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Summary of Opinions of the Attorney General

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SUMMARY OF OPINIONS OF 
The Attorney General*


Administrative Law. Administration of loyalty oaths. Oaths required under the laws of this state may be taken or administered by or before any judge, including federal courts, or before any United States Commissioner, any justice of the peace or any notary public within this state. The provisions of this statute preclude federal regulations from abrogating this requirement.

Board appointment. The failure of an appointed member of the board of adjustment in a zoning district to qualify, and his refusal to attempt to qualify, allows the remaining members of the board to appoint a member to fill the unexpired term.

Building specifications. County boards of public instruction may not include in their specifications the requirement of a union label on its fixtures. Such a label is no measure of quantity or quality, and to allow this would be to discriminate against non-union workers.

License tag budget. The State Budget Commission may set up a trust fund for the purchase of motor vehicles tags if it is shown that the appropriation to the State Motor Vehicle Commissioner is insufficient to purchase the needed tags.

Request for federal funds. The State Budget Commission's authority to pass on a state agency's request for federal funds does not apply to funds resulting from contracts between the federal government and state institutions of higher learning.

Revenue from royalties. Royalties paid to the Department of Education from the sale of copyrighted books are general revenue and are part of the General Revenue Fund.

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State fire marshal. The state fire marshal was granted power in 1947 to make and enforce regulations within his statutory field. Regulations adopted by him will apply to liquid fuel installations made prior to the grant of this authority.

Alcoholic Beverages. Advertising. It is unlawful under statute for a licensee to lease a portion of a pier walkway for the display of a sign advertising a brand of alcoholic beverages when the walkway is the only mode of ingress and egress to a licensed bar.

Arrest. Bond certificates. A surety company issuing arrest bond certificates can not obligate itself over the statutory limit of $200. On those certificates where a greater amount appears the company should add a qualifying statement to the effect that liability is subject to the maximum liability allowed by statute.

Municipal police officers. A municipal police officer has no right to serve a warrant issued by a Florida state court or by any other state court. This does not preclude him from arresting a person upon authentic information that a warrant has been issued against the person.

Civil Service. Veterans' preference. A civil service employee is not entitled to disability preference points retroactive to the filing of his successful claim with the Veterans Administration.

Compensation. Court of small claims judge. There is no statutory provision for either compensation or expenses of a judge of the small claims court presiding when the regular judge is disqualified in a particular case. It is suggested that the assigned judge set the hearing in his own county unless the litigants secure his costs and expenses in going to the county where the litigation is pending.

Recounting ballots. The board of county commissioners should compensate inspectors and clerks composing election boards if they are directed by mandamus proceeding to recount the ballots.

Traveling expenses. Attendance of a supervisor of registration at a legislative committee meeting of the Florida State Supervisors of Registration is an official duty for which travel expenses should be allowed.

Conservation. Drainage districts. The formation of a drainage district

for beach front property may not be effected under the statute\(^2\) unless there is some reclamation involved.\(^7\)

**Illegal capture.** Capturing a loggerhead or green turtle at the edge of the surf is "taking out of the waters or upon the beaches" as to fall within the prohibition of the statute.\(^8\)

**Salt water fish.** The Game and Fresh Water Fish Commission may not prohibit the use of methods or fishing devices employed by salt water fishermen in those fresh waters where salt water fish are found.\(^9\)

**Sea cows.** A corporation may be issued a permit to capture a sea cow in the interest of science notwithstanding the fact that the members of the corporation are also members of another corporation which had exhausted its permit.\(^10\)

**State Board’s authority.** The State Board of Conservation is vested with authority to make rules that are compatible with the best interests of conservation. A rule prohibiting seismic exploration in areas for a certain period of time to protect salt water resources could be effectual as a law.\(^11\)

**Constitutional Law. Homestead exemptions.** In view of the recent Florida Supreme Court holding that a Florida statute\(^12\) requiring one year residency as a condition precedent to filing homestead exemptions was unconstitutional,\(^13\) persons who filed such exemptions and were denied, persons who did not file because so advised by the tax assessor, or persons who did not file solely because of the existence of the statute should be allowed a reasonable time in which to file for such exemptions.\(^14\)

**Contracts. Burial agreements.** An agreement by a corporation to provide funeral benefits to an eligible plot purchaser in return for monthly payments and the corporation’s right to insure the purchaser naming the corporation as beneficiary, may be an insurance contract and violative of insurance laws if entered into by a company not qualified to write insurance.\(^15\) It would be an insurance contract when the heirs of the purchaser are provided with certain benefits or compensations upon the death of the purchaser.\(^16\)

**By Public Official.** In the absence of a statutory provision, a board in exercising its governmental or legislative powers lacks power to make a contract extending beyond its own term.\(^17\)

\(^{22}\) Fla. Stat. § 298 (1951).
\(^{29}\) Sparkman v. Scott, 58 So.2d 431 (Fla. 1952).
Public bidding. An extension of time to submit bids must be advertised in the same manner as prescribed for the original bids.34

Public printing. All public printing shall be done in the state notwithstanding the fact that the lowest bid was submitted by an out-of-state printing firm.35

Corporations. Political activity. A corporation, even if non-profit, may violate a statute36 prohibiting corporate political contributions if it entertains a legislative caucus with the intent to influence the members of the legislature in the exercise of their official duties.37

Stockholders. Although not mandatory, the Racing Commission may require stockholders of a racing corporation to furnish them with fingerprints and photographs if they show an unusual interest and play an extraordinary part in the operation of the corporation’s business.38

Counties. Board of Adjustment. The board of adjustment has not only the authority to consider appeals from decisions and rulings of administrative officers but also appeals of orders and resolutions made by the board of county commissioners.39

Board of adjustment members are county officers and continue in office after the expiration of their respective terms until their successors are duly qualified.40

Lease of county property. It is necessary to advertise for bids for a one-year lease of county owned property.41

Courts. Clerk’s fee. A percentage of the money deposited in the registry is the clerk’s fee and is to be collected by the clerk when the money is paid out. This assessment, except in condemnation proceedings, is usually against the losing party.42

The clerk’s fee should be collected from the party making the deposit into the registry at the time the deposit is made, except in cases such as eminent domain proceedings.43

Small Claims Fees. A judge or clerk of a small claims court may charge a fee for certified copies of the judgment of the courts. These copies are not a part of the proceedings and are not covered by the flat fee.44

Criminal Law. Appeal. A statutory provision45 requiring defendant to enter a bond upon appeal in order to effect a stay of execution is super-

seded by subsequent provision\textsuperscript{46} of the same code which provides that the appeal alone stays the execution except in cases of a death sentence.\textsuperscript{47}

Consular privilege. Foreign consular officers are not immune from arrest and prosecution by the state for driving a motor vehicle under the influence of intoxicating liquors.\textsuperscript{48}

Dismissal by county judge. Defendant's restitution by payment of his worthless check and costs of the case which resulted in a dismissal of the case by the county judge does not constitute a "conviction." In the event of dismissal of a case there is no adjudication of guilt.\textsuperscript{49}

Failure to pay past due rent. An intent to defraud must be proved when a tenant, roomer or lodger moves without paying past due rent before a conviction can be had under statute.\textsuperscript{50}

Non-support. The statute\textsuperscript{51} providing for criminal proceedings for non-support of wife or child is not applicable to cases involving illegitimacy.\textsuperscript{52}

Threat. A threat to charge one with driving an auto without a license unless a debt is paid may be a crime under statute\textsuperscript{53} if proof of intent and malice is found.\textsuperscript{54}

Employers. Unemployment compensation rating. An employer beginning operations in Florida is not entitled to transfer his experience rating from another state in order to entitle himself to a contribution tax rate lower than the 2.7% standard.\textsuperscript{55}

Florida Elections. Absentee ballot. A serviceman's wife living out of state with her husband at his assigned place of duty is not entitled to an absentee ballot as is the case with her husband.\textsuperscript{56}

Absentee ballots not counted by a canvassing board because of their late arrival in the office of the supervisor, should be kept on file, unopened, for at least ten days following the canvass of the votes cast.\textsuperscript{57}

The Supervisor of Election, upon receiving an application for an absentee ballot earlier than the 45 day filing time, may accept it and in due time fulfill its request.\textsuperscript{58}

Alcoholic beverages. The statute\textsuperscript{59} prohibiting the sale of alcoholic beverages is activated in county commissioner's districts where a special primary election is called.\textsuperscript{60}

\textsuperscript{46} FLA. STAT. § 924.14 (1951).
\textsuperscript{48} Op. ATT'Y GEN. 052-211 (July 10, 1952).
\textsuperscript{49} Op. ATT'Y GEN. 052-175 (June 3, 1952).
\textsuperscript{50} FLA. STAT. § 511.38 (1951), Op. ATT'Y GEN. 052-194 (June 19, 1952).
\textsuperscript{51} FLA. STAT. § 856.04 (1951).
\textsuperscript{52} Op. ATT'Y GEN. 052-278 (Sept. 23, 1952).
\textsuperscript{53} FLA. STAT. § 856.03 (1951).
\textsuperscript{55} Op. ATT'Y GEN. 052-147 (May 5, 1952).
\textsuperscript{56} Op. ATT'Y GEN. 052-234 (July 28, 1952).
\textsuperscript{57} Op. ATT'Y GEN. 052-214 (July 14, 1952).
\textsuperscript{58} FLA. STAT. § 101.62 (1951), Op. ATT'Y GEN. 052-204 (June 30, 1952).
\textsuperscript{59} FLA. STAT. § 104.381 (1951).
\textsuperscript{60} Op. ATT'Y GEN. 052-225 (July 18, 1952).
Appointive offices. The resolution adopted by the State Democratic Executive Committee requiring the Secretary of State to place the names of candidates for appointive offices on the official primary election ballot offends the Governor's constitutional power to fill such offices freely and without coercion.61

Ballot boxes. Ballot boxes used in primary elections may be opened 10 days subsequent to the canvass of the returns of the election, provided no suit or action contesting a nomination is pending.62

Campaign contributions. A candidate may resume receiving contributions the day after the first primary and continue to receive them until five days preceding the second primary.63 The thousand dollar limitation upon contributions is not increased by the addition of a second primary.64

Campaign expenditures and contributions. Every party candidate who is opposed by a candidate of another party must make and file the reports of contributions and expenditures just as though he were a candidate for a political party's nomination in a primary election. The obligation arises when the certificate of nomination is received by the candidate and continues fifteen days after the general election.65

Campaign funds. A state or county executive committee of a political party may contribute to the campaign funds of the party nominee, or expend money on behalf of such nominee when the money is derived from reasonable profits realized from some community project or functions, when the contribution by a party member to be used by the party nominee does not exceed a thousand dollars, or when such funds originate from assessments collected from party candidates.66

Canvassing. When the state canvassing board, on recounting the votes in one county of a district, files an amended certificate which shows a change in result, then the board must canvass the returns of all counties composing the judicial district.67

Canvassing absentee ballots. Absentee ballots should be canvassed at the time the county canvassing board meets to canvass all votes cast in the election.68

Committee nominations. The executive committee of a political party has no legal authority to make nominations in the name of the party for offices where no persons qualified in the primary for the office. Therefore the board of county commissioners is not authorized to print such nominations on the general election ballot.69

Endorsement by citizen. A citizen is not prohibited from circulating his endorsement of certain candidates for political office by letter or card form. Any expense incurred must be authorized by the candidates' campaign treasurers and reported as a campaign contribution. 70

Filing time. The filing time to qualify as nominee for the office of state senator in a special primary is 10 days after the vacancy occurs. This provision 71 is activated only if the vacancy occurs after the second primary and 40 days prior to the general election. 72

Independent candidate. There is no provision in our election laws for the name of an independent candidate to be printed on the general election ballot. 73

Precinct transfers. The county supervisor of registration may not transfer names of electors from one precinct to another from the time the books are closed to the date of the first primary election. 74

Qualification of voter. A married woman may, with her husband's consent, establish a residence for voting in a county other than the one in which the husband had previously registered, provided "she shall have resided and had . . . her habitation, domicile home and permanent abode in the state for one year and the county for six months." 75

Registration. Registration books are not closed by the fact that a party special primary election occurs within the thirty-day period prior to the general election. Only those party electors who have registered on or prior to the thirtieth day may participate in the special party primary. 76

Residence. A person who has never before established a residence in the state but has lived for at least one year on federal reservation in the state does not fulfill the residence requirement so as to be eligible to register and vote. If the federal government does not have exclusive jurisdiction over the land it would be possible to fulfill the residence requirement. 77

Vacancy in office and nomination. A statute 78 requiring the Governor to call primary election for all political parties is activated when the death of an office holder causes a vacancy in a party's nomination for the next term of that office. 79

Write-in vote. To facilitate the casting of a write-in vote at a general election all titles of offices to be filled must appear in their usual position

on the ballot. The fact that no candidate was nominated for the office does not abrogate this requirement.\textsuperscript{80}

Write-in votes are valid in the election of district supervisors of the State Conservation Board.\textsuperscript{81}

Highways. Gasoline tax fund. Tires used on county vehicles employed in maintaining state roads may be purchased by the State Road Department with the proceeds from the gasoline tax fund.\textsuperscript{82}

Prescription. Long continued use of land for roadway purposes will vest an easement in the public, as against the owner of the fee.\textsuperscript{83} The county commissioners are proper party plaintiffs to enjoin the owner from obstructing the easement.\textsuperscript{84}

Homestead property. Debt service tax. A tax assessor must comply with the order of the board of county commissioners providing for levy of a debt service tax on homestead property when the general obligation school bonds were issued prior to the Homestead Tax Exemption Act.\textsuperscript{85} It is not in the province of an assessor to direct the county commissioners to levy on all other taxable property in the county.\textsuperscript{86}

Separate exemptions for husband and wife. A married woman may be granted a separate exemption provided she establishes a home apart from her husband's, has legal or equitable title, resided thereon, makes the same her permanent home in good faith,\textsuperscript{87} and is entitled to a divorce or separate maintenance.\textsuperscript{88}

Insurance. Group plan. Presbyterian ministers are not employees of the general assembly of their church and this relationship precludes the assembly from instituting a group insurance plan under the statute.\textsuperscript{89} This statute will not apply when (1) the negotiations leading up to the contract took place outside the state, (2) the group master policy is not issued or delivered in the state and (3) when the individual certificates are not made part of the master contract.\textsuperscript{90}

Licensed agent. A corporation which is acting under a proper agency agreement as the company manager in this state for a fire, casualty or surety company authorized to engage in business in this state, may be properly licensed as a “licensed supervisory general agent.”\textsuperscript{91}

“Loss clause”. The insurance commissioner may consider for his

\textsuperscript{83} Fla. Stat. § 343.15 (1951).
\textsuperscript{87} Fla. Const. Art. X, § 7.
\textsuperscript{90} Op. Att'y Gen. 052-212 (July 10, 1952).
approval filings made by rating organizations involving contracts using "un-
earned premium" or "loss" clauses.92

Rate information. An insurance company may photograph rate informa-
tion filed with the Insurance Commissioner; or the Commissioner may,
if proper equipment is available, issue such photographs upon receiving a
reasonable compensation from the party requesting the service.93

Juries. Grand jury compensation. The act of legislature fixing compen-
sation for grand jurors at six dollars per day94 was impliedly repealed by
a subsequent act which fixed compensation for petit and grand jurors at
five dollars per day.95

Jurisdiction. Juvenile court. There is no provision whereby the juris-
diction of the juvenile court may be reinvoked or reinstated if the juvenile
court on proper petition has waived jurisdiction of a manslaughter case in-
volving a fifteen-year-old boy and has certified the case to a criminal court
of record or any other court that would have jurisdiction.96

Law officers. Appointment of sheriff. An appointment as sheriff
by the Governor "until the next ensuing session of the Senate unless appoint-
ment be sooner made ... " does not end unless a successor is named, the
appointed officer continuing in office until the beginning of the next statu-
tory term of that office.97

Highway patrol. The Florida Highway Patrol has the authority to
investigate accidents that happen on any "public highway" even though not
designated as a state highway.98

Licenses. County commissioners. A county engaged in the business
of renting boats and selling bait is not performing a governmental function
and must have a retailer's and wholesaler's license.99

Interstate commerce. A resident employed by a non-resident merchant
to forward orders out-of-state is engaged in interstate commerce and is not
required to obtain a state occupational license.100

Occupational tax. Trading stamp companies come within a tax statute
applicable to those occupations for which there is no specific section.101

Used car license. A building or structure used as an office by a second
hand dealer may be used for other purposes than exclusively dealing in
used cars.102

94. Fla. Laws 1951, c. 26518.
1952).
MORTGAGES. Recording. Recording crop mortgages in the Chattel Mortgage Book is effective recordation to constitute notice.  

MOTOR VEHICLES. Free veterans' licenses. A statute granting free motor vehicle license plates to amputee veterans of World War II has not been amended to include Korean veterans.  

Hand signals. Rear fenders of a truck extending farther than 24 inches outward from the top of the steering post do not activate the statute requiring certain signal devices when it is shown that the fenders are lower than the windows and will not prevent hand signals being seen.  

Length limitation. The statutory overall length limitation for a truck-tractor semi-trailer combination is 50 feet. There is no length limit as to the individual units of this combination.  

Municipal inspection. A municipality has the authority and power not only to require the inspection of locally owned and operated automobiles but also those frequently driven on its streets which belong to persons living outside its city limits. Similar inspections performed by other municipalities may or may not be honored by a municipality.  

Registration. Enforcement of the motor vehicle statute is the duty of the state license inspectors, and not the duty of school officials.  

Title certificates. A clear title certificate may be issued to the purchaser of an automobile at a federal tax sale if there is no protest from other lienees within 10 days after notice by registered mail has been given to them.  

MUNICIPAL CORPORATIONS. Ordinances. No Florida municipality may enact an ordinance making it a punishable offense to solicit orders for the sale of merchandise in and upon private premises within a city when not requested to do so by the occupant. The Florida rule still applies, notwithstanding a later United States Supreme Court decision.  

PENSIONS. Department of Public Safety. Neither the widow nor the estate have any claim to a member's contribution made to the pension fund of the Department of Public Safety should he die of natural causes or by any other means not incurred in the line of duty. A member's right in the fund is not contractual but is determined by the expressions of the statute.  

PHYSICIANS AND SURGEONS. Psychologists. Generally the practice of

psychology may not be classified as the practice of medicine under the tax statute, but it may, under certain conditions, invade the field of medicine to come within the purview of this statute.

**Political Parties. Electing quorum.** If adequate notice is given by the chairman a quorum for the purpose of filling vacancies in membership of a county political executive committee is the number of members actually attending such a meeting.

**Procedure. Process by mail.** The Insurance Commissioner is authorized to accept service of process by mail in civil actions against insurance companies who have filed an agreement to be bound by process upon the Commissioner.

**Professions. Chiropody.** Three-year graduates of a chiropody or podiatry school may apply and take the examination for a license to practice chiropody before January 1, 1953; after this date only graduates of a four-year course are eligible.

**Chiropractor.** Removal of tonsils by a chiropractor using electrical short wave diathermy is “surgery” within the prohibition of the statute.

**Pharmacists.** If the pharmacy division of a store is closed and locked when there is no registered pharmacist on duty and the other portion of the establishment is open it is not violative of statute for the owner to continue to advertise or exhibit the term “drug store” or “pharmacy.”

**Physical therapists.** The provision exempting certain professions from registering under the Physical Therapy Practice Act does not apply to those parties in the professions when they hold themselves out as physical therapists and use the designation “Registered Physical Therapist.”

**Public Health. Tuberculosis patient.** A resident of one county admitted to a state tubercular hospital located in another county is the financial responsibility of the resident’s county. This responsibility is not divested by establishment of residence by the patient’s family in the county where the hospital is situated.

**Public Lands. Effect of tax deed.** Mineral and oil rights reserved in the sale of public lands are not affected by tax deeds issued subsequent to

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117. FLA. STAT. § 205.051 (1951).
121. FLA. STAT. § 461.03 (1951).
124. FLA. STAT. § 465.08 (1951).
126. FLA. STAT. § 486.16 (1951).
127. FLA. STAT. § 486 (1951).
130. FLA. STAT. § 270.11 (1951).
such sale, real and personal property of the State of Florida being exempt from taxation.

Use of Internal Improvement Funds. The trustees of the Internal Improvement Fund may use the fund to repair or renovate the capitol building, such repairs or renovation having been construed to be an "internal improvement." 132

Schools and Education. Inspection of books. A certified public accountant hired by a parent-teachers association has the right to audit the books of the county superintendent of public instruction. 133

Purchase of sites. The purchase by the county school board of a school site from the board of county commissioners is not only proper but favored by statute. 134

Recreational facilities. A county, a municipality and a board of public instruction of a county may, jointly establish, own, operate and maintain a recreational system if the latter's cooperation is for an exclusive educational purpose in addition to the general public use of the facilities. 135

Secret societies. A secret order sponsored by a reputable adult organization with the membership to be composed of high school boys is not violative of secret society statute. 136 It is in the discretion of the school board whether each organization complies with the provisions of the statute. 137

Teacher retirement. A teacher's "life certificate" pertains to the individual's quality as a teacher and is neither a vested right nor an employment contract. Holder of such certificates come within the provision of the statute 138 requiring compulsory retirement at the age of seventy. 139

Textbooks. The collection of money from a pupil or his parent for a lost or damaged book is in effect a sale and as such the amount collected must be deposited in the current textbook appropriation fund. 140

Statutes. "Club". The use of the word "club" in the name of any organization conducted for profit with the exception of baseball, golf and country clubs is prohibited by statute. 141 Organizations which have used the term continuously for two years prior to June 1, 1941, may continue to operate but may not incorporate using the term. 142

Dates falling on holidays. When an act is unconditionally required by law to be done on a particular day of the month, it shall be done on that

day regardless of whether it may be a Sunday or some other legal holiday.\textsuperscript{143}

\textbf{Taxation. Assessment protest.} A taxpayer's failure to object to his assessment at the July meeting of the Board of Equalization precludes him from protesting at the September board meeting which is held to review any increases made at the July meeting.\textsuperscript{144}

\textbf{Beverage license.} Under a statute expressly defining the tax power of the city,\textsuperscript{145} the city may not impose a fee on the transfer of a vendor alcoholic beverage license from one individual to another.\textsuperscript{146}

\textbf{Boats.} Mere documentation of pleasure craft by the federal government does not effect exemption under Florida tax statute\textsuperscript{147} relating to nonresident craft already taxed in another state.\textsuperscript{148}

\textbf{Cooperatives.} Cooperatives created under general business incorporation statute\textsuperscript{149} are subject to the same charges and fees applicable to other corporations existing under such statute.\textsuperscript{150}

Agriculture cooperative marketing associations created under the statute\textsuperscript{151} are subject to a filing fee only, no other tax being applicable.\textsuperscript{152}

\textbf{Fraternal benefit society.} In order that a fraternal benefit society may qualify as a charitable and benevolent institution to be exempt from the tax statute\textsuperscript{153} it must show that it maintains, in good faith, a fund for the care, education or other bona fide benevolent benefits to its members.\textsuperscript{154}

\textbf{Homestead exemption.} Homestead tax exemptions may be claimed by the general partners of a limited partnership when it appears that they hold title to the partnership's real property. The exemption is limited to the extent allowed partners in an ordinary partnership.\textsuperscript{155}

\textbf{Municipal property.} Municipal property used or held for future use is exempt\textsuperscript{156} from county taxation if the property is being used for a public or governmental purpose. While airports, parks and other such matters have been held to be a public purpose, land not presently used but held for future industrial sites would not be exempt. If the municipality was assessed for exempt land it may obtain a refund for taxes paid.\textsuperscript{157}

\textbf{Non-profit organization exemption.} It is the duty of the tax assessor to ascertain from all available evidence and by personal observation whether or

\textsuperscript{145} Fla. Stat. § 561.36 (1951).
\textsuperscript{146} Op. Att'Y Gen. 052-231 (July 24, 1952).
\textsuperscript{147} Fla. Stat. § 200.44 (1951).
\textsuperscript{149} Fla. Stat. § 611.38 (1951).
\textsuperscript{151} Fla. Stat. § 618 (1951).
\textsuperscript{153} Fla. Stat. § 637.60 (1951).
\textsuperscript{156} Fla. Stat. § 192.06 (1951).
not property on which exemption is claimed is actually and primarily used for charitable or municipal purposes.\textsuperscript{158}

**Taxation.** *Tax deed on riparian lands.* A Murphy Act deed may be issued upon a tax sale certificate against riparian rights assessed separately from appurtenant lands, although such rights are usually assessed as part of the land to which appurtenant.\textsuperscript{159}

**Unions.** *Contracts.* The question of whether a union-employer contract compelling payment of union dues as a condition precedent to employment violates the Florida Constitution\textsuperscript{160} is for the courts to determine. It is advised that a declaratory judgment proceeding be instituted.\textsuperscript{161}

**Welfare.** *Bastardy.* The marriage of a pregnant single woman precludes the child from receiving benefit under the Florida Bastardy Act.\textsuperscript{162}

**Witnesses.** *Compensation.* Witnesses in a criminal prosecution who reside outside the state are entitled to actual mileage in addition to per diem allowance provided a certificate is issued by a judge or grand jury reciting the facts and specifying the number of days the witnesses will be required.\textsuperscript{163}

**Zoning.** *By Municipalities.* A municipality has the power to zone the sale of beer consumed on the premises\textsuperscript{164} but the only authority over the sale of packaged beer is to regulate the hours of sale.\textsuperscript{165}

Those ordinances prohibiting the sale of beer consumed on the premises within a designated distance from a school or church are ineffective if the beer parlor was licensed and in operation before the establishment of those institutions.\textsuperscript{166}

\textsuperscript{158} Op. Att'y Gen. 052-186 (June 17, 1952).
\textsuperscript{159} Op. Att'y Gen. 052-178 (June 9, 1952).
\textsuperscript{160} Fla. Const. Decl. of Rights, § 12.
\textsuperscript{164} Fla. Stat. § 561.44 (1951).