

TAX COMMISSION—AUTHORITY OF TAX COMMISSION TO EQUALIZE ASSESSMENTS UNDER THE CONSTITUTION.

Tallahassee, Fla., March 24, 1917.

*The Tax Commission,  
Tallahassee, Florida.*

Gentlemen:

Yours of the 16th instant has been received.

I note your inquiry as follows:

"There seems to be some doubt in the minds of certain members of the legislature, as well as several prominent citizens of the state, that the legislature has no authority to clothe the Tax Commission with adequate powers to equalize tax assessments in the state, and as the members of the Tax Commission believe that the legislature has such authority, we will thank you for your opinion in the matter.

"We believe that Section 1 of Article IX of the Constitution, and also Section 1 of Article V as amended in 1914, gives the Legislature all needed authority in the premises."

The answer to this inquiry goes back to the elementary proposition that the State Constitution is a limitation upon the power of the Legislature and not a grant of power, and it is settled law in this State that "no duly enacted statute should be judicially declared to be inoperative on the ground that it violates organic law unless it clearly appears beyond all reasonable doubt that under any rational view that may be taken of the statute it is in positive conflict with some identified or designated provision of constitutional law."

City of Jacksonville v. Bowden, 67 Fla. 181.

The Supreme Court, in the case of Cotton v. County Commissioners of Leon County, 6 Fla. 610, said:

"In proceeding to define and determine the constitutional power of the legislature department, it is proper to note the characteristic difference which marks our Federal and State Constitutions. Whilst the former contains only specific grants of powers, the later makes a general grant of all the political power of the people, restrained only by specific reservations."

And in the case of *Chapman v. Reddick*, 41 Fla. 120, the court said:

"Our State Constitution is a limitation upon the power; and unless legislation duly passed be clearly contrary to some express or implied prohibition contained therein, the courts have no authority to pronounce it invalid."

There is, in my opinion, nothing in the State Constitution which forbids it, and, therefore, I would say that the legislature of this State has the power to confer upon the Tax Commission authority to supervise and revise assessments of property for the purposes of taxation, to the end that the "uniform and equal rate of taxation" contemplated by the Constitution may be more nearly secured.

As long as the system now obtaining in this State continues, valuations of property for the purposes of taxation are not wholly of local concern, because the revenue coming to the State for the maintenance of the State Government is produced by a levy by the legislature of a prescribed millage which is uniform throughout the State, and so long as there are material differences in the valuations of similiar properties in the various counties of the State, tax burdens will not, therefore, be equally distributed.

It will, of course, be understood that I am not undertaking to decide for the legislature what power it has in dealing with this question, because the legislature is itself primarily the judge of its own powers, and it will

also be understood that this letter represents simply my views as an attorney after a hurried consideration of the subject.

Respectfully submitted,  
T. F. WEST,  
Attorney General.

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TAXATION—METHOD OF ASSESSMENT OF BUILD-  
ING AND LOAN ASSOCIATION.

Tallahassee, Fla., June 8, 1917.

*The Tax Commission,  
City.*

Gentlemen :

Replying to your request for an expression from this office relative to the basis of assessments for the purpose of taxation of the properties of building and loan associations, I beg to say that in my opinion the properties of such associations should be assessed in the same manner and upon the same basis as the properties of other owners are assessed in this State.

The properties owned by such associations, as I understand, which are taxable and usually lots and buildings, cash on hand, and notes and mortgages in which the funds of such associations are invested.

Respectfully submitted,  
T. F. WEST,  
Attorney General.