles	Henderson	Mathews	Slade
Clayton	Hollahan	O'Grady	Stolzenburg
Deeb	Horne	Ott	Weber
de la Parte	Johnson	Plante	Wilson
Elrod	Knopke	Reuter	Young

Nays—11

Mr. President	Barrow	Gibson	Stockton
Askew	Cross	Gunter	Weissenborn
Barron	Fisher	Haverfield	

SB 10-2X—A bill to be entitled An act relating to the Florida Probation and Parole Commission; appropriating funds for employment of additional employees and for implementation of new professional salary scale; providing a minimum entrance salary; providing an effective date.

Was taken up. On motion by Senator Hollahan, the rules were waived and SB 10-2X was read the second time by title.

The Committee on Appropriations offered the following amendment which was adopted on motion by Senator Askew:

In Section 1, line 26, page 2, strike: "with the entrance salary for Probation and Parole Officer I of eight thousand one hundred sixty dollars (\$8,160.00)."

The Committee on Appropriations also offered the following amendment which was adopted on motion by Senator Askew:

In Section 1, line 29, page 2, strike: "fifteen (15)"

The Committee on Appropriations also offered the following amendment which was adopted on motion by Senator Askew:

In title, line 6, page 1, strike "providing a minimum entrance salary;"

**Senator Friday presiding.**

On motion by Senator Hollahan, the rules were waived and SB 10-2X as amended was read the third time in full, passed and ordered engrossed. The vote was:

Yeas—29

Mr. President	Fisher	Horne	Stockton
Barrow	Friday	Johnson	Stolzenburg
Bell	Gibson	Knopke	Weissenborn
Clayton	Griffin	Lane	Wilson
Cross	Gunter	Mathews	Young
Deeb	Haverfield	Ott	
de la Parte	Henderson	Shevin	
Elrod	Hollahan	Slade	

Nays—5

Askew	O'Grady	Plante	Reuter
Boyd			

On motion by Senator Mathews, the Senate reverted to—

**MESSAGES FROM THE HOUSE OF REPRESENTATIVES**

*The Honorable Verle A. Pope* June 28, 1968  
*President of the Senate*

Sir:

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate amendment to—

By Representative Dubbin and others—

**HJR 1-2X—A joint resolution proposing a revision of portions of the Constitution of the State of Florida, excepting therefrom revision of Articles V, VI, and VIII.**

—and requests the Senate to recede therefrom.

In the event the Senate refuses to recede, requests the President of the Senate to appoint a Conference Committee to confer with a like Committee to be appointed by the Speaker of the House to adjust the differences on Senate amendment to HJR 1-2X.

Respectfully,  
**ALLEN MORRIS**  
Clerk, House of Representatives

On motion by Senator Mathews, the Senate refused to recede from the Senate amendment to HJR 1-2X and agreed to the appointment of a Conference Committee to adjust the existing differences on the amendment. The action of the Senate was certified to the House.

*The Honorable Verle A. Pope* June 28, 1968  
*President of the Senate*

Sir:

I am directed to inform the Senate that the House of Representatives has passed, as amended, by the required Constitutional three-fifths vote of all members elected to the House of Representatives—

By Representative Dubbin and others—

**HJR 4-2X—A joint resolution proposing a revision of Article VIII of the Constitution of the State of Florida relating to counties and cities.**

—and requests the concurrence of the Senate therein.

Respectfully,  
**ALLEN MORRIS**  
Clerk, House of Representatives

HJR 4-2X, contained in the above message, was read the first time by title and referred to the Committee on Rules and Calendar.

*The Honorable Verle A. Pope*  
*President of the Senate*

June 28, 1968

Sir:

I am directed to inform the Senate that the House of Representatives has appointed Representatives Dubbin, Eddy, Pettigrew, Reed, Rowell, Schultz and Sessums as a Conference Committee to confer with a like committee on the part of the Senate to adjust the differences on Senate amendment to HJR 1-2X.

Respectfully,  
**ALLEN MORRIS**  
Clerk, House of Representatives

**Senator Mathews presiding.**

**The President presiding.**

The President announced the appointment of Senators Mathews, Horne, Friday, Elrod, Knopke, Hollahan and Stockton as a Conference Committee on the part of the Senate to confer with the like committee on the part of the House to adjust the existing differences on HJR 1-2X. The action of the Senate was certified to the House.

The Senate resumed consideration of the Special Order Calendar.

**SB 16-2X—A bill to be entitled An act creating a contingency fund from the existing legislative appropriation to assist in financing the cost of hosting the National Legislative Conference in August, 1968; providing an effective date.**

Was taken up. On motion by Senator Friday, the rules were waived and SB 16-2X was read the second time by title.

The Committee on Appropriations offered the following amendment which was adopted on motion by Senator Friday:

In Title, line 2, page 1, strike: the word "creating" and insert the following: appropriating

On motion by Senator Friday, the rules were waived and SB 16-2X as amended was read the third time in full, passed and ordered engrossed. The vote was:

Yeas—21

Mr. President	Gunter	Knopke	Weissenborn
Barrow	Haverfield	Mathews	Wilson
de la Parte	Henderson	Ott	Young
Fisher	Hollahan	Shevin	
Friday	Horne	Slade	
Gibson	Johnson	Stockton	

Nays—10

Bell	Lane	Reuter	Weber
Boyd	O'Grady	Sayler	
Elrod	Plante	Stolzenburg	

Senator Spencer was granted unanimous consent to be recorded as voting as follows on June 25 and June 26, 1968: nay on Amendment 9 to Article IV and Amendments 4, 5, 7, 8 and 9 to Article VII; yea on motions to admit Senate Bills 10-2X and 11-2X for introduction; nay on motions to admit Senate Bills 12-2X and 13-2X for introduction; yea on Amendment 2 to Article VII; yea on motion to reconsider vote by which Amendment 9 to Article IV was adopted; yea on adoption of Amendment 9 to Article IV; nay on Amendment 4 to Article X, Amendment 4 to Article III, Amendment 12 to Article IV and Amendment 1 to Article IX; yea on Amendment 4 to Article II as amended; yea on the motion to reconsider the vote by which Amendment 1 to Article IX failed; and yea on the passage of SJR 2-2X.

**CO-INTRODUCER**

By permission, Senator Sayler was recorded as a co-introducer of SJR 6-2X and SJR 7-2X.

On motion by Senator Mathews, it was agreed by two-thirds vote that when the Senate adjourns it adjourn to reconvene at 11:00 a.m., July 1, 1968.

On motion by Senator Mathews, the Senate adjourned at 3:23 p.m. to reconvene at 11:00 a.m. July 1, 1968.