



IOWA'S CONSTITUTIONAL TITLE-SUBJECT REQUIREMENT

Form Meets Procedure

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1. Introduction

WHAT DOES IT SAY?

Art. III, Sec. 29

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

Key Words: “Act”, “Subject”, “Matters”, and “Title”

1. Introduction

WHAT DOES IT SAY?

Reversing and Rephrasing the Requirements

THE TITLE-SUBJECT REQUIREMENT

- The Act's title must include a description of the Act's subject.
- Any item that is not part of the Act's subject is void.

1. Introduction

WHAT DOES IT SAY?

Every “Act” shall “embrace” (i.e., include or contain):		
1 st	(1)	(a) “One subject” (Iowa’s 1846 Constitution and a minority of state constitutions refer to this as an “object” but the terms are not distinguishable)
		and
		(b) [Any other] “matter” [if] “properly connected” to that “subject”
2 nd	(2)	An “Act’s” “subject” (and any properly “connected” “matter”) must be:
		(a) “Expressed in the “title”
		with the caveat:
		(b) A severability provision saves any “one subject” or “properly connected” “matter” expressed in the “title”

1. Introduction

WHAT DOES IT SAY?

- The first requirement is sometimes referred to as the “title requirement” (or in some states the “**clear title requirement**”) meaning that an Act’s title must fairly describe the contents of the legislation (its “subject”).

H.F. 2283

An Act relating to carrying a firearm while operating or riding an all-terrain vehicle.

BASED ON BILL AS INTRODUCED IN THE 2016 SESSION

- The second requirement is sometimes referred to as the “**single subject rule**” meaning that an Act must only address one issue. In other words, a bill must be drafted so that a legislator is asked to cast a yes or no vote on a single question.

Is this the question for debate?

Should a person be allowed to ride on an all terrain vehicle with a loaded firearm as long the vehicle is located on land owned or possessed by the person?

1. Introduction

WHAT DOES IT SAY?

2016 Iowa Acts, Ch. 1070 (H.F. 2283)

After being amended in the Senate (S-5087/H-8134) the Act as **enrolled** also applies to operating or riding a *snowmobile* with a firearm under a number of circumstances.

Example:

AN ACT RELATING TO CARRYING A FIREARM WHILE OPERATING OR RIDING ON A SNOWMOBILE OR AN ALL-TERRAIN VEHICLE.

- Question: Does the Act meet the single subject rule requirement?
- Question: Does it matter that the bill was amended to include snowmobiles?
- Question: What if the title had not been amended to include the new provision?

Key word

“enrolled”

[Click here to continue](#)

1. Introduction

WHAT DOES IT SAY?

Question: Is the real subject of this Act “carrying a firearm”? Does that mean that provisions regulating the use of certain firearms (shotguns) during a hunting season can be included?

- Question: What happens to this subject if the title is changed to read:

H.F. 2283

AN ACT RELATING TO CARRYING A FIREARM,
INCLUDING WHILE OPERATING OR RIDING ON A
SNOWMOBILE OR AN ALL-TERRAIN VEHICLE.

- Question: What if the Act were 30 pages long and every page included provisions addressing all-terrain vehicles except for three sentences that addressed snowmobiles? Is the following acceptable:

Example

AN ACT RELATING TO VEHICLES.

1. Introduction

WHAT DOES IT SAY?

Question: Given that a one subject must be “expressed” in the title, can the beginning phrase address more than issue?

Example

AN ACT RELATING TO **SNOWMOBILES** AND **ALL-TERRAIN VEHICLES**, INCLUDING BY CARRYING FIREARMS.

Question:	Are there now two subjects embraced in the Act even though only the title has been changed?
Questions:	If a court were to conclude the Act violated the single subject requirement due to the my drafting of the title:
	Would the court hold that the entire Act is unconstitutional or only the provision relating snowmobiles or all-terrain vehicles?
	Would it matter that two sections were involved: one regulating snowmobiles and one regulating all-terrain vehicles?
	Would it matter that snowmobiles was added as a House amendment?
	What is the House amendment were added after the chamber had suspended the rules following a ruling that it was non-germane?

1. Introduction

WHAT DOES IT SAY?

Question: Given that a subject must be “expressed” in the title, can the language in a title be fairly read to *imply* a broader subject?

H.F. 2283

AN ACT RELATING TO **CARRYING** A FIREARM WHILE **OPERATING OR RIDING** ON A SNOWMOBILE OR AN ALL-TERRAIN VEHICLE.

Question: Can the language “CARRYING A FIREARM” be read to address the issue of using a firearm while operating or riding on a snowmobile or all-terrain vehicle.

Note: The Act’s provisions expressly prohibit such use with certain exceptions granted to disabled persons. To what extent can this language be read into the Act’s title?

1. Introduction

WHAT DOES IT SAY?

Question: What if the general criminal penalty for improperly carrying a firearm is a class “C” felony?

H.F. 2283

AN ACT RELATING TO **CARRYING** A FIREARM WHILE **OPERATING OR RIDING** ON A SNOWMOBILE OR AN ALL-TERRAIN VEHICLE.

Question: Is it constitutionally required that the Act’s title refer to a possible criminal penalty for using a firearm while illegally carrying it in public?

Question: What if the possible penalty was civil or a tax was involved?

Question: What if it included an appropriation?

Question: What if it included a special effective date or applicability date?

1. Introduction

WHAT DOES IT SAY?

Overriding Questions and Observations

Questions:	Is it possible for an Act to satisfy the following:	1.	The title requirement but not the single subject rule?
		2.	The single subject rule but not the title requirement?
Observations:	1.	Every Act must have a title	A more or less an objective analysis
	2.	Every Act's title must describe a single subject	A subjective analysis
	3.	Every enactment or amendment contained in the Act must be described in the title	

1. Introduction

WHAT DOES IT SAY?

Art. III Form Requirements	Enacting Clause	Art. III, Sec. 1	“The legislative authority of this state shall be vested in a general assembly, which shall consist of a senate and house of representatives: and the style of every law shall be. "Be it enacted by the General Assembly of the State of Iowa." ”
	Title	Art III, Sec, 29	Every act shall embrace but one subject, and matters properly connected therewith; which subject shall be expressed in the title . But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.
Art. III Procedural Requirements	Quorum	Art. III, Sec. 8	“A majority of each house shall constitute a quorum to transact business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may provide.”

1. Introduction

WHAT DOES IT SAY?

Form and Procedure	Doors Open	Art. III, Sec. 14	The doors of each house shall be open , except on such occasions, as, in the opinion of the house, may require secrecy.
Form Verifies Procedure	Attesting Clause	Art. III, Sec. 15	“Bills may originate in either house, and may be amended, altered, or rejected by the other; and every bill having passed both houses, shall be signed by the speaker and president of their respective houses. ”
	Governor’s Action	Art. III, Sec. 26	“Every bill which shall have passed the general assembly, shall, before it becomes a law, be presented to the governor . If he approve , he shall sign it ; but if not, he shall return it with his objections, to the house in which it originated, which shall enter the same upon their journal... ”
	Voting	Art. III, Sec. 38	“In all elections by the general assembly, the members thereof shall vote viva voce and the votes shall be entered on the journal. ”
Title-Subject Requirement	A form (the title of the bill) is itself used to regulate bill procedure and there is no independent form used to verify compliance. For example, the presiding officers signatures are verifying that the Act has been properly enrolled.		

1. Introduction

AN “ACT” BY ANY OTHER NAME?

The Constitution recognizes only two types of forms:

1. Some kind of legislative instrument by name:
(1) “bill”, (2) ”joint resolution”, or (3) “Act”.
2. The “journal” for each chamber (“house”)

That has not prevented courts from considering extrinsic legislative evidence especially when interpreting the meaning of a statute by discerning at so-called legislative intent.

See *State v. Clemens* (No. 16–2087) Filed October 27, 2017. In that case, the Court considered House video of debates concerning on S.F. 385 during the 1st session of the 86th General Assembly (Apr. 14, 2015).

State of Iowa

2017

ACTS AND JOINT RESOLUTIONS

(Session Laws)

Enacted at the

2017 REGULAR SESSION

of the

Eighty-Seventh General Assembly

of the

State of Iowa

HELD AT DES MOINES, THE CAPITAL OF THE STATE
IN THE ONE HUNDRED SEVENTY-FIRST YEAR OF THE STATE

REGULAR SESSION CONVENED ON THE NINTH DAY OF JANUARY
AND ADJOURNED ON THE TWENTY-SECOND DAY OF APRIL, A.D. 2017

1. Introduction

AN “ACT” BY ANY OTHER NAME?

An Act presumably includes all traditional bills and certain joint resolutions passed by the General Assembly and presented to the governor:

“A **JOINT RESOLUTION** relating to the placement of a statue in the United States capitol honoring Dr. Norman E. Borlaug.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. REPLACEMENT AUTHORIZATION. The state of Iowa authorizes the replacement of the statue of James Harlan with a statue honoring Dr. Norman E. Borlaug.

Sec. 2. COMMITTEE CREATED. A committee of seven is created, to be appointed by the governor and to serve at the pleasure of the governor, to exchange the statue of James Harlan currently on display in the United States capitol with a statue of Dr. Borlaug.”

EXAMPLE
2011 Iowa Acts,
ch. 136
(H.J.R. 16)

1. Introduction

AN “ACT” BY ANY OTHER NAME?

H.J.R. 16

Enrolled Bill Form :

Authenticating Signatures by Presiding Officers Under Art. III, Sec. 15 and Approval Signature by the Governor Under Art. III, Sec. 16.
Both Sections Refer to “Bills” and not “Acts”

House Joint Resolution 16, p. 3

fiscal years for the purposes specified in section 2 of this resolution.

Sec. 5. DISPLAY OF REPLACED STATUE. The department of administrative services shall provide for a perpetual display of the replaced statue at a suitable location within the statehouse.

KRAIG PAULSEN
Speaker of the House

JOHN P. KIBBIE
President of the Senate

I hereby certify that this joint resolution originated in the House and is known as House Joint Resolution 16, Eighty-fourth General Assembly.

W. CHARLES SMITHSON
Chief Clerk of the House

Approved _____, 2011

TERRY E. BRANSTAD
Governor

1. Introduction

AN “ACT” BY ANY OTHER NAME?

Compare an Act without an enacting clause and is made effective without a governor’s signature such as a nullification resolution.

Art. III, Sec. 40	The general assembly may nullify an adopted administrative rule of a state agency by the passage of a resolution by a majority of all of the members of each house of the general assembly.
But also see a reference in the original language of the constitution which contemplates “resolutions” as different than “acts”	
Art. III, Sec. 10	Every member of the general assembly shall have the liberty to dissent from, or protest against any act or resolution which he may think injurious to the public, or an individual, and have the reasons for his dissent entered on the journals; and the yeas and nays of the members of either house, on any question, shall, at the desire of any two members present, be entered on the journals.

1. Introduction

AN “ACT” BY ANY OTHER NAME?

2016 IOWA ACTS [AND JOINT RESOLUTIONS]

“CHAPTER 1140

NULLIFICATION OF ADMINISTRATIVE RULE — SPECIAL EDUCATION ENDORSEMENT AND SPECIALIZATIONS

S.J.R. 2006

A JOINT RESOLUTION nullifying an administrative rule by the board of educational examiners establishing a special education endorsement and specializations and including effective date provisions.

Be It Resolved by the General Assembly of the State of Iowa:

Section 1. 282 Iowa administrative code, rule 14.2, subrules 10 and 11, are nullified.

Sec. 2. EFFECTIVE DATE. This joint resolution, being deemed of immediate importance, takes effect upon enactment.

Effective March 28, 2016”

1. Introduction

AN “ACT” BY ANY OTHER NAME?

S.J.R. 2006
Enrolled Bill Form With
Authenticating Signatures
Only

Senate Joint Resolution 2006 - Enrolled

Senate Joint Resolution 2006

A JOINT RESOLUTION
NULLIFYING AN ADMINISTRATIVE RULE BY THE BOARD OF EDUCATIONAL
EXAMINERS ESTABLISHING A SPECIAL EDUCATION ENDORSEMENT AND
SPECIALIZATIONS AND INCLUDING EFFECTIVE DATE PROVISIONS.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. 282 Iowa administrative code, rule 14.2,
subrules 10 and 11, are nullified.

Sec. 2. EFFECTIVE DATE. This joint resolution, being deemed
of immediate importance, takes effect upon enactment.

PAM JOCHUM
President of the Senate

LINDA UPMEYER
Speaker of the House

I hereby certify that this joint resolution originated
in the Senate and is known as Senate Joint Resolution 2006,
Eighty-sixth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

1. Introduction

AN “ACT” BY ANY OTHER NAME?

Non-Enactments Required Only Joint Rules?

<p>Rule 14 Enrollment and Authentication of Bills</p>	<p>“A bill or resolution which has passed both houses shall be enrolled in the house of origin under the direction of either the secretary of the senate or the chief clerk of the house and its house of origin shall be certified by the endorsement of the secretary of the senate or the chief clerk of the house.”</p>
<p>Rule 15 Concerning Other Enrollment</p>	<p>“After enrollment, each bill shall be signed by the president of the senate and by the speaker of the house.”</p> <p>“All resolutions and other matters which are to be presented to the governor for approval shall be enrolled, signed, and presented in the same manner as bills.”</p> <p>“All resolutions and other matters which are not to be presented to the governor or the secretary of state shall be enrolled, signed, and retained permanently by the secretary of the senate or chief clerk of the house.”</p>

1. Introduction

BACKGROUND

- The United States Constitution does not have comparable constitutional requirements; but 41 states have included some version of one and usually both requirements in their respective state constitutions.
- For states not including the requirements in their respective constitutions: Connecticut, Maine, Massachusetts, New Hampshire, North Carolina, Rhode Island, and Vermont.
- For states including a requirement applying only to appropriations bills see Arkansas and Mississippi.

1. Introduction

BACKGROUND

- Iowa was among the first states to include the requirements in its constitution (1844 – unratified and 1846 – ratified).
- There are also states that require a ballot initiative only address one question. Iowa is not an initiative state (without the need for legislative referral) but does provide that a measure placed on a ballot for popular ratification must contain one question.

1. Introduction

BACKGROUND

IOWA CONSTITUTION

ARTICLE X.

AMENDMENTS TO THE CONSTITUTION

SECTION 1. Any amendment or amendments to this constitution may be proposed in either house of the general assembly...

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

1. Introduction

“SUBJECT” OF THE PRESENTATION

This presentation concerns state constitutional requirements governing the form and procedure of Iowa legislation generally. It refers to but does not address constitutional restrictions that apply to **federal legislation** nor certain specified **types of legislation** that is constitutionally prohibited or restricted :

U.S. Constitution	Art. I Sec. 7, Cl 1	“All Bills for raising Revenue shall originate in the House of Representatives...”
	Art. I Sec. 9, Cl 3	"No Bill of Attainder or ex post facto Law will be passed."
	Art. I Sec. 9, Cl 7	“No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law...”
	1 st Amendment	“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press...”

1. Introduction

“SUBJECT” OF THE PRESENTATION

This presentation does not address state constitutional restrictions that apply to Iowa legislation touching upon certain specified issues:

Iowa Constitution (1857)	Art. I, Sec. 21	“No bill of attainder, ex post facto law, or law impairing the obligation of contracts, shall ever be passed.”
	Art. III, Sec. 27	“No divorce shall be granted by the general assembly.”
	Art. VII, Sec. 7	“Every law which imposes, continues, or revives a tax, shall distinctly state the tax, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such tax or object .”
	Art. VIII, Sec. 1	“No corporation shall be created by special laws ...”

Key Words: “Object” and “Special Laws”

[Click here to continue](#)

1. Introduction

“SUBJECT” OF THE PRESENTATION

Reading of a Bill, Keeping Journals, and Authenticating Signatures

This presentation does refer to certain long established customs established in almost all states, relating to the title requirement: (1) the reading of a bill (almost always three times) prior to passage, the keeping of an official record of proceedings (journals), and the authentication by the chambers respective presiding officers and the keeping of an official record of proceedings (journals).

Ohio Constitution (1803) Art. I	Sec. 9	“Each house shall keep a journal of its proceedings, and publish them, the yeas and nays of the members, on any question shall, at the desire of any two of them, be entered on the journals.”
	Sec. 17	“Every bill shall be read on three different days in each house, unless, in case of urgency, three-fourths of the house where such bill is so depending, shall deem it expedient to dispense with this rule, <u>and every bill having passed both houses, shall be signed by the speakers of their respective houses.</u> ”

1. Introduction

“SUBJECT” OF THE PRESENTATION

Reading of a Bill, Journals, and Authenticating Signatures

Iowa Constitution (1857) Art. III	Sec. 9	“Each house shall sit upon its own adjournments, keep a journal of its proceedings , and publish the same; determine its rules of proceedings , punish members for disorderly behavior, and, with the consent of two thirds, expel a member, but not a second time for the same offense; and shall have all other powers necessary for a branch of the general assembly of a free and independent state.
	Sec 17	“No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the general assembly, and the question upon the final passage shall be taken immediately upon its last reading , and the yeas and nays entered on the journal. ”
	Sec 15	“Bills may originate in either house, and may be amended, altered, or rejected by the other; and every bill having passed both houses, shall be signed by the speaker and president of their respective houses. ”

1. Introduction

“SUBJECT” OF THE PRESENTATION

Historic Decline in “Reading in Bills” and the Importance of the Bill Title

In states generally, the ancient legislative practice continues of “reading” a bill (usually three times) prior to a chamber’s final passage. Unlike many state constitutions, in Iowa there is no express requirement that a bill be read any specified number of times. The only reference is in Art. III, Sec. 17, which refers to a “last reading” prior to final passage with the yeas and nays recorded in the chamber’s journal.

The purpose of reading in a bill is to inform the legislative members of the nature of the proposed measure and to prevent hasty legislation. However, legislators have long had written copies of bills to consider.

The legislative practice is to read the title of a bill, and the title of a bill has become increasingly important over time. Thus the formula has developed to ask the chamber separately if the title is correct: **The bill having received a constitutional majority is declared to have passed the Senate/House and the title was agreed to.**

Carlton v. Grimes, 237 Iowa 912. 23 N.W.2d 883 (Iowa 1946)

1. Introduction

SUBJECT” OF THE PRESENTATION

Bill Title

Not Constitutionally Required	<p>Each section of a bill or resolution usually has a title or “headnote” which is generally not part of an enactment. If the Act includes a “<u>NEW SECTION</u>” to be codified, that section’s headnote may be published as part of the section in the Iowa Code.</p>
	<p>The Iowa Code Editor names each Act as published in the session laws by title; historically a function performed by a printer.</p>
Constitutionally Required	<p>Every “Act” “enrolled bill” must include a title as approved by the General Assembly when the measure is passed.</p>

1. Introduction

SUBJECT” OF THE PRESENTATION

Bill Title and Enacting Part: Parts of the Enrolled Bill as Published in the 2017 Iowa Acts

Acts Number		CHAPTER 36	
Acts Title		BASS FISHING TOURNAMENTS	
Enrolled Bill Number		S.F. 257	
Enrolled Bill Title (describing a subject)		AN ACT relating to bass fishing in the state.	
Enacting Clause		Be It Enacted by the General Assembly of the State of Iowa:	
Purview or Body	Provisional Part	Section 1. <u>NEW SECTION.</u> 483A.39 Bass fishing tournaments.	
	Enacted Part (addressing a subject)	1. a.	For the purposes of this section, “bass fishing tournament” means an organized fishing event, except for a fishing event sponsored Approved April 12, 2017...

1. Introduction

“SUBJECT” OF THE PRESENTATION

Local and Special Law: General

Much of this presentation sees the title-subject requirement as a means adopted by state in the early 19th century to regulate legislative procedure and safeguard the public from the influences attributable to local and special laws:

- A local law is directed to a specific geographic subunit or geographic location.
- A special law or private law is directed to a specific person (an individual or corporate entity).

1. Introduction

“SUBJECT” OF THE PRESENTATION

Local and Special Legislation: General

The problem with local and special laws was seen as:

- A distraction for lawmakers who wasted time making adjudicative determinations (e.g., the granting of divorces).
- A corrupting influence due to the power of special interests.
 - ❖ One fear was that states were incurring public debt at the expense of taxpayers in order to benefit private parties often associated with infrastructure projects such as canal building.
 - ❖ Another fear was that the economic stability the state was threatened by unregulated banks which operated under a special charter of incorporation granted by a legislative Act.

1. Introduction

“SUBJECT” OF THE PRESENTATION

Local and Special Legislation: 1854 Iowa Acts (1913 Reprint)

AUTHORIZED REPRINT OF THE
ACTS, RESOLUTIONS AND MEMORIALS
PASSED AT THE
REGULAR SESSION
OF THE
FIFTH GENERAL ASSEMBLY
EXTRA SESSION
OF THE
FIFTH GENERAL ASSEMBLY
AND THE
REGULAR SESSION
OF THE
SIXTH GENERAL ASSEMBLY
OF THE
STATE OF IOWA

1. Introduction

“SUBJECT” OF THE PRESENTATION

Local and Special Legislation: 1854 Iowa Acts (1913 Reprint)

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1. Introduction

“SUBJECT” OF THE PRESENTATION

Distrust of State Legislatures: State Credit-Debt

“State debt connected with high-risk investments grew out of control; between 1825 and 1860 the combined debt of Pennsylvania and Ohio grew from \$6.7 million to \$1.5 billion. Over the course of the 1830s, eighteen states contracted debt nearing \$150 million in aggregate, mostly for highly unsound investments in transportation infrastructure. The revenue from tolls and taxes proved insufficient to service the states’ debt. By 1837, debt loads had become so unmanageable that nine states defaulted amidst a nationwide financial panic.”

Justin R. Long, *State Constitutional Prohibitions on Special Laws*, 60 Clev. St. L. Rev. 719 (2012) footnotes omitted. See generally, Alan Tarr, *Understanding State Constitutions*, Princeton University Press (1998)

1. Introduction

“SUBJECT” OF THE PRESENTATION

Distrust of State Legislatures: State Credit-Debt

Between **1841 and 1842** eight states (Illinois, Indiana, Maryland, Pennsylvania, Louisiana, Arkansas, Michigan, and Mississippi) and territory of Florida defaulted on their debts.

- ❖ Among those jurisdictions, Illinois, Indiana, Maryland, and Pennsylvania’s default was temporary.
- ❖ Louisiana, Arkansas, and Michigan repudiated their debts in part.
- ❖ Mississippi and the territory of Florida repudiated their debts in whole.

1. Introduction

“SUBJECT” OF THE PRESENTATION

Distrust of State Legislatures: State Credit-Debt

In 1836, the **Indiana General Assembly** enacted the Mammoth Internal Improvement Act that expanded the state’s appropriation to support internal improvement projects including turnpikes, canals, and a railroad. The plan envisioned the state debt would be repaid from: (1) the collection of additional tax money collected as a result of increased commercial activity, and (2) the sale of land near the projects that would appreciate in value. The state’s economic forecast was overly optimistic and the nation plunged into depression with the Panic of 1837. Eventually Indiana could no longer meet its debt obligations to creditors. In July 1841, the state declared bankruptcy. During 1846 and again in 1847 legislation helped create an understanding with creditors and a plan for debt settlement.

Wenig, Kelly, "Another Peril of Progress: Indiana Canals and Economic Collapse in Mid-19th Century", Iowa State University Digital Repository (2013)

http://lib.dr.iastate.edu/cgi/viewcontent.cgi?article=1000&context=history_conf

Donald F. Carmony, *Historical Background of the Restrictions Against State Debt in the Indiana Constitution of 1851*, Indiana Magazine of History, Volume 47, Issue 2, pp 129-142 (1951)

1. Introduction

“SUBJECT” OF THE PRESENTATION

Distrust of State Legislatures: State Credit-Debt

Amendment to the 1835 Michigan Constitution (Ratified 1843)

“That the constitution of this State be so amended that every law authorizing the borrowing of money or the issuing of State stocks, whereby a debt shall be created on the credit of the State, shall specify the **object** for which the money shall be **appropriated**; and that every such law **shall embrace** no more than one such **object**, which shall be simply and specifically stated, and that no such law shall take effect until it shall be submitted to the people at the next general election, and be approved by a majority of the votes cast for and against it at such election; that all money to be raised by the authority of such law be applied to the specific object stated in such law, and to no other purpose, except the payment of such debt thereby created. This provision shall not extend or apply to any law to raise money for defraying the actual expenses of the legislature, the judicial and State officers, for suppressing insurrection, repelling invasion, or defending the State in time of war.”

1. Introduction

“SUBJECT” OF THE PRESENTATION

Distrust of State Legislatures: State Credit-Debt

Ohio 1951 Constitution

Art. II,
Sec. 16

“Every bill shall be fully and distinctly read, on three different days, unless, in case of urgency, three-fourths of the House in which the question shall be pending, shall dispense with this rule. **No bill shall contain more than one subject, which shall be clearly expressed in its title**; and no law shall be revived, or amended, unless the new act contain the entire act revived, or the section or the sections amended; and the section, or sections, so amended, shall be repealed.”

1. Introduction

“SUBJECT” OF THE PRESENTATION

Distrust of State Legislatures: State Credit-Debt

In re Nowak, 104 Ohio St.3d 466, 2004-Ohio-6777 (2014)

“The one-subject provision was incorporated into the Constitution of 1851 as an integral part of the efforts of the Second Constitutional Convention to rein in the inordinate powers that were previously lodged in the General Assembly and to ultimately achieve a proper functional balance among the three branches of our state government. As we explained in *State ex rel. Ohio Academy of Trial Lawyers v. Sheward* (1999), 86 Ohio St.3d 451, 495, 715 N.E.2d 1062:

“The one-subject rule was added to our Constitution in 1851. It was one of the proposals resulting from the efforts of the Second Constitutional Convention, of 1850-1851....”

1. Introduction

“SUBJECT” OF THE PRESENTATION

Distrust of State Legislatures: State Credit-Debt

In re Nowak, 104 Ohio St.3d 466, 2004-Ohio-6777 (2014)

“The rule derives in part from the prevailing antipathy toward the manner and means by which the General Assembly exercised its pre-1851 power to enact special laws. By virtue of this power, the General Assembly “became heavily involved in the subsidization of private companies and the granting of special privileges in corporate charters. The General Assembly passed a number of Acts * * * designed to loan credit or give financial aid to private canal, bridge, turnpike, and railroad companies. * * * The public began to bemoan the taxes imposed on them for the benefit of private companies and the losses incurred by the state when subsidized corporations failed.”

Id., 86 Ohio St.3d at 464, 715 N.E.2d 1062.

1. Introduction

“SUBJECT” OF THE PRESENTATION

Distrust of State Legislatures: State Credit-Debt

In re Nowak, 104 Ohio St.3d 466, 2004-Ohio-6777 (2014)

“Concurrently, special charters or bills of incorporation were often assured passage through a system of **logrolling**, i.e., the practice of combining and thereby obtaining passage for several distinct legislative proposals that would probably have failed to gain majority support if presented and voted on separately. *Id.* at 495-496, 715 N.E.2d 1062. In limiting each bill to a single subject, the one-subject rule strikes at the heart of logrolling by essentially vitiating its product.”

1. Introduction

“SUBJECT” OF THE PRESENTATION

Local and Special Legislation: Iowa Constitution (1857)

Art. I, Sec. 6	All laws of a general nature shall have a uniform operation; the general assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms shall not equally belong to all citizens.
Art III, Sec. 30	<p>The general assembly shall not pass local or special laws in the following cases:</p> <ul style="list-style-type: none">For the assessment and collection of taxes for state, county, or road purposes;For laying out, opening, and working roads or highways;For changing the names of persons;For the incorporation of cities and towns;For vacating roads, town plats, streets, alleys, or public squares;For locating or changing county seats. <p>In all the cases above enumerated, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the state; and no law changing the boundary lines of any county shall have effect until upon being submitted to the people of the counties affected by the change, at a general election, it shall be approved by a majority of the votes in each county, cast for and against it.</p>

1. Introduction

“SUBJECT” OF THE PRESENTATION

Local and Special Legislation: The Indiana Model

Indiana’s Constitutional Convention Address to the Electors:

“...The most important restriction imposed on the legislative branch, is that which provides that, in a variety of enumerated cases.. And in all other cases where a general law can be made applicable, no special law can be passed. **It is an estimate much within the truth, that more than two-thirds of all laws enacted in this State since her admission into the Union have been made of the character here forbidden. More than two-thirds of our legislation, therefore, -- and the most confusing and most mischievous portion of it – is cut off by this single provision...**”

Address to the Electors of the State, Journal of the Convention of the People of Indiana, Austin H. Brown, Printer to the Convention 1851 (p. 966)

1. Introduction

“SUBJECT” OF THE PRESENTATION

Local and Special Legislation: The Indiana Model

Indiana Constitution (1851)		Iowa Constitution (1857)	
N/A		Art. I Sec. 6	“All laws of a general nature shall have a uniform operation...” (See 1851 Ohio Constitution: Art. II, Sec. 26)
Art. IV Sec. 19	“Every act shall embrace but one subject and matters properly connected therewith; which subject shall be expressed in the title.”	Art. III Sec. 29	“Every act shall embrace but one subject, and matters properly connected therewith; which subject shall be expressed in the title.”
Art. IV Sec. 22	“The General Assembly shall not pass local or special law, in any of the following enumerated cases, that is to say:...”	Art. III Sec. 30	“The general assembly shall not pass local or special laws, in any of the following cases that is to say:...” (list departs from the Indiana model)

1. Introduction

“SUBJECT” OF THE PRESENTATION

Local and Special Legislation: The Indiana Model

Indiana Constitution (1851)		Iowa Constitution (1857)	
Art. IV Sec. 23	“In all the cases enumerated in the preceding section, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the State.”	Art. III Sec. 30	“In all the cases above enumerated in the preceding section, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the state; <u>and no law changing the boundary lines of any county shall have effect until upon being submitted to the people of the counties affected by the change, at a general election, it shall be approved by a majority of the votes in each county, cast for and against it.</u> ”

2. Pre-Civil War Constitutions

COMMON RESTRICTIONS ON FORM

- The United States Constitution has few restrictions upon how legislation may be drafted.

U.S. Constitution
Art. I, Sec. 7, Cl. 2

The president must approve a bill, resolution, or order (other than adjournment) **by signature**

- In addition to the governor's signature approving the legislation early state constitutions often included two additional requirements:
 1. An enacting clause.
 2. The attesting signatures of the presiding officers.

2. Pre-Civil War Constitutions

COMMON RESTRICTIONS ON FORM

Enacting Clause (Example of Form Over Substance)

Ohio Constitution (1803) Art. I, Sec. 18	“The style of the laws of this State shall be: Be it enacted by the General Assembly of the State of Ohio.””
Indiana Constitution (1816) Art. III, Sec. 18	“The style of the laws of this State shall be, "Be it enacted by the General assembly of the State of Indiana.””
Illinois Constitution (1818) Art. II, Sec. 17	“The style of the laws of this State shall be, "Be it enacted by the people of Illinois, represented by the General Assembly.”
Florida Constitution (1838) Art. IV. Sec. 1	“[T]he style of all the laws shall be "Be it enacted by the Senate and House of Representatives of the State of Florida in General Assembly convened.”

2. Pre-Civil War Constitutions

COMMON RESTRICTIONS ON FORM

Attesting Signatures

Alabama Constitution (1819) Art. III, Sec. 23	“[E]very bill, having passed both Houses, shall be signed by the Speaker and President of their respective Houses...”
Tennessee Constitution (1834) Art. 2, Sec. 18	“No bill shall become a law, until it shall be read and passed on three different days in each House, and be signed by the respective Speakers.”
Arkansas Constitution (1836) Art. IV. Sec. 18	“And every bill having passed both Houses shall be signed by the President of the Senate and the Speaker of the House of Representatives.”
Florida Constitution (1838) Art. IV. Sec. 16	“...[E]very bill having passed both Houses shall be signed by the Speaker and President of their respective Houses.”

2. Pre-Civil War Constitutions

PROCEDURAL RULES

The United States Constitution and early state constitutions (and later state constitutions) grant their respective legislatures the right to establish their own **rules of proceedings**.

U.S. Constitution
Art. I, Sec. 5, Cl. 2

“Each House may determine the Rules of its Proceedings...”

Connecticut Constitution
(1818)
Art. Third, Sec. 8

“Each house shall determine the rules of its own proceedings...”

Maine Constitution (1820)
Art. IV.-Part Third, Sec. 4

“Each House may determine the rules of its proceedings...”

2. Pre-Civil War Constitutions

COMMON RESTRICTIONS ON PROCEDURE

The United States Constitution and all early state constitutions include common restrictions on legislative procedure:

U.S. Constitution Art. I, Sec. 5	Cl. 1	A majority of each house constitutes a quorum to do business; but a smaller number may adjourn.
	Cl. 3	Each House must keep a journal.
	Cl. 4	Neither House can adjourn for more than three days without the consent of the other.

2. Pre-Civil War Constitutions

COMMON RESTRICTIONS ON PROCEDURE

South Carolina Constitution (1790) Art. I, Sec. 20	“No bill or ordinance which shall have been rejected by either house shall be brought in again during the sitting, without leave of the house, and notice of six days being previously given.”
Ohio Constitution (1803) Art. I, Sec. 15	“The doors of each house must be kept open, except in cases that secrecy is required.”
Illinois Constitution (1818) Art. II, Sec. 16	“A bill must be read on three different days in each chamber unless 3/4 of the chamber suspends the requirement in case of urgency.”

2. Pre-Civil War Constitutions

UNIQUE RESTRICTIONS ON PROCEDURE

Tennessee Constitution (1834) Art. 2, Sec. 19	“After a bill has been rejected, no bill containing the same substance , shall be passed into a law during the same session.”
Texas Constitution (1845) Art. III, Sec. 22	“After a bill or resolution has been rejected by either branch of the Legislature, no bill or resolution containing the same substance shall be passed into a law during the same session.”
Ohio Constitution (1851) Art. II, Sec. 28	“The General Assembly shall have no power to pass retroactive laws...”

2. Pre-Civil War Constitutions

THE INFAMOUS YAZOO LAND SCANDAL

- In 1789 three companies: the South Carolina Yazoo Company, the Virginia Yazoo Company, and the Tennessee Company were formed to purchase 20,000,000 acres of western territory pursuant to an Act by Georgia legislature for \$207,000, or about 1 cent per acre. However, the deal failed due to financing. (“Yazoo” refers to a tributary of the Mississippi River).
- In 1794, four new companies were formed by the same principals who formed the 1789 companies: the Georgia Company, the Georgia-Mississippi Company, the Upper Mississippi Company, and the new Tennessee Company.
- In 1794, the Georgia legislature authorized the sale of 35 million acres of its western territory held by native Americans, including the Creek tribe, in present-day Alabama and Mississippi to four private companies for \$500,000 equaling 1.5 cents per acre.

2. Pre-Civil War Constitutions

THE INFAMOUS YAZOO LAND SCANDAL

Unique Restrictions on Form: The Infamous Yazoo Land Scandal

- The passage of the legislation and the signing of the bill by Georgia's governor in 1795 caused wide-spread allegations of legislative bribery and fraud.
- It was alleged that every member of the state legislature except one was a shareholder in one or more of the companies.
- In 1796, a new Georgia legislature and governor enacted the so-called "Rescinding Act" which nullified the sale.
- In 1802 a special commission transferred the land and outstanding claim to the federal government for \$1.25 million.

2. Pre-Civil War Constitutions

THE INFAMOUS YAZOO LAND SCANDAL

- The issue of satisfying claims by persons who purchased land from the Yazoo companies was before Congress for years, and was litigated in federal court until the United States Supreme Court held in the landmark case *Fletcher v. Peck*, 10 U.S. 87 (1810), the “Rescinding Act” violated the contract clause of the United States Constitution (Art. I, Sec. 10) and was the first case in which the Court held a state law unconstitutional under the Supremacy Clause of the Constitution (Art. VI, Cl. 2).
- The federal government agreed to extinguish the claims of the Creek tribe in Georgia. Note, the region’s continuing “Indian problem” was dealt with by the Indian Removal Act (1830) and Trail of Tears (1838).
- In 1814, Congress resolved the issue, by appropriating \$5 million from the proceeds of land sales in the Mississippi Territory to be shared by claimants.
- The scandal was in the public eye for more than 20 years.

2. Pre-Civil War Constitutions

THE INFAMOUS YAZOO LAND SCANDAL

As part of a state investigation of the scandal the misleading use of the title of the bill selling the land was blamed on dishonest legislators who purportedly deceived other legislators and the public in order to pass a bill for private enrichment.

Title to Georgia's Yazoo Bill

“An Act supplementary to an Act entitled ‘An Act for appropriating a part of the unlocated territory of this state for the payment of the late state troops, and for other purposes therein mentioned, declaring the right of this State to the unappropriated territory thereof, for the protection and support of the frontiers of this State, and for other purposes.’”

2. Pre-Civil War Constitutions

THE INFAMOUS YAZOO LAND SCANDAL

Georgia reformers called for a constitutional convention which framed a new organic document in 1798.

Georgia
Constitution
(1798)
Art. I, Sec. 17

“Every bill shall be (1) read three times and on three separate days, in each branch of the General Assembly, before it shall pass, unless in cases of actual invasion or insurrection; (2) nor shall any law or ordinance pass, containing any **matter** different from what is expressed in the **title** thereof; and (3) all acts shall be signed by the president in the Senate, and speaker in the house of representatives. (4) No bill or ordinance which shall have been rejected by either house shall be brought in again during the session, under the same or any other **title**, without the consent of two thirds of each branch.”
(emphasis mine)



2. Pre-Civil War Constitutions

THE INFAMOUS YAZOO LAND SCANDAL

- Georgia's **1798** Constitutional provision was not used as a model by other states when framing their constitutions and Georgia has since rewritten its provision:

Georgia Constitution
(Current)
Sec. V, Par. III

“No **bill** shall pass which refers to more than one **subject matter** or contains **matter** different from what is expressed in the **title** thereof.”

- However, the 1798 provision remains the closest example of the rationale behind the title-half of the title-subject requirements.
 1. Regardless of whether Georgia legislators were actually deceived about the contents of the Yazoo bill, the provision exists to give formal notice to legislators and presumably the public of the bill's “**matter**”.
 2. The provision also exists as a safeguard to protect the public from legislation benefiting **private interests**.

2. Pre-Civil War Constitutions

THE INFAMOUS YAZOO LAND SCANDAL

- Beginning in **1844**, state constitutions routinely included a general title-single subject requirement (framed by constitutional convention): **1844 New Jersey**, 1844 Louisiana, **1844 Iowa (unratified)**, 1845 New York, 1845 Texas, **1846 Iowa**, 1848 Wisconsin, 1849 California, 1850 Kentucky, 1850 Michigan, 1851 Ohio, 1851 Indiana, 1851 Virginia, 1852 Louisiana, 1855 Kansas “Topeka” (no congressional action), 1857 Kansas “Lecompton”(failed in congress), **1857 Iowa**, 1857 Minnesota, 1857 Oregon.
- The **1844 Amendment to 1835 Michigan** Constitution included a single subject requirement in every “law” which created a state debt.
- The **1848 Illinois Constitution** applied to bills making appropriations for the payment of government salaries (contra Millard H. Ruud, *No Law Shall Embrace More Than One Subject*, 42 MINN. L. REV. 389, 389-390 (1958)).

3. What Did the Founders Say it Means?

LEGAL IMPORTANCE: CONSTITUTIONAL CONVENTIONS AND OTHER STATE CONSTITUTIONS

N. W. Halsey 86 Co v. City of Belle Plaine, 104 N.W. 494 (Iowa 1905)

The debates of the 1857 constitutional convention may be used to interpret the constitutional provisions establishing that framework.

Van Horn v. City of Des Moines, 191 N.W. 144, 148 (Iowa 1922)

Other state constitutions are to be consulted when interpreting Iowa’s organic document.

Star Equipment, LTD. V. Iowa Dept of Trans., 843 N.W.2d 446 (Iowa 2014)

In interpreting Art. VII of the Iowa Constitution restricting state debts and state credit, the Court considered the New York constitution which provided the “historical underpinnings” of the Iowa provision.

3. What Did the Founders Say it Means?

LEGAL IMPORTANCE: CONSTITUTIONAL CONVENTIONS AND OTHER STATE CONSTITUTIONS

State v. Mabry, 460 N.W.2d 472 (Iowa 1990)

“As we mentioned earlier most states have constitutional provisions like article III, section 29 of the Iowa Constitution... See, e.g., *State ex rel. Sossaman v. Stone*, 235 Ala. 233, 236, 178 So. 18, 21 (1937); *Specht v. People*, 156 Colo. 12, 15, 396 P.2d 838, 840 (1964); *Warnock v. Florida Hotel & Restaurant Comm'n*, 178 So. 2d 917, 919 (Fla.App. 1965); *Heaton v. State*, 60 Ga.App. 428, 429, 4 S.E.2d 98, 99 (1939); *Federal Reserve Bank v. Citizens Bank & Trust Co.*, 53 Idaho 316, 326-27, 23 P.2d 735, 738-39 (1933); *Bond v. Board of County Comm'rs*, 178 Kan. 668, 670, 290 P.2d 1013, 1015 (1955); *Falender v. Hankins*, 296 Ky. 396, 399, 177 S.W.2d 382, 383-84 (1944); *Grillo v. State*, 209 Md. 154, 158, 120 A.2d 384, 387 (1956); *State v. Rice*, 134 Mont. 265, 268, 329 P.2d 451, 453 (1958); *Peterson v. Vasak*, 162 Neb. 498, 502, 76 N.W.2d, 424 (1956); *Abruzzese v. Oestrich*, 138 N.J.Eq. 33, 41, 47 A.2d 883, 889 (Ch.1946); *Lapland v. Stearns*, 79 N.D. 62, 67, 54 N.W.2d 748, 752 (1952); *Atlas Life Ins. Co. v. Rose*, 196 Okla. 592, 595, 166 P.2d 1011, 1014 (1946); *South Carolina Tax Comm'n v. York Electric Coop., Inc.*, 275 S.C. 326, 331, 270 S.E. 626, 628-29 (1980); *State v. Barr*, 89 S.D. 280, 282, 232 N.W.2d 257, 259 (1975); *International Harvester Co. v. Carr*, 225 Tenn. 244, 260, 466 S.W. 207, 214 (1971); *Skaggs v. Grisham-Hunter Corp.*, 53 S.W.2d 687, 688 (Tex.Civ.App.1932); *State v. Chesapeake & Potomac Tel. Co.*, 121 W.Va. 420, 421, 4 S.E.2d 257, 258 (1939); *State v. Pitet*, 69 Wyo. 478, 498, 243 P.2d 177, 186 (1952).”

3. What Did the Founders Say it Means?

IOWA'S 1844 CONSTITUTION: THE NEW JERSEY MODEL

- In **1695**, England's Committee of the Privy Council complained that laws passed by the Great and General Court or Assembly of their Majesties Province of the Massachusetts-Bay were “**joined together under ye same title**”.
- In **1702**, **East Jersey and West Jersey** were united as a single royal colony and Queen Anne appointed Edward Hyde, Viscount Cornbury as the Royal Governor. His instructions from Privy Council which served as the colony's constitution, stated that colonists legislative assembly could pass laws subject to veto by the veto or crown. In part the instructions prohibited the legislative practice of “**intermixing in one and the same Act[] such *things* as have no proper relation to one another**”

3. What Did the Founders Say it Means?

IOWA'S 1844 CONSTITUTION: THE NEW JERSEY MODEL

“Instructions for our Right Trusty and well beloved Edward Cornbury” (1702)

1. “With these our instructions you will receive our Commission under our Great Seal of England, constituting you our Captain General and Governor in chief of our Province of New Jersey.”
17. “You are to observe in the passing of the said laws, and of all other laws that the stile enacting the same, be by the Governor, Council and Assembly, and no other.”
30. “And therefore, you shall not re-enact any law which shall been once enacted there by you, except very urgent occasions, but in case more than once without our express consent.”

<https://archive.org/details/grantsconcession00newj>

3. What Did the Founders Say it Means?

IOWA'S 1844 CONSTITUTION: THE NEW JERSEY MODEL

“Instructions for our Right Trusty and well beloved Edward Cornbury” (1702)

18. “You are also as much as possible to observe in the passing of all laws, that whatever may be requisite upon each different **matter**, be accordingly provided for by a different law, without **intermixing in one and same act, such things as have no proper relation to each other**; and you are especially to take care that no clause or clauses be inserted in, or annexed to any act which shall be foreign to what the **title** of such respective act imports.”

1844 New Jersey Constitution

- Sec. VII,
Par. 4 “To avoid **improper influences** which may result from **intermixing in one and the same act such things as have no proper relation to each other**, every law shall **embrace but one object**, and that shall be **expressed in the title**.”

3. What Did the Founders Say it Means?

IOWA'S 1844 CONSTITUTION: THE NEW JERSEY MODEL

1844 New Jersey Const. Sec. VII

“4. To avoid improper influences which may result from intermixing in one and the same act such *things* as have no proper relation to each other, every law shall embrace but one **object**, and that shall be expressed in the title.”

1844 Iowa Const. Art. IV

“Sec. 26. To ~~avoid~~ obviate improper influences which may result from intermingling in one and the same act such *things* as have no proper relation to each other, every law shall embrace but one **object**, ~~and that~~ which shall be expressed in the title.”

Amendment to the 1835 Michigan Constitution (Ratified 1843)

“That the constitution of this State be so amended that every law authorizing the borrowing of money or the issuing of State stocks, whereby a debt shall be created on the credit of the State, **shall specify the object for which the money shall be appropriated; and that every such law shall embrace no more than one such object, which shall be simply and specifically stated...**

NOTES:

- Iowa's 1844 Iowa Constitution was unratified because of the proposed boundary as modified by Congress as part of its entry into the Union.
- The records of the 1844 and 1846 Iowa constitutional conventions are fragmentary and do not include a record of debates regarding this provision

3. What Did the Founders Say it Means?

THE NEW JERSEY MODEL

*Today's New Jersey Constitution,
Article IV, Section VII, Paragraph 4 as Amended in 1947*

4. “To avoid improper influences which may result from intermixing in one and the same act such things as have no proper relation to each other, every law shall embrace but one object, and that shall be expressed in the title. This paragraph shall not invalidate any law adopting or enacting a compilation, consolidation, revision, or rearrangement of all or parts of the statutory law.”

3. What Did the Founders Say it Means?

IOWA'S 1844 VERSUS 1846 CONSTITUTION 1844

Art. IV, Sec. 26

- “To obviate confusion and improper influences which may result from intermingling in one and the same act such things as have no proper relation to each other, every law shall embrace but one **object**, which shall be expressed in the title.”

1846

Art. 4, Sec. 26

- ~~“To obviate confusion and improper influences which may result from intermingling in one and the same act such things as have no proper relation to each other, every~~ [E]very law shall embrace but one **object**, which shall be expressed in the title.”

3. What Did the Founders Say it Means?

NEW YORK 1823 AND 1846 CONSTITUTIONS: SPECIAL LEGISLATION AND REFORM

1823	Art. VII, Sec. 9	“The assent of two thirds of the members elected to each branch of the legislature shall be requisite to every bill appropriating the public moneys or property for local or private purposes , or creating, continuing, altering, or renewing, any body politic or corporate.”
1846	Art VII, Sec. 9 (Replacement)	“The credit of the state shall not, in any manner, be given or loaned to, or in aid of, any individual, association, or corporation.”
	Art VIII, Sec. 1	“ Corporations may be formed under general laws ; but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the legislature, the objects of the corporation cannot be attained under general laws. All general laws and special acts passed pursuant to this section may be altered from time to time, or repealed.”

3. What Did the Founders Say it Means?

NEW YORK'S 1846 CONSTITUTIONS: SPECIAL LEGISLATION AND REFORM

1846	Art. VIII, Sec. 4	“The legislature shall have no power to pass any act granting any special charter for banking purposes; but corporations or associations may be formed for such purposes under general laws.”
	Art. III, Sec. 16	“No private or local bill, which may be passed by the legislature, shall embrace more than one *subject, and that shall be expressed in the title.” <hr/> <p>*Term “subject” is used in lieu of “matter” or “object”.</p>

3. What Did the Founders Say it Means?

IOWA'S 1846 CONSTITUTION: THE LOUISIANA MODEL VS. THE NEW YORK MODEL

1845 Louisiana Constitution Art. VII. Sec. 24.	1845 Texas Constitution Sec. 118	1846 New York Constitution Art. III, Sec. 16
<p>Every law enacted by the Legislature, shall embrace but one object, and that shall be expressed in the title.</p>	<p>Every law enacted by the Legislature, shall embrace but one object, and that shall be expressed in the title.</p>	<p>No private or local bill, which may be passed by the legislature, shall embrace more than one subject, and that shall be expressed in the title.</p>
1846 Iowa Constitution Art. 4. Sec. 26	1847 Illinois Constitution Art. 3 Sec. 23	1848 Wisconsin Constitution Art. IV, Sec. 18
<p>Every law enacted by the Legislature, shall embrace but one object, and that <u>which</u> shall be expressed in the title.</p>	<p>...and No private or local bill law which may be passed by the legislature-general assembly shall embrace more than one subject, and that shall be expressed in the title.</p>	<p>No private or local bill, which may be passed by the legislature, shall embrace more than one subject, and that shall be expressed in the title.</p>

3. What Did the Founders Say it Means?

IOWA'S 1846 CONSTITUTION: THE LOUISIANA MODEL SPECIAL LEGISLATION AND REFORM

<p>1845 Louisiana</p>	<p>Title VI, Art. 123</p>	<p>Corporations shall not be created in this State by special laws, except for political or municipal purposes, but the Legislature shall provide, by general laws, for the organization of all other corporations, except corporations with banking or discounting privileges, the creation of which is prohibited.</p>
<p>1846 Iowa</p>	<p>Art. 9 Sec. 1</p>	<p>Corporations shall not be created in this State by special laws, except for political or municipal purposes, but the Legislature <u>General Assembly</u> shall provide, by general laws, for the organization of all other corporations, except corporations with banking privileges or discounting privileges, the creation of which is prohibited. <u>The stockholders shall be subject to such liabilities and restricts as shall be provided by law. The State shall not directly or indirectly, become a stockholder in any corporation.</u></p>

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: BACKGROUND

THE DEBATES OF THE CONSTITUTIONAL CONVENTION;
OF THE STATE OF IOWA,
ASSEMBLED AT IOWA CITY,
MONDAY, JANUARY 19, 1857

W. BLAIR LORD, REPORTER
VOL. I

LUSE, LANE & I CO., PUBLISHERS, JOB PRINTERS, AND BOOK-BINDERS.

http://publications.iowa.gov/7313/1/The_Debates_of_the_Constitutional_Convention_Vol%231.pdf

3. What Did the Founders Say it Means?

IOWA’S 1857 CONSTITUTIONAL CONVENTION: BACKGROUND
Friday, February 6th (p. 286-287)

“**Mr. CLARKE**, of Johnson

.....

Now, I do not misstate the fact, when I say that this **question of corporations had more to do with the calling of this Convention, than any other question that may come before us.**

And the majority here should consider well upon it, for while gentlemen upon the other side are pressing us to its consideration and saying they are prepared to act, they have openly avowed, from time to time, **their opposition to all banks...**”

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTIONAL CONVENTION: BACKGROUND

Saturday, February 7 (p. 322)

“**Mr. ELLS.** Mr. Chairman, I propose to occupy the attention of the committee for a short time...

.....**Now, sir, I cannot, for the life of me, see how gentleman can detect in the action of the citizens of a county voting in favor of taking stock in a railroad, the violation of any principal involving moral turpitude....”**

“Of all the schemes of internal improvement that have been introduced into this country, that of railroads, in my humble judgment, is best calculated to promote the happiness and advance the prosperity of the people... **The facilities offered by railroads for intercommunication between the north and the south, will do vastly more to remove the jealousy now existing between the two sections, and ultimately destroy that infernal curse, African slavery, than any other single agency in our country.”**

3. What Did the Founders Say it Means?

IOWA’S 1857 CONSTITUTIONAL CONVENTION: BACKGROUND

Monday, February 9 (p. 328)

“**Mr. JOHNSTON.** I am a member of the committee on incorporations, and had intended to make some remarks upon the subject before the committee. I have been heretofore prevented by the frequent remarks of others, but I would like to have the opportunity afforded me to do so. As there is no probability of coming to a vote now, I move that the committee rise, report progress, and ask leave to sit again”.

“The question being taken, the motion was agreed to.”

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTIONAL CONVENTION: BACKGROUND

Monday, February 9 (p. 344)

“Mr. EDWARDS....

If we are about to embark ill banking, in this State, I presume that every gentleman upon this floor has a preference for the system by which shall be carried on. So far as I, myself, and the people whom I represent, are concerned, we would prefer a State Bank with branches: for the simple reason that past experience, the best of all teachers, has shown us, that the purposes of commerce and trade are better subserved under such a system, than under a system of general banking.”

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTIONAL CONVENTION: BACKGROUND
Friday, February 9 (p. 346-347)

“**Mr. SKIFF.** I feel a great interest in this question of banking, and I will detain the committee but a short time in what I have to say...”

“...We are here, with no bankers electioneering to get us to establish this or that system of banking. If we were sitting here in the capacity of legislators, we should be beset on every hand, and our lobbies would be filled; and we would be filled; and although we might consider ourselves in no danger of from bribery, men might come and consciously to ourselves, do what was not right... **Consequently, I think WE are better prepared to judge what is best for the interests of the people, than if we were sitting as a legislature.** I am favor of placing wholesome restrictions around this portion of the constitution....”

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTIONAL CONVENTION: BACKGROUND
Friday, February 9 (p. 348)

“**Mr. HALL.** I agree to some extent with the gentleman from Scott [Mr. Ells]; but I am unwilling to tie up the hands of the legislature in regard to the particular mode by which a banking system shall be regulated. I am satisfied that the legislature, which will be elected under this constitution, and elected, too, after this question has been fully discussed and considered, will come here better qualified, than we can possibly be, to judge what kind of a banking system should be passed.”

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: THE 1849 CALIFORNIA INDIANA'S MODEL

Sec. 25 “Every **law** enacted by the Legislature shall embrace but one **object**, and that shall be expressed in the title; and no law shall be revised, or amended, by reference to its title; but in such case, the act revised, or section amended shall be re-enacted and published at length.”

Sec. 26 “No divorce shall be granted by the Legislature.”

Art.
IV.

Sec. 31 “**Corporations may be formed under general laws, but shall not be created by special act**, except for municipal purposes. All general laws and special acts passed pursuant to this section may be altered from time to time, or repealed.”

NOTE: THE CALIFORNIA CONSTITUTION DOES NOT INCLUDE PROVISIONS FOR LOCAL AND SPECIAL LEGISLATION

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: THE 1851 INDIANA MODEL

- “Indiana appears to have the most extensive historical record surrounding the debate and adoption of the rule.”
- “Older versions of the single subject rule—the earliest of which, predating the American Revolution, was mandated by Queen Anne to her colony of New Jersey—are also mostly silent with respect to purpose or intent. **It is telling that Indiana’s framers crafted their single subject rule consistent with three distinctive features of Queen Anne’s version. First, the royal version distinguished its single subject requirement from its title requirement—while the two provisions were to work in tandem, they were severable, distinct provisions.**”

Justin W. Evans and Mark C. Bannister, *The Meaning and Purposes of State Constitutional Single Subject Rules: A Survey of States and the Indiana Example*, 49 Val. U. L. Rev. 87

<http://scholar.valpo.edu/vulr/vol49/iss1/10>

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: THE 1851 INDIANA MODEL

H. FOWLER, 2 REPORT OF THE DEBATES AND
PROCEEDINGS OF THE CONVENTION FOR THE
REVISION OF THE CONSTITUTION OF THE
STATE OF INDIANA 40 (1850)

<https://babel.hathitrust.org/cgi/pt?id=miun.aew7738.0002.001;view=1up;seq=81>

JOURNAL OF THE CONVENTION OF THE PEOPLE OF THE STATE OF
INDIANA TO AMEND THE CONSTITUTION (1851)

<https://babel.hathitrust.org/cgi/pt?id=inu.32000001893579;view=1up;seq=7>

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: THE 1851 INDIANA MODEL

Indiana's Constitutional Debates (p. 1084-1085)

“The next section was then read as follows:

“Bills may originate in either House, but may be altered, amended, or rejected in the other; except that bills for raising the revenue shall originate in the House of Representatives.”

Mr. STEVENSON moved to amend the section by adding the following:

“Every law shall embrace but one object, which shall be expressed in the title.””

[the beginning clause of the 1849 California Constitution]

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: THE 1851 INDIANA MODEL
Indiana's Constitutional Debates (p. 1085)

“**Mr. STEVENSON.** The object of this amendment is to obviate a difficulty that frequently occurs in the Legislature. When a bill is presented and its friends are not numerous enough to pass it, and they **enter into a coalition with gentlemen who desire the passage of some other measure to mutually assist each other in the passage of both combined** under one head; **and** it is intended to prevent another difficulty, which often arises when **only a part of the character of the bill is expressed in the title.**”

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: THE 1851 INDIANA MODEL

Indiana's Constitutional Debates (p. 1085)

“**Mr. BORDEN**....We have, sir, a precedent for such a provision. I have in my hand the Constitution of **California*** which contains this provision, “Every law shall contain but one ****subject**, and that shall be expressed in the title.” I suppose the object of it is to prevent the practice of **log-rolling**, as it has been termed by the Legislature...Almost every State Convention that has been called for the purpose of revising their Constitution, has inserted a provision of this kind.”

*There is no record of debate of the provision from the 1849 California Constitutional Convention. **The California Constitution uses the term “object”

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: THE 1851 INDIANA MODEL

Indiana's Constitutional Debates (p. 1085)

“**Mr. CHAPMAN.** Gentlemen will find that the operation of such a provision will be to embarrass the Legislature exceedingly. I very much doubt the propriety of passing it. I am willing that the contents of very special law should be specified in the title; but I think it will be almost impossible, if we generalize the laws, to express their contents in the title...”

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: THE 1851 INDIANA MODEL

Indiana's Constitutional Debates (p. 1085)

“**Mr. CLARK** of Tippecanoe said, he doubted very much the propriety of adopting this amendment. He thought it would be difficult to carry it into effect.

Now if it should happen that two or more subjects are embraced in a bill, the whole law would have to be pronounced unconstitutional, and I think it will be found **very difficult to confine every bill to one specific object.**”

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: THE 1851 INDIANA MODEL

Indiana's Constitutional Debates (p. 1085)

“**MR. READ** of Monroe said, he wished to assure the gentleman from Putnam (Mr. Stevenson) how cordially he was with him in the present proposition. That gentleman is now on the high road of **reform**.

If there has been a **single reform** principle introduced into the lately made Constitutions, this of requiring a majority of all members to pass a law, is one of the most valuable in preventing irresponsible legislation. **When the ayes and noes are required to be entered upon the journals for the passage of every bill...there will be safe and careful legislation.** Every member will be obliged to act and to show how he acted.”

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: THE 1851 INDIANA MODEL

Indiana's Constitutional Debates (p.p. 1085-1086)

“**Mr. BRIGHT.** The title of a bill is no part of the law. An act will have its full force and effective without any title whatsoever. The title is the last thing generally that is thought of. One objection which I have to the amendment is, that many subjects are sometimes necessarily embraced in one object. We cannot specify the various subjects that will necessarily be connected in any given object... Who is to decide whether a law embraces two or more objects?

A MEMBER. “The courts will decide.”

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: THE 1851 INDIANA MODEL

Indiana's Constitutional Debates (p. 1086)

“**Mr. DOBSON.** The **title** of a bill should be **clear** and explicit. **But** under the system of **log-rolling**, which prevails in the Legislature, it has become, in fact, like a nick name, conveying no true idea of what it purports to indicate. It is no indication of what the contents of the law are...It is a duty we owe to the people that every law that is passed should be expressed in **plain and simple language**, in order that the **people** may understand it; and it should have its **proper title** ... so that the **people** may know where it leads to...”

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: THE 1851 INDIANA MODEL

Indiana's Constitutional Debates (p. 1086)

“**Mr. OWEN**...There was a bill introduced by a member, whose name is not necessary to mention. The title of the bill was to appropriate a portion of the three per cent fund, coming to a certain county, “and for other purposes.” it was read a first and second time, by its title, as a local bill: on its third reading, some member asked for the reading of the “other purposes;” and it made out that the last section contained a provision divorcing a man from his wife. [Laughter.]”

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: THE 1851 INDIANA MODEL

Indiana's Constitutional Debates (p.p. 1086-1087)

“**Mr. MAGUIRE**....The object of the gentleman from Putnam is, therefore, in my judgment, correct and laudable, but I would suggest whether it would not be better to say that the **objects**, instead of **object**, of a bill should be set forth in the title. It may be convenient and proper sometimes to **embrace two or more objects or subjects** in the same bill. There can be no objection to doing so if the title shall be so worded as to set forth all the purposes of the **bill** ...If deception be prevented, that is all that the gentleman has in contemplation, and I should think that might be accomplished by requiring that **objects or subjects** of a **bill** shall be clearly defined in the **title**.”

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: THE 1851 INDIANA MODEL

Indiana's Constitutional Debates (p. 1087)

“Mr. NAVE. There is one question that has not yet been introduced into the argument...It will be a question for the courts to determine whether more than one subject is included in any one act, and if more than one, it will be unconstitutional, and therefore a nullity.

Mr. GIBSON. I move to amend by striking the word “**object,**” and inserting the word “**subject:**” and I will remark that it makes a very material difference. I will venture to say that if the word “object” be retained, there will not be a law passed within a dozen years, that will be constitutional.”

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: THE 1851 INDIANA MODEL

Indiana's Constitutional Debates (p. 1087)

“**Mr. DUNN** of Jefferson moved to amend by providing that if any subject is embraced in a law, and not expressed in the title, the law shall only be **void so far as such provision is concerned**.

....My object is that, where the provisions embraced in a law are not expressed in the title, such provision shall be void; but the fact of its being in the law shall not render void the whole act.

The question being taken, the amendment, upon a division – ayes 55, noes not counted --- agreed to.”

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: THE 1851 INDIANA MODEL

Indiana's Constitutional Debates (p. 1087-1088)

“Mr. RARIDEN. I would like to hear the section read.

The Secretary read the section as amended.

Mr. RARIDEN. I want to strike out the latter part. The words, “it shall be expressed in the bill,” is sufficient...It is proper that the title should fairly indicate the substance of the law – **that it should be an index to its contents...**

The PRESIDENT. It has just been inserted.

Mr. RARIDEN. Well, let it go; I will not fight about it.”

The section was then ordered to be engrossed for **a third reading.**”

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: THE 1851 INDIANA MODEL

Indiana's Constitutional Debates (p.p. 1115-1116)

“**Mr. NILES**...I will confess that when this **matter** was first broached yesterday, I was included to favor the amendment proposed by the gentleman from Putnam (Mr. Stevenson) in its full length and breadth; but I have since become satisfied in my own mind that it is may lead to difficulty and danger. **It is highly desirable that litigation should be avoided**, and that laws, when passed, should operative and without mistake. I propose then to amend the instructions by adding the following:”

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: THE 1851 INDIANA MODEL

Indiana's Constitutional Debates (p. 1115)

“Every law shall embrace but one subject and matters reasonably connected therewith, which shall be expressed in the title; but no act shall be rendered void by reason of any defect in the title.”

I do not conceive, Mr. President, that no essential difficulty need result from confining a bill to one single subject and matters reasonably connected therewith...For example it would exclude the possibility of a bill for divorce being attached to a bill providing for the appropriation of money, or for any other specific or private purpose.”

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: THE 1851 INDIANA MODEL

Indiana's Constitutional Debates (p. 1115)

A SIDE NOTE: RIDERS

Mr. NILES comment “a bill for divorce being attached to a bill providing for the appropriation of money...” does not describe “logrolling” but rather a “ **rider**”: a provision which is included as part of a bill (e.g., by amendment) only because the bill is considered as a “vehicle” having a high chance of being enacted and when the included provision if drafted as a separate bill would not have that same chance (often because it is opposed in the other chamber or time is running out before adjournment sine die). The favorite vehicle is often an appropriation bill.

For criticism of this practice at the federal level see Rutherford B. Hayes veto message of April 29, 1879 concerning: "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes."

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: THE 1851 INDIANA MODEL

Indiana's Constitutional Debates (p. 1119)

“**Mr. PETTIT.** I have listened all day yesterday, and I have listed all this afternoon, to the discussion which has been held on this subject...Sir, I have no hesitation in saying that if we pass this section as it stands, requiring that but one subject shall be embraced in an act and that subject shall be designated in the title, **it will cause more litigation than all the other provisions of the Constitution put together** ...[If] we live to see this Constitution in operation for five years, we will see the Supreme Court crowded with cases, to determine whether one or two or more subjects are embraced in a bill.”

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: THE 1851 INDIANA MODEL

Indiana's Constitutional Debates (p. 1121)

“**Mr. BERRY.** As this section appears to be regarded as a very important one, and as gentlemen do not appear to have made up their minds entirely upon it, I think it would be better that the Convention should not act hastily. I will therefore move to re-consider the vote taken on the engrossment of the section.

The motion to re-consider was adopted.”

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: THE 1851 INDIANA MODEL

Indiana's Constitutional Debates (p. 1121)

“**Mr. BERRY.** I now move to re-commit the section to the committee on the legislative department.

Mr. READ of Clark **moved** to amend the motion by adding the following instructions:

“No **private or local bill** which may be passed by the Legislature, shall embrace more than one subject, and that shall be expressed in the title.”

Pending the question on the motion of Mr. Read,

The Convention is adjourned.”

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: THE 1851 INDIANA MODEL

Indiana's Constitutional Debates (p. 1121)

“**Mr. NILES** moved to amend the instruction by directing the committee to insert the same provision which he had submitted yesterday under another aspect of the case, namely: that every law shall embrace but one subject, **and the matters reasonably connected therewith**, which shall be expressed in the title, but no act shall be rendered void by reason of any defect in the title.”

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: THE 1851 INDIANA MODEL

Indiana's Constitutional Debates (p. 2009)

“**Mr. PETTIT.** I am satisfied, Mr. President, that it is not necessary to incorporate any portion of this section in our Constitution Besides, sir, you will constantly have your courts construing two questions; first, as to whether a bill contains two subjects, and secondly, whether these subjects are expressed in the title of the bill. And in either case they will declare the whole law to be unconstitutional... because the Legislature, either by accident or from inability to do so, have not complied with this absurd provision of your Constitution.”

3. What Did the Founders Say it Means?

IOWA'S 1857 CONSTITUTION: THE 1851 INDIANA MODEL

Summary

Stevenson Motion	“Every law shall embrace but one object, which shall be expressed in the title.”
Maguire (failed)	“Every law shall embrace but one object , <u>objects</u> which shall be expressed in the title.”
Gibson Amendment (passed)	“Every law shall embrace but one object <u>subject</u> , which shall be expressed in the title.”
Read Amendment (failed)	“ Every law shall embrace but one object, which shall be expressed in the title <u>No private or local bill which may be passed by the Legislature, shall embrace more than one subject, and that shall be expressed in the title.</u> ”

3. What Did the Founders Say it Means

IOWA'S 1857 CONSTITUTION: THE 1851 INDIANA MODEL

Dunn Amendment Passed	“Every law shall embrace but one subject , which shall be expressed in the title <u>provided that if any subject is embraced in a law, and not expressed in the title, the law shall only be void so far as such provision is concerned.</u> ”
Niles Amendment (ultimately passed)	“Every law shall embrace but one subject , <u>and the matters reasonably connected therewith</u> , which shall be expressed in the title: Provided that if any subject is embraced in a law, and not expressed in the title, the law shall only be void so far as such provision is concerned. ”
Committee on Revision (passed)	“Every act shall embrace but one subject , and the matters reasonably properly connected therewith ; which subject shall be expressed in the title: But if any subject is shall be embraced in the law an act and which shall not be expressed in the title, the law such act shall only be void so far only as such provision is concerned to so much thereof as shall not be expressed in the title.

3. What Did the Founders Say it Means

IOWA'S 1857 CONSTITUTIONAL CONVENTION

Tuesday February 25th (p. 530)

“Section thirty was then read as follows:

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

“**Mr. PALMER.** I move to strike out the word “subject” wherever it occurs in this section, and insert the word “object.” I believe it was the intention of the farmers of this constitution that the word should be “object.” A virtual violation of the section by the legislature led to a great deal of difficulty....”

3. What Did the Founders Say it Means

IOWA'S 1857 CONSTITUTIONAL CONVENTION

Tuesday February 25th (p. 530)

For instance, there would be acts passed in relation to certain state roads, therein named. There was one omnibus act of this kind, embracing provisions for the establishment of many state roads, and also to vacate others already established. It related to but one subject, it is true, that of state roads, but it related to more than one object... It appears to me that if we can embrace so many different provisions under the word "subject," it ought to be stricken out, and some other word substituted for it, which would confine the action of the legislature within some more limited range.

Assume this refers to: *State ex. rel. Weir v. County Judge of Davis County*,
2 Iowa 280, 283 (1855)

3. What Did the Founders Say it Means

IOWA'S 1857 CONSTITUTIONAL CONVENTION

Friday February 6th (p. 530-531)

“**Mr. CLARKE**, of Johnson. This subject has been before the supreme court, in the case referred to by the gentleman from Davis, [Mr. Palmer.] The session before the last of the General Assembly passed what is known as the " omnibus road bill," providing for the laying out, establishing and vacating some thirty, forty or fifty roads... The proceedings were dismissed in the district court, and in the supreme court a decision was rendered by two judges, **sustaining the law as constitutional; that though it embraced a variety of objects, it embraced but one subject.** From that decision the chief justice dissented. That decision now stands...”

3. What Did the Founders Say it Means

IOWA'S 1857 CONSTITUTIONAL CONVENTION

Tuesday, February 17th (p. 531)

“I think the construction put upon the act by the majority of the court was a correct one. But as they leave the subject open to discussion here, it might be well for this Convention to consider this section, in connection with the section that succeeds it. That section reads-

"The General Assembly shall not pass local or special laws in the following cases:

For the assessment and collection of taxes for State, county, or road purposes;

For laying out, opening, and working on roads or highways;

3. What Did the Founders Say it Means

IOWA'S 1857 CONSTITUTIONAL CONVENTION

Tuesday, February 17th (p. 531)

For changing the names of persons;
For the incorporation of cities or towns;
For vacating roads, town plats, streets, alleys, or public squares;
In all the cases above enumerated, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the State."

If the supreme bench should eventually reverse that decision, and decide that each act providing for laying out and vacating State roads, must provide for only one road, we gain very little by the section I have just read....”

3. What Did the Founders Say it Means

IOWA'S 1857 CONSTITUTIONAL CONVENTION

Tuesday, February 17th (p. 531)

The question being taken to strike out the word "subject," and inserting the word "object," it was not agreed to.

No further amendment being offered to this section---”

3. What Did the Founders Say it Means

IOWA'S 1857 CONSTITUTIONAL CONVENTION

Friday February 19th (p. 620)

“**Mr. WILSON.** I will simply say, that in case the amendment of the gentleman from Henry [Mr. Clarke] should not be adopted, I propose to offer an additional section, which I have copied from the constitution of **Indiana**, and which is the section which was referred to by the gentleman from Des Moines [Mr. Hall]. It is as follows:

"If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately, and while any amendment or amendments which shall have been agreed upon by one General Assembly shall be awaiting the action of a succeeding General Assembly, or of the electors, no additional amendment or amendments shall be proposed."

Note: This is the basis for Art. X, Sec. 2

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

4. What Do Other State Constitutions Say?

IOWA'S 1857 CONSTITUTION: THE INDIANA MODEL

Iowa Constitution (1857)

Art. III

“Sec. 29 Every act shall embrace but one subject, and matters properly connected therewith; which subject shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

Idaho Constitution (1890)

Art. III

“Sec. 16. Every act shall embrace but one subject and matters properly connected therewith, which subject shall be expressed in the title; but if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be embraced in the title.”

Original Oregon Constitution (1857)

Art. IV

“Sec. 20. Every act shall embrace but one subject, and matters properly connected therewith, which subject shall be expressed in the title; But if any subject shall be embraced in an act, which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.”

Arizona Constitution (1912)

Art. 4

“Sec. 13. Every act shall embrace but one subject and matters properly connected therewith, which subject shall be expressed in the title; but if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be embraced in the title.”

4. What Do Other State Constitutions Say?

1960 INDIANA CONSTITUTIONAL AMENDMENT (IN PART)

Every act, amendatory act or amendment of a code shall embrace but one subject and matters properly connected therewith; which subject shall be expressed in the title. But if any subject shall be embraced in an act, amendatory act or amendment of a code, which shall not be expressed in the title, such act, amendatory act or amendment of a code shall be void only as to so much thereof as shall not be expressed in the title. The requirements of this paragraph shall not apply to original enactments of codifications of laws.

4. What Do Other State Constitutions Say?

1974 INDIANA CONSTITUTIONAL AMENDMENT

“An act, except an act for the codification, revision or rearrangement of laws, shall be confined to one subject and matters properly connected therewith.”

The New
Amendment:

Eliminates the title requirement but retains the single subject requirement.

Provides an express exception for the Code revision legislation.

4. What Do Other State Constitutions Say?

1970 ILLINOIS CONSTITUTIONAL

Art. IV, Sec. 8, Par. (d)

“(d) A bill shall be read by title on three different days in each house. A bill and each amendment thereto shall be reproduced and placed on the desk of each member before final passage.

Bills, except bills for appropriations and for the codification, revision or rearrangement of laws, shall be confined to one subject. Appropriation bills shall be limited to the subject of appropriations.

A bill expressly amending a law shall set forth completely the sections amended.

The Speaker of the House of Representatives and the President of the Senate shall sign each bill that passes both houses to certify that the procedural requirements for passage have been met.”

1. Eliminates the title requirement from the 1870 Constitution.
2. Provides an express exception for the Code revision legislation.
3. Places a subject limitation on appropriation bills.

4. What Do Other State Constitutions Say?

1852 OREGON AMENDMENT (S.J.R. 41)

“Every Act shall embrace but one subject, and matters properly connected therewith, which subject shall be expressed in the title. But if any subject shall be embraced in an Act which shall not be expressed in the title, such Act shall be void only as to so much thereof as shall not be expressed in the title.

“This section shall not be construed to prevent the inclusion in an amendatory Act, under a proper title, of matters otherwise germane to the same general subject, although the title or titles of the original Act or Acts may not have been sufficiently broad to have permitted such matter to have been so included in such original Act or Acts, or any of them.”

4. What Do Other State Constitutions Say?

TEXAS 1876 CONSTITUTION (ART. III)

Sec. 29	“The enacting clause of all laws shall be: "Be it enacted by the Legislature of the State of Texas.”
Sec. 30	“No law shall be passed, except by bill, and no bill shall be so amended in its passage through either House, as to change its original purpose. ”
Sec. 34	“After a bill has been considered and defeated by either House of the Legislature, no bill containing the same substance, shall be passed into a law during the same session. ”
Sec. 36	“ No law shall be revived or amended by reference to its title; but in such case the act revived, or the section or sections amended, shall be re-enacted and published at length.”
Sec. 38	“The presiding officer of each House shall, in the presence of the House over which he presides, sign all bills and joint resolutions passed by the Legislature, after their titles have been publicly read before signing; and the fact of signing shall be entered on the journals.”

4. What Do Other State Constitutions Say?

TEXAS 1876 CONSTITUTION (ART. III, SEC. 24)

Original Version “Every law enacted by the Legislature, shall embrace but one **object**, and that shall be expressed in the title.

(a) No bill, (**except general appropriation bills**, which may embrace the various subjects and accounts, for and on account of which moneys are appropriated) shall contain more than one subject.

1986 Amended Version

(b) The rules of procedure of each house shall require that the subject of each bill be expressed in its title in a manner that gives the legislature and the public reasonable notice of that subject. **The legislature is solely responsible for determining compliance with the rule.**

(c) **A law, including a law enacted before the effective date of this subsection, may not be held void on the basis of an insufficient title.”**

4. What Do Other State Constitutions Say?

MONTANA 1889 ORIGINAL CONSTITUTION (ART. III, SEC. 24)

Par. (3)	1851 Indiana Model Revised	“(3) Each bill, except general appropriation bills and bills for the codification and general revision of the laws, shall contain only one subject, clearly expressed in its title. If any subject is embraced in any act and is not expressed in the title, only so much of the act not so expressed is void.”
Par (6)	Limitations	“(6) A law may be challenged on the ground of noncompliance with this section only within two years after its effective date.”

4. What Do Other State Constitutions Say?

LOUISIANA 1974 CONSTITUTION

(ART. III, SEC. 15)

- (A) “The legislature shall enact no law except by a bill introduced during that session, and propose no constitutional amendment except by a joint resolution introduced during that session, which shall be processed as a bill. **Every bill, except the general appropriation bill and bills for the enactment, rearrangement, codification, or revision of a system of laws, shall be confined to one object.** Every bill shall contain a brief title indicative of its object. Action on any matter intended to have the effect of law shall be taken only in open, public meeting.”
- (B) “A bill enacting, amending, or reviving a law shall **set forth completely the provisions of the law enacted, amended, or revived.** No system or code of laws shall be adopted by general reference to it.”
- (C) “**No bill shall be amended in either house to make a change not germane to the bill as introduced.**”
- (D) “**Each bill shall be read at least by title on three separate days in each house.** No bill shall be considered for final passage unless a committee **has held a public hearing** and reported on the bill.”
- (E) “No bill rejected by either house may again be introduced or considered during the same session by the house which rejected it without the consent of a majority of the members elected to that house.”
- (F) “No amendment to a bill by one house shall be concurred in by the other, and no conference committee report shall be concurred in by either house **except by the same vote required for final passage of the bill. The vote thereon shall be by record vote.**”
- (G) “No bill shall become law without the **favorable vote of at least a majority of the members elected to each house.** Final passage of a bill shall be by record vote. In either house, a record vote shall be taken on any matter upon the request of one-fifth of the elected members.”

5. What Do Commentators Say?

THE TITLE REQUIREMENT

The title clause requirement reflects a widespread concern of framers of constitutions in the century with **special interest legislation**

Title Requirement

1. Purpose: Assures that the **public** is fairly apprised of the subject of the in order that they have an opportunity of being heard concerning its merits.

2. Purpose: Prohibits a **legislator** from surreptitiously inserting unrelated provisions in the body of a pending bill.

“That the title serves as a shorthand mechanism for describing a bill’s subject and is irrelevant in measuring compliance with the single subject restriction.”

Martha J. Dragich, *State Constitutional Restrictions on Legislative Procedure: Rethinking the Analysis of Original Purpose, Single Subject, and Clear Title Challenges*, 38 Harv. J. on Legis. 103 (2001).

5. What Do Commentators Say?

THE SINGLE SUBJECT RULE

Single Subject Rule

1st Purpose. The “primary and universally recognized purpose of the one-subject rule is to prevent **logrolling**” by requiring a legislator to decide on two or more issues while casting one vote.

2nd Purpose. A secondary purpose is to “prevent **riders** from being attached to bills that are popular . . . [so] that the rider will secure adoption not on its own merits, but on the merits of the measure to which it is attached.”

Millard H. Ruud, *No Law Shall Embrace More Than One Subject*, 42 Minn. L. Rev. 389, 391 (1958). See also Michael D. Gilbert, *Single Subject Rules and the Legislative Process*, 67 University of Pittsburgh Law Review 803, 804 (2006).

5. What Do Commentators Say?

THE SINGLE SUBJECT RULE

Single Subject Clause

3rd Purpose. A third purpose not well recognized by courts is to curb the legislative practice of including provisions in a bill in order to force a governor to “choose between enacting some provisions she dislikes and vetoing the entire bill, including components she favors.” Thus the effect is to make the undesirable provisions effectively “veto-proof.”

Michael D. Gilbert, *Single Subject Rules and the Legislative Process*, 67 University of Pittsburgh Law Review 803 (2006), citing Jeffrey Gray Knowles, *Note, Enforcing the One-Subject Rule: The Case for a Subject Veto*, 38 Hastings L.J. 563 (1987).

5. What Do Commentators Say?

THE SINGLE SUBJECT RULE

Single Subject Clause

“The indeterminacy of the term “**subject**,”... cannot be overcome by synonyms, paraphrases, and tautological formulas. It can either be replaced or supplemented by a formula that sets out some concrete goals or operational directives, or measures will be left to continual case-by-case decisions under standards so meaningless that it is difficult to avoid ad hoc. . . reactions to the merits of individual measures.”

Michael D. Gilbert, *Single Subject Rules and the Legislative Process*, 67 *University of Pittsburgh Law Review* 803 (2006)

5. What Do Commentators Say?

THE SINGLE SUBJECT RULE

Single Subject Clause

“**Single subject rules**” are—theoretically—a fundamental parameter of the legislative process in most states. **Forty-one of the fifty state constitutions, or eighty-two percent**, contain a general single subject rule. However, observers have long noted that in most states, “**single subject rules**” effectively have been rendered dormant, in large measure due to the courts’ refusal to enforce the rule.” (citations omitted)

Justin W. Evans and Mark C. Bannister, *The Meaning and Purposes of State Constitutional Single Subject Rules: A Survey of States and the Indiana Example*, 49 *Valparaiso University Law Review*, 87 (2014)

5. What Do Commentators Say?

THE SINGLE SUBJECT RULE

Single Subject Clause

“A legislator who seeks to serve all of his political masters including his constituents, his country and his conscience, should recognize the value of the **Single Subject Amendment**. The value of the **Single Subject Amendment** to a conscientious legislator lies in its ability to prevent that legislator and other legislators from succumbing to the temptation of blindly accepting the proposals which other legislators attach to appropriations bills in **Congress**.”

Nancy J. Townsend, *Single Subject Restrictions as an Alternative to the Line-Item Veto*, 1 Notre Dame J.L. Ethics & Pub. Pol'y 227 (1985).

5. What Do Commentators Say?

THE SINGLE SUBJECT RULE: BALLOT INITIATIVE

Variables

\mathbf{x} and \mathbf{y} are policy dimensions. (1)

$x^j \in \mathbf{x}$ and $y^k \in \mathbf{y}$ are arbitrary policies on each dimension. (2)

$x^0 \in \mathbf{x}$ and $y^0 \in \mathbf{y}$ are the status quo policies. (3)

$x^j \in \mathbf{x}$ and $y^k \in \mathbf{y}$ are new policy proposals. $x^0 \neq x^j$ and $y^0 \neq y^k$ (4)

$b^{jk} \in (\mathbf{x} \cup \mathbf{y})$ is a ballot proposition, where $b^{j,0} = (x^j, y^0)$, $b^{0,k} = (x^0, y^k)$, etc. (5)

u_i is voter i 's utility, where $u_i = u_i(x^j, y^k)$. (6)

x_i^* $\in \mathbf{x}$ and y_i^* $\in \mathbf{y}$ are voter i 's ideal policies: (7)

$u_i(x_i^*, y_i^*) = \arg \max_{x^j, y^k} u_i(x^j, y^k)$. (7)

v_i^{jk} indicates how voter i votes in the contest between b^{jk} and (x^0, y^0) , where (8)

$v_i^{jk} = 1$ indicates a vote for b^{jk} and

$v_i^{jk} = 0$ indicates a vote against b^{jk} .

$V^{jk} = \sum_{i=1}^N v_i^{jk}$. (9)

Collective Choice Assumptions

Majority rule: (10)

Assuming an odd number of voters N ,

if $V^{jk} > N/2$, then b^{jk} wins and replaces (x^0, y^0) ;

otherwise b^{jk} loses and does not replace (x^0, y^0) .

Restriction on Domain of Propositions: (11)

The single subject rule concerns separating or combining policy proposals in ballot propositions. Therefore, we will compare the separated propositions, $b^{j,0}$ and $b^{0,k}$, with the combined proposition, $b^{j,k}$. These propositions propose a change from the status quo, $b^{0,0}$. The domain of voter choice is thus restricted to $\{b^{j,0}, b^{0,k}, b^{j,k}, b^{0,0}\}$.

164. If $c = 0$, then voter i has separable preferences as defined by economists. If $c \neq 0$, then voter i has nonseparable preferences as defined by economists. If his preferences are nonseparable, then he understands x^j and y^k to be substitutes or complements. The text discusses substitutes and complements, even though the proof does not require this. When utility satisfies (17), economists have a simple definition:

If $c > 0$ in (17), then x^j and y^k are substitutes;

if $c < 0$ in (17), then x^j and y^k are complements.

165. It is straightforward to show that "sufficient separability" as defined in (13) and (14) implies that the value of c in the Euclidean utility function satisfies:

$$\frac{a[(x^0 - x_i^*)^2 - (x^j - x_i^*)^2]}{(y^0 - y_i^*)(x^j - x^0)} \geq c$$

Robert D. Cooter, *A Theory of Direct Democracy and the Single Subject Rule*, 110 Colum. L. Rev. 687, 727 and 728 (2010)

6. What Do Other State Courts Say?

UTAH

State v. McCornish, 59 Utah 58, 201 P. 637 (1921)

- “The single subject rule must be applied in a manner “as not to hamper the law-making power in framing and adopting comprehensive measures covering the whole subject.”
- “[N]o hard and fast rule can be formulated which is applicable to all cases, but each case must to [a] very large extent be determined in accordance with peculiar circumstances and conditions...”

Quoted from James L. McDowell, *Constitutional Restraints on State Legislative Procedure: The Application of Single Subject Rules*, 5 (May 24–25, 2002) (unpublished article presented at the State Politics and Policy Conference University of Wisconsin-Milwaukee).

6. What Do Other State Courts Say?

PENNSYLVANIA

***Ritter v. Commonwealth*, 120 pa. 374, 48 A.2d 1317 (1988)**

“Act 31, as enacted by the General Assembly, amended various chapters of the Crimes Code, 18 Pa. C. S. §§101-9183, by providing for rights of a district attorney in **litigation involving prisoners**; providing additional **penalties for underage drinking** and sale of alcohol to minors; providing additional penalties for **drug trafficking to minors**; providing **penalties for the scattering of rubbish**; and regulating matters relating to the performance and **funding of abortions**.”

“...By majority vote, the **House temporarily suspended its rules** and deleted the parole legislation, but passed the remainder of H.B. 668, as amended, by a vote of 147-44. Governor Casey signed the bill on March 25, 1988.”

“Petitioners argue that Act 31 violates the Constitution's single-subject requirement.”

6. What Do Other State Courts Say?

PENNSYLVANIA

Ritter v. Commonwealth, 120 pa. 374, 48 A.2d 1317 (1988)

“Despite the disparity in the types of acts described for which sanctions are imposed, we have no problem in concluding that Act 31, as enacted, embraces a single subject i.e., amendments to the Penal Code. Petitioners apparently suggest that had this Act been drafted, in the first instance, as a bill containing the matters covered by the Senate amendments, the Act would pass constitutional muster. They offer no argument for its infirmity other than their difficulty in overcoming the procedural hurdle of suspending Rule 30. Again, petitioners ask this Court to tread dangerously close to judicial inquiry into the internal operating procedures of the General Assembly. However, to the extent that the petitioners present a justiciable claim, we find no violation of Article III, Section 3, since all of the amendments relate to proscribed acts under the Penal Code. To find otherwise would make unified amendments to codification of the law impossible.”

6. What Do Other State Courts Say?

MINNESOTA

Blanch v. Suburban Hennepin Regional Park District

449 N.W.2d at 150 (Minn. 1989)

“The common thread which runs through the various sections of chapter 686 is indeed a mere filament. Were we not of the opinion that the park bill, designed to make possible the utilization of funds appropriated in the preceding session of the legislature, is germane to the broad subject of appropriations for the operation of state government, **we would, despite our long-standing tradition of deference to the legislature, be compelled to declare it violative of art. 4, § 17, and, hence, unconstitutional and void.**”

6. What Do Other State Courts Say?

FLORIDA

State v. Thompson, 750 So. 2d 643 (Fla. 1999)

“Further, a review of the **legislative history** surrounding chapter 95-182 supports a finding that the chapter law does not meet the requirements of the single subject rule. In the decision below, the Second District correctly tracked the legislative history of the Senate Bill 168, which became chapter 95-182, noting that the domestic violence provisions that were added to the chapter law originated in three separate bills in the House of Representatives, none of which were passed. ...In addition to the **legislative history** discussed in the decision below, it should be noted that the original version of Senate Bill 168, and the version sent to the House of Representatives from the Senate, were originally entitled, "An act relating to career criminals," before being changed to read, "An act relating to justice system [sic].“... **Importantly, the amendments made by the House of Representatives which, among other things, changed the title as stated above and added the domestic violence provisions to chapter 95-182, were made on the floor of the house on May 4, 1995, very near the end of the regular legislative session....**” We agree with the Second District's observation that "**[i]t is in circumstances such as these that problems with the single subject rule are most likely to occur.**" *Thompson, 708 So.2d at 317.*”

6. What Do Other State Courts Say?

ILLINOIS

Johnson v. Edgar, 176 Ill.2d 499, 480 N.E.2d 1372 (1993)

“We must decide whether the legislature, in enacting Public Act 89-428, violated the single subject rule of the Illinois Constitution. Article IV, section 8(d), of the Illinois Constitution of 1970 provides, in pertinent part, as follows:

“Bills, except bills for appropriations and for the codification, revision or rearrangement of laws, shall be confined to one subject.” Ill. Const.1970, art. IV, § 8(d).”..

The Senate and House could not agree as to which of the 13 House amendments to the bill should stand. As a result, a conference committee was formed. **The conference committee changed the title of the bill and replaced everything after the enacting clause. What had started out as an eight-page bill became a bill of over 200 pages.”**

6. What Do Other State Courts Say?

ILLINOIS

Johnson v. Edgar, 176 Ill.2d 499, 480 N.E. 2d 1372 (1993)

“...The practice of bringing together into one bill subjects diverse in their nature, and having no necessary connection, with a view to combine in their favor the advocates of all, and thus secure the passage of several measures, no one of which could succeed upon its own merits, [is] one both corruptive of the legislator and dangerous to the State.’ ” *Fuehrmeyer*, 57 Ill.2d at 202, 311 N.E.2d 116, quoting *People ex rel. Drake v. Mahaney*, 13 Mich. 481, 494-95 (1865).”...

The defendants argue that the Act is constitutional because all of its provisions are confined to the single subject of public safety. We cannot accept the defendants' contention. Were we to conclude that the many obviously discordant provisions contained in Public Act 89-428 are nonetheless related because of a tortured connection to a vague notion of public safety, **we would be essentially eliminating the single subject rule as a meaningful constitutional check on the legislature's actions.**”

7. Outline of Iowa Supreme Court Decisions

JUDICIAL DOCTRINE OF STANDING

In recent years, the Iowa Supreme Court has recently tended to restrict persons who may bring an action based on a constitutional infringement.

- Standing is a doctrine courts employ to decide the question of whether a person is a proper party to request an adjudication of the issue and not whether the controversy is otherwise justiciable.
- The doctrine has its roots in the court's avoidance of giving advisory opinions. Any case should involve those parties actually injured by an aggrieved wrong
- The doctrine is also concerned with role of the courts in a democratic society.

Godfrey v. State, 752 N.W.2d 413 (Iowa 2008); *Alons v. Iowa Dist. Ct.*, 698 N.W.2d 858, (Iowa 2005).

7. Outline of Iowa Supreme Court Decisions

JUDICIAL DOCTRINE OF STANDING

- The person challenging the infringement of a constitutional requirement must show the following two separate elements:
 1. Have a specific personal or legal interest in the litigation and
 2. Be injuriously affected.
- Unlike federal courts which are constrained by Art. III of the United States Constitution to resolve “cases and controversies”, Iowa courts are not so constrained by the Iowa Constitution and may waive the judicially created standing requirement in cases of “great public importance”.

Godfrey v. State, 752 N.W.2d 413 (Iowa 2008); *Alons v. Iowa Dist. Ct.*, 698 N.W.2d 858 (Iowa 2005).

7. Outline of Iowa Supreme Court Decisions

JUDICIAL DOCTRINE OF STANDING

- Generally, a person challenging a government action must claim more than a status of a citizen or taxpayer.
- A mere interest by a public policy advocate in seeing that the General Assembly acts in conformity with the Constitution is not alone sufficient to establish standing.

Godfrey v. State, 752 N.W.2d 413 (Iowa 2008); *Alons v. Iowa Dist. Ct.*, 698 N.W.2d 858 (Iowa 2005).

7. Outline of Iowa Supreme Court Decisions

JUDICIAL DOCTRINE OF STANDING

In *Rants v. Vilsack*, 684 N.W.2d 193 (Iowa 2004), the Court heard a item-veto case brought by state legislators (Speaker Christopher Rants and Senator Stewart E. Iverson, Majority Leader of the Senate) after providing a brief discussion of standing requirements and citing approvingly *State ex rel. Turner v. Iowa State Highway Comm'n*, 186 N.W.2d 141, 147-48 (Iowa 1971).

In *Alons v. Iowa Dist. Ct.*, 698 N.W.2d 858 (Iowa 2005), decided one year later, the Court held that a legislator did not have standing to bring an action challenging a district court ruling concerning a petition for the dissolution of a marriage (a civil union granted under Vermont law) by a same sex couple.

In *Godfrey v. State*, 752 N.W.2d 413 (Iowa 2008) a challenge was brought by a citizen challenging a provision relating to workers compensation benefits provided in Section 11 of a long and complex bill; 2004 Iowa Acts, ch. 1001 (House File 2581), as enacted in the 1st Extraordinary Session following the Court's declaration in *Rants v. Vilsack* that the exercise of the Governor's item veto authority had acted to veto the prior Act in its entirety.

7. Outline of Iowa Supreme Court Decisions

JUDICIAL DOCTRINE OF STANDING

“Generally, ‘in the absence of statutory directive, a legislator may sue only to challenge misconduct or illegality **in the legislative process itself.**” *Alons v. Iowa Dist. Ct.*, 698 N.W.2d 858 (Iowa 2005) citing a non-Iowa case *Nania v. Borges*, 41 Conn. Supp. 90, 551 A.2d 781, 785 (1988)…”

“If the legislature disagrees with a court's interpretation, its prerogative is to pass legislation making it clear that the court's interpretation of their intention was incorrect.” *Alons*, supra.

Note: the *Rants* case involved legislative leaders bringing a claim against the head of the executive branch of government when the governor exercised a lawmaking function while the *Alons* case involved individual legislators and a private organization complaining about a court's interpretation of a statute.

7. Outline of Iowa Supreme Court Decisions

JUDICIAL DOCTRINE OF STANDING

QUESTION: How might a person show that a violation of the title-subject provision was the cause of the person suffering an injury in fact?

1. The person charged or convicted of a criminal offense.
2. The person who is a taxpayer claiming that they will pay additional taxes for fees because of the statute.
3. A person such a business required to comply with a new or stricter regulation?
4. A person required to pay a new or increased fee?
5. A legislator?

7. Outline of Iowa Supreme Court Decisions

JUDICIAL DOCTRINE OF STANDING

Godfrey v. State, 752 N.W.2d 413 (Iowa 2008)

2004 Iowa Acts, ch. 1001 (House File 2581),

Act's Title

“AN ACT concerning regulatory, taxation, and statutory requirements affecting individuals and business relating to economic development, workers' compensation, financial services, unemployment compensation employer surcharges, income taxation bonus depreciation and expensing allowances, and civil action appeal bonds, and including effective date, applicability, and retroactive applicability provisions.”

7. Outline of Iowa Supreme Court Decisions

JUDICIAL DOCTRINE OF STANDING

Godfrey v. State, 752 N.W.2d 413 (Iowa 2008)

Issue of Standing Great Public Interest	The Court found that Godfrey could not meet the standing requirement of suffering an injury in fact necessary to pursue her challenge; but instead relied upon the judicially created exception (a self-imposed rule of restraint) that allows standing in “ circumstances involving issues of great public importance. ”
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The Court found Godfrey had no standing based on the following:

- 1 No challenge to the title requirement.
- 2 No allegation of fraud, surprise, or private gain.
- 3 No allegation of logrolling.

“The absence of a claimed violation of the title requirement also diminishes the importance of the constitutional issue presented. While the subject and title requirement rules are separate constitutional principles, they operate together to prevent greater harm than when the single-subject requirement is the only violation claimed. While we strive to protect people from all constitutional violations, we do not respond to all violations the same, or even provide a remedy for every violation.”

7. Outline of Iowa Supreme Court Decisions

JUDICIAL DOCTRINE OF STANDING

Godfrey v. State, 752 N.W.2d 413 (Iowa 2008)

- Title Requirement Purposes Rephrased:
 - The primary purpose is to provide reasonable notice of the **purview** of the act to the legislative members and to the public.
 - An easy means for concerned parties to find out what a bill or act is about without reading it in full.”
 - Ultimately serves to prevent surprise and fraud from being visited on the legislature and the public.
- Title Single Subject Rule Purposes Rephrased:
 - Allows for concentration regarding the meaning and wisdom of proposals or provisions.
 - Keeps legislators apprised of pending bills.
 - Provides for an orderly legislative process.
 - Allows the General Assembly to better grasp and more intelligently discuss legislative proposals
 - Prevents ‘logrolling’ of joining unrelated matters to be passed as one **omnibus**.
 - Prevents the attachment of undesirable riders.

7. Outline of Iowa Supreme Court Decisions

JUDICIAL DOCTRINE OF LIMITATIONS

State v. Mabry, 460 N.W.2d 472 (1990)

<p>1980 Iowa Acts ch. 1036 (SF 2070)</p>	<p>AN ACT relating to the powers of professional and occupational examining and licensing boards with respect to licenses and licensees and the dispensing of drugs and controlled substances by certain licensees and the criminal offense of delivery of certain controlled substances and the penalties therefor.</p>	
	<p>1980 Senate Journal p. 144</p>	<p>INTRODUCTION OF BILL Senate File 2070, by _____, a bill for an act to allow multiyear professional and occupational licenses. Read first time and passed on file.</p>
	<p>1980 Senate Journal p. 1686-1888</p>	<p>House Amendment S-5917 (Title Change) 22. Title page, by striking lines 1 and 2 and 28 inserting in lieu thereof the following: "An Act 29 relating to the powers of professional and occupational 30 examining and licensing boards with respect to licenses 31 and licensees and the dispensing of drugs and 32 controlled substances by certain licensees and the 33 criminal offense of delivery of certain controlled 34 substances and the penalties therefor."</p>

7. Outline of Iowa Supreme Court Decisions

JUDICIAL DOCTRINE OF LIMITATIONS

State v. Mabry, 460 N.W.2d 472 (1990)

Facts of the Case and Issue on Appeal

Mabry was convicted of selling one-eighth of an ounce of cocaine to an Iowa Highway Patrol trooper working undercover on April 19, **1988** in violation of 1987 Iowa Code § 204.401(1)(a) 1987 Code as had been amended eight years earlier by SF 2070 (**1980** Iowa Acts ch. 1036). Mabry appealed his conviction on the grounds that the relevant Code section was enacted in violation of the single subject requirement

District Court's Finding

(As quoted in the Supreme Court opinion.)

“Is it doubtful that Senate File 2070... is constitutional under the one subject rule? Yes. Is it fairly debatable as to whether or not the act is constitutional under the one subject rule? Yes. Is it clearly, plainly or palpably unconstitutional beyond a reasonable doubt? No.”

7. Outline of Iowa Supreme Court Decisions

JUDICIAL DOCTRINE OF LIMITATIONS

State v. Mabry, 460 N.W.2d 472 (1990)

Original Title of the Act	Questions for the Court
<p>An Act relating to (1) the powers of professional and occupational examining and licensing boards with respect to licenses and licensees and the dispensing of drugs and controlled substances by certain licensees and (2) the criminal offense of delivery of certain controlled substances and the penalties therefor.</p>	<ol style="list-style-type: none">1. Are there two subjects: professional and occupational licensing and delivery of controlled substances?2. Are they somehow properly related?3. Can a defendant convicted of crime under an otherwise constitutionally enacted statute escape punishment because eight years prior to the conviction the statute was enacted in violation of the title-subject requirement?4. What does this mean for other convictions under the statute?

7. Outline of Iowa Supreme Court Decisions

JUDICIAL DOCTRINE OF LIMITATIONS

State v. Mabry, 460 N.W.2d 472 (1990)

Original Title of the Act	My Proposed Title of the Act
<p>An Act relating to (1) the powers of professional and occupational examining and licensing boards with respect to licenses and licensees and the dispensing of drugs and controlled substances by certain licensees and (2) the criminal offense of delivery of certain controlled substances and the penalties therefor.</p>	<p>An Act relating to the regulation of the powers of professional and occupational <u>certain substances affecting human health, including by providing for</u> examining and licensing boards with respect licenses and licensees and entities, prohibiting the dispensing of drugs and controlled <u>distribution of certain</u> substances by certain licensees and the criminal offense of <u>delivery of certain controlled substances,</u> and the <u>providing for penalties therefor.</u></p>

1. Does the title change make the Act constitutional since it now deals with one subject?
2. Does a legislator or a member of the public better notified by the proposed title?
3. If the substantive provisions in the purview or body of the Act are unchanged what does that say about the single-subject requirement?

7. Outline of Iowa Supreme Court Decisions

JUDICIAL DOCTRINE OF LIMITATIONS

State v. Mabry, 460 N.W.2d 472 (1990)

- If the case had been decided under *Godfrey v. State supra*, this looks like an example in which the standing requirement would have been satisfied; Mabry would have suffered a real injury as a result of a constitutional violation.
- The Court did not consider the legislative history of the legislation.
- The title provided notice of the Act's (bill's) provision to legislators and the public. District Court considered only whether the Act violated the single subject rule as reflected in the title.
- However, the Supreme Court refused to consider whether a revision to a **criminal statute** passed eight years earlier had violated the single subject requirement.
- Instead, the Court announced a new rule that applied retroactively to Mabry's conviction.

7. Outline of Iowa Supreme Court Decisions

JUDICIAL DOCTRINE OF LIMITATIONS

State v. Mabry, 460 N.W.2d 472 (1990)

- The Court cited 1989 Code Section 14.15: “[a] new Code or its supplements shall be issued as soon as possible after the final adjournment of the second regular session of the general assembly.”
- The Court framed a type of super-statute of limitations. Thus a party who has standing to challenge the constitutionality of a statute based on a violation of the title-subject requirement must bring a case prior to the date that the next codification.

7. Outline of Iowa Supreme Court Decisions

JUDICIAL DOCTRINE OF LIMITATIONS

State v. Mabry, 460 N.W.2d 472 (1990)

- “As we mentioned earlier most states have constitutional provisions like article III, section 29 of the Iowa Constitution. In a number of these states, courts have held that **codification** of the challenged legislation cures a constitutional defect in title or subject matter.”
- “Although an act, as originally passed, was unconstitutional because it contained matter different from that expressed in its title, or referred to more than one subject, it becomes, if otherwise constitutional, valid law on its **adoption by the legislature and incorporation into a general revision or code...** 82 C.J.S. Statutes § 274, at 459 (1953 & Supp.1990).”

COMMENT:

In Iowa, the General Assembly does not “adopt” the next edition of the Iowa Code.

7. Outline of Iowa Supreme Court Decisions

JUDICIAL DOCTRINE OF LIMITATIONS

State v. Mabry, 460 N.W.2d 472 (1990)

“Section 14.15 provides a window of time measured from the date legislation is passed until such legislation is codified. During this window of time, the legislation may be challenged as violative of article III, section 29 of the Iowa Constitution. Absent a successful challenge during this period of time, the new legislation, if it is otherwise constitutional, becomes valid law. This is so even though the way the new legislation was passed may have violated article III, section 29 of the Iowa Constitution. And an article III, section 29 challenge is barred even though future litigants may claim they were in no position to make such a challenge **before the codification.**”

QUESTION:

What does “codification” mean?

7. Outline of Iowa Supreme Court Decisions

JUDICIAL DOCTRINE OF LIMITATIONS

State v. Mabry, 460 N.W.2d 472 (1990)

IOWA ACTS	2017 Iowa Code, Sec. 2B.10(2)	“The legislative services agency shall publish the annual edition of the Iowa Acts as soon as possible after the final adjournment of a regular session of the general assembly. The legislative services agency may also publish an updated edition of the Iowa Acts or a supplement to the Iowa Acts after a special session of the general assembly.”
	COMMENT:	According to the decision, the publication of the Iowa Acts is not relevant even though an enrolled bill must be published in the next edition of the Iowa Acts and provides notice of all statutes passed by the General Assembly.

7. Outline of Iowa Supreme Court Decisions

JUDICIAL DOCTRINE OF LIMITATIONS

State v. Mabry, 460 N.W.2d 472 (1990)

IOWA CODE	2017 Iowa Code, Sec. 2B.12(1)	“The legislative services agency shall control and maintain in a secure electronic repository custodial information used to publish the Iowa Code.”
	2017 Iowa Code, Sec. 2B.12(2)	“The legislative services agency shall publish an annual edition of the Iowa Code as soon as possible after the final adjournment of a regular or special session of a general assembly.”
	2017 Iowa Code, Sec. 2B.12(8)	“In lieu of or in addition to publishing an annual edition of the Iowa Code, the legislative services agency, in accordance with the policies of the legislative council, may publish a supplement to the Iowa Code, as necessary or desirable, in a manner similar to the publication of an annual edition of the Iowa Code.”

7. Outline of Iowa Supreme Court Decisions

JUDICIAL DOCTRINE OF LIMITATIONS

State v. Mabry, 460 N.W.2d 472 (1990)

2017 IOWA CODE	Sec. 2B.12(3)	“An edition of the Iowa Code shall contain each Code section in its new or amended form. However, a new section or amendment which does not take effect until after the probable publication date of a succeeding Iowa Code may be deferred for publication in that succeeding Iowa Code. The sections shall be inserted in each edition in a logical order as determined by the Iowa Code editor in accordance with the policies of the legislative council.
	Sec. 2B.13 (7)(b)(1)	“For the Iowa Code or a supplement to the Iowa Code, the publication date is the first day of the next regular session of the general assembly convened pursuant to Article III, section 2, of the Constitution of the State of Iowa. However, the legislative services agency may establish an alternative publication date, which may be the date that the publication is first available to the public accessing the general assembly’s internet site. The legislative services agency shall provide notice of such an alternative publication date on the general assembly’s internet site.”
QUESTION:	Is the publication date the date of codification?	

7. Outline of Iowa Supreme Court Decisions

JUDICIAL DOCTRINE OF LIMITATIONS

State v. Kolbet, 638 N.W.2d 653 (2001)

1997 Iowa Acts, ch. 177 (H.F. 707)

Title	“AN ACT relating to substance abuse evaluation and education, use of ignition interlock devices, motor vehicle license revocations and payment of restitution by certain drivers; to civil liability, forfeiture, and criminal penalties arising from operation of a motor vehicle by a person whose license is suspended, denied, revoked, or barred; and providing certain bail restrictions and penalties.”
1997 Code Supplement	<p>“707.6A Homicide or serious injury by vehicle.</p> <p>1. A person commits a class "B" felony when the person unintentionally causes the death of another by operating a motor vehicle while intoxicated, as prohibited by section 321J.2.... Upon a plea or verdict of guilty of a violation of this subsection, the court shall do the following:</p> <p>-----</p> <p>2. A person commits a class "C" felony when the person unintentionally causes the death of another by any of the following means:</p> <p>a. Driving a motor vehicle in a reckless manner with willful or wanton disregard for the safety of persons or property, in violation of section 321.277.</p> <p>-----</p> <p>4. A person commits a class "D" felony when the person unintentionally causes a serious injury, as defined in section 321J.1, subsection 8, by any of the means described in subsection 1 or 2.”</p>

7. Outline of Iowa Supreme Court Decisions

JUDICIAL DOCTRINE OF LIMITATIONS

State v. Kolbet, 638 N.W.2d 653 (2001)

Facts	The case involved the death and injuries of persons caused by the defendant who was operating a motor vehicle recklessly in October of 1997 and who was later convicted for reckless driving in that same year.	
Findings	“The provisions of section 707.6A pertaining to death resulting from operating while intoxicated are adequately described in the title of the bill. However, there is no mention in the title of the provisions pertaining to death caused by reckless operation of a motor vehicle.”	
Applying <i>Mabry</i>	The Court found the constitutional challenge based either on the title requirement or single subject rule must be raised prior to codification and not to the date of the victim’s death or when criminal charges were filed.	
Date of “Release”	“The Code [Supplement] containing the amendment was released by the Code Editor on January 8, 1998 . That was the date beyond which no constitutional challenge based on a noninclusive title could be lodged.”	January 8, 1998 fell on a Thursday with Monday January 12 the first day of session

7. Outline of Iowa Supreme Court Decisions

JUDICIAL DOCTRINE OF LIMITATIONS

Tabor v. State, 519 N.W.2d 378 (1994)

Facts

The case involved a post-conviction relief applicant under Iowa Code chapter 822, in which the claimant appealed an adverse judgment of a prison disciplinary proceeding.

What is the effect of a challenge for other parties?

- The codification of an act cuts off any right of constitutional challenge under the title-subject requirement only if no one has lodged a challenge “before codification is complete.”
- If any person lodges a constitutional challenge prior to codification and prevails, then the resulting invalidation of the act “inures to the benefit of all other persons adversely affected by the legislation.”

7. Outline of Iowa Supreme Court Decisions

JUDICIAL “ENROLLED BILL DOCTRINE”

- Art. III of the Iowa Constitution provides a number of requirements which a Court could determine were satisfied by examining the text of the legislation as passed (enrolled bill) and answering a specific question: does it contain: an **enacting clause** (Sec. 1), **proper signatures** (Sec. 17), a **title** (Sec. 28), and a perhaps a **purview or body** since it requires that it’s contents address a **single subject** (Sec. 28).
- The bill as enacted by the General Assembly does not include its explanation:
“The legislature enacts the bill—not the accompanying explanation.”
Star Equipment, LTD. V. Iowa Dept. of Transportation N.W.2d ____ (Iowa 2014)
- It does not include other statutory descriptions such as Code titles or headnotes.
State v. Bahl, 242 N.W, 298 (Iowa 1976)

7. Outline of Iowa Supreme Court Decisions

JUDICIAL “ENROLLED BILL DOCTRINE”

Item	Const. Art. III, Sec.	Relevant Provison
Title	28	Every act shall embrace but one subject...which subject shall be expressed in the title.
Enacting Clause	1	...the style of every law shall be. "Be it enacted by the General Assembly of the State of Iowa."
Purview or Body	28	Every act shall embrace but one subject...
Attesting Signatures	15, 16	...every bill having passed both houses, shall be signed by the speaker and president of their respective houses and the governor (unless overridden)

7. Outline of Iowa Supreme Court Decisions

JUDICIAL “ENROLLED BILL DOCTRINE”

TITLE		AN ACT RELATING TO THE REIMBURSEMENT RATE FOR JUVENILE SHELTER CARE HOMES AND INCLUDING EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISIONS.	
ENACTING CLAUSE		BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:	
ENACTING PART Purview (or Body) In this case amending Acts rather than the Code		<p>Section 1. 2015 Iowa Acts, chapter 137, section 29, subsection 9, paragraph c, is amended to read as follows:</p> <p>c. Notwithstanding section 232.141, subsection 8 , for the fiscal year beginning July 1, 2015, the amount of the statewide average of the actual and allowable rates for reimbursement of juvenile shelter care homes that is utilized for the limitation on recovery of unpaid costs shall remain at be increased by <u>\$4.85</u> over the amount in effect for this purpose in the fiscal year beginning July 1, 2014.</p> <p>Sec. 2. EFFECTIVE UPON ENACTMENT. This Act, being deemed of immediate importance, takes effect upon enactment.</p> <p>Sec. 3. RETROACTIVE APPLICABILITY. This Act applies retroactively to July 1, 2015.</p>	
SIGNATURE LINES	Authentication by Presiding Officers and Chief Officer of the Chamber	<p>_____ PAM JOCHUM President of the Senate</p> <p>I hereby certify that this bill originated in the Senate and is known as Senate File 2035, Eighty-sixth General Assembly.</p> <p>_____ MICHAEL E. MARSHALL Secretary of the Senate</p>	<p>_____ LINDA UPMEYER Speaker of the House</p>
	Governor’s Approval	<p>Approved _____, 2016</p>	<p>_____ TERRY E. BRANSTAD Governor</p>

7. Outline of Iowa Supreme Court Decisions

JUDICIAL “ENROLLED BILL DOCTRINE”

- The title is immediately above the enacting clause. The title provides a description of the **purview** or **body**. *See Art. III, Sec. 29.*
- The **purview** (**body**) or “enacting part” is the action part following the enacting clause (*See Art. III, Sec. 1*) and ends immediately prior to the place reserved for the attesting signatures of the presiding officers (President of the Senate and Speaker of the House). *See Art. III, Sec. 15.* The **purview** or **body** documents the exercise of legislative power (e.g., makes a finding or declaration, creates a right or duty, or commands or prohibits some action). Neither the term **purview** or **body** is used or described in the Iowa Constitution. Like many legislative terms there may be some disagreement about its precise definition.

7. Outline of Iowa Supreme Court Decisions

JUDICIAL “ENROLLED BILL DOCTRINE”

- The **purview** or **body** includes legal text but may include other parts such as a lead-in or headnote

LEAD-IN

Section 459.101, subsection 1, Code 2017, is amended to read as follows:

- However, a lead-in or headnote is a requirement of form imposed by the General Assembly rather than the constitution.
- Note, when preparing the Code, the Iowa Code Editor may “[t]ransfer, divide, or combine sections or parts of sections and add or revise headnotes to sections and section subunits.”

See 2017 Iowa Code Section 2B.13(1)(f). For an exception relating to the headnotes in Code chapter 554 (Uniform Commercial Code) see 2017 Iowa Code Section 3.3.

7. Outline of Iowa Supreme Court Decisions

JUDICIAL “ENROLLED BILL DOCTRINE”

- Traditionally, under the common law, an enrolled bill constitutes “a record” and is conclusive evidence of statutory enactment and other extrinsic evidence to establish that a bill was constitutionally enacted.
- The doctrine was articulated by the United States Supreme Court in *Marshall Field & Co, v. Clark*, 143 U.S. 649 (1892).
 - The Court held that congress’ Senate and House journals were not competent authority to contradict the attesting signatures of the presiding officers of the two chambers (even though the Art. I, Sec. 5, of the U.S. Constitution requires to keep a journal of its proceedings.
 - Note: the U.S. Constitution (unlike most state constitutions including the Iowa Constitution) does not specify that the President of the Senate and Speaker of the House sign the enrolled bill.

7. Outline of Iowa Supreme Court Decisions

JUDICIAL “ENROLLED BILL DOCTRINE”

The Doctrine in Iowa

An enrolled bill when properly attested is conclusive notwithstanding an allegation of procedural irregularity which may find support in the journals. In other words, the Court does not tend to examine extrinsic evidence (e.g., by referring to motions or orders as recorded in the journals).

See State ex rer. Hammond v. Lynch, 151 N.W. 81 (Iowa 1915)

“Generally, ‘in the absence of statutory directive, a legislator may sue only to challenge misconduct or illegality **in the legislative process itself.**”

Alons v. Iowa Dist. Ct., 698 N.W.2d 858 (Iowa 2005)

7. Outline of Iowa Supreme Court Decisions

JUDICIAL “ENROLLED BILL DOCTRINE”

Carlton v. Grimes, 23 N.W.2d 883 (Iowa 1946)

1945 Iowa Acts

CHAPTER 136

SECONDARY ROADS AND STREETS

S.F. 229

“AN ACT to amend section four thousand six hundred forty-four and eleven hundredths (4644.11), code 1939, relating to secondary roads and optional maintenance levies, **and** to provide additional revenue for the construction and maintenance of secondary roads and roads and streets in cities and towns by amending certain sections of chapter 251.3, code, 1939, as amended by chapter 165 Acts of the 50th General Assembly.”

7. Outline of Iowa Supreme Court Decisions

JUDICIAL “ENROLLED BILL DOCTRINE”

Carlton v. Grimes, 23 N.W.2d 883 (Iowa 1946)

	Senate File 229	1945 Iowa Acts, ch. 136
Facts	Claim	The Act was amended after being voted upon in both chambers
		The Act included more than one subject
	Bill History as Recorded in the Journals	The bill was amended by the House and messaged to the Senate, was moved by Senator Doud, read a 3rd time in the Senate, received a constitutional majority and was declared to have passed the Senate.
		Senator Doud asked and received unanimous consent to correct the title to conform to the bill. "
	The presiding officers signed the enrolled bill with the corrected title which was presented to and signed by the governor.	

7. Outline of Iowa Supreme Court Decisions

JUDICIAL “ENROLLED BILL DOCTRINE”

Carlton v. Grimes, 23 N.W.2d 883 (Iowa 1946)

Holding	Reliance on Iowa Manual of Legislative Procedure	"If a bill passes, its title is then agreed to. At this time the title may be amended or changed in any manner necessary to make it comply with the constitutional requirement that the subject of every act shall be expressed in the title."
	Corrections Process	Based on the motion by Senator Doud, the Senate enrolling committee and joint enrolling committee examined the enrolled bill as prepared by the Senate enrolling clerk and the report was adopted by both chambers of the general assembly.
	No evidence of fraud	“Both the Senate and the House were fully aware of the nature and extent of the subject matter of the bill as enrolled. Any contention of fraud, mistake, or miscarriage in the passage of the bill has not the slightest basis in the record. The photostatic copy of the enrolled bill (Exhibit K), which all decisions and authorities assert is the best and conclusive evidence of its textual correctness, shows that the direction of the Senate to Senator Doud was complied with.”

7. Outline of Iowa Supreme Court Decisions

JUDICIAL “ENROLLED BILL DOCTRINE”

Carlton v. Grimes, 23 N.W.2d 883 (Iowa 1946)

Holding	Rejects Other Approaches	That an enrolled bill proves that the general assembly complied with all constitutional provisions, unless the constitution expressly provides that compliance must be expressly demonstrated by the journals.
		That that the enrolled bill is prima facie evidence that the legislature met <i>all</i> constitutional requirements, but the journals are admissible to rebut the prima facie presumption.
	Overrules Prior Case	The Court expressly overruled <i>Smith v. Thompson</i> , 219 Iowa, 888, 258 N.W. 190, 906-907 (1934) which considered the journals as allowable extrinsic evidence. In that case the court held “that such bill cannot be impeached except and unless it shows upon its face that it violates some constitutional provision, or that it be shown, by records which the constitution requires be kept by the legislature, that some mandatory provision of the constitution has not been complied with in its passage...”

7. Outline of Iowa Supreme Court Decisions

JUDICIAL “ENROLLED BILL DOCTRINE”

Carlton v. Grimes, 23 N.W.2d 883 (Iowa 1946)

Holding	Finding No Title Violation	The Court considered the title as corrected and found that the subject embraced in the act was reasonably connected to the “and germane to it...”
	Allegation of a Single Subject Rule Violation	The Court considered whether the bill “was a surreptitious attempt on the part of the legislature, by ‘log-rolling,’ to combine and pass several distinct, unrelated and incongruous subjects in one so-called Bill when neither one of said subjects could have been passed on its own individual merits.””
	Findings of No Single Subject Violation	“The subject and object of the bill as amended and passed was the procuring of additional revenue for the construction and maintenance of secondary roads and the roads and streets of cities and towns for the benefit of the users and the respective communities tributary to all of these highways. It was one subject with but a single object , and all matters mentioned in the bill were connected with and germane to both the subject and the object.”

7. Outline of Iowa Supreme Court Decisions

HARD LOOK/HARD LUCK: ACTS WITH CRIMINAL PENALTIES

State v. Nickelson, 169 N.W.2d 832 (Iowa 1969)

“In 1965 the 61st General Assembly enacted our Uniform Commercial Code. It was a complete revision and overhaul of our commercial law. It appears as chapter 413, Laws of the 61st General Assembly. It has **many sections and covers 151 pages** in the laws as published. It has a severability clause. Section 1108. Section captions are parts of the Act. Section 1109.”

Buried

“**No one reading the title to the Act would be alerted or be led to think that on the 151st page there was a recitation and prohibition of acts that might lead to five years in the penitentiary.**”

Nowhere in the cases unholding statutes similarly attacked do we find such a complete vacuum between the title and the statute as we have here.”

7. Outline of Iowa Supreme Court Decisions

HARD LOOK/HARD LUCK: ACTS WITH CRIMINAL PENALTIES

State v. Nickelson, 169 N.W.2d 832 (Iowa 1969)

1965 Iowa Acts, ch. 413	The bill enacted the Uniform Commercial Code as complete revision and overhaul of Iowa's commercial law	
Title	"AN ACT to be known as the Uniform Commercial Code, relating to certain commercial transactions in or regarding personal property and contracts and other documents concerning them, including sales, commercial paper, bank deposits and collections, letters of credit, bulk transfers, warehouse receipts, bills of lading, other documents of title, investment securities, and secured transactions, including certain sales of accounts, chattel paper, and contract rights; providing for public notice to third parties in certain circumstances; regulating procedure, evidence and damages in certain court actions involving such transactions, contracts or documents; to make uniform the law with respect thereto; and repealing inconsistent legislation."	
Codification Directions	Sec. 10155	"Notwithstanding any other provision of the 1962 Code of Iowa, this Act shall, insofar as possible, be included in the Code of Iowa as chapter five hundred fifty-four (554) with the section numbers of this Act as the section numbers of chapter five hundred fifty-four (554), and the Articles, Parts and descriptive word titles to be retained as in this Act."

7. Outline of Iowa Supreme Court Decisions

HARD LOOK/HARD LUCK BILLS: ACTS WITH CRIMINAL PENALTIES

State v. Nickelson, 169 N.W.2d 832 (Iowa 1969)

Enrolled Bill	<p>“SEC. 10153. Section seven hundred ten point twelve (710.12), Code 1962, is repealed and inserted in lieu thereof is the following:</p> <p>If any debtor who has given a security interest in collateral willfully and with intent to defraud, destroys, conceals, sells, or in any manner disposes of the collateral while the security interest remains unsatisfied and without the written consent of the secured party, he shall be guilty of larceny and punished accordingly.”</p>
As codified in 1966 Code	<p>“710.12 Embezzlement of secured interest in collateral.</p> <p>If any debtor who has given a security interest in collateral willfully and with intent to defraud, destroys, conceals, sells, or in any manner disposes of the collateral while the security interest remains unsatisfied and without the written consent of the secured party, he shall be guilty of larceny and punished accordingly.”</p>

7. Outline of Iowa Supreme Court Decisions

HARD LOOK/HARD LUCK: ACTS WITH CRIMINAL PENALTIES

State v. Nickelson, 169 N.W.2d 832 (Iowa 1969)

Note:	The Court is also troubled where the provision is placed in the Code (outside Code Chapter 554).
Question:	Would the result have been different if the legislation had placed the new provision in Code chapter 554?
Note:	The bill does not address the single subject rule.
Question:	Would a reader of a bill addressing commercial transactions involving creditors and debtors be surprised to find a section making it illegal for a debtor who gives a security interest in collateral to destroy, conceal, or sell of the security interest while the debt remains unsatisfied?

7. Outline of Iowa Supreme Court Decisions

HARD LOOK/HARD LUCK: LARGE OR OMNIBUS ACTS

The framers of state constitutions and state courts often preface their remarks regarding the title-subject doctrine by criticizing the practice of legislatures to pass large and especially so-called omnibus legislation.

“The purpose of the constitutional provision is to prevent the evils of **omnibus** bills and surreptitious legislation.”

Davidson Bldg. Co. v. Mulock, 212 Iowa 730. 738 (1931)

“It is true that the title to the act is **omnibus** in form, and, to some extent at least unintelligible and misleading.”

Smith v. Thompson, 219 Iowa, 888, 258 N.W. 190, 906-907 (1934), overruled on other grounds in *Carlton v. Grimes*, 23 N.W.2d 883 (Iowa 1946)

“The primary and universally-recognized purpose of the one-subject rule is to prevent "log-rolling" in the enactment of laws, the practice of several minorities combining their several proposals as different provisions of a single bill, and thus consolidating their votes so that a majority is obtained for the **omnibus** bill where perhaps no single proposal of each minority could have obtained majority approval separately.”

Long v. Board of Supervisors of Benton County, 258 Iowa 1278, 142 N.W.2d 378 (1966)

7. Outline of Iowa Supreme Court Decisions

HARD LOOK/HARD LUCK: LARGE OR OMNIBUS ACTS

Miller v. Bair, 444 N.W.2d 487 (1989)

“The title to Senate File 395 extends for twenty-seven lines in the printed session laws and contains approximately 300 words. The matters disclosed in the title as being contained in the bill include, in part: state and local revenues; private wine sales; taxes on wine sales; local option taxes for cities and counties; exemption of certain farm machinery and equipment from state sales, services, and use taxes; subjecting additional transactions to state sales, services, and use taxes; increasing the tax on tobacco products; exempting miscellaneous items from property taxation; establishing special valuations rules for property taxation; amending the lottery law to provide for payment of prizes; extending the sales tax to sales of lottery tickets; eliminating the prohibition against manufacturing of electronic and computerized gambling devices; and providing tax credits to certain businesses that create new jobs within the state.”

7. Outline of Iowa Supreme Court Decisions

HARD LOOK/HARD LUCK: LARGE OR OMNIBUS ACTS

Miller v. Bair, 444 N.W.2d 487 (1989)

1985 Iowa Acts chapter 32

CHAPTER 32

SALES AND LOCAL OPTION TAXES AND WINE SALES S.F. 395

“AN ACT relating to state and local revenues by providing for the private sale of wine containing more than five percent but not more than seventeen percent alcohol by weight, imposing a tax on wine to be sold, allowing cities and counties to impose certain local option taxes, exempting and providing refunds until the exemption begins of the sale or lease of certain farm machinery and equipment, including certain replacement parts, and certain industrial machinery, equipment and computers, including certain replacement parts, from the state sales, services and use tax, providing for setting aside of revenues to pay such refunds and not including certain increases in revenues in computing the state percent of growth for purposes of chapter 442, amending the state sales, services and use tax to impose the tax on the rendering or furnishing of additional services, and on sales of certain tangible personal property, to alter certain definitions, and to provide exemptions and limit others, increasing the tax on tobacco products and on cigarettes and little cigars, imposing an inventory tax on cigarettes and little cigars, unused tax stamps and metered imprints and granting one-time credit purchase on cigarette tax stamps, providing for the phase out and repeal of all property taxes on personal property, and providing penalties, appropriations and effective dates, making permanent the exemption from property taxation of certain pollution control property, providing for the special valuation of certain machinery, equipment and computers acquired after a certain date and limiting the applicability of the present special valuation to that property acquired before a certain date, amending the lottery law to provide for fifty percent of the projected annual revenue from the sales of lottery tickets or shares be used for payment of prizes, and imposing the state sales, services and use tax on the sales of lottery tickets and shares, eliminating the prohibition on the manufacture of electronic and computerized gambling devices, providing a new jobs tax credit for computing the individual and corporate tax liabilities of certain businesses that create new jobs within the state, providing that for purposes of property taxation the term "computer" does not include point of sales equipment and providing penalties and appropriations.

7. Outline of Iowa Supreme Court Decisions

HARD LOOK/HARD LUCK: LARGE OR OMNIBUS ACTS

Note:	In <i>Miller v. Bair</i> the Court upheld the Act and did not describe the legislation as “omnibus”.
Logrolling	By its nature an omnibus bill addresses a number of apparently unrelated issues that may or may not be motivated by logrolling.
	Questions: Is it possible for the title of an omnibus Act to describe all its provisions that does not become too abstract to accomplish any fair kind of notice?
	How can a court discern a logrolling motivation without resorting to the act’s legislative history (journals)?
	The rationale behind the constitutional prohibition does not apparently address the long and prevalent practice of each chamber adding provisions to the other chamber’s legislative instrument (either a bill or an amendment) when it is under that chamber’s jurisdiction.

7. Outline of Iowa Supreme Court Decisions

HARD LOOK/HARD LUCK: LARGE OR OMNIBUS ACTS

For the Reader of a Court Opinion Looking at the Title-Subject Provision

“Omnibus” often mean “ominous”

An often related charge is that the challenged provision being described as “buried” in the Act

“The enactment is constitutionally valid as to the title unless matter utterly incongruous to the general subject of the statute is buried in the act.”

State v. Iowa Dist. Court, 410 N.W.2d 684 (1987); *Western Int'l v. Kirkpatrick*, 396 N.W.2d 359, 365 (Iowa 1986).

Is it Matter of Perspective?

If the General Assembly customarily appropriated moneys to its transportation system by appropriating moneys to each county by a separate bill, wouldn't a bill that made a general appropriation to all counties and then allocated the appropriated amount between counties seem like an omnibus bill – and one that could be challenged for violating the single subject rule?

Would we say that the allocation to Ringgold County has been buried in the act?”

7. Outline of Iowa Supreme Court Decisions

SPECIAL TYPES OF ACTS: THE CODE EDITOR’S BILL

Western International and National Union Fire Insurance Co. v. Kirkpatrick, 396 N.W.2d 359 (Iowa 1986)

1986 Iowa Acts, ch. 1238

HF 2066

Title	“An Act relating to Code corrections which adjust and correct earlier omissions and inaccuracies, remove inconsistencies, and reflect or alter current practices, and providing penalties.”
Provisions Under Attack	Sections 46 through 49 addressed workers' compensation issues which the Court referred to as a “package.” “The package contained several substantive and procedural changes to prior statutes.”

7. Outline of Iowa Supreme Court Decisions

SPECIAL TYPES OF ACTS: THE CODE EDITOR'S BILL *Western International and National Union Fire Insurance Co. v. Kirkpatrick, 396 N.W.2d 359 (Iowa 1986)*

HISTORY OF HOUSE BILLS

HBH 313

H.F. 2066

By Judiciary and Law Enforcement.

A bill for an act relating to Code corrections which adjust and correct earlier omissions and inaccuracies, remove inconsistencies, and reflect or alter current practices, and providing penalties.
(Formerly Study Bill 505).

Jan. 16 86 Introduced, placed on calendar. H.J. 59.
Feb. 13 86 Amendment H. 5095 filed. H.J. 311.
Feb. 20 86 Amendment H. 5136 filed. H.J. 405.
Mar. 24 86 Amendment H. 5527 filed. H.J. 986.
Mar. 26 86 Amendment H. 5562 filed. H.J. 1024.
Mar. 27 86 Motion to suspend rules. H.J. 1039.
Mar. 27 86 Motion to suspend rules prevailed. H.J. 1059.
Mar. 27 86 Amendments H. 5562, H. 5095 adopted. H.J. 1061.
Mar. 27 86 Amendment H. 5527 adopted. H.J. 1062.
Mar. 27 86 Amendment H. 5136 adopted. H.J. 1063.
Mar. 27 86 Rule 318 suspended. H.J. 1063.
Mar. 27 86 Amendment H. 5572 filed. H.J. 1063.
Mar. 27 86 Amendment H. 5572 adopted. H.J. 1063.
Mar. 27 86 Passed House, ayes 74, nays 17. H.J. 1063.
Mar. 27 86 Message from House. S.J. 924.
Mar. 27 86 Read first time, referred to Judiciary. S.J. 924.
Mar. 28 86 Subcommittee, Doyle, Mann, and Ritsema. S.J. 930.
Mar. 28 86 Committee report. S.J. 931.
Mar. 28 86 Recommended passage. S.J. 931.
Apr. 01 86 Referred to Judiciary. S.J. 937.
Apr. 03 86 Committee report. S.J. 1045.
Apr. 03 86 Recommended amendment, passage. S.J. 1045.
Apr. 03 86 Committee amendment. S. 5583 filed. S.J. 1045.
Apr. 03 86 Amendment S. 5584 filed. S.J. 1046.
Apr. 04 86 Amendment S. 5607 filed. S.J. 1071.
Apr. 07 86 Amendment S. 5620 filed. S.J. 1093.
Apr. 09 86 Amendment S. 5651 filed. S.J. 1145.
Apr. 09 86 Amendment S. 5663 filed. S.J. 1159.
Apr. 10 86 Amendment S. 5584 withdrawn. S.J. 1172.
Apr. 10 86 Ruled out of order. S. 5663. S.J. 1172.
Apr. 10 86 Amendments S. 5607, S. 5651 adopted. S.J. 1172.
Apr. 10 86 Amendment S. 5675 filed. S.J. 1173.
Apr. 10 86 Message from House, with amendment S. 5937 to H. 5822. S.J. 1532.
Apr. 10 86 Amendments S. 5620, S. 5675 adopted. S.J. 1173.
Apr. 10 86 Amendment S. 5671 filed. S.J. 1173.
Apr. 10 86 Amendment S. 5671 withdrawn. S.J. 1173.
Apr. 10 86 Passed Senate, ayes 50, nays none. S.J. 1173.
Apr. 14 86 Message from Senate. H.J. 1447.
Apr. 14 86 Senate amendment H. 5822 filed. H.J. 1476.
Apr. 30 86 Amendment H. 6073 filed. H.J. 1934.
Apr. 30 86 Point of order raised, invoked Joint Rule 11. H.J. 1943.
Apr. 30 86 Point not well taken, amendments in order. H.J. 1943.
Apr. 30 86 Deferred, retained on calendar. H.J. 1943.

HBH 314

HISTORY OF HOUSE BILLS

Apr. 30 86 Amendments H. 6075, H. 6076, H. 6077, H. 6078, H. 6079, H. 6080, H. 6081 filed. H.J. 1946.
May 01 86 Amendment H. 6082 filed. H.J. 1951.
May 01 86 Amendment H. 6082 adopted. H.J. 1951.
May 01 86 Amendment H. 6075 as amended, adopted. H.J. 1951.
May 01 86 Amendment H. 6077 adopted. H.J. 1952.
May 01 86 Point of order raised H. 6080. H.J. 1953.
May 01 86 Ruled not germane H. 6080. H.J. 1953.
May 01 86 Amendment H. 6083 filed. H.J. 1953.
May 01 86 Amendment H. 6083 adopted. H.J. 1953.
May 01 86 Amendments H. 6078, H. 6076 adopted. H.J. 1954.
May 01 86 Amendment H. 6082 filed. H.J. 1955.
May 01 86 Point of order raised H. 6088. H.J. 1957.
May 01 86 Ruled not germane H. 6088. H.J. 1958.
May 01 86 Amendment H. 6091 filed. H.J. 1958.
May 01 86 Amendment H. 6091A lost. H.J. 1959.
May 01 86 Amendment H. 6091B adopted. H.J. 1959.
May 01 86 Amendment H. 6073 as amended, lost. H.J. 1959.
May 01 86 Motion to reconsider vote H. 6073. H.J. 1967.
May 01 86 Motion to reconsider vote prevailed H. 6073. H.J. 1967.
May 01 86 Motion to reconsider vote H. 6091B. H.J. 1968.
May 01 86 Motion to reconsider vote prevailed H. 6091B. H.J. 1968.
May 01 86 Amendment H. 6091B lost. H.J. 1969.
May 01 86 Amendment H. 6073 adopted. H.J. 1970.
May 01 86 Ruled out of order H. 6081. H.J. 1970.
May 01 86 Amendment H. 6090 filed. H.J. 1970.
May 01 86 Amendment H. 6090 adopted. H.J. 1971.
May 01 86 Amendment H. 6092 filed. H.J. 1971.
May 01 86 Amendment H. 6092A adopted. H.J. 1971.
May 01 86 Amendments H. 6092B, H. 6079 withdrawn. H.J. 1971.
May 01 86 Motion to reconsider vote H. 6078. H.J. 1972.
May 01 86 Motion to reconsider vote prevailed H. 6078. H.J. 1972.
May 01 86 Amendment H. 6095 filed. H.J. 1972.
May 01 86 Amendment H. 6098 adopted. H.J. 1972.
May 01 86 Amendment H. 6078 as amended, adopted. H.J. 1972.
May 01 86 Amendment H. 6100 filed. H.J. 1972.
May 01 86 Amendment H. 6100 adopted. H.J. 1972.
May 01 86 Fig. 2, lines 69 thru pg. 3, line 4, H. 6075 previously adopted, out of order. H.J. 1972.
May 01 86 House concurred H. 5822 as amended. H.J. 1973.
May 01 86 Passed House, ayes 62, nays 31. H.J. 1973.
May 01 86 Explanations of votes. H.J. 2033.
May 01 86 Message from House, with amendment S. 5937 to H. 5822. S.J. 1532.
May 02 86 Senate refused to concur S. 5937 to H. 5822. S.J. 1605.
May 02 86 Motion filed to reconsider vote S. 5937 to H. 5822. S.J. 1605.
May 02 86 Motion to reconsider vote prevailed S. 5937 to H. 5822. S.J. 1605.
May 02 86 Senate concurred S. 5937 to H. 5822. S.J. 1606.
May 02 86 Passed Senate, ayes 34, nays 9. S.J. 1606.
May 02 86 Message from Senate. H.J. 2151.
May 02 86 Reported correctly enrolled. H.J. 2324.
May 02 86 Signed by Speaker. H.J. 2324.
May 02 86 Signed by President. H.J. 2324.
May 02 86 Sent to Governor. H.J. 2324.
May 29 86 Signed by Governor. H.J. 2727.

**1986 Senate and
House Journal
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History Showing
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To HF 2066**

7. Outline of Iowa Supreme Court Decisions

SPECIAL TYPES OF ACTS: THE CODE EDITOR’S BILL

Western International and National Union Fire Insurance Co. v. Kirkpatrick, 396 N.W.2d 359 (Iowa 1986)

1986 House Journal Vol. II, p. 1934, 1938, 1943

“_____ offered the following amendment H —6073, to the Senate amendment H —5822, filed by her from the floor:

H —6073

Amend the Senate amendment, H — 5822, to House File 2066 as amended, passed, and reprinted by the House as 3 follows:....

Sec. 913. Section 86.24, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. The decision of the industrial commissioner is final agency action and an appeal of the decision shall be made directly to the supreme court....

_____ rose on a point of order and invoked Joint Rule 11, relating to corrective or nonsubstantive amendments, on House File 2066.

The Speaker ruled the point not well taken and amendments in order.”

7. Outline of Iowa Supreme Court Decisions

SPECIAL TYPES OF ACTS: THE CODE EDITOR’S BILL

Western International and National Union Fire Insurance Co. v. Kirkpatrick, 396 N.W.2d 359 (Iowa 1986)

Joint Rule 11(Unnumbered Paragraph 2) as it Applies Today

Code Editor’s Correction Bills

“A bill recommended by the Code editor which is passed out of committee to the floor for debate by a committee of the house or senate and which contains Code corrections beyond those of a nonsubstantive nature shall not be amended on the floor of either house except pursuant to amendments filed by the judiciary committee of the senate or the house. Such committee amendments, whether filed at the time of initial committee passage of the bill to the floor for debate or after rereferral to the committee, shall not be incorporated into the bill in the originating house but shall be filed separately. Such a bill shall be limited to corrections which: Adjust language to reflect current practices, insert earlier omissions, delete redundancies and inaccuracies, delete temporary language, resolve inconsistencies and conflicts, update ongoing provisions, and remove ambiguities. Amendments filed from the floor to strike sections of the bill or the committee amendments shall be in order. Following amendment and passage by the second house, only amendments filed from the floor which strike sections of the amendment of the second house shall be in order.”

7. Outline of Iowa Supreme Court Decisions

SPECIAL TYPES OF ACTS: THE CODE EDITOR'S BILL

Western International and National Union Fire Insurance Co. v. Kirkpatrick, 396 N.W.2d 359 (Iowa 1986)

The Court's Decision

“It has been argued that House File 2066 embraces numerous subject matters in carrying out its purpose as a code corrections bill. Iowa Code section 14.6(1) gives the code editor the duty of recommending to the legislature that it amend, revise and codify code sections which are conflicting, redundant or ambiguous. In carrying out this obligation, **the code editor proposes an omnibus bill** that makes technical corrections throughout the code. The omnibus bill generally deals with non-substantive changes in the code.”

“Following Kirkpatrick's reasoning, we can still effectuate the intent of the legislature in providing for a code corrections bill to keep the code in order. Only when that type of bill also incorporates substantive changes, as here, do we have to strike portions of a challenged bill which violate article III, section 29. Therefore, we conclude sections 46 through 49 of House File 2066 violate the single subject requirement of the Iowa Constitution by providing for substantive changes in a code corrections bill.”

7. Outline of Iowa Supreme Court Decisions

SPECIAL TYPES OF ACTS: THE CODE EDITOR’S BILL

Western International and National Union Fire Insurance Co. v. Kirkpatrick, 396 N.W.2d 359 (Iowa 1986)

Comment:	The challenger did not ask for the entire Act to be held unconstitutional and the Court did not invalidate the entire Act.	
Comment:	The Court did not address the history of the Act as recorded in the journals.	
	Question:	Does this reaffirm by enrolled bill doctrine by implication?
Questions:	The Nature of the Code Editor’s Bill	Does this type of bill always violate the single subject rule even if substantive provisions are not included in the bill?
		Is the subject of the bill always non-substantive revisions and therefore can never constitutionally include substantive provisions?
	The Title	The court also invalidated the same provisions based on the Act’s title. Could the legislation have been cured by broadening the title?
		Note:
	Question:	Is this the exception?

7. Outline of Iowa Supreme Court Decisions

ACTS THAT HAVE LARGELY ESCAPED A HARD LOOK

The legislative practice has been to include in an Act's title certain matter addressed in the purview even if the Court has not strictly required it. It is included as the subject or an auxiliary to the subject.

Appropriations	Surprisingly there are no cases in which the Court has been asked to address an Act making appropriations; although in this case, the governor would theoretically act as a break against legislative wrongs.
	However see <i>Rants v. Vilsack</i> , 684 N.W.2d 193 (Iowa 2004).
	“Generally speaking, the item veto power developed “to control logrolling, or the legislators' practice of combining in a single bill provisions supported by various minorities in order to create a legislative majority.” Briffault, <i>Separation of Powers</i> , 2 Emerging Issues in St. Const. L. at 87. In this fashion, the item veto power serves as a companion to “single-subject” constitutional provisions, which are meant “to prevent logrolling by requiring legislatures to limit bills to a single subject.” Richard Briffault, <i>The Item Veto in State Courts</i> , 66 Temp, 1171, 1177 (1993).”

7. Outline of Iowa Supreme Court Decisions

ACTS THAT HAVE LARGELY ESCAPED A HARD LOOK

Taxes and Fees

The Court has not recently been asked to consider whether the title must include a description of taxes or fees when imposed in the purview. Old cases are not uniform in their approaches.

Example

In *Frevold v. Bd of Sup'rs of Webster County*, 210 N.W.139 (1926), the Court considered an Act which provided for the eradication of tuberculosis in cattle including testing, and the payment of a portion of the appraised value of cattle which were ordered to slaughter. The title read as follows:

“An act to amend chapter two hundred eighty–seven (287), Acts of the Thirty–Eighth General Assembly as amended by the Acts of the Thirty–Ninth General Assembly (C. C. title VIII, chapter 15) so as to permit the establishment of additional methods for the eradication of bovine tuberculosis and to promote the health and welfare of the citizens of the state.”

The Court considered the charge as a tax, but held that the title need not describe the matter stating that [e]verything connected with the main purpose and reasonably adapted to secure the objects indicated by the title may be embraced in the act without violating the constitutional inhibition.



7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

- Remember, the effect of placing the title-subject requirement in the state's constitution is to remove the final authority to determine how legislation may be properly cast from lawmakers to judges.
- Even so, Iowa's Supreme Court from the beginning of statehood has at least declared its deference to the General Assembly when determining the constitutionality of statutes.

1846 Constitution

Santo v. State, 2 Iowa 165 (1855)

The Court will only declare a statute unconstitutional only if it finds it is “clearly, plainly, and palpably so.”

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

First Look

1846 Constitution Art. 4, Sec. 26	<i>State ex. rel. Weir v. County Judge of Davis County, 2 Iowa 280 (1855)</i>
“Every law shall embrace but one object , which shall be expressed in the title.”	“We are still in the days when the legislature may be called contemporaneous with the constitution, and when its acts may be considered as a contemporaneous construction of that instrument. The “ object ” to an act may be broader or narrower, more or less extensive; and broader it is, the more particulars will it embrace...In all such cases the whole of the matter is homogeneous, and falls under some general idea expressed in the title. The unity of object is to be looked for in the ultimate end, and not in the details or steps leading to the end. ”
1853 Iowa Acts, Ch. 106 “An act in relation to certain State roads therein named.”	

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

First Look

<p>1846 Constitution Art. 4, Sec. 26</p>	<p><i>State ex. rel. Weir v. County Judge of Davis County,</i> 2 Iowa 280, 283 (1855)</p>
<p>“Every law shall embrace but one object, which shall be expressed in the title.”</p>	<p>“It cannot be held with reason that each thought or step toward the accomplishment of an end or object, should be embodied in a separate act.”</p>
<p>1853 Iowa Acts, Ch. 106</p> <p>“An act in relation to certain State roads therein named.”</p>	<p>“To sustain the objection in the case at bar would be to hold a doctrine which would render null a large portion of the legislation of the State, and render future legislation so inconvenient as to make it nearly impracticable.”</p> <p>“It is important to bear in mind that to declare an act unconstitutional and void, is the exercise of the highest power of the court, and is not to be resorted to, unless it becomes necessary.”</p>

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

First Unconstitutional Ruling

1857 Constitution Art. III, Sec. 29	<i>Williamson v. City of Keokuk</i>, 44 Iowa 88 (1876)
“Every act shall embrace but one subject , and matters properly connected therewith; which subject shall be expressed in the title...”	Section 9 of the Act legalized an election that authorized the city to purchase shares of railroad stock. The Court held that the Section was neither (1) embraced in the title nor (2) germane to other provisions in the Act.
1856 Iowa Acts, Ch. 17	
“An Act to Amend the charter of the city of Keokuk.”	Note: Section 9 referred to special legislation legalizing a past city action and allowing the award of government moneys to a private person.

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

Since Ratification of the 1851 Iowa Constitution

In 1958, William J. Yost considering issues affecting legislative form including the title-subject requirement stated that:

“[T]here have been about **ninety** cases before the Iowa Supreme Court in which the validity of the statutory provision has been assailed for noncompliance with this constitutional section or its predecessor, but there have been only **nine** opinions discovered in which the Court has held a statutory provision invalid because of such noncompliance.”
footnotes omitted.

William J. Yost, *Before a Bill Becomes a Law -- Constitutional Form*, 38 Drake Law Review No. 1, 67 (1958)

- **NOTE: THIS MEANS THAT IN 112 YEARS, A STATUTE WAS STRUCK DOWN AS UNCONSTITUTIONAL 8% OF THE TIME.**

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

Cases Decided by the Court Since 1958

Decade	Case Name and Citation		Struck Down	
			Title	Subject
1960s	1.	<i>Green v. City of Mt. Pleasant</i> , 131 N.W.2d 5 (1964)	No	No
	2.	<i>Long v. Board of Supervisors of Benton County</i> , 258 Iowa 1278, 142 N.W.2d 378 (1966)	No	No
	3.	<i>Graham v. Worthington</i> , 146 N.W.2d 626 (1966)	No	No
	4.	<i>Lee Enterprises, Inc. v. Iowa State Tax Commission</i> , 162 N.W.2d 730 (Iowa 1968)	No	No
	5.	<i>State v. Soc. Hygiene, Inc.</i> , 156 N.W.2d 288 (Iowa 1968)	No	No
	6.	<i>State v. Nickelson</i> 169 N.W.2d 832 (1969)	Yes	No

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

Cases Decided by the Court Since 1958

Decade	Case Name and Citation		Struck Down	
			Title	Subject
1970s	7.	<i>Webster Realty Company v. City of Fort Dodge</i> , 174 N.W.2d 418 (1970)	No	No
	8.	<i>Green v. City of Cascade</i> , 231 N.W. 882 (Iowa 1975) *General Assembly repealed offending provisions prior to them taking effect.	No	Yes?*
	9.	<i>State v. Bahl</i> , 242 N.W.2d 298 (Iowa 1976)	No	No
	10.	<i>Motor Club v. Department of Transp.</i> , 265 N.W.2d 151 (Iowa 1978)	No	No
1980s	11.	<i>Western International and National Union Fire Insurance Co. v. Kirkpatrick</i> , 396 N.W.2d 359 (Iowa 1986)	Yes	Yes
	12.	<i>State v. Iowa District Court</i> , 410 N.W.2d 684 (1987)	Yes	No
	13.	<i>Miller v. Bair</i> , 44 N.W.2d 487 (Iowa 1989)	No	No

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

Cases Decided by the Court Since 1958

Decade	Case Name and Citation		Struck Down	
			Title	Subject
1990s	14.	<i>State v. Mabry</i> , 460 N.W.2d 472 (Iowa 1990)	No	No
	15.	<i>Tabor v. State</i> , 519 N.W.2d 378 (Iowa 1994)	No	No
	16.	<i>Giles v. Iowa</i> , 511 NW2d 622 (1994)	Yes	Yes
	17.	<i>State v. Taylor</i> , 557 N.W.2d 523 (1996)	Yes	Yes
	18.	<i>UtiliCorp United, Inc. v. Iowa Utilities Board</i> , 570 N.W.2d 451 (1997)	No	No
	19.	<i>Iowa Department of Transp. v. Iowa District Court for Linn County</i> , 586 N.W.2d 374 (Iowa 1998)	No	No

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

Cases Decided by the Court Since 1958

Decade	Case Name and Citation		Struck Down	
			Title	Subject
2000s	20	<i>State v. Kolbert</i> , 638 N.W.2d 653, 661 (Iowa 2001)	No	No
	21	<i>Godfrey v. State</i> , 752 N.W.2d 413 (Iowa 2008)	No	No
2010s		None to Date		

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

Cases Decided by the Court Since 1958

- Since the ratification of the 1846 Iowa Constitution, and in part using the numbers in the Yost article, 15 out of 111 cases heard by the Iowa Supreme Court have resulted in a determination that an Act violates the title-subject requirement under either the 1846 or 1857 Iowa Constitutions (14%).
- However, the actual percentage is lower since Yost's article did not cite to all Supreme Court cases considering the issue and finding the constitutional requirements were satisfied.
- No Act has been found to be unconstitutional since 1996 (the longest period in Iowa's history).

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

The Court's Dilemma

A court when confronting a constitutional challenge to an Act based on the title-subject provision is whether to read an Act to either:

- Allow an Act to stand even though its provisions are not completely described in the Act's title under a single rubric or the Act addresses a broad variety of issues which seem to be only tangentially connected or related.
- Strike down an Act or a part of an Act based on an analysis that would make passing any kind of comprehensive legislation addressing a number of diverse issues almost impossible.

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

General Principles

The provision is mandatory and not discretionary.

The constitutional provision is to be “**liberally construed.**”

The person challenging the constitutionality of on an act has the burden of negating every reasonable basis which may sustain the act.

Legislation must meet new problems as they come; and the Court should not adopt a “**technical or strained construction of the Constitution**” in a manner that would unduly impair the efficiency of the General Assembly to carry out its duties.

Four Related Requirements	1.	The act must have only one subject together with matters germane to it.
	2.	The title of the act must contain the subject matter of the act.
	3.	Any subject not mentioned in the title is invalid.
	4.	An invalid subject in the act does not invalidate the remaining portions that are expressed in the title

Lee Enterprises, Inc. v. Iowa State Tax Com'n, 162 N.W.2d 730 (1968); *Long v. Board of Supervisors*, 142 N.W.2d (1966); *State v. Mabry*, 460 N.W.2d 472, 474 (Iowa 1990); and *Utilicorp United Inc., v. Iowa Utilities Board*, 570 NW2d 451 (1997).

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

Title Requirement Purposes

1.	Provides reasonable notice of the purview (body) of the (bill or) Act to both:
a.	Legislators.
b.	Members of the public by alerting citizens of matters under legislative consideration.
2.	Allows interested persons to determine what issues are addressed in a bill or Act without reading it in full.
3.	Prevents surprise and fraud.
4.	Historical basis: Arises from a public demand to place limits on the practice of smuggling provisions giving substantial grants to private parties in bills in bills having an innocent and deceptive title.
<i>Godfrey v. State</i> , 752 N.W.2d 413 (Iowa 2008) citing <i>Giles v. State</i> , 511 N.W.2d 622 (Iowa 1994) and <i>Long v. Bd. of Supervisors</i> , 142 N.W.2d (1966).	

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

Title Requirement Guides

Fair Key But Not an Index	<p>“It is not necessary that the details of the subject matter be set forth in title. It is sufficient if the title affords a fair “key” to the contents of the act...” <i>State v. Fairmont Creamery Co.</i>, 153 Iowa, 702 (Iowa 1912).</p>
	<p>“[T]he title need not be an index or epitome of the act or its details.” <i>State v. Talerico</i>, 290 N.W. 660 (1940) as quoted in <i>Motor Club of Iowa v. Dept of Transp.</i>, 265 N.W.2d 151 (1978).</p>
Better Classification Not Relevant	<p>It does not matter that the Act contains matters “which might be and usually are contained in separate Acts or would be more logically classified as belonging to different subjects” provided only they are germane to the Act’s “general subject.” <i>Graham v. Worthington</i>, 146 N.W.2d 626 (1966)</p>
Fair Notice	<p>The title must provide “fair notice of a provision in the body of an act” <i>Western International and National Union Fire Insurance Co. v. Kirkpatrick</i>, 396 N.W.2d 359 (Iowa 1986).</p>

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

Title Requirement Guides

<p>Reasonably Connected</p>	<p>“It is sufficient if all the provisions relate to the one subject indicated in the title and are parts of it or incidental to it or reasonably connected with it or in some reasonable sense auxiliary to the subject of the statute.” <i>Motor Club of Iowa v. Dept of Transp.</i>, 265 N.W.2d 151 (1978) as quoted in <i>Utilicorp United Inc., v. Iowa Utilities Board</i>, 570 N.W.2d 451 (1997).</p>
<p>Utterly Incongruous</p>	<p>"The enactment is constitutionally valid as to the title unless matter utterly incongruous to the general subject of the statute is buried in the act." <i>Western Int'l v. Kirkpatrick</i>, 396 N.W.2d 359 (Iowa 1986); <i>Utilicorp United Inc., v. Iowa Utilities Board</i>, 370 N.W.2d 451 (1997).</p>

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS *Single Subject Rule Purposes*

1.	Improves legislative consideration of a bill by allowing a legislator to better grasp and discuss the bill (including in committee or the chamber).
2.	Prevents the legislative practice of “ logrolling ” in which a various measures addressing unrelated matters are combined in a single “ omnibus bill ” in order to attract a majority of votes by consolidating the votes of legislators who support one measure but who would otherwise not support the remaining measures if they had not been not combined.
3.	Prevents the attachment of a “ rider ” on a bill which is assumed will be passed and measures included in the rider are assumed would not pass (“riding on the coattails”).
4.	Facilitates orderly legislative procedure.

Godfrey v. State, 752 N.W.2d 413 (Iowa 2008); citing *Giles v. State*, 511 N.W.2d 622 (Iowa 1994) and *Long v. Bd. of Supervisors*, 142 N.W.2d (1966); *State v. Soc. Hygiene, Inc.*, 156 N.W.2d 288, 290 (Iowa 1968).

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

Single Subject Rule Guides

Falling Under Some General Idea	“[A]ll matters treated [in the Act] should fall under some one general idea and be so connected with or related to each other, either logically or in popular understanding, as to be part of or germane to one general subject.” <i>Long v. Board of Supervisors of Benton County</i> , 142 N.W.2d 378 (1966)
Logical Alternative Classification Not Decisive	“[I]t is unimportant that matters within the single subject might more logically be classified as separate subjects if they are nevertheless germane to a single subject.” <i>Western International and National Union Fire Insurance Co. v. Kirkpatrick</i> , 396 N.W.2d 359 (Iowa 1986)
Some Single Purpose	“ This does not mean that any two subjects in a multifaceted piece of legislation must, in isolation, demonstrably relate to each other for the bill to pass constitutional muster. It is only necessary to show that all subjects relate to a single purpose.” <i>State v. Taylor</i> , 557 N.W.2d 523 (1996)

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

“Properly Connected Matters”

The Court does not tend to examine when a **matter** is “properly connected” to a subject as expressed in a title or provided for in the purview; although perhaps it indicates a somewhat more flexible reading of the requirements.

Title Requirement	“It is sufficient if all the provisions relate to the one subject indicated in the title and are parts of it or incidental to it or reasonably connected with it or in some reasonable sense auxiliary to the subject...” <i>Motor Club of Iowa v. Dept of Transp.</i> , 265 N.W.2d 151, 153 (1978)
One Subject Rule	“[A]ll matters treated [in the Act] should... be so connected ... as to be part of or germane to one general subject.” <i>Long v. Board of Supervisors of Benton County</i> , 142 N.W.2d 378 (1966)
“General Subject”	In any case, the Court often refers not to an act’s subject, bur rather its “ general subject ” which implies that there matters (“objects”?) that are “reasonably” connected to the general subject.” <i>Graham v. Worthington</i> , 146 N.W.2d 626 (1966)

7. Outline of Iowa Supreme Court Decisions

THE COURT’S ANALYSIS

“Properly Connected Matters” as “Expressed in the Title”

For many years, the Court has principally focused upon the general statement in the title which addresses the main issue of the Act rather than details describing the provisions in the purview which might be classified as “auxiliary” (the so-called “tight title notwithstanding”).

See *In Re Breen*, 207 Iowa 65 (1928)

<p>RECENT EXAMPLE</p> <p>2017 Iowa Acts, ch. 159 (H.F. 617)</p>	<p>An ACT providing for the department of agriculture and land stewardship’s administration of certain functions, relating to forest and fruit tree reservation requirements, the name of the state soil conservation committee, financing of soil conservation and water quality practices, the health of agricultural animals, issuance of two-year licenses and the collection of related fees imposed upon persons engaged in the marketing of agricultural animals and mining operations, license fees imposed upon pesticide dealers, tickets for delivering commodities in bulk, labeling of motor fuel pumps dispensing certain ethanol blended gasoline, the use of scales, providing for penalties, making penalties applicable, and including effective date provisions.</p>
<p>NOTE:</p>	<p>These clauses of the title are added as a matter of practice by the General Assembly and the last clauses could be considered as a formula for auxiliary provisions that is “properly connected” to the subject.</p>

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

“Properly Connected Matters” as “Expressed in the Title”

1921 IOWA ACTS
CHAPTER 231
SENTENCES IN
CRIMINAL CASES
S.F. 364

TITLE

Sec. 4750-b/8621
Reference to
Official and
Unofficial
Editions

PRINCIPLE
PART OF TITLE

AN ACT to amend sections forty-nine hundred thirty-six (4936), supplement to the code, 1913, (C. C. Sec. 8618), forty-nine hundred thirty-seven (4937), of the code, (C. C. Sec. 8620), **forty-seven hundred fifty-b (4750-b)**, supplement to the code, 1913, (**C.C. Sec. 8621**), forty-seven hundred fifty-four (4754), of the code, (C. C. Sec. 8671), forty-seven hundred fifty-five (4755), of the code, (C. C. Sec. 8672), forty-eight hundred ten-a (4810-a), supplement to the code, 1913, (C. C. Sec. 8673), five thousand seventy-two (5072), of the code (C. C. Sec. 8709), forty-eight hundred fifty-five (4855), of the code, (C. C. Sec. 8762), forty-eight hundred fifty-nine (4859), of the code, (C. C. Sec. 8766), forty-eight hundred sixty (4860), of the code, (C. C. Sec. 8772), forty-eight hundred sixty-one (4861), of the code, (C. C. Sec. 8773), forty-nine hundred thirty-nine (4939), of the code, (C. C. Sec. 8794), forty-nine hundred forty-four-j (4944-j), supplement to the code, 1913, (C. C. Sec. 8799), forty-nine hundred forty-two (4942), of the code (C. C. Sec. 8800), forty-eight hundred ninety-one (4891), of the code, (C. C. Sec. 9009), forty-eight hundred seventy-one a (4871-a), supplement to the code, 1913, (C. C. Sec. 9044), five thousand ninety-one-a (5091-a), supplement to the code, 1913, (C. C. Sec. 9044), five thousand ninety-one-a (5091-a), supplement to the code, 1913, (C. C. Sec. 9048), **relating to minimum sentences upon conviction in criminal cases, that the same may be in harmony and not in conflict with section fifty-seven hundred eighteen-a 13 (5718-a13)**, supplement to the code, 1913, (C. C. Sec. 9528).

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

“Properly Connected Matters” as “Expressed in the Title”

The Use of the Coordinating Conjunctions

Courts do not seem preoccupied with the coordinating conjunctives (“and”) if it joins matters which could be designated as “properly related.”

Classic Example of an “Auxiliary” Matter in an Act Naturally Joined to the “General Subject”	
2016 Iowa Acts, ch. 1040 (H.F. 2400)	“AN ACT providing for voidable commercial transactions and including applicability provisions.”
Example of Matters in an Act that Might Require the Court to Join Matters to Find a Subject	
2016 Iowa Acts, ch. 1108 (H.F. 2392)	“AN ACT providing for <i>academic and career guidance [statutory phrase]</i> and career and technical education [statutory phrase] programs and requirements and workplace learning programs, and including effective date provisions.”

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

“Unconnected Matters” As Not Expressed in the Title

How Broad?	<p>“No matter how broadly the general subject is expressed in the title, the act is valid unless the statute contains matter utterly incongruous to that general subject.” <i>State v. Gibson</i>, 174 N.W. 34 (1919)</p> <p>NOTE: There does not seem to be a Iowa Supreme Court decision that strike down a statute as overly broad.</p>
Extraneous Matters Can Be Included (Left in)	<p>The title may constitutionally describe a matter that is not connected to the other matters described in the title so long as that matter is not addressed in the purview.</p> <p>“The fact that the title contains matter not of the subject of the act, does not bring it in conflict with the constitutional provision...” <i>Knorr v. Beardsley</i>, 38 N.W.2d 236 (1949)</p>
Disjointed Test	<p>“But as an act's provisions become "more disjointed and less obviously related to each other, the legislature's obligation to provide greater specificity in the act's title necessarily increases.” <i>State v. Taylor</i>, 557 N.W.2d 523 (Iowa 1996)</p>

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

“Unconnected Matters” As Not Expressed in the Title

State v. Taylor, 557 N.W.2d 523 (Iowa 1996)

1994 Iowa Acts ch. 1172 (S.F. 2319)	Title	“AN ACT relating to juvenile justice by establishing or enhancing penalties for delinquent acts which may be committed by juveniles, establishing or enhancing penalties for public offenses relating to juvenile justice, authorizing searches of student lockers in a school without advance notice under certain circumstances, delaying the repeal of the interception of communications law, providing for the commitment of persons determined to be sexually violent predators, and making related appropriations and providing effective dates.”
	Sec. 55	“Sec. 55. NEW SECTION. 724.16A TRAFFICKING IN STOLEN WEAPONS. A person who knowingly transfers or acquires possession, or who facilitates the transfer, of a stolen firearm commits a class "D" felony for a first offense and a class "C" felony for second and subsequent offenses or if the weapon is used in the commission of a public offense. However, this section shall not apply to a person purchasing stolen firearms through a buy-back program sponsored by a law enforcement agency if the firearms are returned to their rightful owners or destroyed.”

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

“Unconnected Matters” As Not Expressed in the Title

State v. Taylor, 557 N.W.2d 523 (Iowa 1996)

1994 HOUSE JOURNAL VOL. 2

(p. 1122-1123) Tuesday, April 5, 1994

Also: That the Senate has on April 4, 1994, passed the following bill in which the concurrence of the House is asked:

Senate File 2319, a bill for an act relating to juvenile justice by providing in-service training requirements for law enforcement officers; prohibiting the purchase of alcoholic liquor, wine, or beer by juveniles and imposing a penalty: imposing a scheduled fine against persons holding liquor licenses for allowing persons under legal drinking age to obtain or consume alcoholic beverages; providing concurrent jurisdiction for magistrates over juveniles who possess or purchase alcoholic beverages; authorizing detention hearings to be held in the county in which the juvenile is detained; subjecting a juvenile to permanent waiver to the district court after conviction for an aggravated misdemeanor committed against a person; providing for the suspension of the motor vehicle license or operating privilege of a juvenile for two or more delinquent acts involving alcoholic beverages or controlled substances; providing that the juvenile court may require parental or guardian involvement in the probation plan for a juvenile and permit grandparent involvement in child in need of assistance proceedings; changing the requirements for terminating parental rights in certain circumstances; providing for the retention of fingerprint and photograph records of juveniles over fourteen years of age; establishing a community grant fund for juvenile crime prevention programs; encouraging the adoption of alternative options educational programs by school districts and authorizing the use of phase III moneys for the development of certain instructional programs; providing that a juvenile not attending school or other educational program or working at least twenty hours per week shall not receive a motor vehicle license; authorizing a truancy mediator to refer a truant to juvenile court; making changes to the manner in which associate juvenile judge decisions are appealed; increasing parental financial responsibility for the acts of children; creating new weapons offenses and establishing or enhancing penalties for weapons offenses; enhancing penalties for child endangerment; providing for searches of student lockers without advance notice under certain circumstances; establishing a parenting pilot project; and making appropriations.

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

“Unconnected Matters” As Not Expressed in the Title

State v. Taylor, 557 N.W.2d 523 (Iowa 1996)

1994 HOUSE JOURNAL VOL.2

(p. 1419-1439) Tuesday, April 12, 1994

“H-6057

Amend Senate File 2319, as amended, passed, and reprinted by the Senate, as follows:

1. By striking everything after the enacting clause and inserting the following:

.....

2. Title page, by striking lines 1 through 3 and inserting the following: "An Act relating to juvenile justice by establishing or enhancing penalties for delinquent acts which may be committed by juveniles, establishing or enhancing penalties for public offenses relating to juvenile justice, authorizing searches of student lockers in a school without advance notice, and making related appropriations."

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

“Unconnected Matters” As Not Expressed in the Title

State v. Taylor, 557 N.W.2d 523 (Iowa 1996)

1994 SENATE JOURNAL

(p. 2719-2738)

REPORT OF THE CONFERENCE COMMITTEE ON SENATE FILE 2319

“Sec. 55. NEW SECTION. 724.16A TRAFFICKING IN STOLEN WEAPONS.

A person who knowingly transfers or acquires possession, or who facilitates the transfer, of a stolen firearm commits a class “D” felony for a first offense and a class “C” felony for second and subsequent offenses or if the weapon is used in the commission of a public offense. However, this section shall not apply to a person purchasing stolen firearms through a buy-back program sponsored by a law enforcement agency if the firearms are returned to their rightful owners or destroyed.”

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

“Unconnected Matters” As Not Expressed in the Title

State v. Taylor, 557 N.W.2d 523 (Iowa 1996)

1994 SENATE JOURNAL VOL. 2

(p. 2719-2738)

REPORT OF THE CONFERENCE COMMITTEE ON SENATE FILE 2319

“2. Title page, by striking page 1, line 1, through Title page 2, line 19 and inserting the following: “An Act relating to juvenile justice by establishing or enhancing penalties for delinquent acts which may be committed by juveniles, establishing or enhancing penalties for public offenses relating to juvenile justice, authorizing searches of student lockers in a school without advance notice under certain circumstances, delaying the repeal of the interception of communications law, providing for the commitment of persons determined to be sexually violent predators, and making related appropriations and providing effective dates.”

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

Severability: Saving Some Part of an Act

<p>CASE 1 No Saving is Possible</p>	<p>If a matter is not addressed in the purview and is also not addressed in title, the entire act as unconstitutional.</p>
<p>CASE 2 Judicial Indifference</p>	<p>If a matter is described in the title regardless of whether it is determined to be part of a single subject (or properly connected to it) but is not in addressed in the purview, there is no constitutional violation.</p>
<p>CASE 3 Savings Clause Applied under the Constitution</p>	<p>“But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.”</p> <p>If a matter is addressed in the purview but is not described at all in the title only that matter undescribed in the title is unconstitutional and any remaining matter described in the title is saved.</p>

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

Severability: Saving Some Part of an Act

CASE 4 Judicial Uncertainty About How to Apply the Savings Doctrine	If a matter described in the title is classified as falling under a separate subject regardless of how it is addressed in the purview, it is uncertain whether any matter in the purview can be saved and thus the entire act could be rendered unconstitutional.
CASE 5 Judicial Uncertainty About How to Apply the Savings Doctrine	If a matter is described in the title is not challenged (and therefore no determination is made) about whether it is classified as falling under a separate subject, it is uncertain whether any matter in the purview that is determined to fall under a separate subject can be saved and thus the entire act could be rendered unconstitutional. VERGES ON IMPOSSIBILITY.
CASE 6 Impossibility	If a matter described in the title is determined to fall under a separate subject (or a matter properly connected to that subject) but is determined to fall under a separate subject when addressed in the purview.
CASE 7 Impossibility	If a matter described in the title is determined to fall under a separate subject (or a matter properly connected to that subject) but is determined to fall under as separate subject when addressed in the purview.

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

Severability: Saving Some Part of an Act

General Rule

“Plaintiff is correct that under single-subject clauses in constitutions, as a general rule an ungermane provision in an act renders the whole act void.... The reason given for this is that a court cannot say which, if either, of the two unrelated parts of the act the legislature would have enacted had the legislature voted on the two parts separately. 1 Cooley, Constitutional Limitations, p. 308 (8th ed.).”

Green v. City of Cascade, 231 N.W. 882 (1975)

NOTE:

Given the enrolled bill doctrine this approach makes sense since the Court cannot consider the Act’s legislative history to determine if the principle subject was obvious after scrapping away the revisions.

7. Outline of Iowa Supreme Court Decisions

THE COURT’S ANALYSIS

Severability: Saving Some Part of an Act

1984 Iowa Acts ch. 1275 (H.F.2472)

Title	“AN ACT relating to the transportation of open containers of alcoholic beverages and beer, the hours of sale of alcoholic beverages and beer, the notification of parents or legal guardians of a child that appears before the court for a violation of section 123.47, the motor vehicle license or nonoperator's identification card issued to a person under nineteen years of age, and providing penalties.”
Purview Challenged Section	“Sec. 7. Section 602.6405, subsection 1, Code Supplement 1983, is amended to read as follows: 1. Magistrates have jurisdiction of simple misdemeanors, including traffic and ordinance violations and preliminary hearings, search warrant proceedings, and small claims.. .”
Rational	“With respect to that portion of section 7 removing magistrates' jurisdiction over first offense driving while intoxicated, we agree with district court that this portion of section 7, which was included by the legislature only after the act's title was finally established , must be declared unconstitutional. Nothing in the act's title indicates first offense drunk driving will be addressed.”

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

Severability: Saving Some Part of an Act

Iowa Acts ch. 1275 (H.F.2472)

1984 HOUSE JOURNAL VOL. 2 Friday, April 20 (p.2437)

“ _____ called up for consideration House File 2472, a bill for an act relating to the transportation of open containers of alcoholic beverages and beer, the hours of sale of alcoholic beverages and beer, the notification of parents or legal guardians of a child that appears before the court for a violation of section 123.47, the motor vehicle license or nonoperator's identification card issued to a person under nineteen years of age, and providing penalties, amended by the Senate, and moved that the House concur in the following Senate amendment H —8507:

H — 6507

Amend House File 2472 as amended, passed, and reprinted by the House as follows:

1. By striking everything after the enacting 4 clause and inserting in lieu thereof the following:

Sec. 7. Section 602.6405, subsection 1, Code 46 Supplement 1983, is amended to read as follows:

1. Magistrates have jurisdiction of simple 48 misdemeanors, including traffic and ordinance 49 violations, and preliminary hearings, search warrant 50 proceedings, and small claim?. They also have....

The motion prevailed and the House concurred in the Senate amendment H —6507.”

7. Outline of Iowa Supreme Court Decisions

THE COURT'S ANALYSIS

Severability: Saving Some Part of an Act

<p>Question: Is it possible to fix an Act after enactment by amending it in another Act?</p>	<p>If the purpose is to provide notice of matter in the purview, it is difficult to see how notice can be amended after the fact. But a fix to a title appears possible after the Act's passage from a chamber and prior to enrollment: when the presiding officer asks if the title is agreed to.</p>
<p>Question: Is it possible to severe matter in another Act to avoid the possibility of the entire Act being declared unconstitutional.</p>	<p>This may be possible at least in the case where the stricken or repealed matter in the original Act has not taken effect. The case involved the enactment of the comprehensive home rule chapter which also included a municipal housing code which the subsequent Act repealed.</p>

Carlton v. Grimes, 237 Iowa 912. 23 N.W.2d 883 (Iowa 1946)

See Green v. City of Cascade, 231 N.W. 882 (1975)