

“Traces of Its Labors”:
The Constitutional Commission,
The Legislature,
and
Their Influence on the New Jersey Constitution,
1873-1875

Peter J. Mazzei

Robert F. Williams



STATE OF NEW JERSEY

RUTGERS CENTER FOR STATE CONSTITUTIONAL STUDIES
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The Legislature, and Their Influence on
The New Jersey Constitution, 1873-1875

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TABLE OF CONTENTS

FOREWORD by Alan B. Handler	vii
DEDICATION	x
PREFACE	xvii
ACKNOWLEDGEMENTS	xxi
PART I. INTRODUCTION: “TRACES OF ITS LABORS”	1
PART II. PRELIMINARIES	227
1. Governor’s Annual Message for 1873, Pertaining to Constitutional Amendments (January 14, 1873)	229
2. Resolution to Create the Constitutional Commission (April 4, 1873)	233
3. Governor’s Proclamation To Convene a Special Senate Session to Consider Nominations to the Constitutional Commission (April 16, 1873)	234
4. Senate Approval of Nominees to the Constitutional Commission (April 24, 1873)	235
5. Governor’s Proclamation to Convene the Constitutional Commission (April 29, 1873)	239
PART III. THE PROCEEDINGS AND REPORT OF THE CONSTITUTIONAL COMMISSION	241
1. Record of Proceedings of the Constitutional Commission (May 8 to December 23, 1873)	245
2. Newspaper Accounts of Proceedings of the Constitutional Commission (May 9 to December 24, 1873)	381

TABLE OF CONTENTS

3. Report [A] of the Constitutional Commission (December 23, 1873)	513
4. Report [B] of the Constitutional Commission (December 23, 1873)	525
PART IV. LEGISLATIVE CONSIDERATION OF THE PROPOSED AMENDMENTS	553
1. Governor's Annual Message for 1874, Pertaining to Constitutional Amendments (January 13, 1874)	557
2. Excerpts from the Senate Journal and Assembly Minutes, 1874-1875	559
3. Newspaper Accounts of the Senate and Assembly Proceedings, 1874-1875	653
4. "Senate Amendments to the Constitution No. 7"	745
5. Governor's Annual Message for 1875, Pertaining to Constitutional Amendments (January 12, 1875)	751
PART V. THE SPECIAL ELECTION ON THE CONSTITUTIONAL AMENDMENTS	753
1. An Act to provide for submitting proposed Amendments to the Constitution of this State, to the people thereof (April 8, 1875)	755
2. The Official Election Results: A Statement of the Determination of the Board of State Canvassers Relative to an Election held in the State of New Jersey on the seventh day of September, in the year of our Lord one thousand eight hundred and seventy-five, For Proposed Amendments to the Constitution of this State (September 28, 1875)	759
3. Governor's Proclamation Declaring that the Amendments were Adopted (September 28, 1875)	773

TABLE OF CONTENTS

PART VI. IMPLEMENTING THE CONSTITUTIONAL AMENDMENTS	779
1. Governor's Annual Message for 1876, Pertaining to Constitutional Amendments (January 11, 1876)	781
PART VII. TABLE OF PROPOSED AMENDMENTS FROM INTRODUCTION TO FINAL ACTION	791
PART VIII. SELECTED NEWSPAPER EDITORIALS (1870-1876)	935
APPENDIXES: MISCELLANEOUS DOCUMENTS AND TABLES	1185
Appendix 1. Portraits of Members of the 1873 Constitutional Commission	1186
Appendix 2. The Constitutional Commission: Amendments Proposed and Passed, by Sponsor	1207
Appendix 3. The Constitutional Commission: Number of Motions Made by Members	1208
Appendix 4. The Constitutional Commission: Number of Amendments Referred to Each Committee	1209
Appendix 5. The Constitutional Commission: Members' Dates of Attendance	1210
Appendix 6. Sections of the 1947 New Jersey State Constitution Affected by the 1875 Constitutional Amendments	1214
Appendix 7. List of Newspapers Used in this Project	1215
Appendix 8. An Act to Defray the Expense of the Constitutional Commission (February 19, 1874)	1217

TABLE OF CONTENTS

BIBLIOGRAPHY	1219
INDEX	1239
List of Tables Appearing in Introduction:	
Table 1: Members of the 1873 Constitutional Commission	31
Table 2: Constitutional Amendments Proposed by the 1873 Constitutional Commission	81
Table 3: Proposed Amendments Approved by the Constitutional Commission: Final Action by the 1874 Senate	199
Table 4: The Proposed Amendments Appearing on the September 7, 1875 Ballot	221

FOREWORD

We are presented in “Traces of Its Labors” with an enlightening and intriguing book. In its broader reaches, it deals with constitutional interpretation and adjudication. In its essential focus, it deals with constitutional origins and history. The historical roots that it explores might appear to be remote and arcane antecedents that would be only marginal or tangential to a deeper understanding of the New Jersey State Constitution. Not so. The treatment of these sources is remarkably comprehensive and careful, selective and penetrating. The historical background that the book unearths, through extensive and painstaking research, provides a panorama of information that enriches the State Constitution.

“Traces of its Labors” covers both the details and the dynamics that surround the amendments to the 1875 New Jersey Constitution. It concentrates on the distinctive mechanism by which those amendments came into being, namely, the New Jersey Constitutional Commission of 1873. The authors explain that the constitutional commission, described as “a novel device” was not widely engaged as a means for constitutional change. The authors surmise that the inspiration for the 1873 Commission was New York’s recent constitutional commission, regarded as “an innovation in the state’s constitutional history, which seemed to fill a gap between a cumbersome convention and the ad hoc legislative amending process.” New York’s commission commenced its deliberations shortly before New Jersey Governor Joel Parker’s annual message to the Legislature on January 14, 1873. In that message, the Governor, as an alternative to a constitutional convention or to specific constitutional amendments to be presented to the people, proposed legislation “authorizing the appointment from each Congressional District of two persons, who shall be members of different political parties, to meet soon after your adjournment, and in open session consider, prepare, and put in proper form such amendments to the constitution as they may deem necessary, and report them to the next Legislature.” The Legislature, by concurrent resolution, authorized such a constitutional commission.

The agenda for the Commission was set in large measure by the Governor. Among the amendments proposed by the Governor were a requirement for general laws and a ban on certain special legislation; a limitation on the power of local government to contract debt; reapportionment of the General Assembly; tax uniformity; and the prohibition of acts granting special privileges or immunities, and acts authorizing donations or loans to private entities. Still, many of the most important constitutional amendments that were later adopted, such as free public schools and suffrage rights, originated with the Commission itself.

The greatest challenge facing the Commission, we are told, was

FOREWORD

the strong and sharp public criticism that viewed the Commission as a weak substitute for a constitutional convention. Nevertheless, in the course of the Commission's deliberations, local newspapers -- the *New Brunswick Fredonian* and the *Newark Daily Advertiser* -- observed, "If it does its work well, does not attempt too many extreme or radical things, does not 'tinker' too much with the Constitution, its work will undoubtedly be better received by the Legislature and the people, and the *traces of its labors* be more easily discovered by future generations."

The authors identify 92 proposed constitutional amendments that were considered by the Commission. Fifty-eight of these proposals were approved by the Commission and recommended as amendments to the 1874 Legislature. Twenty-eight amendments recommended by the Constitutional Commission were approved by the voters of New Jersey on September 7, 1875.

The authors demonstrate that the amendments considered and proposed by the Constitutional Commission cannot be fully appreciated outside the historical context in which they arose. They treat this history with remarkable thoroughness, drawing on matters of record, as well as newspaper accounts, of the Commission's proceedings. The book thus presents a historical trove for each of the proposed amendments, focusing on the contemporary political issues and social events that were likely to have influenced their introduction and passage.

This historical analysis clearly resonates even today and sheds light on the meaning of the constitutional provisions that became the Constitution of 1875, many of which survive in the 1947 Constitution. Important constitutional provisions, such as the requirements of "thorough and efficient" free public schools (N.J. Const. Art. VIII § IV, ¶ 1), "uniformity" in taxation (N.J. Const. Art. VIII § I, ¶ 1), the governor's power of item veto (N.J. Const. Art. V § I, ¶ 15), the ban on "special laws" (N.J. Const. Art. IV § VII, ¶¶ 7,8,9), limitations on legislative interference with municipal affairs (N.J. Const. Art. IV § VII, ¶ 9 (13)), as well as restrictions on the procedures of passing laws (N.J. Const. Art. IV § VII, ¶ 5), were all recommended by the 1873 Commission. Critical provisions of the current New Jersey Constitution can be traced to the labors of the 1873 Commission.

The Commission's proposed constitutional amendment that would provide for a free public school education for New Jersey's children is a noteworthy example of amendments that have had a major impact on contemporary state government and politics. The text, Amendment No. 8, as it was adopted in 1875, continues unmodified in New Jersey's current Constitution: "The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public

FOREWORD

schools for the instruction of all the children in this state between the ages of five and eighteen years.” N.J. Const. (1947) Art. VIII, §IV, ¶1. This “thorough and efficient” clause has been, and continues to be, the source of major public education litigation and the basis for avulsive government change. The Supreme Court’s adjudications under this Amendment have resulted in the far-ranging revisions of substantive basic education and significant redistribution of state resources and funds appropriated for public education. The authors track the public education provision from its introduction in the Commission session to its final adoption as a constitutional amendment by popular vote on September 7, 1875. Their exposition of this journey underscores the importance of the historical record, and the way in which that history must be acknowledged and weighed in determining the meaning and proper application of such a constitutional provision.

The source of the amendment was in fact the 1844 Constitution. They point out that the original proposal to the Commission was one that related essentially to “free public schools,” and it had not been included in the Governor’s message to the 1873 Legislature. The earliest mention of a constitutional requirement for free public education occurred on October 28, 1873, when it was only informally “suggested that the Legislature should be directed to provide a thorough system of education of all the children in the State.” On the next day, October 29, the first official reference to such a provision appeared in the minutes of the Commission’s proceedings. It was described briefly only as an amendment to the Constitution relative to a public school system. A newspaper account, however, in the *Daily State Gazette* (Trenton, NJ), described it in greater detail:

“* * * an amendment on the school question, for the establishment of free schools; the fund to be sacred, not to be borrowed, by the Legislature; [and] reserved for this one special object [and that] no money to be paid to any creed, religion, church, or sectarian association, nor to any academy, or private school, or school belonging to any denomination or association. * * *”

The authors then inform us that the official minutes, supplemented with a newspaper account in the *Daily State Gazette* from November 14, 1873, reveal that this original proposal contained five

FOREWORD

sections. Section 2 provided:

Section 2: A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the Legislature shall establish and maintain free schools for gratuitous instruction of all persons in this State between the ages of five and eighteen years.

Section 4 stated:

Section 4: The term “free schools” or “public schools” used in this Constitution shall be construed to mean common schools that aim to give all a rudimentary education only, and not to include schools designed to fit and prepare pupils to enter college, or schools controlled by or under the influence of any creed or religious society, or denomination whatever.

Of interest, on the last day of Commission proceedings, December 23, 1873, after a final reading of all proposed amendments adopted by the Commission, an unsuccessful attempt was made to amend the description of a public education amendment by replacing the word “rudimentary” with the word “liberal”. Later, after proposed amendments had been recommended to the Legislature, the Senate came to discuss the constitutional amendment concerning public schools, and on February 24, 1874, an amendment was proffered that included a change in the description of education, viz:

The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in this state between the ages of five and eighteen years.

The authors are puzzled by the substitution of the phrase “provide for the

FOREWORD

maintenance and support of a thorough and efficient system of free public schools for the instruction of” in place of the phrase “establish and maintain public schools for the gratuitous instruction of.” They point out that the language of the substitution parallels that of Pennsylvania’s recently adopted Constitution and was similar to the language of six other state constitutions (Illinois, Maryland, Minnesota, Nebraska, Ohio and West Virginia).

The 1947 Constitution carried forward this 1875 amendment unchanged. The authors point to historic sources in noting that the meaning of “thorough and efficient education” very much reflected the temper of the times. It was an education that was originally described as “rudimentary”, one that could be understood to be an education that is foundational and basic, as distinguished from an education that was “higher” or “enhanced”, i.e. college-oriented, or an education that was sectarian or religious in character. Even described as “rudimentary”, public education was conceived as being a vital governmental undertaking and concern. That was implicitly acknowledged when, as originally proposed, public education was deemed to be a critical component of government and a democratic society, i.e. “A general diffusion of knowledge and intelligence essential to the preservation of the rights and liberties of the people...”

What emerges from its history is that the public education amendment of the 1875 Constitution was envisaged as broadly consistent with, and designed to advance, a uniform and statewide system of free public schools required to provide a sound and basic education. More than a century later, confronted by the grave disparity in resources and lack of uniformity among school districts, the New Jersey Courts came to grapple with the issue of public education as required under the New Jersey Constitution. In confronting these issues, the Court shifted away from equal protection implications. The major, indeed sole, reference point followed by the Courts was the “thorough and efficient” public education clause. This impelled the Courts to focus on the essential purpose and function of public education, as embraced in the constitutional education clause. The education clause, which phrases the Legislature’s obligation as one “to maintain and support a thorough and efficient system of free public schools for the instruction of all children in the State between the ages of five and eighteen years,” was understood by the Court to embrace “educational opportunity.”

The Supreme Court, with the advent of this litigation, starting with the *Robinson v. Cahill* cases, did not harken to the earliest descriptions of a public education surrounding its introduction in the proceedings of the 1873 Constitutional Commission. Rather, in its initial

FOREWORD

decision in *Robinson v. Cahill*, it defined a thorough and efficient education as one that would equip a child to assume a meaningful position in the marketplace and in society. It drew support for this conceptualization of public education from *Landis v. School Dist. No. 44*, 57 N.J.L. 509, which was rendered in 1895, only twenty years after the 1875 Constitution. There, the court determined that the purpose of the education clause was to provide “a system of free public schools, capable of affording to every child such instruction as is necessary to fit it for the ordinary duties of citizenship.” Such an education, one might observe, may be thought of as “rudimentary” in the sense of being fundamental and basic, but, nevertheless, sufficient to enable persons to participate and function effectively in society.

Implicit in this formulation of public education is the notion of educational opportunity and adequacy. Although perhaps not the literal or precise equivalent of a “rudimentary” education, public education is infused by the early understanding that such an education was not an elite or enhanced or advanced education, or one that was specialized or sectarian or religious, but rather an education that was basic and fundamental, and sufficient to enable persons to cope in life and society and to participate in democratic government. That understanding comports with the current jurisprudence that deals with, explains, and applies the thorough and efficient education clause that came with the 1875 Constitution. The Court, consistent with this early historical rendition of what constituted public education, but acknowledging the march of time and the impact of social change, rephrased the constitutional concept of a public education in this way: “The Constitution’s guarantee must be understood to embrace that educational opportunity which is needed in the contemporary setting to equip a child for his role as a citizen and as a competitor in the labor market.” This surely encompasses the earlier notion that such an education must be adequate and equate with the “ordinary duties of citizenship.”

The authors point out, very fairly, that without the Commission, it is unlikely that any constitutional reform would have occurred at that time. That lends support to the point that the Commission, as a deliberative body, was representative of a wide spectrum of interests, had unique value that gave weight to its recommendations, and that the current New Jersey Constitution would not have been the same without the Commission’s contributions.

Their research and presentation of the events surrounding the Constitutional Commission, including most interestingly the newspaper accounts of the Commission’s work, provide a layered and rich understanding of the amendments that were proposed by the Commis-

FOREWORD

sion, then considered and passed by the New Jersey State Legislature, and ultimately adopted by the people.

This comprehensive and readable narration exemplifies an indispensable approach to constitutional interpretation, adjudication, and application. Its singular and valuable lesson is that there is no substitute for history as a basis for understanding the purpose and meaning of a constitution -- that the historical may indeed be historic. The work helps to fill the spaces and interstices of New Jersey state constitutional development. Now, well over a century later, we benefit from these fresh perspectives on the influence of the 1873 Commission. The “traces of its labors” are still manifest in our government and constitutional law.

Alan B. Handler

Associate Justice of the New Jersey Supreme Court, 1977-1999

DEDICATION

The authors dedicate this book to John E. Bebout, 1903-2002. Bebout studied, analyzed and advised on the revisions of state constitutions in a number of states, including Alaska, Hawaii, Missouri and Rhode Island, the most important of which was during the process leading to the revision of New Jersey's Constitution in the 1940s. He taught at a number of universities, including Rutgers, and edited the leading study of New Jersey's 1844 Constitution, *Proceedings of the New Jersey State Constitutional Convention of 1844* (1942). That work was the stimulus for this book project.

Mr. Bebout was a native of New Jersey, and was a graduate of Rutgers University, also receiving his Master's degree in political science from Rutgers. He served as director of the Urban Studies Center at Rutgers and assistant director of the National Municipal League.

In addition to his work on revising the New Jersey Constitution, where Bebout was executive vice president of the New Jersey Constitution Foundation, he served as staff director of New York's Temporary State Commission on the Revision and Simplification of the Constitution in 1959.

In 1961 Bebout wrote:

In the last analysis there is only one salient or "central issue" in state constitutional revision. That issue can be set forth in the form of a question: What kind of state government is constitutional reform intended to promote and support? More specifically, is the constitution to be changed to provide a legal underpinning for active, dynamic government or is it to be changed mainly to curb governmental activity and control the exercise of powers of government?¹

The questions posed by Bebout might just as easily have been asked by New Jersey's state constitutional reformers in the period of 1873 through 1875. Clearly each of these opposing views was represented in that period, and reflected in the important changes to the New Jersey Constitution that are documented in this book.

Robert F. Williams
Camden, New Jersey
August, 2011

Peter J. Mazzei
Trenton, New Jersey
August, 2011

¹ John E. Bebout, *The Central Issue, Constitutional Revision – What For?* SALIENT ISSUES OF CONSTITUTIONAL REVISION 165, 165 (J. Wheeler, Jr. ed. 1961).

*In memory of the New Jersey State House newspaper reporters
of 1873-1875, without whose dutiful recording of
New Jersey state government proceedings
this volume would not have been possible.*

PREFACE

This book represents the culmination of well over twenty years of work on this interesting and very important era in New Jersey state constitutional development. When I came to Rutgers Law School in Camden in 1980 to teach and write about State Constitutional Law, I naturally took a special interest in New Jersey's constitution and constitutional history. Within a few years I discovered, in reading New Jersey Supreme Court decisions interpreting the state constitution, that there was virtually no documentation of the events of 1873-75 available in any form. Next I discovered that some of one newspaper's coverage of the 1873 Constitutional Commission had been copied and placed in the State Library. Upon examining these articles, I realized that they were incomplete, and did not even purport to cover the 1874 and 1875 legislative consideration of the Commission's proposed changes to the state constitution.

My curiosity and interest increased, however, when I realized that the newspaper coverage of the Commission's work was quite detailed. Further, upon reviewing some microfilm copies of other newspapers in the state, I concluded that there was somewhat differing coverage when one examined several newspapers' treatment of the same events.

Toward the end of the 1980s I began to see some scattered literature in books and articles treating these events in New Jersey constitutional history, but none of these sources provided any comprehensive analysis of both the Commission and the Legislature. I continued, however, to assemble materials, both original newspaper sources and secondary authority. In addition, my research interests expanded to include the role and function of constitutional commissions in state constitutional development.

Around the beginning of the 1990s I began to notice that in several other states, gaps in those states' constitutional history had been filled by compilations of newspaper coverage of state constitutional conventions. In fact, in some of these states, such compilations had become the standard works on those constitutional conventions. The idea of this book began to form in my mind, but the press of teaching and writing always kept me from applying myself fully. In addition, because I am not a trained historian or historical researcher, I was never confident in my ability to dig out information on the members of the Commission or to properly assess the varying newspaper and academic coverage of these events.

About ten years ago, the most important event in this long gestation period of the book took place: I received an unsolicited telephone call from Peter Mazzei of the Office of Legislative Services in

PREFACE

Trenton. He said that he had also been looking at these materials, and had noted that I had written about the importance of this period and the lack of documentation. He asked if I thought it would be worth trying to assemble these materials. This was, of course, a wonderful idea!

Without Peter Mazzei's diligence, organizational skills, and undying interest this project would have never come to fruition. It is, for the most part, his work. For all of this, I am most grateful to him.

Robert F. Williams
Distinguished Professor of Law
Rutgers University School of Law, Camden
June 2011

PREFACE

In the New Jersey Legislature's library, wedged between the official bound proceedings of the 1844 and 1947 New Jersey Constitutional Conventions, is a curious, mimeographed copy of what purports to be the Proceedings of the New Jersey Constitutional Commission of 1873. On closer examination, the document is actually a copy of cut-and-pasted newspaper accounts of several of the 1873 Constitutional Commission's proceedings as published in one newspaper, the *Daily True American*. This obscure, barely readable collection of long-forgotten newspaper accounts, hastily jotted down by a nameless journalist over 130 years ago, would, for me, become the starting point for the present volume.

As a librarian for the state Legislature for over twenty years, I have had ample opportunity to analyze this peculiar compilation of archaic government proceedings. I soon discovered that the compilation omitted several days' worth of proceedings and that the accounts for some days that were covered were incomplete. After further research, I discovered that the unbound photocopy was originally acquired and cataloged by the New Jersey State Library in 1961 and that the most probable compiler was former State Librarian (1945 to 1946) Sidney Goldmann, who later served as Historian and Archivist of the 1947 Constitutional Convention and as Superior Court Judge from 1951 to 1971. Evidently, during the course of his research for the court opinion *In re Application of Lamb*, 67 N.J. Super. 39 (1961), Judge Goldman sought clues to the drafters' legislative intent of the 1875 constitutional amendment that added the phrase "or the Senate alone" to the Constitution's section concerning the Governor's power to convene the state Legislature. In that opinion, Goldmann remarked that "Research of . . . all available records respecting the 1875 constitutional amendment, the State Archives and even the newspapers of the day, does not bring to light any helpful interpretative information." Apparently, the legislative intent for his specific research quest remained elusive; yet, in the spirit of a librarian, Goldmann made his compilation available to the State Library to assist future researchers interested in the constitutional amendments approved in 1875.

Despite the noble efforts of the Goldmann compilation, I realized that it was incomplete not only in terms of the dates of proceedings omitted but, just as significantly, in regards to its reliance on only one newspaper. After some research, I discovered that there were actually over 20 daily newspapers, and several times as many weeklies, published in New Jersey in 1873. Would not a composite of different accounts of newspapers, published by different political affiliations, from diverse parts of the state, provide a more comprehensive and objective historical

PREFACE

record? And why not transcribe the Commission's official hand-written minutes that hitherto has only been accessible in the State Archives? I became intrigued by the prospect of compiling a comprehensive sourcebook of proceedings, newspaper accounts, government documents and editorials that related to the work of the 1873 Constitutional Commission, the consideration of its proposed amendments by two subsequent state legislatures, and the final adoption of the amendments by popular vote in 1875. I envisioned the publication of an authoritative reference work that would serve researchers of the 1875 constitutional amendments in much the same way that John Bebout's monumental edition of the proceedings of the 1844 Constitutional Convention has served, and continues to serve, researchers of New Jersey's 1844 Constitution.

Before commencing this massive project, I thought it advisable to consult with an expert on New Jersey's constitutional history. As the author of the state's definitive one-volume guide to the New Jersey Constitution and innumerable articles on state constitutions, Robert F. Williams, Distinguished Professor of Law at Rutgers University-Camden, seemed the most logical person to contact. With some trepidation, I telephoned Professor Williams at his Camden office, without warning, on a summer afternoon. To my delight, Professor Williams received my call with a friendly welcome and an uncanny familiarity with minute details of the 1875 constitutional amendments. He proceeded to explain that, some years before, he began compiling source material and newspaper accounts of the 1873 Constitutional Commission, but had not completed the project. Would I be interested in working together to finish a "Bebout" for the 1875 amendments? Would I ever! Professor Williams' extraordinary knowledge of, and devotion to, our State's Constitution have served as my primary inspiration throughout this book's compilation. What follows is the result of several years of our collaborative effort.

Peter J. Mazzei
Manager, Library Services
New Jersey Office of Legislative Services
August 2011

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It is with pleasure and gratitude that the authors recognize their indebtedness to the many individuals and institutions who have assisted in making this work a reality. First and foremost, we thank Albert Porroni and Glenn E. Moore III, respectively the Executive Director and Director of Central Staff of the New Jersey Office of Legislative Services, who approved this project and ensured that it was brought to fruition. We also gratefully acknowledge the significant contributions made by Leonard J. Lawson, First Assistant Legislative Counsel of the Office of Legislative Services, whose invaluable suggestions and insights are manifest throughout this volume.

Special acknowledgment is reserved for Barbara Robbins of the Office of Legislative Services, the project's proofreader, whose tireless diligence and editorial acumen resulted in the correction of countless textual and stylistic errors in previous drafts. Historical newspaper research assistance was more than capably provided by Amy Sara Cores, Class of 2003, Rutgers Law School, Camden; and Richard R. Comerford of the Office of Legislative Services. The following staff of the Office of Legislative Services meticulously typed the text of hundreds of original documents, newspaper accounts of proceedings and newspaper editorials: Linda Brokaw, Louise Guadagno, Crystal S. Jordan, and Rebecca Sapp. Thomas Koenig translated several editorials from the German language newspaper, *Carlstadt Freie Presse*. Barbara Pagano of the Office of Legislative Services provided assistance throughout all phases of this project, particularly in preparing the plates of photographic reproductions appearing in Appendix 1. Barbara Robbins designed the book's format and prepared it for final publication.

The authors gratefully acknowledge the several libraries and research facilities who granted us access to their collections during the research phase of this project. Chiefly, we thank the staff of the New Jersey State Archives and the New Jersey State Library for their accommodating and courteous research assistance. We also acknowledge the New Jersey Historical Society, the Jersey City Public Library, the Newark Public Library, the Trenton Public Library, the New Brunswick Public Library, the Paterson Free Public Library, the Rutgers University Libraries' Special Collections and Archives, the Rutgers Law School libraries at Newark and Camden, Seton Hall University's Monsignor William Noe Field Archives, the Camden County Historical Society, the Gloucester County Historical Society, the Sussex County Historical Society, the New York Public Library, and the Free Library of Philadelphia. Finally, we thank Joseph J. Felcone, whose expertise in New Jersey rare books and documents is unparalleled, for the generous use of his private collection.

PART I: INTRODUCTION

Part I serves as an historical overview of New Jersey's state constitutional revision processes during the period of 1873 to 1875. It is intended to tell the story of the Constitutional Commission of 1873, its membership, proceedings, proposed amendments, and the historical, legal and political background of the issues considered by the Commission. As the Commission's proposals had to be approved by two successive Legislatures, the Introduction covers the 1874-75 political discussions and legislative consideration of the proposed amendments. Finally, the Introduction provides analysis of, and elucidates the major issues surrounding, the 1875 ratification vote on the amendments proposed by the Legislature.

PART I: INTRODUCTION¹

Peter J. Mazzei and Robert F. Williams

I. “TRACES OF ITS LABORS”	5
II. THE CONSTITUTIONAL COMMISSION AS A VEHICLE FOR STATE CONSTITUTIONAL CHANGE	6
III. THE VALUE OF NEWSPAPER ACCOUNTS OF STATE CONSTITUTIONAL COMMISSIONS AND CONVENTIONS	16
A. <i>Newspaper Coverage of State Constitution-Making</i>	16
B. <i>New Jersey Newspaper Coverage of Legislative Proceedings, Circa 1873</i>	18
IV. THE 1873-75 CONTEXTS OF NATIONAL, REGIONAL AND NEW JERSEY STATE CONSTITUTIONAL CHANGE	22
A. <i>The Nation</i>	23
B. <i>The Region</i>	24
C. <i>New Jersey</i>	25
V. THE NEW JERSEY CONSTITUTIONAL COMMISSION OF 1873.....	28
A. <i>The Creation of the Commission</i>	28
B. <i>Commission Members</i>	30
C. <i>Inauspicious Beginnings</i>	46
D. <i>Meeting Dates, Public Attendance, Committees, Staff and Expenses, and Rules and Quorum</i>	53
VI. THE COMMISSION’S PROPOSED CONSTITUTIONAL AMENDMENTS.....	61
A. <i>Sources of Proposed Amendments</i>	61
1. <i>Governor Parker’s Annual Message to the 1873 Legislature</i> ...	61
2. <i>Hough’s AMERICAN CONSTITUTIONS</i>	62
3. <i>Work of Recent State Constitutional Conventions and Commissions</i>	71
4. <i>Petitions to Members of the Constitutional Commission</i>	74
5. <i>Newspaper Editorials and Letters</i>	77

1. This Introduction is an updated and expanded version of the authors’ article “*Traces of Its Labors*”: *The Constitutional Commission, The Legislature, and Their Influence on the New Jersey State Constitution, 1873-1875* that appeared in the RUTGERS LAW JOURNAL, Vol. 33, No. 4 (Summer 2002), pp. 1059-1149. It is used here with permission.

B. <i>The Commission's Proposed Amendments</i>	78
1. <i>The Proceedings of the 1873 Constitutional Commission</i>	78
2. <i>The Report of the 1873 Constitutional Commission</i>	78
3. <i>Tabular Analysis of the Commission's Proposed Amendments</i> ...	79
C. <i>Understanding the Proposed Amendments Within an Historical Context</i>	94
1. <i>The Railroad Lobby and the Stanhope Fraud</i>	95
2. <i>Corruption and Special Legislation</i>	101
3. <i>The Jersey City Reorganization Act</i>	107
4. <i>Suffrage Rights and Elections</i>	110
5. <i>Free Public Schools</i>	117
6. <i>Uniform Taxation of Property</i>	174
7. <i>Senate Reapportionment</i>	177
8. <i>Gubernatorial Veto</i>	179
9. <i>Miscellaneous Proposals</i>	184
VII. LEGISLATIVE CONSIDERATION OF THE COMMISSION'S PROPOSALS ...	186
A. <i>Significant Revision by the 1874 Senate</i>	186
B. <i>The Assembly is "Snubbed": Partisan Politics</i>	190
C. <i>A Final Attempt to Defeat the Amendments Fails</i>	194
VIII. THE RATIFICATION VOTE ON SEPTEMBER 7, 1875.....	204
A. <i>An Unintelligible Ballot and an Uninterested Electorate</i>	204
B. <i>Two Issues that Influenced the Special Election</i>	211
1. <i>The Catholic and Protestant Controversy</i>	211
2. <i>The Repeal of the Five County Act</i>	214
C. <i>Election Results</i>	216
D. <i>An Error is Brought to Light</i>	219
IX. CONCLUSION: STATE CONSTITUTIONAL DISCOURSE.....	223

I. “TRACES OF ITS LABORS”

About midway through the 1873 New Jersey Constitutional Commission’s deliberations, the *New Brunswick Fredonian* observed, “If it does its work well, does not attempt too many extreme or radical things, does not ‘tinker’ too much with the Constitution, its work will undoubtedly be better received by the Legislature and the people, and the *traces of its labors* be more easily discovered by future generations.”² This prediction certainly turned out to be true. After legislative consideration in 1874 and 1875, twenty-eight questions recommended by the Constitutional Commission were approved by the voters of New Jersey on September 7, 1875. The current New Jersey Constitution, as well as the judicial interpretations of provisions attributable to the Commission’s work since 1875, definitely reflect over a century of important and extensive “traces of its labors.” Pivotal, current New Jersey state constitutional provisions such as the requirements of “thorough and efficient” free public schools,³ “uniformity” in taxation,⁴ the governor’s power of item veto,⁵ the ban on “special laws” passed by the legislature,⁶ limitations on legislative interference with municipal affairs,⁷ as well as restrictions on the procedure of passing laws,⁸ were all recommended by the 1873 Commission. Now, over 130 years after its efforts, we in New Jersey are affected every day by the 1873 Commission’s work product.⁹

2. FREDONIAN (New Brunswick, N.J.), Oct. 13, 1873 (emphasis added). This editorial, most likely authored by Constitutional Commission member John F. Babcock, also appeared in other New Jersey newspapers. See, for example, NEWARK DAILY ADVERTISER, OCT. 14, 1873. During this period of American journalism, it was not unusual for newspapers of the same political persuasion to reprint the editorials of a sister newspaper. See *infra* notes 81-87 and accompanying text.

3. N.J. CONST. art. VIII, § IV, ¶ 1.

4. N.J. CONST. art. VIII, § I, ¶ 1.

5. N.J. CONST. art. V, § I, ¶ 15.

6. N.J. CONST. art. IV, § VII, ¶¶ 7, 8, 9.

7. N.J. CONST. art. IV, § VII, ¶ 9 (13).

8. N.J. CONST. art. IV, § VII, ¶ 5.

9. For example, at the time of this writing, at least four political issues covered in contemporary newspapers referred, directly or indirectly, to constitutional provisions that were originally adopted as a result of the 1873 Commission: the Governor’s power to convene the state senate during recess; the state constitutional prohibition on interfering with municipal governments and school districts; the Governor’s line item veto power; and the ongoing judicial interpretation of the “thorough and efficient” clause concerning education finance. See, e.g., *infra* notes 631-36 and accompanying text relating to the Governor’s power to convene the “Senate alone”.

The deliberations of the appointed 1873 Constitutional Commission, and of the two succeeding New Jersey Legislatures, reflected, at once, contemporary national, regional, and especially, local New Jersey issues in state constitutional development. Furthermore, these discussions fit within the same contemporary national, regional and local patterns of evolution of the *processes* of state constitution-making, helping to launch the constitutional commission as a viable mechanism for state constitutional reform. Therefore, an in-depth study of this body, as well as of the Legislature and its influence, should be of interest not only to people in New Jersey, but also to a wider audience of students of state constitutionalism.

The purpose of this volume is to provide a comprehensive and authoritative compilation of source material surrounding the 1873 New Jersey Constitutional Commission and its work. This includes a transcription of the official proceedings of the Commission, detailed biographical sketches of Commission members, excerpts from the 1874 and 1875 Senate and Assembly minutes related to the Commission's proposed constitutional amendments, a composite of newspaper accounts of Commission and relevant legislative proceedings, the full text of documents related to the Commission's work, a selection of over two hundred newspaper editorials from the period that commented on the Commission and its work, an analysis of each proposed amendment from introduction to final action, and a comprehensive index.

The authors hope that this volume will fill a gap in the otherwise relatively well-documented subject of New Jersey state constitutional development. Quite possibly, it will shed some new light on the intent and impact of the 1873 Commission, as well as the Legislature, and the still obvious and important "traces of its labors" that are included in our government and constitutional law both today and for the foreseeable future.

II. THE CONSTITUTIONAL COMMISSION AS A VEHICLE FOR STATE CONSTITUTIONAL CHANGE

More than twenty years before the formation of the 1873 Constitutional Commission, New Jersey introduced the mechanism of utilizing a commission composed of prominent citizens to recommend state constitutional amendments to the legislature for further action. In February 1852, in answer to growing public sentiment for an elective judiciary, the state legislature and governor approved a joint resolution that formed a three-member commission whose limited purpose was to "report amendments of

the system of jurisprudence of this state, and provide for the election of certain officers by the people.”¹⁰ The commission’s recommendations were not acceptable to the Legislature and thus never had the chance of popular approval. Recommendations of another constitutional commission¹¹ of similar purpose and scope suffered the identical fate in 1854.

Although more commonly utilized during the twentieth century, the only constitutional commissions created in American states during the nineteenth century were in New Jersey (1852, 1854, 1873, 1881, and 1894), New York (1872-73, 1890), Michigan (1873), Maine (1875), and Rhode Island (1897). Of these, only New York’s 1872-73, New Jersey’s 1873 and Rhode Island’s 1897 commissions had any of their recommendations approved by popular vote.

There has been considerable discussion of why the constitutional commission became an accepted vehicle to initiate amendment of state constitutions. The purpose of establishing a constitutional commission has been attributed to legislatures’ admittance of their limitations as parliamentary bodies to give careful consideration to proposed changes in a state’s fundamental organic law.¹² An equally cogent and more likely motive, however, is the simple reason that legislatures have typically been reluctant to relinquish their lawmaking power to constitutional conventions and have seen commissions as a preferred alternative. The constitutional commission remains “subordinate to the legislative assembly, and their work is purely advisory and preliminary in character. All commission recommendations require further action by legislative bodies to which these proposals are submitted. The lawmaking body may accept, modify, or reject them, in whole or in part, as it deems appropriate and expedient.”¹³

Some scholars have identified a possible ulterior motive for some constitutional commissions as devices used by legislatures for “‘passing the buck’, when, for various reasons, they may wish to evade the issue of

10. New Jersey Joint Resolution Number V was approved on February 19, 1852. J. Res. 5, 1852 N.J. Laws 546.

11. New Jersey Joint Resolution Number V was approved on March 3, 1854. J. Res. 5, 1854 N.J. Laws 544-45.

12. See ALBERT L. STURM, *METHODS OF STATE CONSTITUTIONAL REFORM* 122 (1954). “The average legislative assembly is usually ill-equipped to make the careful analysis that should precede any alteration in a constitution.” *Id.*

13. *Id.* at 121; see also WALTER FAIRLEIGH DODD, *THE REVISION AND AMENDMENT OF STATE CONSTITUTIONS* 263-64 (1910). “Commissions of this character are, of course, mere advisory bodies, constituted for the purpose of giving counsel to the legislature, and have no independent power of action.” *Id.*

constitutional reform.”¹⁴ But whatever the motives for creating constitutional commissions, they seem to be typically composed of prestigious citizens,¹⁵ can be of either limited or unlimited scope,¹⁶ deliberate within a relatively brief duration (usually within 6 months), and produce some form of report with recommended constitutional changes to the state legislature or governor, or both.

The 1873 Constitutional Commission was not a constitutional *convention*. It was not, therefore, an exercise in “constituent power” or “activist popular sovereignty,”¹⁷ which drew its power from the people of New Jersey. Its pedigree was much more indirect and tenuous. Compared to the constitutional convention, that unique, two hundred year-old invention of American political practice, the constitutional commission is of more recent vintage. Judge John Alexander Jameson, in his 1887 *Treatise on Constitutional Conventions*, described the constitutional commission as “a novel device.”¹⁸

Pursuant to an 1873 legislative concurrent resolution,¹⁹ the New Jersey Commission’s members were appointed by the governor, with the advice and consent of the Senate. They had no power to submit recommendations

14. STURM, *supra* note 12, at 123; *see also* Bennett M. Rich, *Revision by Constitutional Commission*, in MAJOR PROBLEMS IN STATE CONSTITUTIONAL REVISION 86, 98 (W. Brooke Graves, ed., 1960). “To a legislator bent on holding the line, the establishment of a constitutional commission provides the perfect answer.” *Id.* at 98.

15. *See* Rich, *supra* note 14, at 92. “The list of members of a constitutional commission usually reads like a who’s who of the state. Persons prominent in business, education and government are selected. The jury to determine the guilt or innocence of the existing constitution is unquestionably of the blue-ribbon variety.” *Id.* at 92.

16. STURM, *supra* note 12, at 122. “Some commissions have been created to study specific articles of the existing document and are limited in function. The mandate of others has been of such broad and general nature as to permit unlimited recommendations.” *Id.*

17. James A. Henretta, *Foreword: Rethinking the State Constitutional Tradition*, 22 RUTGERS L.J. 819, 826-31 (1991). For an excellent analysis of the origins of the importance of popular sovereignty in state constitutionalism, *see* Christian G. Fritz, *Alternative Visions of American Constitutionalism: Popular Sovereignty and the Early American Constitutional Debate*, 24 HASTINGS CONST. L.Q. 287 (1997). For a wide-ranging consideration of state constitutional commissions, including some of the material provided here, *see* Robert F. Williams, *Are State Constitutional Conventions Things of The Past? The Increasing Role of the Constitutional Commission in State Constitutional Change*, 1 HOFSTRA L. & POL’Y SYMP. 1 (1996).

18. JOHN ALEXANDER JAMESON, A TREATISE ON CONSTITUTIONAL CONVENTIONS: THEIR HISTORY, POWERS, AND MODES OF PROCEEDING 570 (4th ed., Da Capo Press 1972) (1887).

19. The unnumbered concurrent resolution was approved on April 4, 1873. *See* N.J. Senate Journal 1873, at 1068. For consideration and approval of the resolution in the Assembly, *see* N.J. Assem. Minutes 1873, at 1431.

directly to the people, but rather could forward their proposed changes only to the Legislature for further study and action. In this sense, the appointed commission mechanism of state constitutional change was the antitheses of constituent power and acted as a significant limitation on such power.²⁰ However, without the Commission, it is unlikely that any constitutional reform would have occurred at this time, due to the Legislature's reluctance to approve a constitutional convention or even pass resolutions to propose specific amendments to the Constitution that would be placed before the voters.²¹

Despite New Jersey's historical origination of the constitutional commission, the idea for the 1873 Commission seems not to have originated with the 1852 and 1854 precedents, but rather with New York's more recent 1872 Constitutional Commission. The New York commission was established just one month before New Jersey's Governor Joel Parker suggested, in his annual message to the Legislature on January 14, 1873, the use of a commission to reform the state constitution. The New York Constitutional Commission has been described as "an innovation in the state's constitutional history, which seemed to fill a gap between a cumbersome convention and the ad hoc legislative amending process. The method allowed distinguished and informed individuals to recommend constitutional change to the legislature and then to the people."²²

The constitutional commission came into being in New York, and other states, based on the justifications of efficiency and expertise, neither of which were attributes of the constitutional convention ("cumbersome") or the legislative amendment process ("ad hoc"). The commission, under these circumstances, served as a research and study group (expertise) and as a technique for agenda-setting in the legislature (efficiency). Among the successful proposals in New York were a lengthened gubernatorial term and an item veto, provisions governing canals, bribery, savings banks and corporations, and restrictions on special and multiple-purpose laws, all of which "added to the constitutional limits already placed on the legislative power."²³

20. Henretta, *supra* note 17, at 830. "These commissions were not democratic bodies responsible to the people. Their proposals came before the voters only after being carefully reviewed and revised by legislators, governors, and other state officials." *Id.*

21. See *infra* notes 121-23 and accompanying text.

22. PETER J. GALIE, THE NEW YORK STATE CONSTITUTION: A REFERENCE GUIDE 16 (1991).

23. *Id.* at 15-16. There is no published record, only a journal, of the New York Commission's proceedings. *Id.* at 301. For a consideration of the New York Commission and

New Jersey seemed to have adopted the New York idea the next year, in 1873, when the legislature provided for the establishment of a constitutional commission on terms very similar to New York's 1872 statute.²⁴ This had to have been one of the most successful constitutional commissions in history; the New Jersey Legislature, after extensive and lengthy debate of its own, submitted twenty-eight of the changes recommended by the Commission, all of which were approved by the voters in 1875.²⁵

Despite the surface similarities in the New York and New Jersey experiences, there seem to have been different motivations in the use of the commission method. In New York, it was used, after the fact, to pick up and salvage some of the pieces of the failed 1867 constitution, which had been recommended by a constitutional convention. In New Jersey, by contrast, the commission method appears to have been used, before the fact, to diffuse popular pressure on the legislature to call a constitutional convention, and to retain control for the legislature over the final recommendations to the voters, as a substitute for a convention.²⁶ Charles Erdman noted in New Jersey the "tendency of the legislature to use the commission as a convenient dodge to escape the popular demand for the calling of a convention."²⁷ This latter motive was concerned neither with efficiency nor expertise as reflected in the New York experience in 1872. It was an attempt at legislative *control* of the process of state constitutional change.

The 1873 Constitutional Commission, unlike earlier and later New Jersey constitutional commissions, was not a "limited" commission.²⁸ It was authorized to, and in fact did, explore, debate, and entertain proposed amendments to the entire state constitution. First, there was extensive debate about state constitutional changes that did not lead to final recommendations

its work, see PETER J. GALIE, *ORDERED LIBERTY: A CONSTITUTIONAL HISTORY OF NEW YORK* 137-57 (1996). The Commission also recommended state constitutional amendments requiring elected officials to take an oath against bribery, specifying certain legislative procedures, and expanding gubernatorial power. See *infra* notes 116-18 and accompanying text.

24. ROBERT F. WILLIAMS, *THE NEW JERSEY STATE CONSTITUTION: A REFERENCE GUIDE* 9-11 (rev. ed. 1997).

25. *Id.*; see also RICHARD J. CONNORS, *THE PROCESS OF CONSTITUTIONAL REVISION IN NEW JERSEY: 1940-1947* at 12-13 (1970). Interestingly, a number of scholars have missed this important commission. See, e.g., JAMESON, *supra* note 18, at 570; Thomas Raeburn White, *Amendment and Revision of State Constitutions*, 100 U. PA. L. REV. 1132, 1148 (1952).

26. WILLIAMS, *supra* note 24, at 9.

27. CHARLES R. ERDMAN, JR., *THE NEW JERSEY CONSTITUTION—A BARRIER TO GOVERNMENTAL EFFICIENCY AND ECONOMY* 16 (1934). Erdman referred to the commission technique as a "legislative side-step." *Id.*

28. CONNORS, *supra* note 25, at 9-13.

to the Legislature.²⁹ There were amendments debated by the Commission and recommended to the Legislature which were submitted to the voters only after legislative modifications.³⁰ Finally, not all of the amendments recommended by the Commission were ultimately submitted by the Legislature to the voters in 1875.³¹ The period of 1873-75, therefore, “stands behind only three others in significance for state constitutional development in New Jersey: 1776, 1844, and 1947.”³² In fact, as one of the present authors has elsewhere contended, “It could be argued that in 1875 the New Jersey Constitution was so significantly revised that we should talk of the ‘1875 New Jersey Constitution’ as a fourth state constitution.”³³

Even looking just at the twenty-eight changes that survived the triple hurdles of final Commission adoption, legislative acceptance and recommendation, and ratification by the voters, the impact of the 1873 Commission’s work has indeed been great. As John Bebout noted over fifty years ago, the “1875 amendments necessarily entailed a tremendous increase in judicial review of legislation. Since 1875, over half of the more than 300 legislative acts invalidated by the courts were nullified because of the 1875 amendments.”³⁴

29. See Table 2 in this Introduction and the more comprehensive tabular analysis in Part VII of this volume. See also John Elber Bebout, *Introduction*, PROCEEDINGS OF THE NEW JERSEY STATE CONSTITUTIONAL CONVENTION OF 1844 vii, cv (1942), [hereinafter Bebout], reprinted in JOHN ELBER BEBOUT, *THE MAKING OF THE NEW JERSEY CONSTITUTION* (1945).

30. See Tables 3 and 4 in this Introduction and the more comprehensive tabular analysis in Part VII of this volume.

31. *Id.* See also BENNETT M. RICH, *THE GOVERNMENT AND ADMINISTRATION OF NEW JERSEY* 18-19 (W. Brooke Graves ed., 1957).

32. WILLIAMS, *supra* note 24, at 10.

33. *Id.* But see ERDMAN, *supra* note 27, at 1 (concluding that the 1844 Constitution was not “vitally altered”).

Dr. G. Alan Tarr has distinguished state constitutional reform from the more ordinary state constitutional amendment. G. Alan Tarr, *Introduction*, Vol. 1, *STATE CONSTITUTIONS FOR THE TWENTY-FIRST CENTURY: THE POLITICS OF STATE CONSTITUTIONAL REFORM* 1, 2-4 (G. Alan Tarr and Robert F. Williams, eds., 2006). The 1875 constitutional changes in New Jersey definitely constituted “reform.”

34. Bebout, *supra* note 29, at cvi. Willard Hurst noted:

Beyond doubt the most important effect of the constitution makers was to enhance the power of the judges. They enhanced it more or less unconsciously, to be sure, when they put into constitutions both broad and detailed procedural and substantive limits on the legislature, as well as specific decisions upon public policy. For, under our tradition of broad judicial competence, it fell to the courts to interpret and enforce these limitations and provisions, and thus ultimately to shape their practical meaning. JAMES WILLARD HURST, *THE GROWTH OF AMERICAN LAW: THE LAW MAKERS* 226 (1950).

Because of the indirect route taken by these important 1875 constitutional changes, the debates of the 1873 Commission arguably do not qualify as “constitutional history” in the direct sense that the debates in a constitutional convention, or in the legislature on proposed amendments, would be considered evidence of the “intent of the framers.” Still, courts routinely rely on the materials prepared by constitutional commissions.³⁵ Technically and legally, of course, the members of the 1873 Constitutional Commission were not the “framers” of the amendments adopted by the voters in 1875. They were not “representatives.”³⁶ But this is too narrow a view of constitutional history. The Commission members were operating under a direct delegation of power from both the elected Legislature and the Governor. The Governor took the appointment process very seriously and chose well-qualified people. Their recommendations and debates formed the origins of important state constitutional changes. Of course, the Legislature was neither bound to accept the Commission’s recommendations, nor to limit its consideration of proposed state constitutional amendments only to those forwarded by the Commission. In other words, the Legislature was neither limited *by*, nor *to*, such recommendations. But, in fact, although the Legislature did not accept all the Commission’s suggestions, it did not add any of its own.³⁷

Commission-generated constitutional history, even if not technically of a quality to be considered evidence of “intent of the framers,” or without questions of accuracy or completeness, is still of great importance to scholars, students, judges, government officials, lawyers, historians and political scientists. It is an important part of state constitutional history.³⁸

35. See, e.g., *State v. Manley*, 441 So. 2d 864, 885 (Ala. 1983) (Beatty, J., dissenting); *Thompson v. Dep’t of Corrections*, 18 P.3d 1198, 1201 (Cal. 2001); *Claudio v. State*, 585 A.2d 1278, 1296-97 (Del. 1991); *Snow v. City of Memphis*, 527 S.W.2d 55, 61 (Tenn. 1975), *appeal dismissed*, 423 U.S. 1083 (1976). The Florida Supreme Court relied on the records of the 1966 Constitutional Revision Commission, located in a “special file in the Supreme Court Library.” *Hayek v. Lee County*, 231 So. 2d 214, 216 (Fla. 1970).

36. *Harvey v. Ridgeway*, 450 S.W. 2d 281, 288 (Ark. 1970) (holding that a legislator may serve as a constitutional convention delegate); Robert S. Friedman & Sybil L. Stokes, *The Role of Constitution-Maker as Representative*, 9 MIDWEST J. POL. SCI. 148 (1965).

37. Although Senator Stone introduced a constitutional amendment in the 1874 Senate, that would have reorganized the Judiciary, his proposal was never approved by the Senate. See Proposed Amendment 93, in the tabular analysis in Part VII of this volume.

38. See G. Alan Tarr, *Constitutional Theory and State Constitutional Interpretation*, 22 RUTGERS L.J. 841, 852 (1991) (“The more recent the constitutional provision, the more likely that there is an extensive documentary record—pre-convention studies . . . bearing on its meaning.”).

Despite the importance of the 1875 amendments to the New Jersey constitution, there is very little known or written about this crucial period in New Jersey constitutional development. For example, in a 1980 decision of the New Jersey Supreme Court concerning the 1875 “thorough and efficient” clause, Justice Alan B. Handler noted that “the history of the Constitution’s free public education clause is surprisingly scant.”³⁹ Justice Handler referred to the *Daily True American* in his opinion,⁴⁰ probably as a result of research he conducted for a law review article on New Jersey state constitutional revision that he co-authored fifteen years earlier.⁴¹ Again, in the 1973 landmark decision *Robinson v. Cahill*,⁴² also concerning the “thorough and efficient” clause and its application to unequal education funding, the New Jersey Supreme Court noted that “there appears to be no helpful history spelling out the intended impact of this amendment.”⁴³

There also appear to be relatively few scholarly sources that have devoted more than a few words to the Commission, and fewer still that have attempted to analyze its work in depth. These sources fall into two categories. First, there are those historical or legal sources that provide a cursory, generalized overview of the Commission, usually as part of a general treatment of the New Jersey Constitution or New Jersey’s political history. Typically, these sources provide a brief account of the issues surrounding the formation of the Commission, discuss the Commission within the framework of New Jersey’s constitutional history, may mention the names of Commission members, and briefly refer to selected proposed and adopted constitutional amendments. This category could include the annually published *Manual of the Legislature of New Jersey* (1886),⁴⁴

39. *Levine v. N.J. Dep’t of Insts. & Agencies*, 418 A.2d 229, 234 (N.J. 1980); see also *In re Application of Lamb*, 169 A.2d 822, 828 (N.J. Super. Ct. App. Div. 1961) (“Research of . . . all available records respecting the 1875 constitutional amendment, the State Archives and even the newspapers of the day, does not bring to light any helpful interpretative information.”).

40. *Levine*, 418 A.2d at 234 (citing DAILY TRUE AMERICAN, July 9 to Nov. 18, 1873 (collected and bound)). These newspaper articles were collected and cataloged in the New Jersey State Library in 1961, most likely as a result of research for (by) Judge Sidney Goldmann for the *In re Application of Lamb* decision. Actually, there were other meetings of the Commission, earlier in May 1873, and later in December 1873.

41. Arthur J. Sills & Alan B. Handler, *The Imbroglio of Constitutional Revision—Another By-Product of Reapportionment*, 20 RUTGERS L. REV. 1, 22 n.93 (1965).

42. 303 A.2d 273 (N.J. 1973).

43. *Id.* at 291.

44. MANUAL OF THE LEGISLATURE OF NEW JERSEY. (Morristown and Trenton, N.J.:F. L. Lundy, 1872-). [Hereinafter, MANUAL OF THE LEGISLATURE]. First published in 1872, the first Manual to describe the 1873 Constitutional Commission was the 1886 issue in which a one-

Sackett (1895),⁴⁵ Lee (1902),⁴⁶ Knapp (1924),⁴⁷ Conklin (1930),⁴⁸ Goldsmith (1930),⁴⁹ Erdman (1934),⁵⁰ Bebout (1942),⁵¹ Myers (1945),⁵² Rich (1957),⁵³ Boyd (1964),⁵⁴ Connors (1970),⁵⁵ Williams (1996),⁵⁶ and Williams (1997).⁵⁷

The second category of sources usually treat the Commission's work in far greater detail and depth of research, but are narrowly focused on only one subject area considered by the Commission or on only one aspect of the popular election that ratified the amendments in 1875. For example, Sinclair (1934)⁵⁸ studied New Jersey's constitutional provisions as they related to legislative procedure, including the Commission's proposed and adopted amendments; Cadman (1949)⁵⁹ focused on the history of business corporations in New Jersey, concluding with the 1875 constitutional amendments' effect on special legislation and an appraisal of their significance on the subsequent creation of New Jersey corporations;

page summary appeared on page 115 and was reproduced verbatim for several years thereafter in subsequent Manuals.

45. 1 WILLIAM EDGAR SACKETT, *MODERN BATTLES OF TRENTON, BEING A HISTORY OF NEW JERSEY'S POLITICS AND LEGISLATION FROM THE YEAR 1868 TO THE YEAR 1894* at 86-122 (1895). The 1873 Constitutional Commission is discussed in Chapter VIII. *Id.* at 96-101. Issues and events surrounding the formation of the Commission and the final popular approval of amendments are covered in Chapters VII through X. *Id.* at 86-122.

46. 4 FRANCIS BAZLEY LEE, *NEW JERSEY AS A COLONY AND AS A STATE* 139-48 (1902).

47. CHARLES MERRIAM KNAPP, *NEW JERSEY POLITICS DURING THE PERIOD OF THE CIVIL WAR AND RECONSTRUCTION* 176-77 (1924).

48. Edwin P. Conklin, *From Bedle to Abbett*, in 3 *NEW JERSEY: A HISTORY* 946-50 (Irving S. Kull ed., 1930).

49. B. H. Goldsmith, *Post Bellum Politics and Conditions*, in 3 *NEW JERSEY: A HISTORY* 888-89 (Irving S. Kull ed., 1930).

50. ERDMAN, *supra* note 27, at 16-18.

51. Bebout, *supra* note 29, at civ-cvii.

52. 1 WILLIAM STARR MYERS, *THE STORY OF NEW JERSEY* 256-58 (1945); 2 WILLIAM STARR MYERS, *THE STORY OF NEW JERSEY* 560-62 (1945).

53. RICH, *supra* note 31, at 18-19.

54. JULIAN P. BOYD, *FUNDAMENTAL LAWS AND CONSTITUTIONS OF NEW JERSEY, 1664-1964* at 37-38 (N.J. Historical Series 1964).

55. CONNORS, *supra* note 25, at 9-13.

56. WILLIAMS, *supra* note 17, at 7-10. *See* note 25.

57. WILLIAMS, *supra* note 24, at 9-11.

58. Thornton Sinclair, *Procedural Limitations on the Legislative Process in the New Jersey Constitution* 153-156, 204-205 (1934) (unpublished Ph.D. dissertation, Harvard University) (on file with Harvard University Archives—Cambridge, Massachusetts).

59. JOHN W. CADMAN, JR., *THE CORPORATION IN NEW JERSEY: BUSINESS AND POLITICS, 1791-1875* at 183-201 (1949).

McCormick (1953)⁶⁰ studied the Commission's proposed constitutional changes concerning suffrage rights within the context of the history of New Jersey's voting laws; Sepinwall (1986 & 2000)⁶¹ researched the Commission's proposals and legislative initiatives concerning public education, specifically the "thorough and efficient" clause; McSeveney (1992)⁶² considered the context in which the recommendations of the Commission were debated in the 1874-75 Legislatures and was chiefly concerned with the Catholic and Protestant controversy surrounding the election on the proposed amendments in 1875; Petrick (1995)⁶³ studied the religious and political debate in Jersey City between Catholics and Protestants with regards to the 1875 ratification of the constitutional amendments related to public education; Dodyk (1997)⁶⁴ examined the Commission's consideration of amending the New Jersey Constitution to permit woman's suffrage; and Moore (1999)⁶⁵ studied the historical and political events regarding the struggle for black male suffrage rights leading up to the Commission's proposal to formally amend the state constitution to strike the word "white" from the suffrage article.

This book and the earlier article⁶⁶ are the first comprehensive, in-depth, and holistic coverage of the 1873 Commission starting with the historical and political background out of which it was created, continuing through its deliberations of proposed changes to the New Jersey Constitution, following

60. RICHARD P. MCCORMICK, *THE HISTORY OF VOTING IN NEW JERSEY: A STUDY OF THE DEVELOPMENT OF ELECTION MACHINERY, 1664-1911* at 122-158 (1953).

61. Harriet Lipman Sepinwall, *The New Jersey Constitution and the 1875 "Thorough and Efficient" Education Amendment*, 59 J. RUTGERS U. LIBR. 53, 53-69 (2000) [hereinafter Sepinwall, *Constitution*]; Harriet Lipman Sepinwall, *The History of the 1875 "Thorough and Efficient" Amendment to the New Jersey Constitution in the Context of Nineteenth Century Social Thought on Education: The Civil War to the Centennial* (1986) (unpublished Ph.D. dissertation, Rutgers University) (on file with Rutgers University Library—New Brunswick) [hereinafter Sepinwall, *History*].

62. Samuel T. McSeveney, *Religious Conflict, Party Politics, and Public Policy in New Jersey, 1874-75*, in 110 NEW JERSEY HISTORY 18, 30-35 (1992).

63. Barbara Burns Petrick, *Church and School in the Immigrant City: A Social History of Public Education in Jersey City, 1830-1930* (1995) (unpublished Ph.D. dissertation, Rutgers University) (on file with Rutgers University Library—New Brunswick).

64. Delight K. Dodyk, *Education and Agitation: the Woman Suffrage Movement in New Jersey 159-174* (1997) (unpublished Ph.D. dissertation, Rutgers University) (on file with Rutgers University Library—New Brunswick).

65. Louis B. Moore, *Response to Reconstruction: Change and Continuity in New Jersey Politics, 1866-1874* (1999) (unpublished Ph.D. dissertation, Rutgers University) (on file with Rutgers University Library—New Brunswick).

66. See note 1.

the Legislature's approval, rejection or modification of its proposals, and concluding with the people's approval of the final proposed amendments. There have been many studies of particular state constitutional *conventions* and their members.⁶⁷ This will be, however, one of the only in-depth studies of an appointed state constitutional *commission*.⁶⁸ Hopefully, this book will help to shed light on an important, although somewhat neglected, part of New Jersey's constitutional history.

III. THE VALUE OF NEWSPAPER ACCOUNTS OF STATE CONSTITUTIONAL COMMISSIONS AND CONVENTIONS

A. Newspaper Coverage of State Constitution-Making

In several states, important newspaper coverage of state constitutional conventions has been compiled and published in book form to facilitate its use by scholars, lawyers, judges, and others. Indeed, John Bebout's widely-used *Proceedings of the New Jersey Constitutional Convention of 1844*,⁶⁹ which is the only usable reference work on the origins of, and debates on, the 1844 New Jersey Constitution, relies heavily on newspaper reports. This compilation was the product of a Federal Writers Project effort, nearly one hundred years after the 1844 New Jersey Constitutional Convention. It is regularly referred to by New Jersey courts and scholars.⁷⁰

Most of the reclamation of newspaper coverage has been of constitutional *conventions* in the nineteenth century. Scholars in states such as Oregon,⁷¹ Wisconsin,⁷² Connecticut,⁷³ Maryland,⁷⁴ Texas,⁷⁵ and

67. See, e.g., CARL BRENT SWISHER, *MOTIVATION AND POLITICAL TECHNIQUE IN THE CALIFORNIA CONSTITUTIONAL CONVENTION OF 1878-79* (1969).

68. See also WILLIAM H. STEWART, *THE ALABAMA CONSTITUTIONAL COMMISSION* (1975); Commission for Constitutional Revision, *A New Constitution for Oregon: A Report to the Governor and the 52nd Legislative Assembly (December 15, 1962)*, 67 OR. L. REV. 127 (1988); Alfred T. Goodwin, *The Commission for Constitutional Revision*, 67 OR. L. REV. 1 (1988); Walter H. Nunn, *The Commission Route to Constitutional Reform: The Arkansas Experience*, 22 ARK. L. REV. 317 (1968) (providing in-depth analysis of the Arkansas Commission).

69. Bebout, *supra* note 29. This text is no longer in print.

70. See, e.g., *Cambria v. Soaries*, 776 A.2d 754, 761 (N.J. 2000); *Vreeland v. Byrne*, 370 A.2d 825, 838 (N.J. 1977) (Hughes, C.J., dissenting). This subsection is based on Robert F. Williams, *The Brennan Lecture: Interpreting State Constitutions as Unique Legal Documents*, 27 OKLA. CITY U. L. REV. 189, 201-07 (2002).

71. OREGON CONSTITUTION AND PROCEEDINGS AND DEBATES OF THE CONSTITUTIONAL CONVENTION OF 1857 (Charles Henry Carrie ed., 1926). This work is regularly relied upon by

Arizona⁷⁶ have also produced compilations of newspaper coverage of state constitutional conventions. However, there does not seem to be such a compilation of the debates of a constitutional *commission*.

Newspaper reports are, of course, unofficial. Still, they often provide the most authoritative coverage of nineteenth century (and even early twentieth century, as in the case of Arizona) constitutional conventions and commissions. Newspapers often have a political bias, which is sometimes explicit. Even in states where the newspaper reports of state constitutional conventions have not been compiled and indexed, lawyers, judges, and scholars seek them out and rely on them.⁷⁷ However, access is difficult even assuming one knows that such relevant newspaper coverage exists. Compilation would greatly facilitate the use of these materials, as it has done demonstrably in the states where it has occurred. Compilation will make this relatively inaccessible component of state constitutional history much more usable.

Oregon courts and scholars. See, e.g., *Vannatta v. Keisling*, 931 P.2d 770, 782 (Or. 1997); *Billings v. Gates*, 916 P.2d 291, 298 (Or. 1996); *State v. Conger*, 878 P.2d 1089, 1094 (Or. 1994); David Schuman, *The Creation of the Oregon Constitution*, 74 OR. L. REV. 611, 622 (1995).

72. MILO M. QUAIFE, *THE CONVENTION OF 1846* (1919). The Wisconsin courts have relied on this source. See, e.g., *Jacobs v. Major*, 407 N.W.2d 832, 853 (Wis. 1987) (Bablitch, J., concurring in part, dissenting in part).

73. Wesley W. Horton, *Annotated Debates of the 1818 Constitutional Convention*, 65 CONN. B. J. SI-1 (special issue 1991). Connecticut courts and scholars had relied on the newspaper reports even prior to Horton's compilation. See, e.g., *Cologne v. Westfarms Assocs.*, 469 A.2d 1201, 1209 n.9 (Conn. 1984); Jacob Katz Cogan, Note, *The Look Within: Property, Capacity, and Suffrage in Nineteenth-Century America*, 107 YALE L.J. 473, 480-81 nn. 53 & 54 (1997).

74. PHILIP B. PERLMAN, *DEBATES OF THE MARYLAND CONSTITUTIONAL CONVENTION OF 1867* (1923); see *Hornbeck v. Somerset County Bd. of Educ.*, 458 A.2d 758, 770 n.5, 773-74 (Md. 1983).

75. *DEBATES OF THE TEXAS CONSTITUTIONAL CONVENTION OF 1875* (Seth Shepard McKay ed., 1930).

76. *THE RECORDS OF THE ARIZONA CONSTITUTIONAL CONVENTION OF 1910* (John S. Goff ed., 1991); see John D. Leshy, *The Records of the Arizona Constitutional Convention of 1910*, 23 ARIZ. ST. L.J. 1163 (1991) (book review). Professor Leshy commented about this volume, "[I]t will help assuage the eyesight and patience of those who heretofore have had to spend hours in front of microfiche or microfilm readers and elsewhere tracking down scattered materials on the deliberations that lead to Arizona's first and only constitution." *Id.* at 1163; see *Clouse v. State*, 16 P.3d 757, 760-61 (Ariz. 2001).

77. See, e.g., *Collins v. Day*, 644 N.E.2d 72, 77 (Ind. 1994); *Dye v. State*, 507 So. 2d 332, 340-41 (Miss. 1987); *Virmani v. Presbyterian Health Servs., Corp.*, 493 S.E. 2d 310, 316 (N.C. Ct. App. 1997).

The use to which constitutional history is put will, of course, differ according to the reason one seeks to rely on it. Scholarly inquiry, delving into either official or unofficial state constitutional convention or commission materials for broader understanding, is relatively uncontroversial. Of course, questions of accuracy, completeness, or political bias may arise. Use of such materials, however, for legal advocacy raises all of the issues associated with use of legal history in constitutional (albeit usually *federal*) argument and interpretation.

Reliance on constitutional convention or commission records, or newspaper coverage of state constitutional conventions and commissions would be used, as Professor William Fisher says, in the “contextualist method.”⁷⁸ This method “asserts that, by attending carefully to the discourse out of which a text grows (the vocabularies available to its author, the concepts and assumptions he took for granted, and the issues he considered contested), one can (and should) ascertain the author’s intent.”⁷⁹ Although Professor Fisher concludes that this approach is flawed,⁸⁰ a number of lawyers and judges make use of state constitutional history in this way.

B. New Jersey Newspaper Coverage of Legislative Proceedings, Circa 1873

At about the time that the Commission met in 1873, there were 145 daily, weekly, or monthly newspapers published in New Jersey.⁸¹ Of these,

78. William W. Fisher III, *Texts and Contexts: The Application to American Legal History of the Methodologies of Intellectual History*, 49 STAN. L. REV. 1065, 1104 (1997).

79. *Id.*; see also Martin S. Flaherty, *History “Lite” in Modern American Constitutionalism*, 95 COLUM. L. REV. 523, 550 (1995).

80. Fisher, *supra* note 78, at 1105, 1107.

81. George P. Rowell & Co., *AMERICAN NEWSPAPER DIRECTORY: CONTAINING ACCURATE LISTS OF ALL THE NEWSPAPERS AND PERIODICALS PUBLISHED IN THE UNITED STATES AND TERRITORIES, AND THE DOMINION OF CANADA AND BRITISH COLONIES OF NORTH AMERICA*, (New York: Rowell & Co., 1873) at 133-137. The Rowell *DIRECTORY* for 1875 lists 161 New Jersey newspapers, of which less than 25 were regularly published dailies. This annual publication included the complete newspaper name, place of publication, frequency, first year of issue, subscription cost, political affiliation, and name of publisher. Note that several monthlies, and a few weeklies, specialized in subject areas that did not concern political affairs. See also *New Jersey Newspapers in 1874*, in 15 PROCEEDINGS OF THE NEW JERSEY HISTORICAL SOCIETY 262-65 (New Series 1930), which lists 138 daily and weekly newspaper titles published in 1874. See also, NEW JERSEY EDITORIAL ASSOCIATION, *LIST OF NEW JERSEY NEWSPAPERS, REPORTED JANUARY, 1879* (1879). The 1879 issue was the closest date to 1873 that the authors were able to locate. For a comprehensive list of newspapers published in New Jersey before 1970, see William C. Wright and Paul A. Stellhorn, *DIRECTORY OF NEW JERSEY NEWSPAPERS, 1765-1970*, (Trenton: New Jersey Historical Commission, 1977).

only twenty-one were regularly published dailies.⁸² Based on the authors' research of most of the extant dailies, and many weeklies, of the period, only three or four newspapers provided what could be considered as an extensive record of legislative proceedings, with an attempt at providing some account of debates and discussions, at the State House in Trenton. The most meticulous accounts were recorded by the *Daily State Gazette* of Trenton, which prided itself on its consistently thorough coverage of legislative affairs. Other newspapers that clearly attempted to provide a daily record of legislative proceedings were: the *Daily True American* of Trenton, the *Newark Daily Advertiser*, and the *Newark Daily Journal*. Most of the other dailies and weeklies seemed to have relied on one of those four newspapers for their legislative coverage, as evidenced in the verbatim accounts of proceedings that are reproduced in most newspapers. This holds true for the Commission's proceedings.

The following remarkable account of the daily labors of a New Jersey State House newspaper reporter sheds light on how journalists of the time covered legislative news and supports our contention that only a few newspapers provided in-depth coverage of the Commission's proceedings. It is reproduced in full:

The reporters who have been worked to an extraordinary degree in taking down the Legislative proceedings, have been relieved from their heavy duties for a short time, walked about the streets, yesterday, unable to realize apparently, the wonderful change from the din and hurry of the Legislative business, to the free and careless condition of gentlemen at large. Legislative reporters are a very singular kind of people. Some have their hands in everything, and form a very efficient part of the lobby force usually employed about a legislative body. They post themselves in regard to particular bills and are able to give information in relation to their status at any time. Other reporters are mere pickers up of such items as may serve to interest their particular locality, *while not more than three or four of all who*

82. In 1873, the following daily newspapers were published in New Jersey: *Bridgeton News*, *Elizabeth Herald*, *Elizabeth Journal*, *Elizabeth Monitor*, *American Standard* (Jersey City), *Jersey City Evening Journal*, *Jersey City Times* (ceased publication in November 1873), *Newark Daily Advertiser*, *Newark Evening Courier*, *Newark Daily Journal*, *Newark Freie Zeitung*, *Newark Morning Register*, *New Brunswick Fredonian*, *New Brunswick Times*, *Paterson Daily Guardian*, *Paterson Daily Press*, *Trenton Emporium*, *Trenton Evening Argus*, *Daily State Gazette* (Trenton), *Trenton State Sentinel and Capital*, & *Daily True American* (Trenton). ROWELL 1873, *supra* note 81. For a list of daily and weekly newspapers researched in this project, see Appendix 7 in this volume.

occupy places in the Legislature pretend to give the daily proceedings of both Houses. The GAZETTE and True American are the only papers in the State that give what might be called a journal of the House.

It is not at all requisite that the other newspapers in the State should be so precise in regard to every minutiae and yet it is necessary that some papers should have the daily proceedings. That duty falls upon the unfortunate Trenton reporter, and, as the reader can see, that is not a mere ordinary work of labor. They examine every bill in the original manuscript, and on the next morning, after it is introduced, a short synopsis is given of its provisions. The synopsis of bills is a new feature, introduced some three years ago, and serves a most valuable purpose, giving the reader an opportunity to understand the leading features of every bill on the day after it is introduced. Men who do this kind of business have no time to do anything else. They have no time for lobby work, or for outside work.

But there is one class of persons to which we desire particularly to refer. They come into the House as reporters, but are in reality mere lobbyists. They have the privilege of furnishing some newspapers with a letter, or a part of the proceedings gathered from regular reporters, for which the newspaper pays nothing. "The privileges of the floor" pays these gentlemen for whatever labor they may pretend to perform for newspapers. They have no desks, but carry with them memorandum books in which they note such of the proceedings as may serve their purposes.

Reporters of this kind are constantly making application for "the privilege of the floor." The Speaker, however, has discovered the dodge and has referred some of these gentlemen to the Comptroller.

The manner in which the new rooms for the meeting of the Senate and Assembly are constructed, makes it exceedingly difficult for lobbyists to get in, although many of them have brass enough to go in "where angels fear to tread," and hence all kinds of dodges are resorted to accomplish their purpose.

There are some ten reporters including those in both Houses, most of whom are provided with manifold and report for three and four papers each. The daily press of the State is therefore well provided and the business, so far as the reporters are concerned, is well attended to, and is now being prosecuted in a very harmonious manner. The Clerks are accommodating, and seem to comprehend the importance of giving to the press every facility.⁸³

83. DAILY ST. GAZETTE (Trenton, N.J.), February 15, 1873. (Emphasis added).

Newspapers during this period were blatantly partisan in editorializing the events of the day. Even the title of many newspapers reflected the political persuasion of the publisher, for example: *the South Jersey Republican* of Hammonton or the *Hudson County Democrat* of Hoboken. It was not unusual for newspapers of differing political affiliations to engage in banter, such as in criticizing each other's editorials. It was also not uncommon for newspapers that supported the same political party to reproduce each other's editorials under their own mastheads, thereby assisting in circulating what was considered a well-written piece. Notwithstanding editorials, however, newspapers generally maintained a consistent, matter-of-fact impartiality in their coverage of legislative action. To fulfill the state government's public information responsibility, many newspapers were contracted with by the state to reproduce the full text of recently enacted chapter laws, governors' proclamations, and other official documents issued by the State House.

Perhaps the greatest value of newspaper accounts of the Commission's proceedings is how they supplement the information contained in the official proceedings with a record, albeit unofficial, of *debate* and *discussion* during commission sessions. The journal of official proceedings⁸⁴ excludes any record of discussion by members as to why a particular amendment was proposed; instead, it only records what was proposed, by whom, motions made, and voting results. However, where the official proceedings can be relied upon for its accurate account of the language of proposed amendments, motions to change proposals, and official voting records, the newspapers offer invaluable clues concerning the *intent* of the proposals. For example, the official journal matter-of-factly records the language of Dudley S. Gregory's proposed constitutional amendment regarding legislative changes to municipal charters.⁸⁵ As with all proposals, the journal remains silent with regard to the sponsor's intent or the historical background that led to the proposal. However, at least two newspapers did provide a very telling account of Gregory's discussion of his proposal:

Mr. Gregory spoke of the outrages that had been committed on the rights of the people of Jersey City, to the amount of many thousands of

84. *Records of Proceedings of the New Jersey Constitutional Commission*, labeled and cataloged as CONSTITUTIONAL COMMISSION OF 1874 (sic), MINUTES located in the New Jersey State Archives, Department of State, Trenton, N.J. [hereinafter PROCEEDINGS]. See Part III of this volume for a complete typescript of the hand-written minutes of the Constitutional Commission, May 8, 1873 through December 23, 1873.

85. *Id.* at 42.

dollars, in making roads and other improvements in which the people had no more interest than the people of Passaic. The people are really, on this account, glad when the Legislature adjourns. While it is in session they are in a state of nervous excitement. He was glad to find there was a disposition here to stop this growing evil.⁸⁶

The special legislation which has caused so much evil in Jersey City came in for its share of rebuke and Mr. Gregory, in a desponding speech, said that they know not, at present, where the evil there would cease. The class of men that seek election to the legislature were spoken of as reprehensible, and the old men of the Commission sighed for a return of the party of the days of their fathers.⁸⁷

By recording Gregory's comments, the newspaper accounts shed light on the reasoning behind his proposal and give important clues concerning the historical events that precipitated a call for changing the state constitution. In a similar way, by compiling a record of both the official proceedings along with newspapers' coverage of the debates, the authors of this volume hope to assist modern readers in achieving a richer understanding of the current state constitution.

IV. THE 1873-75 CONTEXTS OF NATIONAL, REGIONAL, AND NEW JERSEY STATE CONSTITUTIONAL CHANGE

American state constitutional development reflects the issues and concerns of the various eras in American history. Consequently, when states engage in state constitutional debate and revision during a given period in time, many similar issues, in addition to matters unique to each specific state, will arise. Astute academic observers of state constitution-making have noted:

Doubtless one could take a cluster of constitutional conventions in any era—the Jacksonian period, the years of reconstruction or post-reconstruction, the turn-of-the-century progressive era—and find patterns of issue uniformity in each. In other words, there are broad areas of agreement in any one period as to what 'modern,' 'effective,' 'democratic' state

86. DAILY ST. GAZETTE (Trenton, N.J.), Oct. 16, 1873.

87. AM. STANDARD (Jersey City, N.J.), Oct. 16, 1873.

government consists of, but little such agreement over time. Conventions in one era meet to undo the careful reforms of an earlier generation.⁸⁸

A. *The Nation*

The immediate post-Civil War period saw a tremendous explosion of state constitutional revision. There was a strong tension, though, between post-war optimism and wider conceptions of the role of government in society, on the one hand, and the negative view based on accumulated distrust of state government, on the other hand.

In the South, of course, the focus was on revising the Confederate state constitutions as a part of the several Reconstruction processes.⁸⁹ In the North, the focus was on catching up with post-war economic and social conditions. As Morton Keller noted: “The postwar years saw much rewriting of northern state charters. Between 1864 and 1879, thirty-seven new state constitutions were written and ratified.”⁹⁰ But voters rejected new, forward-looking revised constitutions in Michigan, New York, Ohio and Nebraska in the late 1860s and early 1870s.⁹¹ Then, “in the 1870s the main thrust was to put limits on legislative and other forms of governmental power.”⁹²

Also, a very important influence on state constitution-making flowed from the crushing economic depression beginning in 1873. In the words of Eric Foner, “Rudely disrupting visions of social harmony, the depression of the 1870s marked a major turning point in the North’s ideological development.”⁹³ He noted that, with respect to state constitutional revision, “retrenchment became the order of the day.”⁹⁴

The clear focus of this retrenchment and negative attitude toward state government was on the state legislative branch. Keller observed, “New and

88. ELMER E. CORNWELL, JR. ET AL., *STATE CONSTITUTIONAL CONVENTIONS: THE POLITICS OF THE REVISION PROCESS IN SEVEN STATES* 203 (1975).

89. *See generally* DON E. FEHRENBACHEN, *CONSTITUTIONS AND CONSTITUTIONALISM IN THE SLAVEHOLDING SOUTH* (1989); ERIC FONER, *RECONSTRUCTION: AMERICA’S UNFINISHED REVOLUTION, 1863-1877* (1988); *AN UNCERTAIN TRADITION: CONSTITUTIONALISM AND THE HISTORY OF THE SOUTH* (Kermit L. Hall & James V. Ely, Jr. ed., 1989); *see also* Richard L. Hume, *Carpentbaggers in the Reconstruction South: A Group Portrait of Outside Whites in the “Black and Tan” Constitutional Conventions*, 64 J. AM. HIST. 313 (1977).

90. MORTON KELLER, *AFFAIRS OF STATE: PUBLIC LIFE IN LATE NINETEENTH CENTURY AMERICA* 111 (1977).

91. *Id.*

92. *Id.*

93. FONER, *supra* note 89, at 517.

94. *Id.*

revised constitutions in the 1870s substantially reduced legislative authority.”⁹⁵ An observer during that era noted that “[o]ne of the most marked features of all recent [s]tate constitutions is the distrust shown of the Legislature.”⁹⁶ A central feature of this reduction in legislative authority was a direct attack on the evil of special, local, and private laws.⁹⁷

B. The Region

These national developments, and themes in state constitutional change, were played out dramatically in New Jersey’s neighboring states of Pennsylvania and New York. New York’s successful 1872 Constitutional Commission⁹⁸ (after the failure of the 1867 Constitutional Convention’s proposed revision), and Pennsylvania’s 1873 Constitutional Convention proposed substantial limits on the legislative branch. In Pennsylvania, the call for the Constitutional Convention carried by almost a five to one popular vote in 1872.⁹⁹ These processes of state constitutional revision had clear influence on the New Jersey Constitutional Commission of 1873.

95. KELLER, *supra* note 90, at 112.

96. Amasa M. Eaton, *Recent State Constitutions*, 6 HARV. L. REV. 109, 109 (1892); see also JAMES Q. DEALEY, *GROWTH OF AMERICAN STATE CONSTITUTIONS FROM 1776 TO THE END OF THE YEAR 1914* at 120, 188-93, 277-84 (1915).

97. Eaton, *supra* note 96, at 109-11.

98. DEALEY, *supra* note 96, at 80, 146; see also GAILIE, *supra* note 22, at 16.

99. ROSALIND L. BRANNING, *PENNSYLVANIA CONSTITUTIONAL DEVELOPMENT* 56 (1960). The Pennsylvania constitution of 1874 . . . was drafted in an atmosphere of extreme distrust of the legislative body It was the product of a convention whose prevailing mood was one of reform . . . and, overshadowing all else, reform of legislation to eliminate the evil practices that had crept into the legislative process. Legislative reform was truly the dominant motif of the convention and that purpose is woven into the very fabric of the constitution.

Id. at 37.

The major focus of the 1873 Constitutional Convention was on the legislative branch. See ROBERT E. WOODSIDE, *PENNSYLVANIA CONSTITUTIONAL LAW* 578 (1985).

For an excellent treatment of the political situation surrounding the 1873 Constitutional Convention, see FRANK B. EVANS, *PENNSYLVANIA POLITICS, 1872-1877: A STUDY IN POLITICAL LEADERSHIP* 74-103 (1966). See also KELLER, *supra* note 90, at 113 (“A wide-ranging coalition lay behind the Pennsylvania constitution of 1873. Business, agricultural, and political interests were unhappy with the wave of particularistic laws emerging from the postwar legislature”); Donald Marritz, *Making Equality Matter (Again): The Prohibition Against Special Laws in the Pennsylvania Constitution*, 3 WIDENER J. PUB. L. 161, 188-94 (1993).

The use of a state constitutional commission also appeared in Michigan in 1873.¹⁰⁰ After appointment by the governor, the bipartisan (two to one advantage for Republicans) commission proposed a revised constitution that was considered by a special session of the legislature, placed on the ballot and defeated at the polls.¹⁰¹ The proposed changes included the item veto, gubernatorial appointment of trial judges, legislative power to regulate railroad rates, and women's suffrage.¹⁰²

C. New Jersey

Despite important reforms, the 1844 New Jersey Constitution had “made only a modest step toward transforming its government.”¹⁰³ Soon after the adoption of the 1844 Constitution, proposals for further constitutional change began to surface. The focus of these proposals was on the structure and functioning of the court system, together with the process of selecting judges. As mentioned earlier, special, limited constitutional commissions were appointed in 1852 and 1854 to investigate these matters, but their recommendations were rejected by the legislature.¹⁰⁴

By the 1870s, the focus of attention had shifted from the judiciary to the legislature. On the New Jersey legislative front, as in many other states, particularly Pennsylvania, the practice of special or local legislation (laws concerning only one or a few persons, business entities, or localities) continued despite some gubernatorial vetoes and public criticisms. In his 1873 address to the Republican-controlled New Jersey Legislature, Democratic Governor Joel Parker suggested either a constitutional convention or a constitutional commission to recommend needed state constitutional amendments.¹⁰⁵ He reported that the general laws passed at

100. SUSAN P. FINO, *THE MICHIGAN STATE CONSTITUTION: A REFERENCE GUIDE* 12 (1996) (describing the process where the legislature empowered the governor to create a constitutional commission as “a novel mechanism”).

101. *Id.* at 13.

102. *Id.*

103. Frederick M. Herrmann, *The Constitution of 1844 and Political Change in Antebellum New Jersey*, 101 N.J. HIST. 28, 39 (1983); see also John E. Bebout & Joseph Harrison, *The Working of the New Jersey Constitution*, 10 WM. & MARY L. REV. 337, 339 (1968).

104. RICH, *supra* note 31, at 18; see *supra* notes 10-11 and accompanying text.

105. Governor Joel Parker, Annual Message to the New Jersey Legislature (Jan. 14, 1873) [hereinafter Annual Message], N.J. SENATE JOURNAL, 1873, at 48-51; (reproduced in Part II of this volume). This message was read during the first day of the Constitutional Commission on May 8, 1873 and the text of the message, as it relates to constitutional

the 1872 session occupied about 100 pages, while the special and private laws consumed 1,250 pages.¹⁰⁶ Parker noted that there were two established methods to effectuate state constitutional change: constitutional conventions or legislatively-proposed amendments. Regarding the latter method, he noted that one problem was “that in the haste attending a short session, with the minds of the members engrossed by other business, some needed changes may not be provided for, and the amendments proposed may not be maturely considered and digested.”¹⁰⁷ He seemed to be referring to the expertise and efficiency attributes of a New York-style constitutional commission. There was, in fact, some discussion of a constitutional convention during the 1873 legislative session, but as a wide variety of ideas were discussed in the context of a convention, even public opinion seemed to turn against such an open-ended approach. For example, as early as January 29, 1873, the *Daily True American* noted:

The apprehensions of those who regard the proposition for a State Constitutional Convention with distrust and hesitation, are every day strengthened by the advancement, by the advocates of the movement, of projects showing that such a convention would lead to something more than a mere revision or amending of the Constitution -- would, in fact, open the door for a radical change in our present system of government. If this is deemed necessary, then a Convention should at once be authorized

If, as the mooted of questions entirely outside of the reforms originally proposed indicate, a State Constitutional Convention would have precipitated upon it all sorts of innovations and schemes, and would prove a movement for overthrowing the entire order of things, we think the people would prefer to bear the ills they have than incur the risk of others they know not of.¹⁰⁸

Although a bill calling for a constitutional convention had been introduced in the Assembly,¹⁰⁹ based on these and other concerns, the convention approach was scrapped. The small counties controlled the legislature and had always feared a convention that might take away their

amendments, is also reproduced in the handwritten transcript of the *Proceedings*. See PROCEEDINGS, *supra* note 84, at 4-11. This portion of the Governor’s message was also ordered to be printed for use by the Commission. *Id.* at 114.

106. *Id.* Bebout, *supra* note 29, at cv-cvi; see *infra* note 288 and accompanying text.

107. Annual Message, *supra* note 105, at 51.

108. DAILY TRUE AM. (Trenton, N.J.), Jan. 29, 1873.

109. DAILY TRUE AM. (Trenton, N.J.), Jan. 22, 1873. See *infra* note 121.

equal representation in the Senate.¹¹⁰ William E. Sackett argued that the use of congressional districts for appointment of Commission members was intended to preserve “the dominance of the small counties in the Senate,” because “the State was then districted in such a way that the small counties had more districts than the large ones.”¹¹¹ The cumbersome legislative amendment procedure of the 1844 Constitution, based on recommendations by an appointed commission, was therefore the chosen mechanism.

As is often the case with state constitutional change, strong gubernatorial leadership, as well as ability to compromise, was necessary to stimulate the revision process. Governor Parker had served an earlier term as governor from 1863 to 1866 and emerged from that Civil War government service as a popular and respected leader.¹¹² Duane Lockard classified Parker as among the “party-machine” governors “who were themselves party leaders and who used their party connections as their primary sources of power to carry out their programs,” and for whom “politics was a full-time career prior to and after their service as governor.”¹¹³ Parker was described by his contemporary, Sackett:

A great big, good-natured, rollicking fellow, tall of stature and broad of girth, with the air and manner and dress of a farmer, always accessible, with a generous word for everybody and a kindly sympathy for all who needed it, he had come to be looked upon as the personal friend of half the men, women and children in the Commonwealth, and they in turn esteemed it a rare flattery to be accounted his friend.¹¹⁴

Lockard counts Parker’s leadership on constitutional revision amongst his greatest gubernatorial successes.¹¹⁵

110. WILLIAMS, *supra* note 24, at 15-16.

111. 2 WILLIAM E. SACKETT, *supra* note 45, at 380-81 (1914); *see also* Lee, *supra* note 46, at 141-47; *infra* notes 596-602 and accompanying text.

112. DUANE LOCKARD, THE NEW JERSEY GOVERNOR: A STUDY IN POLITICAL POWER 77-83 (1964).

113. *Id.* at 79.

114. *Id.* at 82 (quoting SACKETT, *supra* note 45, at 36).

115. *Id.* at 83.

V. THE NEW JERSEY CONSTITUTIONAL COMMISSION OF 1873

A. The Creation of the Commission

New York's bipartisan commission,¹¹⁶ composed of thirty-two members selected from the state's *judicial* districts, commenced its deliberations on December 4, 1872, barely six weeks before New Jersey Governor Joel Parker formally suggested a similar commission in his message to the legislature on January 14, 1873.¹¹⁷ Accounts of the New York constitutional commission were widely distributed in New Jersey newspapers before it adjourned on March 15, 1873, and the complete text of its report of recommended constitutional changes was printed in the *New York Times* three days later.¹¹⁸

As noted above, in his 1873 annual message, Governor Parker suggested that the Legislature either pass a law to create a constitutional convention or to propose specific constitutional amendments to be passed by two successive legislatures before being presented to the people in a special election.¹¹⁹ A third alternative, which was clearly based on New York's initiative, was to pass legislation "authorizing the appointment from each Congressional District of two persons, who shall be members of different political parties, to meet soon after your adjournment, and in open session consider, prepare, and put in proper form such amendments to the constitution as they may deem necessary, and report them to the next Legislature."¹²⁰

Early in the legislative session, behind mounting public (and primarily Democratic) pressure, a bill was introduced to create a constitutional convention.¹²¹ The bill's introduction was heralded in New Jersey's

116. For an account of New York's 1872-73 Constitutional Commission, see Peter J. Galie & Christopher Bopst, *The Constitutional Commission in New York: A Worthy Tradition*, 64 ALB. L. REV. 1285 (2001), and Lincoln, *infra* note 207. See also *supra* notes 22-23 and accompanying text and *infra* notes 207-14 and accompanying text.

117. Annual Message, *supra* note 105, at 51.

118. *The Constitution: Amendments Submitted by the Constitutional Commission to the Legislature*, N.Y. TIMES, Mar. 18, 1873. Members of New Jersey's Constitutional Commission doubtlessly had access to the text of this report and it is evident that several recommendations of New Jersey's commission were verbatim borrowings from the New York commission report. See *supra* note 207-14 and accompanying text.

119. Annual Message, *supra* note 105, at 51; see also PROCEEDINGS, *supra* note 84, at 9.

120. Annual Message, *supra* note 105, at 51.

121. Assem. Bill 32, 97th Gen. Assem., Reg. Sess. (N.J. 1873). Otherwise referred to as A32 ("An Act to Provide a Constitution for the Government of this State"), the bill was

Democratic newspapers as among “the most important business of the Legislature”¹²² and was viewed as the only real hope for constitutional reform. However, the bill lost in the state Assembly by a vote of twenty-seven to twenty-five (requiring thirty-one votes for passage) on April 3, 1873.¹²³ On the next day, in reaction to the bill having lost in the Assembly, Republican Senator William J. Sewell¹²⁴ introduced a concurrent resolution¹²⁵ in the Senate that would create a constitutional commission according to Governor Parker’s specifications as suggested in the annual message. The resolution rapidly passed both houses, by voice vote, on the same day.¹²⁶ Based on the authority of the resolution and his view that proposed amendments should be ready before the next legislative session, Governor Parker issued a proclamation¹²⁷ on April 16 that called for convening a special session of the Senate on April 24 to consider his nominations to the Commission. During the special session, which was held on the last day before the Legislature adjourned *sine die*, the Senate approved the Governor’s 14 nominations to the constitutional commission.¹²⁸ Another proclamation¹²⁹ by Governor Parker formally convened the Constitutional Commission on May 8, 1873 at noon in the

introduced by Assemblyman George H. Farrier of Hudson County on January 20, 1873. See N.J. Assem. Minutes 1873, at 29-30, 510, 728, 805, 1424-25..

122. NEW BRUNSWICK TIMES, Jan. 22, 1873.

123. N.J. Assem. Minutes 1873, at 1424-25.

124. Senator Sewell was first elected to the state Senate, representing Camden County, in 1872. NEW JERSEY LEGISLATIVE MANUAL, 1873, at 63. Although he later served for multiple terms as Senate President and for several years as a United States Senator, a eulogy memorializing him in 1903 remembered his role in sponsoring the Constitutional Commission in 1873: “He fathered the resolution creating a commission to suggest amendments to the State constitution, and led the fight for their adoption.” Address of John Kean, in MEMORIAL ADDRESSES ON THE LIFE AND CHARACTER OF WILLIAM J. SEWELL DELIVERED IN THE SENATE AND HOUSE OF REPRESENTATIVES, 57TH CONGRESS, SECOND SESSION, at 13 (1903).

125. N.J. Senate Journal 1873, at 1068; (reproduced in Part II of this volume). As a concurrent resolution, passage required approval of both houses of the Legislature but did not require the Governor’s signature.

126. N.J. Senate Journal 1873, at 1068; N.J. Assem. Minutes 1873, at 1426, 1431.

127. Governor Joel Parker, Proclamation of April 16, 1873, 1873 N.J. Laws 843-44; ; (reproduced in Part II of this volume).

128. N.J. Senate Journal 1873, at 1151, 1152-54; (reproduced in Part II of this volume). The Senate immediately confirmed Senators Taylor and Cutler and Senate Secretary Babcock at a noon special session by a vote of 17 to 0. The remainder of the nominees were referred to the Senate Judiciary Committee and were approved by the Senate at a special session that reconvened later in the afternoon, 17-1.

129. Governor Joel Parker, Proclamation of April 29, 1873, 1873 N.J. Laws 844-45; (reproduced in Part II of this volume).

Senate Chamber, where the Commission deliberated in nineteen sessions before submitting its report of recommended constitutional changes to the Legislature and other state officers on December 23, 1873.

B. Commission Members

Although the enabling resolution that constituted the Commission called for a fourteen-member body, due to six vacancies caused by declinations (Mercer Beasley and Theodore Runyon), resignations (Martin Ryerson, Robert Gilchrist and John W. Taylor) and death (Abraham Zabriskie), there were actually twenty men who were appointed to the Commission. Of the eighteen men who served on the Commission for at least one session, there were ten lawyers, two bankers (both of whom were non-practicing lawyers), two lay judges, two manufacturers, one businessman, and one newspaper publisher. The average age was fifty-three. See Table 1 on the next page for a list of the men who served at least one day on the Commission, their profession, political party, Congressional District, place of residence and age at the time of appointment.

Following Table 1 appears a brief biographical sketch of the eighteen men who served on the Constitutional Commission and a summary of their individual contributions to the Commission's work. See Appendices 1 through 5 in this volume for member portraits, information on which proposals were introduced by each member, and statistics on member activity. For a comprehensive list of sources of biographical information on each member, see this volume's bibliography.

TABLE 1: MEMBERS OF THE 1873 CONSTITUTIONAL COMMISSION

Name	Profession	Party	District	Residence ^α	Age ^β
John F. Babcock	Newspaper Editor and Publisher	R	3	New Brunswick	47
William Brinkerhoff ^γ	Lawyer	D	7	Jersey City	30
Benjamin Buckley	Manufacturer	R	5	Paterson	65
Benjamin F. Carter	Lay Judge	D	1	Woodbury	49
Augustus W. Cutler	Lawyer	D	5	Morristown	45
Philemon Dickinson ^δ	Banker	D	2	Trenton	69
George J. Ferry ^ε	Manufacturer	D	6	Orange	42
Robert Gilchrist	Lawyer	D	7	Jersey City	47
Samuel H. Grey	Lawyer	R	1	Camden	37
Robert S. Green	Lawyer	D	3	Elizabeth	42
Dudley S. Gregory ^ζ	Businessman	R	7	Jersey City	73
Algernon S. Hubbell ^η	Lawyer	R	6	Newark	73
Martin Ryerson	Lawyer	R	4	Newton	57
Jacob L. Swayze	Banker	LD ^θ	4	Newton	49
Joseph Thompson ^ι	Lay Judge and Farmer	R	4	Readington	64
John C. Ten Eyck	Lawyer	R	2	Mount Holly	59
John W. Taylor	Lawyer	R	6	Newark	43
Abraham O. Zabriskie	Lawyer	R	7	Jersey City	65

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- ^α. Residence at the time of appointment to Commission.
^β. Age at the time of appointment to Commission.
^γ. Appointed to fill vacancy created by the resignation of Gilchrist.
^δ. Appointed to fill vacancy created by the declination of Mercer Beasley.
^ε. Appointed to fill vacancy created by the declination of Theodore Runyon.
^ζ. Appointed to fill vacancy created by the death of Zabriskie.
^η. Appointed to fill vacancy created by the resignation of Taylor.
^θ. Liberal Democrat.
^ι. Appointed to fill vacancy created by the resignation of Ryerson.

John F. Babcock

John F. Babcock, born in New York City on August 20, 1825, was editor and publisher of the New Brunswick-based *Fredonian* daily newspaper from 1854 to 1887. The only member of the Commission to be intimately involved in the press, Babcock spent virtually his entire life in the printing and newspaper business. Upon the formation of the Republican Party, the *Fredonian* immediately adopted that party's principles as expressed in the paper's editorials. A fervent Republican, Babcock served as the Secretary of the New Jersey State Senate from 1871-74. He also was one of the founders and officers of the influential New Jersey Editorial Association, having actively served at one time or another as secretary, treasurer and president of that organization from 1857. Later in life, Babcock devoted his expertise in publishing to the printing department of the Jamesburg Reform School for Boys. He died on May 21, 1902.

Babcock appears to have been one of the least influential members of the Constitutional Commission. Although he was a member throughout the Commission's eight-month duration, he did not introduce a single proposed amendment. Nor did he offer any substantive or procedural motions during deliberations. As a result, his name rarely appears in the official minutes (other than for roll calls and votes) and none of the consulted newspaper accounts of the proceedings record any of his words during debate. His appointment to the Commission was unquestionably influenced by his stellar reputation as a newspaper publisher and for his being the sitting Secretary of the State Senate. Curiously, his newspaper, the *Fredonian* of New Brunswick, did not offer any "inside" information in its accounts of the deliberations of the Commission. Babcock served as the temporary Secretary of the Commission during its first meeting on May 8, 1773.

William Brinkerhoff

Born on July 20, 1843, and by far the youngest member of the Constitutional Commission, William Brinkerhoff, at age 30, had already demonstrated a remarkably promising political career. He studied at Rutgers College for one year when, in answer to President Lincoln's call for volunteers in the Civil War, he volunteered to serve for the Union cause, serving from August 22, 1862 to June 19, 1863 as a private in the 21st Regiment of the New Jersey Volunteers. Admitted to the practice of law in 1865 at 22 years of age, Brinkerhoff was elected to the Town of Bergen Board of Aldermen in 1866 and served as Board President in 1867. In the same year, upon the resignation of Mayor John Hilton, Brinkerhoff became

ex-officio Mayor of Bergen, at age 24, for Hilton's unexpired term, serving until 1868. He was appointed Counsel to the Hudson County Board of Freeholders in 1868, serving five years until 1873. Among his most notable professional endeavors was a 15-year stint as Corporation Counsel of Jersey City beginning in January 1884, when he succeeded Leon Abbett who had just begun his first term as New Jersey Governor. Brinkerhoff served in both houses of the state legislature: he was elected to the 1870 New Jersey Assembly and, many years later, was elected to a three-year term as state Senator for Hudson County, 1884-87. Brinkerhoff was a prominent member of the New Jersey Democratic State Committee, 1880-1883 that succeeded in winning the Governorship for George C. Ludlow in 1880. He died in Jersey City on January 26, 1931, at that time the oldest active member of the New Jersey Bar.

Brinkerhoff was appointed to the Constitutional Commission by Governor Parker in order to fill the vacancy caused by the resignation of Attorney General Gilchrist. Since one of the criticisms of Parker's initial nominations was that too many were from the older generation, Parker seems to have sought a particularly young appointment in Brinkerhoff.

Brinkerhoff's work on the Constitutional Commission was somewhat insignificant. Due, perhaps, to his exceptionally busy schedule, Brinkerhoff had the poorest attendance record of all Commission members. He attended only 5 of 13 possible Commission meetings and was absent on the Commission's last day when the final report was formally submitted to the Legislature. Hence, Brinkerhoff's signature is conspicuously missing from the report.

Brinkerhoff introduced only one proposed amendment, concerning corporate tax exemptions. His main purpose seems to have been to ensure that railroad companies paid their fair share of local taxes -- an understandable concern for a representative of Jersey City which, at that time, was a state terminus for train routes to and from New York City. In addition to his single proposed amendment, he made a motion to amend the proposed constitutional ban on special legislation in order to provide for an exception for laying roads (so as to exempt roads that traverse two municipalities). This proposal was most likely influenced by a controversial plan to construct a Hudson County Boulevard across municipal lines. He also attempted, unsuccessfully, to remove the special legislation prohibition concerning the selection and empanelling of juries.

Benjamin Buckley

Born in Oldham, Lancashire, England on January 29, 1808, Benjamin Buckley was perhaps more than any other member of the Constitutional Commission a representative of the laboring class. Working as early as age six in English cotton mills where, due to an accident, his right hand became permanently disfigured, Buckley immigrated to the United States in his early twenties, eventually settling in Paterson, New Jersey in 1838. Buckley started his own manufacturing business in 1844, producing machinery parts that were in high demand in the burgeoning silk and cotton mills of Paterson. After successive enterprises, he was the principal owner of Benjamin Buckley & Co., a leading manufacturer of textile machinery such as fliers and spindles, retiring in 1886. Equally successful in politics as in business, Buckley served three successive terms in the state Assembly, 1856-1858. Rejecting a bid for Congress, he was then elected to three terms in the New Jersey Senate, serving 1859-1868. In an unusual expression of admiration, the 1864 Senate presented Buckley with a ceremonial resolution honoring him as "The Father of the New Jersey Senate." Buckley was chosen Senate President in 1867. Later, Buckley was elected as Mayor of Paterson and served from 1875 to 1877. A contemporary biography states: "He was a friend to the poor, and an ardent advocate of the best interests of labor, for he himself had risen from the ranks of the toilers." Buckley died in Paterson on April 22, 1891, deeply mourned in the local press.

An active member of the Commission, Buckley proposed eight amendments, two of which were eventually incorporated, with revisions, into the Constitution. One prohibited local governments from giving or loaning money or credit to "any individual, association or corporation." The second provided for the appointment of judges of the Courts of Common Pleas by the governor with the advice and consent of the state Senate, instead of by appointment in Joint Meeting of the Legislature. He was also an advocate for reorganizing the state Senate and for the reapportionment of legislative districts by population.

Benjamin Fisler Carter

Born in Philadelphia on November 2, 1823, Benjamin F. Carter moved to Woodbury, New Jersey in his early youth. Although initially a druggist, Carter served most of his life in public service. He was a postmaster during the terms of Presidents Pierce, Buchanan and Lincoln before his appointment during the Civil War as Quartermaster by Governor Joel Parker in 1863. Serving for brief terms as Woodbury Councilman before declining to serve

as Mayor, Carter became Judge of the Gloucester County Court of Common Pleas in 1858 and served, often as Presiding Judge, until 1882. Carter published a history of Woodbury, the town he resided in most of his life, in 1873. He died on November 7, 1894.

The only member to attend all nineteen of its sessions, and the only member to vote on every proposed amendment, Carter was one of the most active participants of the Constitutional Commission. Carter introduced five different proposed amendments, two of which were eventually incorporated into the Constitution. He also argued successfully to amend ten other proposals. It was Carter who introduced the proposal that would finally remove the word “white” from the suffrage article. Carter gave a lengthy speech at the Commission’s October 15 meeting in support of requiring a two-thirds majority vote in the Legislature to override a Governor’s veto. As a long-time judge, he seems to have been particularly active in Commission discussions involving the Judiciary.

Augustus William Cutler

Born on October 22, 1827 in Morristown, New Jersey, Augustus W. Cutler actively participated in local, state and federal politics for most of his adult life. Admitted to the bar in 1850, Cutler served as Prosecutor of the Morristown Court of Common Pleas for a five year term, 1856-1861. His longest tenure in public service, however, was as a member of the Morristown Board of Education, a position he held consecutively for 21 years, 1854-1875, serving several of those years as president. His experience on the Board doubtlessly contributed to his interest and devotion to the cause of extending public education to all New Jersey children. One of his biographical sketches notes:

Of all the compliments paid him during his active life, he was probably proudest of being acknowledged as the father of the free-school system of New Jersey. As early as 1861 he had drawn up the original free school bill, and in 1864 he had initiated a memorable contest against the railroads of the State to secure the control of the riparian lands and the application of the proceeds of their sales and rentals to the promotion of free schools.

He was elected to the New Jersey State Senate for one term, serving 1871 to 1874, where, besides promoting free school initiatives, he was also noted for introducing the bill that became the General Railroad Act, his vigorous support to make women eligible for the office of school trustee and

for promoting the interests of African Americans. After serving in the State Senate, Cutler was elected to two terms in the United States Congress, serving from December 6, 1875 to March 3, 1879. During this time, he continued to support legislation to promote free schools by appropriating the sale of federal public lands for the benefit of free public education in the states. While in Congress, Cutler also introduced a bill that would eventually create the U.S. Department of Agriculture. Many years later, in 1895-96, Cutler ran for New Jersey Governor and again for Congress, but lost in both attempts. He died soon after, on January 1, 1897.

Cutler introduced four proposed amendments, one of which was adopted, after considerable alteration in the 1874 Senate, into the Constitution. This amendment, concerning uniformity in taxation, proved to be perhaps the most controversial proposal offered by the Commission since it would have relinquished property tax exemptions of churches and other charitable and philanthropic institutions. Cutler also served as the Chairman of the Executive Committee, which collectively was responsible for the introduction of six proposals that would be adopted into the Constitution, including the Governor's line item veto and the gubernatorial nomination of several public officers. As a state Senator, Cutler was also active in the 1874 Senate's discussion and amendment of the Commission's proposals.

Philemon Dickinson

Philemon Dickinson was born near Trenton, New Jersey on February 16, 1804, grandson of his more famous namesake who commanded the New Jersey militia under General Washington during the Revolutionary War and who served in the Continental Congress and the United States Senate. The subject of this biographical sketch graduated from the College of New Jersey (Princeton) in 1822. He was later admitted to the bar in 1826, but soon relinquished the practice of law when he became President of the Trenton Banking Company in 1832. Dickinson was affiliated with the bank from 1828 and served as bank president from 1832 until 1881. His public service included Corporation Counsel for the City of Trenton, 1828-30; member of the Trenton Common Council, 1844-45; Mercer County Freeholder, 1854-57; Commissioner of the New Jersey Sinking Fund, 1873; and for many years a U.S. Pension Agent. Dickinson died on September 2, 1882.

Dickinson introduced the largest number of distinct proposals (fifteen) during the Commission's sessions, but only one was adopted into the Constitution. This amendment, which required state legislators to take a more stringent oath before accepting office, was considerably diluted by the

1874 Senate. His long professional career as a banker doubtlessly influenced his proposed amendment that would have exempted banks from the prohibition on special laws. Among the other proposals introduced by Dickinson were those that would require disclosure for legislators who had a financial interest in pending legislation, regulate state and local government debt, require uniformity in elections (including the mandatory use of numbered ballots), and discourage bribery.

George Jackson Ferry

George J. Ferry was born in Bethel, Connecticut on November 28, 1830. Living most of his early life in Connecticut where he was educated in public schools, he began his life-long career as a hat manufacturer at age 18. After successive business expansions, he was president of the Ferry Hat Company of Newark for almost 50 years and managed hat factories in Orange and Belleville, New Jersey and Yonkers, New York, until his retirement in 1914. Ferry moved to Orange in 1865 and was twice elected Mayor, serving from 1868-1870. His administration is credited with various contributions to the public improvements of the city, including the introduction of modern roads, the establishment of the local Board of Education and the creation of the Orange Fire Department. Noted for his philanthropic contributions, Ferry was a generous contributor to local churches, schools and other benevolent organizations. He was a particularly generous benefactor to Centenary Collegiate Institute (later, Centenary College), his gifts totaling over \$100,000 over the many years he served as that institution's President of the Board of Trustees, 1872-1911.

In the 1873 Constitutional Commission, Ferry was the most ardent supporter of woman's suffrage rights. When passage of petitions on the subject seemed improbable, he introduced a proposed amendment to permit a separate popular vote on the question at the 1875 election. Besides his vigorous support of woman suffrage, Ferry advocated an amendment to entirely reorganize the state legislature and reapportion both houses according to population. He also introduced amendments to allow paupers to vote and to thoroughly revise the Constitution's article on the constitutional amendment process. As a member of the Committee on Revision, he seems to have played a crucial role in reviewing and editing proposed amendments that were adopted by the Commission and in preparing the Commission's final report. He died on October 4, 1916 in New York City, after being stricken with paralysis four weeks before.

Robert Gilchrist

Born on August 21, 1825 in Jersey City, Robert Gilchrist was considered by his contemporaries as one of the most capable and distinguished attorneys of the state. Admitted to the bar in 1847 as an attorney and in 1850 as a counselor, Gilchrist was engaged in some of the most noteworthy New Jersey trials of his time. He was the chief attorney for the defendants in the celebrated case of *Pennsylvania Railroad Co. v. The National Railway Co.*, decided in February 1873, which was a pivotal antecedent to the General Railroad Law and unquestionably influenced the deliberations of the Constitutional Commission. He was also noted for his opinion in 1870, while in his position as state Attorney General, that upheld the rights of African American males to vote in New Jersey. In addition to serving as the state Attorney General from 1869 to 1875, his public service included a term in the New Jersey Assembly in 1857. He was offered a seat on the New Jersey Supreme Court by Governor Joseph D. Bedle, but he declined. Gilchrist enrolled in the Union Army on May 20, 1861 and served as a Captain in the New Jersey Volunteers for three months during the Civil War. He died on July 6, 1888.

Gilchrist's early resignation from the Commission precluded his opportunity to introduce or support proposed amendments. After the 1875 election on the constitutional amendments, Gilchrist attributed his resignation to his belief that the Commission, as opposed to a Constitutional Convention, did not adequately represent the people.

Robert Stockton Green

Robert S. Green, born in Princeton on March 25, 1831, exhibited a remarkably successful political career. He graduated from The College of New Jersey (Princeton) in 1850, studied law with his father, and was admitted to the bar as an attorney in 1853 and as a counselor in 1856. He served on the Princeton Borough Council in 1852. In 1856 he moved to Elizabeth where he resided for the remainder of his life. He devoted many years of public service to the city of Elizabeth, serving as Prosecutor, City Attorney and City Councilman from 1857-1873. Green was also instrumental in creating Union County in 1857 and designating Elizabeth as the county seat. He served Union County first as Surrogate from 1862-67 and later as Judge of the Court of Common Pleas, 1868-1873. In 1884, Green was elected to the U.S. Congress, serving in the House from March 4, 1885 until

his resignation to assume the New Jersey Governorship on January 17, 1887. Green was the only member of the 1873 Commission to ascend to the New Jersey Governorship, serving 1887-1890. After completion of his term as Governor, Green was appointed as Vice-Chancellor, serving from 1890 until his death on May 7, 1895.

Green was arguably the most active member of the Constitutional Commission in terms of suggesting proposed amendments and successfully altering the proposals of his colleagues. It was Green who deserves most credit for drafting the Commission's prohibition on special legislation which essentially survives in an unaltered form in the state Constitution of today. His proposal to reform legislative procedures was also engrafted onto the Constitution. Green was particularly influential in amending proposals before the Commission. During the Commission's deliberations, over one-third of the motions that would change the language of proposed amendments were initiated by Green.

Dudley Sanford Gregory

Dudley S. Gregory was born in Reading, Connecticut on February 5, 1800 and as a young boy relocated with his family to Albany, New York. At the age of 13, he was appointed as a clerk in the New York Comptroller's office, remaining in the position for fourteen years before declining a position as Deputy Comptroller. During this period, he was active in the New York militia and was a member of the guard of honor that received Lafayette on his second visit to this country. Moving to Jersey City in 1834, Gregory became active in public life, serving on the Jersey City Board of Selectmen and as a Bergen County Freeholder before being elected as the first Mayor of Jersey City in 1838. He served three terms as Mayor and declined a fourth term. In 1846, he was elected to Congress and served from March 4, 1847 to March 3, 1849, declining renomination. A man of wealth and industry, Gregory was largely identified with many of the manufactories, businesses and public institutions of Jersey City. He founded the first savings bank in New Jersey and was at one time director of sixteen different railroads. Gregory died in Jersey City on December 8, 1874.

One of the oldest members of the Commission, Gregory seems to have espoused the societal values of a prior generation. His proposed amendments indicate his general dissatisfaction with the current state of affairs and might be construed as conservative attempts to return to the times of old. Gregory's primary concern, as evidenced in his proposed constitutional amendments, targeted the contemporary excesses of state and

local debt. As Jersey City's first Mayor, he seems to have been particularly dismayed at the financial consequences of the Jersey City Reorganization Act of 1871 in which the city incurred enormous debt. Perhaps symbolic of his Protestant roots, Gregory sponsored proposed amendments that would more strictly regulate the sale of liquor and he insisted that the Lord's Prayer be recited before the start of each session of the Commission.

Samuel H. Grey

Samuel H. Grey was born on April 6, 1836 in Camden. After an ordinary common-school education, he began, at age 17, to study law and, four years later, was admitted to the bar as an attorney in 1857. He became a counselor at law in 1861. Grey served as Prosecutor of the Pleas of Cape May County from 1866 to 1873, resigning his position upon his appointment to the Constitutional Commission. An earnest and consistent Republican since the origin of the party, Grey was an active member of the Republican State Committee from 1868 to 1871. During his career, Grey was tendered several political opportunities: the Republican nomination for State Senator in 1872, the Republican nomination for Congress in 1874, and as the New Jersey Supreme Court Chief Justice in 1897, but declined each offer. In 1886 he was appointed as the lead prosecutor in the impeachment trial of the Keeper of the State Prison that resulted in one of the rare impeachments of a government official in state history. He also distinguished himself as an attorney in a well-known case in 1894, *Werts v. Rogers*, which involved the question of whether, in organizing the State Senate, 10 of 21 Senators could constitute a voting majority and whether the state judicial branch had the power to adjudicate such a matter. Besides serving on the 1873 Constitutional Commission, Grey was a member and President of the 1894 Constitutional Commission that was appointed to revise the judicial article. He served as state Attorney General from 1897 to 1902. Grey died on December 7, 1903.

Although the sponsor of only two proposed amendments, Grey's lasting legacy on the Commission consisted in his role as the Chairman of the Legislative Committee. In this capacity, Grey played a pivotal role in amending proposals that limited the powers of the Legislature. Among his proposed amendments that were incorporated into the Constitution were proposals concerning legislative compensation and the date of legislative elections.

Algernon Sidney Hubbell

The oldest member of the Constitutional Commission, Algernon S. Hubbell was born in Lanesboro, Massachusetts on November 22, 1799. Admitted to the Massachusetts bar in 1824, Hubbell was elected to the Massachusetts state legislature in 1834, serving one term. A month after moving to Newark, New Jersey in October 1836, he was admitted to the New Jersey bar as both an attorney and counselor. Hubbell served two terms in the New Jersey Assembly, 1847-1848. Keenly interested in the cause of public education, Hubbell was for several years a member of the “Old School Committee” of Newark, which eventually became incorporated as the Board of Education. He was also a trustee of the Newark Academy and he played an integral role in organizing the Newark Library, the charter of which he authored. A biography of Hubbell states, “He was a wise counselor, a judicious adviser [and] a safe administrator of the affairs of his clients. Among the crowning elements of his nature were his uncommon good sense, his ripe judgment, and, above all, his love of truth, his great integrity, his entire honesty.” Hubbell died in Newark on April 18, 1891, at that time the oldest member of the New Jersey bar.

Hubbell did not propose any constitutional amendments, but successfully moved to change the language of several proposals. His primary interest appears to have been related to public schools.

Martin Ryerson

Martin Ryerson was born on September 16, 1815 in Hamburg, Sussex County, New Jersey and lived most of his life in Newton. After receiving a first class preparatory education, he entered The College of New Jersey (Princeton) at age 15 and graduated in 1833. He was admitted to the New Jersey Bar in 1836 as an attorney and in 1839 as a counselor. Ryerson was one of only two appointees to the 1873 Constitutional Commission who was also a delegate to the 1844 Constitutional Convention (John C. Ten Eyck being the other). He was elected for one term in the state Assembly in 1849. Plagued throughout his life with poor health, Ryerson was forced to decline or resign several public offices. He served as an Associate Justice of the New Jersey Supreme Court for an incomplete term, 1855-58, before resigning due to illness. In fact, Ryerson attended only the first meeting of the 1873 Commission, on May 8, before tendering his resignation on account of his health. Although a Democrat earlier in life, Ryerson became a staunch Republican during the Civil War, identifying himself with the anti-slavery

movement. Later in life, Ryerson was known as a strong advocate of the temperance cause. In 1869, The College of New Jersey (Princeton) conferred on him the honorary degree of Doctor of Laws. He died on June 11, 1875.

Jacob Lawrence Swayze

Jacob L. Swayze was born on March 3, 1824 in the village of Hope, Warren County where he received his early education in the local common schools. Since the age of fourteen, he was affiliated with his family's general store, first as a clerk, later as a partner, and finally as sole owner until he relinquished the business in 1847. Soon after, Swayze operated a country store in Stanhope, Sussex County from 1848 to 1854. In May 1854, Swayze suddenly relocated to Trenton and began to study law under Martin Ryerson who later, along with Swayze, became a member of the 1873 Constitutional Commission. In 1855, Ryerson moved to Newton and Swayze completed his legal education in the law office of Mercer Beasley, subsequently Chief Justice of the New Jersey Supreme Court, who was also appointed, although he declined membership, to the Commission. Admitted to the bar in 1858, Swayze briefly practiced law in Trenton for only a few months before moving to Newton. During his residence at Trenton, Swayze was briefly associated with the *Daily State Gazette* newspaper, which had adopted a decidedly Republican identity. In Newton, he again entered the mercantile business from 1859 to 1865. In the latter year, Swayze organized the Merchants' National Bank at Newton and held several positions before his election as bank president, which position he retained until his death. Politically, Swayze was at first a Democrat until 1854, although a radical anti-slavery man. He joined the Republican Party in 1856 and adhered to its principles until 1872 when, in his support of Horace Greeley for President, he espoused the cause of the Liberals. Many contemporaries were astonished that Swayze was nominated to the Commission, and his many critics and detractors vehemently derided him in the press. Characterized as a crazed demagogue and renowned as a gadfly who railed against the corruption in state and local government, a local newspaper, perhaps unjustly, commented upon his reputation with a one line obituary: "Thus are the libel suits against the deceased ended." He died on June 8, 1881.

The most outspoken member of the Commission, Swayze represented the extreme liberal faction of New Jersey politics. Before the Commission was sufficiently organized to accept proposed amendments, Swayze boldly offered a litany of radical proposals that addressed the corruption and injustice prevalent in American society of that time. Among Swayze's

proposals, which were ruled out of order and do not appear on the official minutes, were the election of judges, the Attorney General and other state officials; the reorganization of the Judiciary; the abolition of free railroad passes for government officials; and the uniform taxation of all property including that held by churches and schools. Newspaper accounts of Commission proceedings often reveal a generic irritation with Swayze's prolonged speeches, with some members obviously taking offense at Swayze's candor. However, despite his penchant to annoy, even antagonize, some of his colleagues, Swayze successfully advocated the proposal that would eventually become, after extensive amendment, the "thorough and efficient" education clause.

John Wesley Taylor

John W. Taylor was born in Buckland, Massachusetts on February 8, 1830. After being educated in the local schools of his native state, and teaching for a short time there, he moved to New Jersey where he resumed his teaching career in the public schools of Morristown and Caldwell. In 1853, he studied law under Amzi Dodd, who later became Vice Chancellor, before his admission to the bar as an attorney in 1857 and as a counselor in 1860. He was engaged in his successful law practice until the day of his death. In his private practice, Taylor was general counsel of several railroad corporations, including the Central Railroad of New Jersey, the New York, Susquehanna and Western Railroad and the South Orange Street Railway Company. He was also counsel for the Essex County Board of Chosen Freeholders for many years since 1868. Although reportedly disinterested in political affairs, he served several successive terms on the Newark Board of Education, beginning in 1869. In the same year, without seeking nomination, he was elected to the state Senate, serving two, three-year terms until 1875. Taylor was chosen as Senate President during the 1873, 1874 and 1875 Legislatures, and, in his position, was a major influence in determining the fate of the Commission's proposed constitutional amendments before their submission to the voters in 1875. Noted for his gentlemanly demeanor, impartiality and decorum during a rather politically tumultuous era in state politics, it has been said of him that, "he proved himself to be a most efficient presiding officer, displaying intimate knowledge of parliamentary practice, holding the scales evenly between both parties, and at all times upholding the dignity of the position and of the Senate." At the local level, Taylor was an esteemed resident of Newark. He vigorously advocated the integration of black pupils into Newark's public schools and, for several

years, he provided his gratuitous legal services to the Newark Female Charitable Society. Taylor died of a self-inflicted pistol shot at his Newark law office on September 20, 1893. Although some sources attributed his suicide to the suffering of an illness, others alleged that he killed himself after it was publicly disclosed that he misappropriated his clients' funds entrusted to him.

Taylor resigned from the Commission before offering any proposed amendments; however, he proved instrumental in the alteration and adoption of the Commission's proposals while President of the 1874 Senate. Among his most notable contributions, Taylor sponsored the particular language of the "thorough and efficient" education clause which exists in the current state constitution. Indeed, it was due, in no small measure, to Taylor's influence that any of the constitutional amendments were approved at all.

John Conover Ten Eyck

John C. Ten Eyck was born in Freehold on March 12, 1814. After receiving a liberal education from private tutors, he studied law under Associate Supreme Court Justice Jacob Randolph and was admitted to the New Jersey Bar as an attorney in 1835 and as counselor in 1838. By this time he relocated to Mount Holly where he served as Prosecutor of the Common Pleas, Burlington County, from 1839 to 1849. In 1844, Ten Eyck was elected as a delegate to the 1844 Constitutional Convention, one of two members of the Commission to serve on the 1844 Convention (Martin Ryerson being the other). Ten Eyck was elected to the United States Senate as a Republican, serving from March 4, 1859 to March 3, 1865. He retired from public life until his appointment to the 1873 Commission. Ten Eyck was unanimously chosen as President of the Commission on July 8, 1873, subsequent to the death of President Abraham Zabriskie. He died in Mount Holly on August 23, 1879. His portrait is one of the rare non-governors that adorn the walls of the State House in Trenton.

As President of the Constitutional Commission, Ten Eyck deserves credit for orchestrating the efforts of a diverse and bipartisan body to its fruitful conclusion. He was faced with the challenge of continuing the Commission's work despite much public criticism of the Commission and the appeal from some for its dissolution. There is every indication that he conducted the deliberations impartially and honorably, and he was unanimously praised by Commission members on the last meeting day. Newspaper accounts of Commission proceedings record vestiges of two of his speeches: one concerning his support of a very modest increase in

legislative compensation, the other relating to his opposition to strengthening the gubernatorial veto.

Joseph Thompson

Born on September 30, 1808, Joseph Thompson was the only farmer to serve on the 1873 Commission. Besides spending most of his life tending the family farm, Thompson taught at local schools in the neighboring villages and hamlets of Somerset and Hunterdon counties. At a young age, he mastered the skill of land surveying and was often called to survey lands in the Northern part of the state. He is most remembered for his services as a lay judge in the Orphan's Court of Hunterdon County, where he served from 1836 to 1851, and in a similar court in Somerset County, 1851 to 1864. Despite never receiving a formal legal education, several contemporary biographies note that "so mature and just were his judgments that no decision ever given by him was ever finally reversed." His annual diaries, dating 1847-1885, with sparsely written entries, are archived in the Rutgers Special Collections Department. He died on October 23, 1893.

Thompson does not appear to have been a particularly influential member of the Constitutional Commission. As a judge, his attention during Commission discussions seems to have focused on court procedures. Neither of his two proposed amendments, regarding juries and the right of appeal in cases involving eminent domain, was incorporated into the Constitution.

Abraham Oothout Zabriskie

Abraham O. Zabriskie was born on June 10, 1807 in Greenbush, near Albany, New York. At age four, he moved with his family to Millstone, Somerset County, New Jersey where he received a thorough education at the Millstone Academy and under the tutelage of his father, a pastor. He commenced study at The College of New Jersey (Princeton) in the junior class when only sixteen years of age, graduating with the class of 1825. Later in life, Princeton would confer upon Zabriskie the honorary degree of Doctor of Laws. Admitted to the New Jersey bar as an attorney in 1828 and as a counselor in 1831, Zabriskie began his private practice in Newark, but remained there for less than two years. Relocating to Hackensack, where he resided for nineteen years, he resumed his practice while serving as Bergen County Surrogate, 1838-1848 and as Prosecutor of the Common Pleas of Bergen County, 1842-1849. In 1849, Zabriskie moved his law practice to Jersey City where he would reside for the remainder of his life. He

represented Hudson County for one three-year term in the state Senate, 1851-1853. From 1847 to 1855, Zabriskie was the reporter for the New Jersey Supreme Court and volumes 21-24 of the official New Jersey Law Reports bear his name. After twice being denied confirmation as Chancellor, due to strictly political reasons based primarily on his opposition to the Camden and Amboy Railroad monopoly, Zabriskie was confirmed in 1866 and served until his term expired in May 1873, a week before the Commission held its first meeting. During his tenure as Chancellor, Zabriskie adjudicated some of the most significant corporate trials of the century, many involving the railroad controversies. Probably the most respected member of the 1873 Commission, Zabriskie was immediately selected as Commission President. Unfortunately, he was to preside over the Commission for only its initial session, on May 8. During a recreational sojourn to the Pacific coast, Zabriskie fell ill and died in Truckee, California, on June 27, 1873.

C. Inauspicious Beginnings

Despite the success of having many of its recommendations ratified by the people in 1875, the Constitutional Commission began under rather inauspicious circumstances. Even before the first meeting on May 8, two of the strongest appointees had forwarded messages to Governor Parker declining their appointments. Mercer Beasley, Chief Justice of the New Jersey Supreme Court, and Theodore Runyon, Civil War general and recently appointed Chancellor, both attributed their commitment to their respective court's workload as reasons for their declinations.¹³⁰ Before the second meeting, the unexpected death of Commission President Abraham Zabriskie was announced, leaving the Commission temporarily leaderless.¹³¹ At about the same time, the Commission suffered its first resignation: Martin Ryerson, one of two members to have served as a delegate to the 1844 Constitutional Convention, resigned on account of poor health, although at least one newspaper attributed the real cause to "an ill-feeling at his appointment."¹³² Due to criticisms appearing in the press concerning

130. Letter of Declination from Mercer Beasley (May 5, 1873), in *DAILY ST. GAZETTE* (Trenton, N.J.), May 9, 1873; Letter of Declination from Theodore Runyon (May 8, 1873), in *DAILY ST. GAZETTE* (Trenton, N.J.), May 9, 1873.

131. *PROCEEDINGS*, *supra* note 84, at 14.

132. *AM. STANDARD*, July 8, 1873. Ryerson's letter of resignation appeared in the *NEWARK DAILY ADVERTISER*, July 9, 1873. Ryerson disputed the *American Standard's* reason for his resignation and a clarification was given mention in the *N. Y. Times*:

Parker's appointment of too many lawyers, the four vacancies were filled with non-attorneys.¹³³ The resignation of Attorney General Robert Gilchrist¹³⁴ in September caused further criticism from the press and inspired President Ten Eyck to give an impassioned speech to rally the members.¹³⁵ The Commission would suffer one more resignation, that of the

"Judge Ryerson's reasons for declining the position of member of the New Jersey Constitutional Commission are simply those of ill health. There has been no ill feeling about his appointment, as was erroneously stated a few days ago." N. Y. TIMES, July 14, 1873.

133. See, for example, an editorial appearing in the *Jerseyman* on April 28, 1873:

"A great deal of complaint is also made against the Governor for the appointment of so many lawyers upon the Commission—giving to them an undue predominance; and also to the appointment of state officers, who, it is alleged, should have been rigidly excluded from it. Judging from our exchanges thus far received, the appointments as a whole are unsatisfactory, though there is here and there among the fourteen a name that is recognized as every way commendable and proper. The mass of the complaints, however, it should be said, come from the Governor's own party."

JERSEYMAN (Morristown, N.J.), Apr. 28, 1873.

See also, an editorial comment from the *Central New Jersey Times*:

"Much dissatisfaction was expressed by the press and the people because the commission was composed mostly of lawyers, and the Governor has consequently filled the vacancies with gentlemen who are not members of the legal profession."

CENTRAL NEW JERSEY TIMES (Plainfield, N.J.), July 10, 1873.

134. In a newspaper interview after the popular approval of the constitutional amendments in September 1875, Gilchrist decried the Commission's work and the Legislature's hasty review of their recommendation and explained the reason for his resignation:

"But the great objection to the amendments is that the Legislature rushed them through two sessions without taking the trouble to read them. The haste was astonishing. I say we should cry out for a constitutional convention. That is the proper way to amend the Constitution. I was appointed to that Constitutional Commission, but I resigned because I felt that the people had no representation there. There was nothing in what was submitted that the people wanted."

NEWARK DAILY ADVERTISER, September 10, 1875.

135. A synopsis of Ten Eyck's speech was provided in the *Daily State Gazette*, October 8, 1873:

"The Chair begged the indulgence of the Commission to remark that the Commission had been peculiarly unfortunate in the resignation of its members. This was liable to create an unfavorable impression throughout the State, and to lead to the belief that it was not animated by an earnest purpose for the discharge of its duties. For himself he was resolved to devote himself to the work in hand. Having put his hand to the plow, nothing should compel him to look back but disability or death."

DAILY ST. GAZETTE (Trenton, N.J.), Oct. 8, 1873.

influential Senate President, John W. Taylor, in late September, doubtlessly further eroding the Commission's morale and giving more ammunition to a cynical press.¹³⁶ Before the Commission began its work in earnest, six of its best members were lost. As stated in a local paper: "The Commission has lost most of its brains by death and resignation, and there is a total want of confidence in it very generally pervading the public mind."¹³⁷ Some newspapers, generally Democratic, actually called for the Commission to disband, with one commenting, "[T]he best thing the remaining members can do is to refer the whole matter of amending the Constitution to the next Legislature, with the recommendation that a Constitutional Convention be called."¹³⁸

The lack of confidence in the Commission was disturbing enough when directed from an unsympathetic press; however, the Commission's problems reached its nadir when one of its members proposed to immediately adjourn *sine die*. On October 7, Jacob Swayze surprisingly recommended, in a formal resolution, to immediately dissolve the Commission in favor of requesting the Governor and Legislature to push harder for a constitutional convention.¹³⁹ He cited the numerous resignations from the Commission and ruefully complained that, during the five months since the formation of the Commission, nothing had been done.¹⁴⁰ Swayze's resolution provoked the ire of many of the Commission members and, more than anything else, probably strengthened the Commission's resolve to continue. Gregory warned that Swayze's resolution could disgrace the entire Commission;¹⁴¹ Carter voiced regret that such a resolution had even been offered.¹⁴² After

136. As stated in the *Jerseyman*:

"The latest retirement from the Constitutional Commission is that of Senator Taylor of Essex, whose resignation was forwarded to the Governor a few days ago. There is now but little left of what was the strength of the Committee as originally appointed"

JERSEYMAN (Morristown, N.J.), Sept. 30, 1873.

The reason attributed to Taylor's resignation was provided in his legislative biography:

"He was appointed by Gov. Parker, a member of the Constitutional Commission, but resigned after working some months, on account of business engagements which prevented his giving the commission the attention that it required."

MANUAL OF THE LEGISLATURE OF NEW JERSEY FOR 1874, at 62.

137. JERSEYMAN (Morristown, N.J.), Oct. 14, 1873.

138. JERSEYMAN (Morristown, N.J.), Sept. 30, 1873.

139. PROCEEDINGS, *supra* note 84, at 35.

140. DAILY ST. GAZETTE (Trenton, N.J.), Oct. 8, 1873.

141. *Id.*

142. *Id.*

angry exchanges expressing disfavor with Swayze's resolution, it was unanimously defeated 9-0, with only Swayze abstaining.¹⁴³

One newspaper may have typified public sentiment when it introduced its coverage of the Commission's proceedings for the October 7 session with this comment:

The Commission met today under somewhat inauspicious circumstances. The resignations of several of its ablest members, the numerous and protracted adjournments, and the apparent indisposition to earnestly take hold of the work in hand, have created a widespread impression that this attempt to revise our State Constitution was destined to fizzle out, and that the members of the Commission, seeing this, were paving the way by their procrastinations and indifference. Whatever might be the intentions of the remaining members of the Commission, this undoubtedly was the impression that had gone abroad.¹⁴⁴

Another challenge facing the Commission was the spate of member absences that became such a problem that Carter offered to amend the rules to require one week's notice before an absence could be taken.¹⁴⁵ An amended rule concerning absences, substituted by Grey, was adopted a week later.¹⁴⁶ The press was quick to attribute member absences to the disinterest of the general public and of the members themselves. For example, one editorial on the deliberations of the Commission's July 22 meeting commented, "The meeting brought with it very little interest. No persons were here besides the members of the Commission and four of them were absent."¹⁴⁷ One newspaper could not resist chastising members for their absences with an editorialized tongue-lashing:

The Constitutional Commission is somewhat embarrassed in its work by the non-attendance of its members. Inasmuch as the Commission only sits on three days in the week, it would seem as though gentlemen might so arrange their business engagements as to be always in attendance. When only a quorum is present, there is very properly a disinclination to adopt

143. PROCEEDINGS, *supra* note 84, at 35-36.

144. NEWARK DAILY ADVERTISER, October 8, 1873.

145. PROCEEDINGS, *supra* note 84, at 90.

146. *Id.* at 100-01. The rule stated, "Any member of the Commission who does not expect to be present at any stated meeting shall give notice thereof." *Id.*

147. DAILY ST. GAZETTE (Trenton, N.J.), July 23, 1873.

important changes to the Constitution. The absent members are thus only prolonging their own labors.¹⁴⁸

Coupled with the embarrassment of member absences was the tardiness of many members which often delayed the commencement of proceedings for hours, until enough members to constitute a quorum were present. The lateness of members' arrival is duly recorded in the official minutes and the delays did not go unnoticed by the press. Some newspapers introduced their accounts of the commission's proceedings with sarcastic jabs, typified with such remarks as: "When the Commission met this morning only four members were present, and the prospect looked blue enough."¹⁴⁹ "When the Commission reassembled at ten o'clock this morning, the hour to which they had adjourned, less than half a dozen members were present, and it was not until nearly noon that enough came in to form a quorum. They finally mustered ten members and went to work."¹⁵⁰

In the nineteen meetings held by the Commission, the fewest number of members present was eight (quorum) on October 9 and October 16;¹⁵¹ the most was thirteen on October 14.¹⁵² Whenever the roll was called and less than eight answered to their names, the Commission postponed its meeting for an hour or so until at least eight members were present.¹⁵³ For a detailed record of commission members' daily attendance, see Appendix 5 in this volume.

Another lingering distraction facing the Commission was the constant criticism and sarcasm from several newspapers, regardless of political persuasion, but predominantly emanating from the Democratic press, which derided the commission form of constitutional revision as an insufficient, even deceitful, substitute for a constitutional convention. The press would not easily forgive the Governor or the Legislature for their failure to establish a constitutional convention when the opportunity arose earlier in 1873. Although not shared by every newspaper, a general distrust of the commission seemed to underlie many editorials and even seeped into

148. DAILY ST. GAZETTE (Trenton, N.J.), October 23, 1873. See also NEWARK DAILY ADVERTISER, October 22, 1873, for a similar commentary.

149. NEWARK DAILY ADVERTISER, October 8, 1873.

150. NEWARK DAILY ADVERTISER, October 9, 1873.

151. PROCEEDINGS, *supra* note 84, at 48, 86.

152. *Id.* at 64.

153. Due to member absences and tardiness, Commission meetings were delayed on July 8 and 22, October 7, 8, 14, 15, and 16, and November 11, 1873. See *Id.*

coverage of the proceedings themselves. The reading public was continually reminded that the commission was not a bona fide constitutional convention.

For example, attributing the scarcity of public attendees at the Commission's initial meeting, a lonely journalist sarcastically remarked:

Except the correspondent whose duty it was to be there and herald the proceedings, no one appeared but the members of the convention (sic), showing the people of the State have no anxiety for the work to be done and care but little for it, for had it been a convention representing the interests of the people no doubt could be entertained of the great interest they would manifest in its proceedings, as no State is in greater want of a Constitution up to the progress of the nineteenth century than the State of New Jersey...On visiting the Senate Chamber I had expected to find at least a sprinkle of the people present, but was astonished to find the only spectator was his Excellency Governor Parker. ¹⁵⁴

On the day of the final Commission meeting, another newspaper voiced its displeasure that the commission would submit its "patchwork" of amendments, not directly to the people, but to the Legislature:

What the Constitution of the State needs, if it needs anything, is not patchwork, but a thorough overhauling; and as many of the changes most earnestly desired by the people are such as it is not likely will ever command the assent of the Legislature, the only way to accomplish anything really valuable is through a Constitutional Convention, whose work shall be submitted directly to the people without the intervention of the Legislature.¹⁵⁵

The constitutional commission was viewed by many as an instrument of the Legislature: a mere political subterfuge that denied the public's direct involvement in initiating and voting on constitutional reforms. And the Commission's members had to bear the brunt of the public's disillusionment and skepticism.

Even after the Commission submitted its recommended constitutional amendments to the 1874 Legislature, the press continued to voice its cynicism:

154. AM. STANDARD (Jersey City, N.J.), May 9, 1873.

155. JERSEYMAN (Morristown, N.J.), December 23, 1873.

In the House and Senate next week will come up the report of the Constitutional Commission, and I predict it will be the farce of the session. It was commenced in a trap for the Democratic party and will end in the same, if not checked by the Democrats of the Legislature. What the State and people of the State want is a new Constitution, only to be made as it has been made in other States by a convention representing all classes of the people and all parties, and the mere amendments substituted will not do this: all the small tinkering will not do, the times and the people demand radical changes, and these they must have, and if their representatives know their own interests they will live up to the occasion and pass such a bill; the three years delay to take place before any of the amendments can be acted on, finally makes this their imperative duty.¹⁵⁶

The public sentiment in favor of a constitutional convention continued while the 1874 Legislature reviewed the Commission's work. Thus, on March 3, 1874, a bill to call a constitutional convention was introduced in the Assembly.¹⁵⁷ The bill, A480, was reported favorably out of committee and went as far as being taken up for a third reading on March 25, when a motion was made to lay it over until the next legislative session.¹⁵⁸ On the same day, one newspaper boldly acknowledged that "there are members of both Houses who would prefer to see the entire batch of constitutional amendments rejected. They want a Constitutional Convention, the members of which shall come directly from the people..."¹⁵⁹

From the very start, the press viewed the Commission with suspicion. The public knew all too well the Legislature's past reluctance to allow the constitution to be amended in any way that would limit its powers. In spite of the labors of its members, the Commission was seen by many as a political gimmick that merely caused false hope for real constitutional reform. Despite the challenges, however, the Commission proceeded to accomplish its task.

156. AM. STANDARD (Jersey City, N.J.), Jan. 21, 1874.

157. N.J. Assembly Minutes 1874, at 575.

158. *Id.* at 1233.

159. WEST JERSEY PRESS (Camden, N.J.) March 25, 1874.

D. Meeting Dates, Public Attendance, Committees, Staff and Expenses, and Rules and Quorum

1. Meeting Dates and Times

The 1873 Constitutional Commission met on nineteen separate days in the Senate Chamber of the State House in Trenton, New Jersey, on the following dates: May 8, July 8 and 22, October 7-9, 14-16, 21-23, 28-29, November 11-13, 18 and December 23. Upon motion by an organizational committee presented at the July 8 session, Commission meetings were to start at 10:00 a.m. and adjourn at 3:00 p.m., unless otherwise ordered.¹⁶⁰ In actuality, however, Commission sessions generally commenced between 10:30 a.m. and noon and probably adjourned by late afternoon.¹⁶¹

2. Public Attendance and Input

Although Commission sessions were open to the public and the press, there appear to have been few, if any, public attendees.¹⁶² Interestingly, the issue of soliciting public comment was raised early in the Commission proceedings, perhaps inspired by newspaper editorials such as the following:

...it would be well for the Commission and for the people if a general discussion of the Constitution, its merits and defects, should spread over the State. Everything like haste should be avoided. Some States have already suffered because their organic laws have been hastily and badly constructed. In our case, let every proposition be given out publicly, long before time comes for action. A series of articles in the Press, written by men of ability and experience, would be of great value. They would excite interest among the people, and draw forth much good common sense that is hidden in farm houses and work shops, and will remain there unless gently coaxed out by familiar and neighborly discussion....We desire that our Amendment Commissioners should have the aid not only of judges and lawyers and merchants and doctors, but of farmers and contractors and laboring men; of

160. PROCEEDINGS, *supra* note 84, at 18.

161. See generally PROCEEDINGS, *supra* note 84. Minutes taken by secretaries indicated starting time for each meeting. *Daily State Gazette*, *Daily True American* and *Newark Daily Advertiser* newspapers sometimes gave an indication of the length of the meeting.

162. See, e.g., AM. STANDARD (Jersey City, N.J.), May 9, 1873; DAILY ST. GAZETTE (Trenton, N.J.), July 23, 1873.

women, too, for we must ere long meet their demand for equal rights....In reforming the organic law of a State, it is especially important that every class and calling and occupation and interest and opinion should be heard and carefully considered....We must work slowly and carefully at our amendments. A building run up on contract will not stand like one built by day's work. Let everybody take an interest in this work, and send suggestions to the newspapers or to the commissioners. The recent failure in New York will be studied with profit. Whatever we do, let it be done with full deliberation and complete understanding, in the light of practical experience in our own and other States.¹⁶³

On July 22, Swayze moved that the President create a committee of three members who would “prepare a circular inviting suggestions and recommendations for amending the Constitution” that Commission members could “distribute, at their discretion.”¹⁶⁴ After discussion, Swayze’s motion was withdrawn. Although the official proceedings are silent on the discussion, several newspaper accounts indicated that it was quite animated and revealing. A composite of the exchange as reported in the *Daily True American* and *Daily Fredonian* follows:

Mr. Swayze moved that the President appoint a committee of three to draw up a circular inviting citizens to send suggestions as to proposed amendments to the Constitution.

Mr. Gregory said that he and Mr. Taylor had talked that matter over. Senator Taylor was taken sick and could not be present that day. It seemed to him [Gregory], that they should ask for information on the proposed amendments, and from that course he thought they might obtain instruction, as the amendments to be proposed were merely suggestive. He would second the proposition of Mr. Swayze.

Mr. Swayze said the resolution contemplated gaining information from citizens as to what amendments were required and he was anxious to gain all the knowledge he could on the matter....

Mr. Dickinson hoped the resolution would not be adopted. The people of the state who desire to make suggestions have the right to do so. By taking this course we shall have a perfect avalanche of suggestions.

Mr. Green said he would like to hear some of the ideas that Mr. Gregory and Mr. Taylor had talked over.

163. JERSEY CITY TIMES, July 22, 1873.

164. PROCEEDINGS, *supra* note 84, at 29.

Mr. Gregory read from his manuscript and suggested the issuing of circulars with fly leaves, and inviting suggestions from those interested in their work.

Mr. Carter was opposed to the resolution. It would flood us with letters which would take all our time to read them. He had consulted his constituents, and so might remember, and that he thought would be the proper way.

Mr. Swayze withdrew his resolution.

After further discussion, Mr. Green moved that any suggestions should be sent to the Secretaries and be by them forwarded to the chairmen of the various committees... The motion of Mr. Green was adopted.¹⁶⁵

Although Swayze's motion to issue a circular was not accepted, members of the Commission did receive suggestions from the public. The authors have identified at least seven such petitions. These petitions, which were not necessarily introduced, are covered in more depth later in this Introduction.¹⁶⁶

3. Committees

On July 8, Commission members debated whether or not to form committees, as well as the optimal number of committees to form.¹⁶⁷ After considerable discussion, the Commission agreed upon four reference committees to which proposed constitutional amendments would be referred for further deliberation and action.¹⁶⁸ The committees, with members appointed by President Ten Eyck on July 22, were:

1. *Bill of Rights and Right of Suffrage, Limitation on the Powers of Government and General and Special Legislation*: Taylor (Chair), Green, and Buckley. (Upon the resignation of Taylor, Green became Chair and Hubbell was added).

2. *Legislative Department, Its Constitution and Organization*: Gilchrist (Chair), Grey, Dickinson, Babcock, and Swayze. (Upon the resignation of Gilchrist, Grey became Chair and Brinkerhoff was added).

165. DAILY TRUE AMERICAN (Trenton, N.J.), July 23, 1873; FREDONIAN (New Brunswick, N.J.), July 23, 1873.

166. See *infra* notes 220-227 and accompanying text.

167. PROCEEDINGS, *supra* note 84, at 17-20.

168. *Id.* at 26-27.

3. *Executive, Judiciary, Appointing Power, and Tenure of Office*: Cutler (Chair), Gregory, and Carter.

4. *Future Amendments, General Provisions and Final Revision*: Grey (Chair), Ferry, Thompson. (Upon Grey's acceptance of the Chairmanship of the Committee on the Legislative Department, Grey resigned his Chairmanship of the Committee on Future Amendments.)¹⁶⁹

A proposal that Commission President Ten Eyck be an ex-officio member of each reference committee was adopted on October 7.¹⁷⁰

In addition to these four permanent reference committees, the Commission formed various temporary organizational or ceremonial committees with specific duties. For example, the Commission created a "Committee on Permanent Organization"¹⁷¹ to nominate the officers of the Commission and a "Committee of Six"¹⁷² to report the manner of conducting the business of the Commission and to provide a general outline of subjects to be considered. The "Committee of Six" originally met on May 27, 1873, at Senator Taylor's law office in Newark, but due to the absence of Gilchrist, the meeting was postponed. The committee met at the State House in Trenton on June 3 and July 1 before finalizing their report on the morning of July 8 before the Commission started its session.

The four reference committees met, at their discretion, at other times and places in addition to the Commission's meetings. Although much of the Commission's work was done within the confines of the committees, no accounts of committee proceedings survive since neither the secretaries attended committee meetings nor were committee proceedings covered in the press.¹⁷³

4. *Staff and Expenses*

A brief word is in order to introduce the two secretaries of the 1873 Commission: Edward J. Anderson and Joseph L. Naar. Before doing so,

169. *Id.* See also inside front cover of the PROCEEDINGS, *supra* note 84.

170. *Id.* at 33.

171. PROCEEDINGS, *supra* note 84, at 4.

172. PROCEEDINGS, *supra* note 84, at 12.

173. The only meetings of the reference committees cited in the press were a meeting of the Committee on the Legislative Department, held at the State House on September 27, 1873, and of the Committee on Future Amendments, General Provisions and Final Revision held at the State House on December 9, 1873. No accounts of proceedings were recorded.

however, it may be significant to note that, in apparent adherence to the spirit of bipartisanship that required the Commission to be composed of an equal number of Democrats and Republicans, two secretaries, one a loyal Republican (Anderson), the other a staunch Democrat (Naar), were selected for the Commission, even though the enabling resolution did not specify two secretaries. It is readily apparent to an observant reader, based on the peculiar handwriting of each man, which journal entries were penned by which secretary. In no case, however, is there evidence of partisan influence in the consistently matter-of-fact entries of the proceedings.

Edward J. Anderson was born on December 15, 1830 in Flemington, New Jersey and had a virtually life-long affiliation with New Jersey state government. During the Civil War, he was appointed principal assistant in the office of the New Jersey Adjutant General. From 1871 to 1891, he was a state official in the New Jersey Comptroller's office, serving as state Comptroller from 1880-1891. He was appointed the Commissioner of Fisheries in 1878 and served in that capacity without compensation until 1883. He served as the Supervisor of the State Prison from 1894 until his death on December 14, 1905.

Joseph Levi Naar was born near Linden, Union County on October 23, 1842, the son of Judge David Naar who was a long-time editor and publisher of the *Daily True American* newspaper and a delegate to the 1844 Constitutional Convention. Affiliated with his father's newspaper since age 18, Naar reported the proceedings of the state legislature until 1884, when he became the editor of the newspaper. On assuming the editorship of the newspaper, Naar continued the traditions of his father in making it an exponent of Democratic ideals. Besides serving as secretary to the 1873 Commission, he was the secretary to the 1894 Constitutional Commission and private secretary to Governor George C. Ludlow. He died on September 19, 1905.

Besides the two secretaries, the only other person hired by the Commission was David M. Campbell, who served as the Sergeant-at-Arms.¹⁷⁴ Anderson and Naar were paid \$500 each for their labors; Campbell

174. REPORT OF THE JOINT COMMITTEE ON TREASURER'S ACCOUNTS TO THE LEGISLATURE OF NEW JERSEY FOR THE FISCAL YEAR ENDING OCT. 31, 1874 at 92, in DOCUMENTS OF THE 99TH SESSION OF THE LEGISLATURE OF NEW JERSEY; see also Act of Feb. 19, 1874, ch. 64, 1874 N.J. Laws 15 (defraying the expense of the Constitutional Commission). Campbell was the janitor of the State House.

was paid \$100.¹⁷⁵ Depending on their length of service, Commission members were paid, at most, \$300 for serving the duration between May 8 and December 23.¹⁷⁶ Members who filled vacancies were paid proportionately less.¹⁷⁷ Members who resigned did not receive payment. The total expenses of the Commission, including salaries, stationery, printing, books and postage stamps, amounted to \$5,711.57.¹⁷⁸ This amount, however, does not include the more considerable cost of printing the proposed amendments in all required state newspapers for a three-month period in 1874 and the four-week period prior to the September 7, 1875 election, the cost of printing the ballots, the cost of poll workers, and other costs associated with the special election. When factoring in these costs, one newspaper estimated the total cost of the constitutional amendments to be approximately \$100,000.¹⁷⁹

5. *Rules and Quorum*

The Commission based its rules on the Rules of the Senate,¹⁸⁰ as per Taylor's motion made early in the Commission's first meeting, "until other rules are adopted."¹⁸¹ On the motion of Cutler, each member of the Commission was to be furnished a copy of the Senate Rules.¹⁸²

175. REPORT OF THE JOINT COMMITTEE ON TREASURER'S ACCOUNTS TO THE LEGISLATURE OF NEW JERSEY FOR THE FISCAL YEAR ENDING OCT. 31, 1874 at 92, *in* DOCUMENTS OF THE 99TH SESSION OF THE LEGISLATURE OF NEW JERSEY.

176. *Id.*

177. *Id.*

178. *Id.* See also REPORT OF THE JOINT COMMITTEE ON TREASURER'S ACCOUNTS TO THE LEGISLATURE OF NEW JERSEY FOR THE FISCAL YEAR ENDING OCT. 31, 1873, at 104, *in* DOCUMENTS OF THE 98TH SESSION OF THE LEGISLATURE OF NEW JERSEY.

179. "The Cost of the Constitutional Amendments," PATERSON DAILY PRESS, October 23, 1875. This estimate is supported by line item expenditures to myriad state newspapers for printing the proposed amendments as reported in REPORT OF THE JOINT COMMITTEE ON TREASURER'S ACCOUNTS TO THE LEGISLATURE OF NEW JERSEY FOR THE FISCAL YEAR ENDING OCT. 31, 1874 AND FOR THE FISCAL YEAR ENDING OCT. 31, 1875. See also ANNUAL REPORT OF THE COMPTROLLER OF THE TREASURY OF THE STATE OF NEW JERSEY FOR THE FISCAL YEAR ENDING OCT. 31, 1875, at 15-16 *in* DOCUMENTS OF THE 100TH SESSION OF THE LEGISLATURE OF NEW JERSEY and ANNUAL REPORT OF THE COMPTROLLER OF THE TREASURY OF THE STATE OF NEW JERSEY FOR THE FISCAL YEAR ENDING OCT. 31, 1876, at 19-20 *in* DOCUMENTS OF THE 101TH SESSION OF THE LEGISLATURE OF NEW JERSEY.

180. For the text of the Rules of the New Jersey Senate, see the MANUAL OF THE LEGISLATURE OF NEW JERSEY FOR 1873, at 38-44.

181. PROCEEDINGS, *supra* note 84, at 1.

182. *Id.* at 12.

Evidently, the Commission did not always steadfastly observe its rules, changing or suspending them whenever the need arose. For example, although the rules clearly stated that a proposition was to be voted on only once, and then to be reconsidered once more, it was not unusual for proposals that were initially lost to be voted on again and again, sometimes for several times until passage.¹⁸³ It was only in this way that the Commission's controversial proposal to require a two-thirds majority of the legislature to override a governor's veto was approved. Another example concerned the requirement that committee reports be referred to the Committee of the Whole. This was adhered to for only three days, after which the rules were amended to rescind the requirement of a Committee of the Whole.¹⁸⁴ Thus, the journal containing the official proceedings actually includes a separate section of entries for proceedings of the Committee of the Whole, covering only three days' deliberations.¹⁸⁵

The Commission members engaged themselves in a lengthy discussion before deciding on the minimum number of votes required for the approval of a proposal. Green offered a motion that any proposed amendment receiving four affirmative votes would be reported separately to the Legislature, in addition to the Commission report. Swayze moved that any proposed amendment receiving but *one* vote be reported separately. Carter moved that both majority and minority reports be submitted to the Legislature. All three motions were defeated.¹⁸⁶

According to the 1873 Senate Rules, eight would have been the minimum number of votes required for the approval of a fourteen-member body.¹⁸⁷ However, on July 8, Swayze proposed to amend the Senate rule to read: "The Commission to do business shall consist of not less than twelve members, and all questions shall be decided by a majority of members present; except, when a final vote is taken on any proposed amendment to the Constitution it shall require for its adoption the vote of two-thirds of the

183. Senate Rule 25 stated, "When a Senate bill or joint resolution shall have been lost, and reconsidered and lost again, the same shall not again be reconsidered but by the unanimous consent of the Senate." *MANUAL OF THE LEGISLATURE FOR 1873*, *supra* note 180, at 41.

184. *PROCEEDINGS*, *supra* note 84, at 87. *See infra* note 238.

185. *Id.* at 350-56.

186. *Id.* at 20.

187. Senate Rule 21 stated, "The consent of a majority of the Senators present shall be sufficient to engross or re-engross any bill or joint resolution; but no bill or joint resolution shall pass unless there shall be a majority of all the Senators personally present and agreeing thereto." *MANUAL OF THE LEGISLATURE FOR 1873*, *supra* note 180, at 41.

whole number of the members of the Commission.”¹⁸⁸ At the next meeting, on July 22, the Commission amended Swayze’s proposal, after motions by Carter and Green, to simply read: “The Commission to do business shall consist of a majority of all the members.”¹⁸⁹ In doing so, the Commission removed from its rule any reference to the total number of members. Therefore, the minimum number of members required to do business was eight; however, unlike the Senate Rule, the minimum number of votes required for final passage of a proposal was understood as the majority of those members present. This is a much lower threshold for approval. Thus, many proposed amendments, some of which were eventually incorporated into New Jersey’s current constitution, were adopted by a majority of those members present, not by a majority of the Commission. For example, the proposal regarding the appointment of judges of the Court of Common Pleas was approved by a vote of six to two;¹⁹⁰ the proposal that would require a two-thirds majority for a veto override was approved by a vote of six to five;¹⁹¹ the proposal to prohibit the redrawing of counties without voter approval was passed six to five;¹⁹² the proposal regarding taking of lands by corporations passed six to five;¹⁹³ the proposal that became the antecedent for the “thorough and efficient” education requirement was adopted six to five;¹⁹⁴ and the proposal requiring equal taxation of property was adopted by six to five.¹⁹⁵ Remarkably, the clause that prohibited the donation of land or money by the state or by municipalities, which eventually became part of New Jersey’s current constitution, was considered adopted even though the actual recorded vote indicated that the question was lost, five to six.¹⁹⁶ If the Senate Rule was applied to the Commission without amendment, the minimum number of votes required for passage would have been eight and none of the aforementioned proposals (and others) would have been adopted by the Commission and referred to the 1874 Legislature. This fact becomes particularly significant when considering the high proportion of member absences.

188. PROCEEDINGS, *supra* note 84, at 23.

189. *Id.* at 27-28.

190. *Id.* at 105-106.

191. *Id.* at 118.

192. *Id.* at 123-24.

193. *Id.* at 140.

194. *Id.* at 153.

195. *Id.* at 161.

196. *Id.* at 165.

VI. THE COMMISSION'S PROPOSED CONSTITUTIONAL AMENDMENTS

A. *Sources of Proposed Amendments*

There were several documentary sources used by the Commission as starting points for proposed amendments. By far, the most influential was Governor Parker's message to the Legislature of 1873, which was also the basis for the concurrent resolution that created the Commission. Other significant sources were Hough's *American Constitutions*¹⁹⁷ (an indexed compilation of the existing state constitutions), the work of recent state constitutional conventions and commissions, direct petitions by citizens to Commission members, and editorials and letters printed in newspapers.

1. *Governor Parker's Annual Message to the 1873 Legislature*

The origin of many, but by no means all, of the Commission's proposed constitutional amendments can be found in Governor Parker's annual message to the Legislature. The message, which was read before the Commission at its first meeting and often referred to during its proceedings, was unquestionably the prime source from which the Commission derived its ideas.¹⁹⁸ Specifically, Parker called for (1) a change in legislative compensation; (2) a requirement for general laws and a legislative ban on special legislation where general laws can be made applicable; if (2) is not advisable, then a constitutional requirement that the preamble of every private or special bill express the bill's substance and the bill be made publicly available for sufficient public inspection; (3) a limitation on the power of cities and other municipalities to contract debt; (4) the establishment of a court having exclusive jurisdiction over cases concerning condemnation; (5) the requirement that amendatory acts have the sections to be amended inserted in the bill; (6) a reasonable delay of time before a passed bill becomes effective; (7) more equitable reapportionment of the General Assembly; and (8) categories of prohibited special legislation, specifically: (a) acts granting special privileges or immunities; (b) acts violating the principle of equal and uniform taxation; (c) acts chartering railroads with special privileges; (d) acts authorizing donations or loans to

197. See *infra* note 200 and accompanying text.

198. See Annual Message, *supra* note 105; PROCEEDINGS, *supra* note 84, at 4-12. The Governor's Message has been reproduced in Part II of this volume.

private entities; and (e) acts that appoint persons to local governments without election by the people represented by those local governments.¹⁹⁹

Parker's omissions are perhaps as significant as the amendments he recommended since they demonstrate that the Commission initiated constitutional reforms without merely following gubernatorial directive. Indeed, many of the most important constitutional amendments adopted by the Commission and eventually ratified by the people originated with the members of the Commission. Crucial amendments relating to free public schools, suffrage rights, even the governor's item veto, were not suggested by the Governor but have their origins in the Commission itself. This lends support to the argument that the Commission, as a deliberative body representative of a wide spectrum of ideas, had unique value in its recommendations and that, quite possibly, the current New Jersey Constitution would not have been the same without the Commission's singular input.

2. Hough's *American Constitutions*²⁰⁰

Early in the Commission's initial meeting on May 8, Cutler offered a proposal that all members receive a copy of Hough's *American Constitutions*, which was immediately adopted.²⁰¹ Published in 1872, Hough's two-volume monumental work compiled the texts of the U.S. Constitution, each state constitution, and the Constitution of the Confederacy. Most valuable was its subject arrangement of all state constitutional provisions for easy reference and comparison. For example, if a constitutional drafter was interested in researching special legislation prohibitions in each state's constitution, one would consult Hough's topical

199. *Id.*

200. FRANKLIN BENJAMIN HOUGH, *AMERICAN CONSTITUTIONS: COMPRISING THE CONSTITUTION OF EACH STATE IN THE UNION, AND OF THE UNITED STATES, WITH THE DECLARATION OF INDEPENDENCE AND ARTICLES OF CONFEDERATION; EACH ACCOMPANIED BY A HISTORICAL INTRODUCTION AND NOTES, TOGETHER WITH A CLASSIFIED ANALYSIS OF THE CONSTITUTIONS, ACCORDING TO THEIR SUBJECTS, SHOWING BY COMPARATIVE ARRANGEMENT, EVERY CONSTITUTIONAL PROVISION NOW IN FORCE IN THE SEVERAL STATES; WITH REFERENCES TO JUDICIAL DECISIONS, AND AN ANALYTICAL INDEX* (1872), (in 2 volumes). [Hereinafter, HOUGH].

201. PROCEEDINGS, *supra* note 84, at 12. A newspaper that covered the proceedings added: "Mr. Taylor said that Hough's *Constitutions* contained the constitutions of every State in the Union, and also the Constitution of the United States. The work was classified, and its index alphabetically arranged, and it would be a most important aid in the work on which they entered." FREDONIAN (New Brunswick, N.J.), May 9, 1873.

index which listed the text of each constitutional provision pertaining to special legislation. In this way, the members of the Commission were easily able to visualize how other states handled specific constitutional issues.²⁰²

The Commission's reliance on Hough's *American Constitutions* was considerable, as evidenced by our analysis of verbatim (or virtually verbatim) borrowing of text from other state constitutions. Our analysis shows that there were several constitutional provisions proposed or adopted by the Commission that could be traced back to other state constitutions in effect at the time. The occurrences of exact, verbatim passages leave no question that members of the Commission consulted Hough's text extensively and borrowed liberally.

For example, the Commission's recommendation to amend Article I, Paragraph 16 concerning the taking of private property is the verbatim clause from the Ohio Constitution, Article I, Section 19, which states, "Private property shall ever be held inviolate, but subservient to the public welfare."²⁰³ Cutler's proposed amendment concerning the property rights of women was the verbatim text of Michigan's Constitution, Article XVI, Section 5.²⁰⁴ Swayze's proposed new article concerning corporations and railroads was the identical text of Article XI of the Illinois Constitution.²⁰⁵ And when Carter argued, in a lengthy speech before the Commission, in support of strengthening the Governor's veto power, he attributed Hough as an authoritative source for his assertion that nearly two-thirds of all the states required an extra-majority in the Legislature to overcome a Governor's veto.²⁰⁶

The following list highlights several constitutional amendments that were proposed by members of the New Jersey Constitutional Commission and which can also be found, verbatim or nearly verbatim, in other state constitutions as analyzed in Hough's *American Constitutions*. (This list is

202. For an in-depth study of the use of Hough's *American Constitutions* and other compilations by state constitutional conventions, see Marsha L. Baum & Christian G. Fritz, *American Constitution-Making: The Neglected State Constitutional Sources*, 27 HAST. CONST. L.Q. 199, 201 n. 8 (2000). Baum and Fritz argue that the wide availability of these compilations resulted in the "democratization of constitution-making" because they "created an equivalence [to large private libraries] in source material from which constitution-makers—no matter in what humble or remote circumstance their convention might meet—could draw." *Id.*

203. OHIO CONST. art. I, § 19; see HOUGH, Vol. II, *supra* note 200, at 590.

204. MICH. CONST. art. XVI, § 5; see HOUGH, Vol. II, *supra* note 200, at 600.

205. ILL. CONST. art XI; see HOUGH, Vol. I, *supra* note 200, at 319-321.

206. CAMDEN DEMOCRAT, November 8, 1873.

not intended to be exhaustive, nor should it be assumed that members of the Commission used Hough as their only reference source.)

Commission's Proposed Constitutional Amendment: Art. I, ¶ 16 (Proposed Amendment #77)

Subject: Taking of Private Property

Notes: The first clause as adopted by the Commission is taken verbatim from the Ohio Constitution: "Private property shall ever be held inviolate, but subservient to the public welfare."

Source: HOUGH, Vol. II, p. 590.

Commission's Proposed Constitutional Amendment: Art. I, ¶ 19 (Proposed Amendment #57)

Subject: Concerns the Division of Counties

Notes: Several state constitutions contained provisions that prohibited the division of counties without the approval of a majority of voters affected by such division. Hough cites the constitutions of Illinois, Georgia, Kansas, Maryland, Minnesota and Ohio.

Source: HOUGH, Vol. II, pp. 644, 818-819.

Commission's Proposed Constitutional Amendment: Art. II, ¶ 1 (Proposed Amendment #10)

Subject: Suffrage Rights for Military Servicemen Who Are Away From the State During Time of War

Notes: A similar provision, verbatim in places, is found in the New York and Michigan constitutions. (But New Jersey evidently borrowed from the New York 1872-73 Constitutional Commission's report, see *infra*, note 210 and accompanying text.)

Source: HOUGH, Vol. II, p. 761.

Commission's Proposed Constitutional Amendment: Art. II, ¶ 1 (Proposed Amendment #1)

Subject: Suffrage Rights for African-American Males

Notes: According to Hough, as of 1872, the following states had constitutional provisions that excluded black males from the right of suffrage: California, Connecticut, Delaware, Indiana, Kansas, Kentucky, Maryland, Nebraska, Nevada, New Jersey, Ohio, Oregon, Pennsylvania, West Virginia.

Source: HOUGH, Vol. II, p. 771.

Commission's Proposed Constitutional Amendment: Art. IV, § I, ¶ 3
(Proposed Amendment #38)

Subject: Date of Legislative Elections Set as the First Tuesday after the First Monday in November

Notes: According to Hough, the following state constitutions set the date of legislative elections as the first Tuesday after the first Monday in November: Arkansas, Florida, Georgia, Illinois, Kansas, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nevada, New York, Virginia, and Wisconsin. Prior to the adoption of this amendment in 1875, New Jersey's Constitution set the date of general elections as the second Tuesday in October.

Source: HOUGH, Vol. II, p. 757.

Commission's Proposed Constitutional Amendment: Art. IV, § IV, ¶ 6
(Proposed Amendment #40)

Subject: Legislative Procedures: Bills to Be Read on Three Several Days

Notes: The phrase "on three several days" was taken from many states (Hough, pp. 641-642); however, no state constitution included the extraordinarily stringent requirement that the bill or resolution be read in its entirety, "section by section," as proposed by the New Jersey Constitutional Commission. (It is possible that this requirement was proposed as a direct reaction to the Stanhope Railroad scandal; see *infra* note 242 and accompanying text).

Source: HOUGH, Vol. II, pp. 641-642.

Commission's Proposed Constitutional Amendment: Art. IV, § IV, ¶ 7
(Proposed Amendments #4, 39)

Subject: Legislative Compensation

Notes: According to Hough, the Florida Legislature had the highest fixed annual legislative salary of all state constitutions, \$500. This may have been the source of the \$500 amount adopted by the Commission. The proposed amendment providing \$25 for incidentals, etc. was taken almost verbatim from the Illinois Constitution. The Illinois Constitution provided for the amount of \$50 for incidentals, including newspapers. The New Jersey Constitutional Commission evidently amended Illinois' provision to \$25 and deliberately excluded newspapers.

Source: HOUGH, Vol. II, pp. 627, 636.

Commission's Proposed Constitutional Amendment: Art. IV, § V, ¶ 1
(Proposed Amendment #18)

Subject: Prohibits a Member of Legislature from Holding Certain Other Civil Offices

Notes: The proposed amendment was taken verbatim from the New York Constitution.

Source: HOUGH, Vol. II, p. 620.

Commission's Proposed Constitutional Amendment: Art. IV, § VII, ¶ 4 (Proposed Amendment #36)

Subject: Legislative Procedures: Laws Shall Not Be Enacted by Reference to the Title of a Bill

Notes: The first sentence is taken almost verbatim from the Illinois Constitution: "And no law shall be revived or amended by reference to its title only, but the law revived or the section amended shall be inserted at length [in the new act]." (Compare with an identical amendment proposed by the New York Constitutional Commission, *see infra*, note 213 and accompanying text.)

Source: HOUGH, Vol. II, p. 640.

Commission's Proposed Constitutional Amendment: Art. IV, § VII, ¶ 6 (Proposed Amendment #84)

Subject: Free Public Schools

Notes: As proposed by the New Jersey Constitutional Commission, the proposal's first part is taken virtually verbatim from the Missouri state constitution, with the most notable exception being the difference in ages (between 5 and 21 in Missouri versus 5 and 18 in New Jersey). The original proposal was also similar to a provision in the Arkansas Constitution. As amended by Taylor in the 1874 Senate and eventually adopted, with the particular use of the phrase "thorough and efficient," the text is similar to provisions in the Illinois, Maryland, Nebraska, Ohio and West Virginia constitutions. (It is possible that the "thorough and efficient" clause was ultimately borrowed from the Pennsylvania Constitution, Article X, Section I, adopted on December 16, 1873 – too late to be included in Hough; *see infra* note 364 and accompanying text).

Source: HOUGH, Vol. II, pp. 793-797.

Commission's Proposed Constitutional Amendment: Art. IV, § VII, ¶ 13 (Proposed Amendment #59(4))

Subject: Sets the Effective Date of Laws as the Following July 4, Unless Otherwise Directed.

Notes: The proposed amendment is a virtually verbatim provision of the Illinois Constitution (with the exception of a July 1 effective date). The Iowa Constitution contained a provision for a July 4 effective date for laws.

Source: HOUGH, Vol. II, p. 643.

Commission's Proposed Constitutional Amendment: Art. IV, § VII, ¶ 14
(Proposed Amendment #35.1)

Subject: Prohibits Private, Local or Special Legislation in Enumerated Cases

Specific Language: Laying out, opening, altering and working roads or highways.

Notes: This provision is found verbatim in the state constitutions of Illinois, Indiana, Iowa, and Oregon.

Source: HOUGH, Vol. II, p. 645.

Commission's Proposed Constitutional Amendment: Art. IV, § VII, ¶ 14
(Proposed Amendment #35.2)

Subject: Prohibits Private, Local or Special Legislation in Enumerated Cases

Specific Language: Vacating any road, town plot, street, alley or public grounds.

Notes: A similar provision is found in the state constitutions of Florida, Illinois, Indiana, Iowa and Nevada.

Source: HOUGH, Vol. II, p. 645.

Commission's Proposed Constitutional Amendment: Art. IV, § VII, ¶ 14
(Proposed Amendment #35.3)

Subject: Prohibits Private, Local or Special Legislation in Enumerated Cases

Specific Language: Regulating the internal affairs of towns and counties.

Notes: A similar provision is found in the state constitutions of Florida, Illinois, Indiana, and Nevada.

Source: HOUGH, Vol. II, p. 645.

Commission's Proposed Constitutional Amendment: Art. IV, § VII, ¶ 14
(Proposed Amendment #35.4)

Subject: Prohibits Private, Local or Special Legislation in Enumerated Cases

Specific Language: Selecting, drawing, summoning or empanelling grand or petit jurors.

Notes: A similar provision is found in the state constitutions of Florida, Illinois, and Oregon.

Source: HOUGH, Vol. II, pp. 646, 726.

Commission's Proposed Constitutional Amendment: Art. IV, § VII, ¶ 14
(Proposed Amendment #35.5)

Subject: Prohibits Private, Local or Special Legislation in Enumerated Cases

Specific Language: Regulating the rate of interest on money.

Notes: A similar provision is found in the state constitutions of Indiana and Oregon.

Source: HOUGH, Vol. II, p. 757.

Commission's Proposed Constitutional Amendment: Art. IV, § VII, ¶ 14
(Proposed Amendment #35.6)

Subject: Prohibits Private, Local or Special Legislation in Enumerated Cases

Specific Language: Creating, increasing or decreasing the percentage or allowance of public officers during the term for which said officers were elected or appointed.

Notes: A virtually verbatim provision is found in the Illinois Constitution.

Source: HOUGH, Vol. II, p. 646.

Commission's Proposed Constitutional Amendment: Art. IV, § VII, ¶ 14
(Proposed Amendment #35.7)

Subject: Prohibits Private, Local or Special Legislation in Enumerated Cases

Specific Language: Changing the law of descent.

Notes: A virtually verbatim provision is found in the Indiana Constitution.

Source: HOUGH, Vol. II, p. 647.

Commission's Proposed Constitutional Amendment: Art. IV, § VII, ¶ 14
(Proposed Amendment #35.8)

Subject: Prohibits Private, Local or Special Legislation in Enumerated Cases

Specific Language: Granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever.

Notes: A virtually verbatim provision is found in the Indiana state constitution.

Source: HOUGH, Vol. II, p. 647.

Commission's Proposed Constitutional Amendment: Art. IV, § VII, ¶ 14
(Proposed Amendment #35.9)

Subject: Prohibits Private, Local or Special Legislation in Enumerated Cases

Specific Language: The legislature shall pass no special act conferring corporate powers, but they shall pass general laws under which corporations may be organized and corporate powers of every nature obtained, subject, nevertheless, to repeal or alteration at the will of the legislature.

Notes: A similar provision is found in the Arkansas, Kansas, Nebraska, Ohio and South Carolina state constitutions.

Source: HOUGH, Vol. II, pp. 811-812.

Commission's Proposed Constitutional Amendment: Art. IV, § VII, ¶ 14
(Proposed Amendment #35.10)

Subject: Prohibits Private, Local or Special Legislation in Enumerated Cases

Specific Language: Providing for the management and support of free public schools.

Notes: A similar provision is found in the Illinois state constitution.

Source: HOUGH, Vol. II, p. 645.

Commission's Proposed Constitutional Amendment: Art. IV, § VII, ¶ 14
(Proposed Amendment #35.11)

Subject: Prohibits Private, Local or Special Legislation in Enumerated Cases

Specific Language: Granting to any corporation, association or individual the right to lay down railroad tracks.

Notes: A verbatim provision is found in the Indiana state constitution.

Source: HOUGH, Vol. II, p. 645.

Commission's Proposed Constitutional Amendment: Art. IV, § VII, ¶ 14
(Proposed Amendment #35.12)

Subject: Prohibits Private, Local or Special Legislation in Enumerated Cases

Specific Language: Providing for changes of venue in civil or criminal cases.

Notes: A similar provision is found in the Florida, Illinois, Indiana, Nevada and Oregon state constitutions.

Source: HOUGH, Vol. II, p. 646.

Commission's Proposed Constitutional Amendment: Art. IV, § VIII, ¶¶ 1, 2
(Proposed Amendment #5)

Subject: Oath of Office for Legislators

Notes: The first paragraph, as adopted by the New Jersey Constitutional Commission, is the identical text of provisions found in the California, Illinois, Iowa and Michigan state constitutions. The Commission's original proposal offered by Dickinson was taken verbatim from an amendment proposed by the Pennsylvania Constitutional Convention. (See *infra*, note 215 and accompanying text).

Source: HOUGH, Vol. II, pp. 773-776.

Commission's Proposed Constitutional Amendment: Art. V, ¶ 6 (Proposed Amendment #65)

Subject: Allows Governor to convene the Legislature "or Senate alone"

Notes: The Maryland and New York state constitutions contain similar provisions, using the language "or the Senate only."

Source: HOUGH, Vol. II, p. 622.

Commission's Proposed Constitutional Amendment: Art. V, ¶ 7 (Proposed Amendment #6)

Subject: Requires Two-Thirds Majority to Override a Governor's Veto

Notes: The New Jersey Constitutional Commission's proposed amendment to strengthen the Governor's veto power was intensely debated during the proceedings of the Commission and the 1874 New Jersey Senate. It is highly probable that Hough was consulted for comparisons of each state on this issue. The following is an abstract of Hough's analysis of veto override requirements in the states:

Two-thirds majority (Present in each House): Florida, Louisiana, Nebraska, New York, Oregon, Texas, Virginia, Wisconsin.

Two-thirds majority (Elected in each House): Georgia, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Nevada, New Hampshire, Pennsylvania, South Carolina, and the US Constitution.

Simple Majority (Present in each House): California.

Simple Majority (Elected in each House): Arkansas, Indiana, Kentucky, Missouri, Tennessee.

Simple Majority (Whole Number): New Jersey.

Simple Majority (Whole Members): Alabama.

Simple Majority (of Each House): Vermont.

As on first passage: Connecticut.

Three-Fifths Majority: Maryland.

No Veto Power: Delaware, North Carolina, Ohio, Rhode Island, West Virginia.

(The application of the governor's veto to bills only or to bills and resolutions was not considered for this analysis.)

Source: HOUGH, Vol. II, pp. 657-658.

Commission's Proposed Constitutional Amendment: Art. V, ¶ 7 (Proposed Amendment #7)

Subject: Line Item Veto

Notes: According to Hough, Georgia and Texas were the only states to have the line item veto (as of 1872). Hough includes a reference to Georgia's line item veto provision in his subject arrangement, under the heading "Other Provisions Concerning the Veto Power." Hough mentions Texas' line item veto provision as a note to a table entitled "Limitations to the Veto Power." The first American Constitution to contain a line item veto was the Constitution of the Confederate States of America in 1861. Although Hough included the text of the Constitution of the CSA, he evidently omitted reference to its line item veto in his subject compilation.

Source: HOUGH, Vol. II, pp. 659, 657-658 (note 18), 875.

Commission's Proposed Constitutional Amendment: [Unspecified]
(Proposal #79)

Subject: Concerning the Property Rights of Women

Notes: Cutler's proposed amendment is the verbatim text of an identical provision in Michigan's Constitution.

Source: HOUGH, Vol. II, p. 600.

Commission's Proposed Constitutional Amendment: [Unspecified]
(Proposal #70)

Subject: Concerning Corporations, Banks and Railroads

Notes: Swayze's proposed new article is the verbatim text of the entire Article XI of the Illinois Constitution.

Source: HOUGH, Vol. I, pp. 319-321.

3. *Work of Recent State Constitutional Conventions and Commissions*

We have already mentioned the significant influence that New York's Constitutional Commission had on the formation of New Jersey's 1873 Commission. Commencing their labors at its first meeting on December 4, 1872, and adjourning on March 15, 1873, the New York Constitutional Commission recommended many of the constitutional changes proposed by the Constitutional Convention of 1867 that were rejected by popular vote in 1869.²⁰⁷ The New York Commission submitted its report²⁰⁸ to the Assembly on March 24 and to the Senate on March 25, consisting of proposed amendments "with statements accompanying some of

207. LINCOLN, CHARLES Z., *THE CONSTITUTIONAL HISTORY OF NEW YORK*, Vol. II, at 464-473 (1906).

208. The full text of the report of the New York Constitutional Commission was reproduced in the *New York Times*, March 18, 1873. See *supra* note 118.

the articles, showing the reasons which influenced the Commission in recommending the proposed changes.”²⁰⁹ The New York Legislatures of 1873 and 1874 agreed to most of the Commission’s recommendations, some with further revision, and they were approved by popular election in November 1874. Doubtlessly due to the recentness of the report and the geographic proximity of New York, the New Jersey Constitutional Commission paid very close attention to the work of her sister state’s commission and there is no question that the New Jersey commission borrowed several proposals verbatim. For example, Green’s and Buckley’s proposed amendment that provided suffrage rights for military servicemen who are out of state during wartime, was taken verbatim from the New York Commission’s final report.²¹⁰ The line item veto as adopted by New Jersey’s Commission was identical to that of New York.²¹¹ The prohibition of special legislation in enumerated cases that was proposed by Green and was perhaps the most crucial amendment adopted by New Jersey’s Commission was, to a large extent, borrowed verbatim from New York.²¹² Green’s proposed amendment concerning legislative procedures, consisting of the following three clauses: “No law shall be revived or amended by reference to its title only; but the act revived or the section or sections amended, shall be inserted at length. No general law shall embrace any provision of a private, special, or local character. No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of said act, or which shall declare or enact that any existing law, or any part thereof, shall be applicable, except by inserting in said act” was copied verbatim from the New York Commission.²¹³ Finally, Buckley’s proposed amendment that prohibited local governments from giving or loaning money to any individual, association or corporation, was

209. LINCOLN, *supra* note 207, at 471.

210. Compare the New York Constitutional Commission’s proposed amendment to Art. II, § I with the New Jersey Constitutional Commission’s proposed amendment to Art. II, ¶ 1 (Proposal #10).

211. Compare the New York Constitutional Commission’s proposed amendment to Art. IV, § VIII with the New Jersey Constitutional Commission’s proposed amendment to Art. V, ¶ 7 (Proposal #7).

212. Compare the New York Constitutional Commission’s proposed amendment to Art. III, § XIX with the New Jersey Constitutional Commission’s proposed amendment to Art. IV, § VII, ¶ 14 (Proposals #35 through 35.12).

213. Compare the New York Constitutional Commission’s proposed amendment to Art. III, § XV with the New Jersey Constitutional Commission’s proposed amendment to Art. IV, § VII, ¶ 4. (Proposal #36). Curiously, Green’s original proposal reversed the order of the three clauses as recommended by the New York Commission.

virtually verbatim to the New York proposal.²¹⁴ A comparison of the New York and New Jersey Commission reports reveals several other verbatim borrowings. This is not to say that members of the New Jersey Constitutional Commission blindly copied from their sister state in all instances; however, it is clear that the New York Commission's report was a significant resource used by members of the New Jersey Commission.

It is important to keep in mind that, during this period of American history, many states were engaged in the process of reviewing and amending their constitutions and this activity certainly did not go without the notice of Commission members. For example, Dickinson's proposed amendment regarding oaths of state legislators was derived from a similar amendment proposed by the Pennsylvania Constitutional Convention.²¹⁵ The text of a constitutional amendment proposed by the Illinois Constitutional Convention that prohibited special legislation in enumerated instances, was reproduced in an editorial appearing in a Trenton newspaper.²¹⁶ As referenced earlier, the complete text of the report of New York's Constitutional Commission was reprinted in the *New York Times*.²¹⁷ References to the work of other state constitutional conventions were so frequent and readily available that one New Jersey newspaper remarked, "This is the great year of Constitutional Conventions. Delaware is to have one on May 20, and Connecticut is earnestly considering the advisability of calling one,"²¹⁸ and, perhaps

214. Compare the New York Constitutional Commission's proposed amendment to Art. VIII, § XI with the New Jersey Constitutional Commission's proposed amendment to Art. I, ¶ 19 (Proposal #19). The clause that was omitted by the New Jersey Constitutional Commission explained that the section would not prevent local governments from providing aid to the poor. It is possible that the exclusion of this clause resulted in partisan wrangling during the 1875 Senate deliberations, ultimately endangering the passage of any amendments. See *infra* notes 673-83 and accompanying text.

215. DAILY ST. GAZETTE (Trenton, N.J.), Oct. 8, 1873. The mention of the Pennsylvania Constitutional Convention as a source of Dickinson's proposal is not found in the official PROCEEDINGS. This is another example of the value of newspaper accounts of the Commission's deliberations. For the official record of the debates of the Pennsylvania Constitutional Convention, see DEBATES OF THE CONVENTION TO AMEND THE CONSTITUTION OF PENNSYLVANIA CONVENED AT HARRISBURG, NOVEMBER 12, 1872; ADJOURNED, NOVEMBER 27, TO MEET AT PHILADELPHIA, JANUARY 7, 1873 (Harrisburg: Benjamin Singerly, State Printer 1873).

216. DAILY ST. GAZETTE (Trenton, N.J.), Feb. 18, 1873.

217. N. Y. TIMES, Mar. 18, 1873. See *supra* note 118.

218. DAILY ST. GAZETTE (Trenton, N.J.), Mar. 4, 1873.

sarcastically, added, “If New Jersey waits a few years, she can see how these new constitutions work, and remodel her own from the best.”²¹⁹

4. *Petitions to Members of the Constitutional Commission*

Another source of proposed amendments came from petitions directed to members of the Commission, requesting an individual to sponsor an amendment. Our analysis identified several petitions presented by Commission members on behalf of constituents. A petition from Elizabeth Cady Stanton “and others” regarding women’s suffrage was proposed by Buckley on October 8, 1873.²²⁰ Another petition of similar import was sponsored by Gregory on behalf of Cornelia C. Hussey on October 14, 1873.²²¹ A third petition favoring female suffrage was presented by Cutler on the same day.²²² Charles Stokes of Burlington County, a member of the 1844 Constitutional Convention, requested that Ten Eyck sponsor four proposed amendments on October 28, 1873.²²³ A letter from John Van Brunt

219. *Id.* Although the Michigan Constitutional Commission was created and labored virtually simultaneously with New Jersey’s (created on April 24, 1873, reported on October 16, 1873 and December 1, 1873), New Jersey does not seem to have used Michigan’s reports. See THE CONSTITUTION OF MICHIGAN WITH AMENDMENTS THERETO, AS RECOMMENDED BY THE CONSTITUTIONAL COMMISSION OF 1873 AND REPORTED TO THE GOVERNOR, WITH AN ANALYSIS OF THE CHANGES PROPOSED (Lansing: W.S. George & Co., 1873). See notes 100-102 *supra* and accompanying text.

220. PROCEEDINGS, *supra* note 84, at 39. See *infra* note 345 and accompanying text.

221. *Id.* at 64-65. The complete text of this remarkable petition is reproduced here:

... the following petition has been circulated and numerous signed:

To the Constitutional Commission of New Jersey:

Gentlemen: We, citizens of New Jersey, do respectfully request your honorable body to prepare and recommend such an amendment to our Constitution as shall confer the right of suffrage on the women of the State, on equal terms with the men.”

This Commission commenced sitting on the 7th inst., at Trenton, whither the ladies having it in charge, will proceed to present their petition.

We trust that the most enlightened wisdom may guide the deliberation of these men who have thus the great responsibility of amending the “Constitution,” and that they may give to the petition thus placed before them, the consideration, and respect to which it is entitled, as the voice of a large and intelligent body of citizens.

Conservative New Jersey is moving, and bids fair to advance rapidly on her more progressive sister State.

C. C. Hussey.

WOMEN’S JOURNAL, Oct. 18, 1873, at 333.

222. PROCEEDINGS, *supra* note 84, at 65. This unidentified petition may have been a duplicate of Cady Stanton’s or Hussey’s petition.

223. PROCEEDINGS, *supra* note 84, at 122; see also DAILY ST. GAZETTE (Trenton, N.J.), Oct. 29, 1873. Stokes’ four proposals concerned the rights of political minorities, legislative

regarding the mode of tax assessments for schools was the source of a proposed amendment offered, although not formally introduced, by Gregory on November 13, 1873.²²⁴ And at least one newspaper referred to a petition providing for “local option” that was placed on the desk of Commission members on July 22, 1873.²²⁵

Interestingly, Assemblyman J. Daggett Hunt of Hudson County petitioned Gilchrist to introduce fourteen proposed amendments to the Constitution on May 8.²²⁶ Gilchrist, however, resigned before being able to formally introduce them and they do not appear on the official minutes of the Commission. Hunt’s fourteen proposed amendments, as printed in several newspapers, are reproduced here:

First – That the Secretary of State, Attorney-General, and all prosecuting attorneys be elected by the people; also, the clerks of the Supreme and Chancery courts.

Second – The State Treasurer and Comptroller to hold office for three years commencing simultaneously with the Governor.

Third – Judges of the Court of Common Pleas to be appointed in the same manner, and to serve for three years.

Fourth – To create a new office [of] Lieutenant-Governor whose chief duty shall be to preside over the Senate.

Fifth – The veto power of the Governor. Mr. Hunt pays considerable attention to this and thinks that a two-thirds vote of the Legislature should be required to overthrow it.

reapportionment, the right of educating one’s own children, and a constitutional assurance that no religious sect be permitted to infringe upon the rights of others. A Quaker, Stokes supported suffrage rights for African-Americans during the 1844 Constitutional Convention. He was also a fervent opponent of the Camden and Amboy railroad monopoly and opposed the merger of the “joint companies,” as well as their property tax exemption, as an Assemblyman in 1830. *THE BIOGRAPHICAL ENCYCLOPEDIA OF NEW JERSEY OF THE NINETEENTH CENTURY* 209-13 (1877); *see also* Bebout, *supra* note 29, at 642.

224. *DAILY ST. GAZETTE* (Trenton, N.J.), Nov. 14, 1873. During discussion of whether revenues for public schools raised by counties should be spent only within the county of origin rather than disbursed statewide, “Mr. Gregory advocated a pro rata division, and presented a letter from the Hon. John Van Brunt, in relation to the mode of assessments.” *Id.*

225. *NEWARK DAILY JOURNAL*, July 23, 1873. A “Local Option” amendment would have granted local governments the authority to prohibit the sale of alcoholic beverages within their borders.

226. *AM. STANDARD* (Jersey City, N.J.), May 9, 1873; *NEWARK DAILY JOURNAL*, May 7, 1873; *JERSEY CITY TIMES*, June 4, 1873.

Sixth – The State, Mr. Hunt maintains, should hold no stock in any railroad or other corporation, and the amount of stock vested in corporations belonging to the State (New Jersey holding about \$4,500,000 in Camden and Amboy) should be sold and the money placed in the sinking fund.

Seventh – Relative to the complete independence of municipalities. Commissions for local purposes should be prohibited. Furthermore, no property, either ecclesiastical or corporate, shall be exempt from equal or uniform taxation.

Eighth – No new county shall be erected without the consent of two-thirds of the people interested.

Ninth – The Senatorial representation. No county, Mr. Hunt thinks, should have less than one Senator, but the larger counties, such as Essex, Passaic, Union, &c., should have a larger representation. This, he maintains, would be just and right, and in strict conformity with true democratic-republican principle[s].

Tenth – The sessions of the Legislature should, he thinks, be limited to forty days, and be held biennially, members to receive liberal compensation for their services.

Eleventh – Bribery in any way, shape or manner is forcibly referred to, and an amendment debarring parties convicted of such a crime from ever holding the right of citizenship is strongly urged.

Twelfth – Hereafter, no bills for railroad charters should be entertained. All legislation for such purposes should be supplementary to the general railroad law.

Thirteenth – The term of sheriffs of the several counties should be for three years.

Fourteenth – The offices of lay judges should be abolished.²²⁷

227. AM. STANDARD (Jersey City, N.J.), May 9, 1873; WEST JERSEY PRESS (Camden, N.J.), May 28, 1873. The *Monmouth Democrat* supplemented the fourteen proposals with this paragraph:

Mr. Hunt further advocates a code of general laws on all subjects, which will prove of great benefit and facilitate legislative business; applications for private laws to be noticed in at least one newspaper in the county where the bill originates for not less than six months previous to the meeting of the Legislature before which it is to be presented; all State officers to be salaried, and the fees, perquisites, &c., received after the expirations of the terms of the present State officers to be paid into the treasury.

MONMOUTH DEMOCRAT (Freehold, N.J.), May 22, 1873.

5. *Newspaper Editorials and Letters*

There was certainly no dearth of recommended constitutional amendments to be found in countless editorials and letters to the editors published daily in local newspapers. Whether members of the commission sponsored amendments based upon any of the editorials and letters cannot be answered with certainty. However, it is not inconceivable that commissioners read some of the newspapers of the day and may have been influenced by their suggestions. Examples of the myriad recommended constitutional amendments offered in newspaper editorials and letters include: a provision for compulsory education,²²⁸ the creation of the office of lieutenant governor,²²⁹ reorganization of the Legislature,²³⁰ the taxation of church property,²³¹ legislative redistricting based on population,²³² and a provision to abolish special legislation.²³³

One newspaper invited suggestions from its readers while extolling the press for its historical role in disseminating ideas for constitutional reform for the benefit of past constitutional conventions:

Any suggestions that will afford our Constitutional Commission a guide in the important labors upon which it is soon actively to enter, are now in order. It is, indeed, the duty of the press carefully to scan every thing bearing upon the subject of Constitutional revision, and to glean therefrom such ideas as may appear to be of value in the proposed remodeling of the Constitution of this State. It is almost entirely from this source that such information is disseminated and availed of. The very demand for Constitutional Conventions has been created by the press, and they have been called into existence by its potent voice.²³⁴

228. See letter addressed to the Constitutional Commission originally printed in the *New Jersey Republican* and summarized in the *JERSEYMAN* (Morristown, N.J.), August 26, 1873.

229. See editorial entitled "The Constitutional Commission," *NEWARK DAILY ADVERTISER*, April 18, 1873.

230. See letter by Samuel J. Bayard originally printed in the *WEST JERSEY PRESS* (Camden, N.J.), May 14, 1873 and reprinted in the *JERSEYMAN* (Morristown, N.J.), May 27, 1873.

231. *WEST JERSEY PRESS* (Camden, N.J.), June 4, 1873.

232. *NEW BRUNSWICK TIMES*, January 6, 1873.

233. *DAILY ST. GAZETTE* (TRENTON, N.J.), February 13, 1873.

234. *DAILY ST. GAZETTE* (TRENTON, N.J.), June 6, 1873.

B. The Commission's Proposed Amendments

There are two primary source documents that delineate the Commission's proposed constitutional amendments: the official proceedings of the Commission and the Commission's Report. These primary source documents can be supplemented with newspaper accounts of Commission deliberations.

1. The Proceedings of the 1873 Constitutional Commission

The minutes of the 1873 Constitutional Commission survive as a one-volume, handwritten, leather-bound ledger located in the New Jersey State Archives. The volume is entitled "Record of Proceedings of the Constitutional Commission" and consists of 169 manuscript pages, with an additional seven pages of minutes of the Committee of the Whole. The minutes were written by Commission secretaries Edward J. Anderson and Joseph L. Naar, and cover the nineteen days of Commission sessions from May 8, 1873 to December 23, 1873. Page 169 bears the signatures of Commission President Ten Eyck and Secretaries Anderson and Naar.

The historical importance of the volume is obvious as it contains the official record of the Commission's activities: the attendance of members; Commission rules; sponsorship of proposals; the text of proposed amendments; a record of committee acceptance or rejection of proposals; motions to amend, supplement, substitute, postpone, adopt, or defeat proposals under consideration; and the votes of commissioners. The proceedings were used as the primary source document in our identification and analysis of each of the Commission's proposed amendments.

The full text of the Proceedings has been transcribed in Part III of this volume.

2. The Report of the Constitutional Commission

The Report of the Constitutional Commission exists in two forms. The first, a sixteen-page printed report entitled "Report of the Constitutional Commission of New Jersey," [hereinafter *Report A*] was dated December 23, 1873 and provided the recommended amendments, listed in order of constitutional section, in a format that instructed the reader to strike out an existing section of the Constitution and/or to insert the text of the recommended amendment. The proceedings, at page 167, state that three

copies of this report were to be transmitted, respectively, to the Governor and each house of the Legislature. What appears to be the only extant copy of this document is affixed to the official manuscript minutes of the General Assembly for March 23, 1874 located in the New Jersey State Archives. The text of the report was reproduced in the bound volumes of the Senate Journal, 1874 at pages 48-59 and the Assembly Minutes, 1874 at pages 1130-1143. The second version of the report, entitled CONSTITUTION OF THE STATE OF NEW JERSEY, AS PROPOSED TO BE AMENDED BY THE CONSTITUTIONAL COMMISSION, dated December 23, 1873 (Trenton: printed at the “True American” Office, 1873), [hereinafter *Report B*] consisted of 29 pages and reproduced the complete text of the 1844 Constitution with changes recommended by the Commission incorporated into the text. Five hundred copies of this version of the report were printed and distributed to the Governor, each member of the Legislature, the Chancellor, the Judges of the Supreme Court and other state officers.²³⁵ In this version of the report, the existing text of the 1844 Constitution that was proposed to be stricken out by the Commission was enclosed in [brackets] and printed in SMALL CAPITAL letters, while the Commission’s proposed new text was printed in *italics*. Extant copies of this version of the report are held by the New Jersey State Library, the Rutgers University Special Collections and University Archives, and the New Jersey Office of Legislative Services Library. For the convenience of researchers, both forms of the report have been reproduced in Part III of this volume.

3. *Tabular Analysis of the Commission’s Proposed Amendments*

Through analysis of the Commission’s official hand-written proceedings and its report, the authors have identified 92 separate and distinct proposed constitutional amendments that were offered by members of the Commission.²³⁶ Of the 92 proposed amendments, 39 were approved by the Commission and recommended in its report to the Legislature.

By rule, any member could offer a proposed amendment during Commission deliberations.²³⁷ Typically, after an individual member

235. PROCEEDINGS, *supra* note 84, at 166.

236. Based on the Commission’s official proceedings, the criteria used by the authors to determine a separate proposal were whether the proposal’s text was discussed distinctly, and voted on separately, from another proposal. For a complete tabular analysis of each proposed amendment, see Part VII of this volume.

237. After much discussion and amendment, the rule as adopted stated: “Any member at any time during the sessions of the Commission may offer amendments to the Constitution

introduced a proposed amendment, it was referred to one of the four reference committees for further study. If the committee found the proposal acceptable, it would recommend its approval to the full Commission,²³⁸ with or without the committee's suggested changes. Usually, if a committee did not recommend a proposal, it would not be given further consideration. Not infrequently, a proposed amendment originated in a committee and was introduced as such.²³⁹ Further discussion by the Commission, often resulting in additional changes to the original proposal, would eventually proceed to a vote on the proposal's adoption. Since the various changes in the language of proposed amendments as they wound their way through the deliberative process, as well as the record of discussion as reported in newspapers, can be of great significance in determining the drafter's intent and purpose, we have prepared a comprehensive table that traces each proposal from introduction to final adoption or rejection. That table appears as Part VII of this volume. An abridged version of the comprehensive table in Part VII, that simply lists each proposal with synopsis, date of introduction, source citation to the official proceedings, and final action by the Commission, is provided here (See Table 2, starting on the next page.)²⁴⁰

There are several advantages to displaying the Commission's proposed amendments in a tabular format. First, the analysis facilitates the identification of the Commission's major areas of concern for constitutional reform. Second, the analysis identifies each proposed amendment with a unique proposal number that facilitates reference to a specific proposal. Third, the tabular analysis presents the proposed amendments in chronological order. Fourth, the analysis identifies *all* proposed amendments, not only those that were adopted. Finally, and most importantly, researchers can use our analysis as an index to the exact location in the official

and call for their consideration except when some other amendment is under discussion." PROCEEDINGS, *supra* note 84, at 28-29.

238. Committees released proposals to the Committee of the Whole until October 15; the Commission amended its rules to discontinue use of the Committee of the Whole on October 16. See PROCEEDINGS, *supra* note 84, at 87. See also notes 184-85, *supra*, and accompanying text.

239. Of the 92 proposed amendments, 15 were introduced by one of the four committees. That 14 of these 15 amendments were adopted by the Commission indicates the extraordinary power and influence of the committees. For the number of proposals referred to each committee, see Appendix 4 of this volume.

240. See Table 3, in this Introduction for a similar analysis of proposed amendments as acted on by the 1874 Senate. See Table 4, in this Introduction for a similar analysis of proposed amendments as appearing on the ballot of the September 7, 1875 popular election.

proceedings (and the day of related newspaper coverage) for each proposal. Used in conjunction with our compilation of newspaper accounts of Commission and legislative deliberations, our analysis can guide researchers in discovering the intent of the original drafters of the 1875 constitutional amendments. The more extensive analysis in Part VII of this volume should be extremely valuable as an index, since a researcher can trace each time a proposal was referenced, discussed, amended, and voted upon. Ultimately, the authors hope that our analysis will aid courts, legislators, attorneys and other interested parties in understanding how several sections of New Jersey's current Constitution were originally drafted.

TABLE 2: CONSTITUTIONAL AMENDMENTS PROPOSED
BY THE 1873 CONSTITUTIONAL COMMISSION ²⁴¹

No.	Synopsis of Proposed Constitutional Amendment	Proposal Introduced	Final Action by Commission
1	Strikes out the word "white" in suffrage article so as to extend suffrage rights to African-American males	July 22, 1873, p. 30	ADOPTED, October 16, 1873, p. 93-94
2	Concerns suffrage residency requirements	July 22, 1873, p. 30	ADOPTED as amended, October 16, 1873, p. 94
3	Deprives suffrage right from one convicted of bribery "in legislation" or who is a defaulter to state or general government; Legislature may pass law to require literacy test for suffrage	July 22, 1873, p. 30	ADOPTED as amended, November 12, 1873, p. 149-150

241. Table 2 is based upon the authors' analysis of the Proceedings of the New Jersey Constitutional Commission and the Commission's Report. The numerical assignments to proposed amendments in this table were created by the authors and will be referred to throughout this Introduction to identify specific proposals. The information contained is provided to the extent available. Page references are to the handwritten PROCEEDINGS, see footnote 84. See tabular analysis in Part VII of this volume for a far more comprehensive analysis.

INTRODUCTION

No.	Synopsis of Proposed Constitutional Amendment	Proposal Introduced	Final Action by Commission
4	Legislative Compensation, \$550 per member; \$0.05 per mile; Legislative Leaders, \$600; no other allowance	July 22, 1873 p. 31	LOST, October 9, 1873, p. 48-49
5	Legislative Oath	October 7, 1873, p. 33-34	ADOPTED as amended, November 12, 1873, p. 151
6	Requires two-thirds majority of both Houses of the Legislature to override Governor's veto	October 7, 1873, p. 36	ADOPTED, 7 to 5, October 28, 1873, p. 128
7	Line Item Veto	October 7, 1873, p. 36	ADOPTED as amended, October 16, 1873, p. 88-89 and December 23, 1873, p. 165
8	Governor prohibited from election to any other US or NJ office during his term	October 7, 1873, p. 36	ADOPTED as amended, October 16, 1873, p. 89
9	Appointment and nomination of Militia officers	October 7, 1873, p. 36-37	ADOPTED, October 16, 1873, p. 89
10	Provides suffrage rights for those in military service who are out of state during time of war	October 8, 1873, p. 38-39	ADOPTED, October 16, 1873, p. 94
11	Woman Suffrage (Petition from Elizabeth Cady Stanton and others)	October 8, 1873, p. 39	LOST, October 22, 1873, p. 101
12	Provides that Judges of Courts of Common Pleas be nominated by Governor with advice and consent of Senate, instead of by appointment by Joint Meeting of the Legislature	October 8, 1873, p. 39	ADOPTED, 6 to 2, October 22, 1873, p. 105-106
13	Keeper and Inspector of State Prison are not appointed by Joint Meeting of the Legislature	October 8, 1873, p. 39	ADOPTED as amended, October 22, 1873, p. 106
14	Keeper of State Prison and Surrogates of Counties to be nominated by Governor with advice and consent of the Senate	October 8, 1873, p. 39-40	ADOPTED as amended, October 22, 1873, p. 106

INTRODUCTION

83

No.	Synopsis of Proposed Constitutional Amendment	Proposal Introduced	Final Action by Commission
15	Attorney General to have a three- year term, instead of a five-year term	October 8, 1873, p. 40	ADOPTED, October 22, 1873, p. 107
16	Surrogates shall not be elected	October 8, 1873, p. 40	LOST, October 22, 1873, p. 107
17	Sheriffs and Coroners elected for three year terms	October 8, 1873, p. 40	ADOPTED as amended, 8 to 2, October 29, 1873, p. 136-137
18	Legislators prohibited from receiving appointment to certain other offices	October 8, 1873, p. 40	ADOPTED as amended, November 11, 1873, p. 140
19	Prohibits counties or municipalities from giving or loaning money to any individual, association or corporation; provides for local tax and debt limitations	October 8, 1873, p. 40-41	Parts 1 and 2 ADOPTED as amended, October 28, 1873, p. 125; Part 3 ADOPTED as amended, 7 to 2, November 12, 1873, p. 149
20	Poll tax, not to exceed three dollars	October 8, 1873, p. 41	LOST, 4 to 7, October 21, 1873, p. 99
21	Three-fourths of jurors rendering a verdict has same force and effect of all jurors	October 8, 1873, p. 41	LOST, 4 to 6, October 23, 1873, p. 120
22	Provides that in cases where private land is taken by corporations, the property owner shall have the right of appeal and have damages reassessed by verdict of a jury	October 8, 1873, p. 41-42	ADOPTED, 6 to 5, November 11, 1873, p. 139-140
23	Biennial Legislature	October 8, 1873, p. 42	LOST, November 11, 1873, p. 138-139
24	Requires publication in newspapers of proposed amendments to local governments	October 8, 1873, p. 42	ADOPTED as amended, October 16, 1873, p. 93
25	Referendum on the sale of intoxicating liquors	October 8, 1873, p. 42-43	LOST [No further action]
26	Prohibits tax exemption on real estate	October 8, 1873, p. 43	LOST [No further action]

INTRODUCTION

No.	Synopsis of Proposed Constitutional Amendment	Proposal Introduced	Final Action by Commission
27	Prohibits laws exempting real estate from taxes by payment of any sum to the State, county, township or city	October 8, 1873, p. 43	LOST [No further action]
28	Prohibits appropriations to religious corporations	October 8, 1873, p. 43	ADOPTED as amended, 5 to 6 [vote tally error?], December 23, 1873, p. 165
29	School Fund appropriated exclusively for the maintenance and support of public schools	Oct. 8, 1873, p. 43-44	LOST, October 21, 1873, p. 99
30	County tax for public schools	October 8, 1873, p. 44	LOST, 2 to 10, October 28, 1873, p. 126
31	The Legislature shall pass laws to compel attendance at public schools	October 8, 1873, p. 44	LOST [No further action]
32	Pardons granted only where innocence of person clearly appears	October 8, 1873, p. 44	LOST, November 11, 1873, p. 139
33	Limitation on local bonded debt	October 8, 1873, p. 44	LOST [No further action]
34	Jury can return verdict of “not proven” in criminal trials to allow subsequent trial	October 8, 1873, p. 45	LOST, October 29, 1873, p. 136
35	Prohibits Legislature from passing private, local or special laws in enumerated cases	October 8, 1873, p. 45-46	See Following Proposed Amendments 35.1 through 35.12
35.1	Prohibits Legislature from passing private, local or special laws related to laying out, opening, altering and working roads or highways	October 8, 1873, p. 45-46	ADOPTED, October 22, 1873, p. 111
35.2	Prohibits Legislature from passing private, local or special laws related to vacating roads, town plots, streets, alleys and public grounds	October 8, 1873, p. 45-46	ADOPTED as amended, October 29, 1873, p. 135

INTRODUCTION

85

No.	Synopsis of Proposed Constitutional Amendment	Proposal Introduced	Final Action by Commission
35.3	Prohibits Legislature from passing private, local or special laws related to regulating the internal affairs of towns or counties, and from appointing local officers or commissions to regulate municipal affairs	October 8, 1873, p. 45-46	ADOPTED, October 22, 1873, p. 111
35.4	Prohibits Legislature from passing private, local or special laws related to selecting, drawing, summoning or impaneling grand or petit juries	October 8, 1873, p. 45-46	ADOPTED, October 29, 1873, p. 135
35.5	Prohibits Legislature from passing private, local or special laws related to regulating the rate of interest on money	October 8, 1873, p. 45-46	ADOPTED, October 22, 1873, p. 111
35.6	Prohibits Legislature from passing private, local or special laws related to creating, increasing or decreasing fees, percentage, or allowances of public officers during the term for which said officers are elected or appointed	October 8, 1873, p. 45-46	ADOPTED, October 22, 1873, p. 111
35.7	Prohibits Legislature from passing private, local or special laws related to changing the law of descent	October 8, 1873, p. 45-46	ADOPTED, October 22, 1873, p. 111
35.8	Prohibits Legislature from passing private, local or special laws related to granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever	October 8, 1873, p. 45-46	ADOPTED, October 22, 1873, p. 112

No.	Synopsis of Proposed Constitutional Amendment	Proposal Introduced	Final Action by Commission
35.9	Prohibits Legislature from passing private, local or special laws: The Legislature shall pass general laws for the cases enumerated in this section, and for all other cases which in its judgment may be provided for by general laws	October 8, 1873, p. 45-46	ADOPTED as amended, November 18, 1873, p. 162
35.10	Prohibits Legislature from passing private, local or special laws related to the management of common schools	October 22, 1873, p. 111	ADOPTED as amended, December 23, 1873, p. 166
35.11	Prohibits Legislature from passing private, local or special laws related to granting to any corporation, association or individual the right to lay down railroad tracks	October 22, 1873, p. 111	ADOPTED, October 22, 1873, p. 112
35.12	Prohibits Legislature from passing private, local or special laws related to providing for changes in venue in civil or criminal cases	October 23, 1873, p. 115	ADOPTED, 8 to 2, October 29, 1873, p. 134

INTRODUCTION

87

No.	Synopsis of Proposed Constitutional Amendment	Proposal Introduced	Final Action by Commission
36	Legislative procedures: (1) No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of said act, or which shall enact that any existing law, or any part thereof, shall be applicable except by inserting it in such act (2) No law shall be revived or amended by reference to its title only, but the act revived or the section or sections amended shall be inserted at length (3) No general law shall embrace any provision of a private, special or local character	October 8, 1873, p. 47-48	ADOPTED, October 16, 1873, p. 91-92
37	Allows paupers to vote	October 8, 1873, p. 48	LOST, October 23, 1873, p. 119-120
38	Date of legislative elections	October 9, 1873, p. 49	ADOPTED, October 16, 1873, p. 90
39	Legislative compensation	October 9, 1873, p. 49	ADOPTED as amended, October 22, 1873, p. 109
40	Requires bills to be printed and read throughout on three days; prohibits reading of title only	October 9, 1873, p. 49-50	ADOPTED as amended, October 16, 1873, p. 91
41	Concerns Justices of the Peace	October 9, 1873, p. 52	ADOPTED as amended, October 29, 1873, p. 132
42	Prohibits bribery and wagering at elections	October 9, 1873, p. 52-53	LOST, 1 to 10, October 29, 1873, p. 135
43	Requires elections by numbered ballots	October 9, 1873, p. 53	LOST, October 29, 1873, p. 136
44	Laws regulating elections shall be uniform throughout the State; no one shall be deprived of vote if not registered	October 9, 1873, p. 53	LOST, November 11, 1873, p. 138

No.	Synopsis of Proposed Constitutional Amendment	Proposal Introduced	Final Action by Commission
45	Concerns laws passed by bribery, fraud or other corrupt means	October 9, 1873, p. 54-55	LOST [No further action]
46	Prohibits special laws creating corporations, except banks; concerns bank charters	October 9, 1873, p. 55	LOST [No further action]
47	No law shall extend term of a public officer, nor change his salary	October 9, 1873, p. 55	ADOPTED, 9 to 2, November 11, 1873, p. 139
48	Prohibits Legislature from delegating to any Commission the right to govern a city, town or borough; voids any such existing Commission	October 9, 1873, p. 55-56	LOST, November 11, 1873, p. 139
49	Requires cities, towns and boroughs to create a Sinking Fund	October 9, 1873, p. 56	LOST [No further action]
50	Prohibits Legislature from authorizing the investment of trust funds in any private corporation	October 9, 1873, p. 56	ADOPTED as amended, October 21, 1873, p. 96
51	Railroad companies' obligations or liabilities shall not be exchanged, transferred, remitted, postponed or diminished by the Legislature	October 9, 1873, p. 56-57	LOST [No further action]
52	Concerns bribery; requires legislators to disclose whether they have a personal or private interest in pending legislation	October 9, 1873, p. 57-58	LOST [No further action]
53	Prohibits State from creating debt, with exceptions; provides for State debt limitations	October 9, 1873, p. 58-59	LOST, October 23, 1873, p. 113-114
54	Concerns term of office for Supreme Court Justices	October 9, 1873, p. 59	LOST, November 11, 1873, p. 139

INTRODUCTION

89

No.	Synopsis of Proposed Constitutional Amendment	Proposal Introduced	Final Action by Commission
55	Inspectors of State Prison removed from list of officials to be appointed by Joint Meeting of the Legislature	October 9, 1873, p. 59	ADOPTED, October 22, 1873, p. 106
56	Prohibits Legislature from limiting the amount to be recovered from injuries or death in suits against corporations	October 9, 1873, p. 59-60	ADOPTED as amended, 5 to 4, October 23, 1873, p. 121
57	Prohibits the division of counties without the approval of the majority of voters of such counties	October 9, 1873, p. 60	ADOPTED as amended, 6 to 5, October 28, 1873, p. 123-124
58	The State shall never pay, assume or become responsible for the debts or liabilities of, or in any manner give or extend its credit to or in aid of, any corporation or association, or to individual[s]; nor shall the money of the State be given or loaned to or in aid of any association, corporation or private undertaking	October 9, 1873, p. 60	LOST [No further action]

No.	Synopsis of Proposed Constitutional Amendment	Proposal Introduced	Final Action by Commission
59	Legislative procedures: (1) No private, special or civil law shall embrace more than one subject and that shall be named in its title; (2) No law shall be revived or amended by its title only, but the text shall be inserted in the new act; (3) No general law shall embrace any provision of a private, special or local character; (4) No act of the Legislature shall take effect until July 1 after date of passage	October 9, 1873, p. 60-61	Paragraphs (1), (2) and (3) LOST, October 23, 1873, p. 114-115 Paragraph (4) ADOPTED as amended, October 29, 1873, p. 132
60	State purchasing of certain supplies and services (printing, binding, copying, stationery, fuel, etc.) shall be by contract to lowest bidder; no State officers shall have an interest in subcontract; all contracts subject to the approval of Governor	October 9, 1873, p. 61-62	LOST [No further action]
61	All valuations on real estate with the improvements and buildings thereon shall be assessed for annual taxes at fifty per cent. of the saleable value thereof. Equalization of valuations for an annual State tax shall be made once in five years by a board composed of the Comptroller, Treasurer and Secretary of State	October 9, 1873, p. 62	LOST [No further action]
62	Provides for an additional tax on establishments that sell liquor	October 9, 1873, p. 62	LOST [No further action]

INTRODUCTION

91

No.	Synopsis of Proposed Constitutional Amendment	Proposal Introduced	Final Action by Commission
63	Legislative procedures: (1) Requires that bills be read in entirety twice, but not on same day; (2) No private, special or local bill shall be introduced after ten days from the commencement of a legislative session	October 9, 1873, p. 63	LOST [No further action]
64	Legislative compensation: increases per diem pay; prohibits all other allowances	October 9, 1873, p. 63	LOST [No further action]
65	Governor shall have power to convene the Senate alone	October 9, 1873, p. 63	ADOPTED as amended, October 21, 1873, p. 96
66	Woman Suffrage (petition from Cornelia C. Hussey and others)	October 14, 1873, p. 64-65	LOST, October 22, 1873, p. 101
67	Woman Suffrage (unidentified petition)	October 14, 1873, p. 65	LOST, October 22, 1873, p. 101
68	Reorganization of the Legislature: (1) Legislative power to be vested in the Senate and the House of Representatives; (2) concerns legislative elections and vacancies; (3) concerns legislative reapportionment, senatorial districts; (4) House of Representatives' number of members, term of office, election	October 14, 1873, p. 65-67	Parts (1), (2) and (3) LOST, 4 to 7, November 12, 1873, p. 148; part (4) LOST, 2 to 9, November 12, 1873, p. 148
69	Concerns freedom of press, libel	October 14, 1873, p. 67	LOST, 1 to 10, October 29, 1873, p. 136
70	Concerns corporations, banks and railroads	October 14, 1873, p. 68-74	LOST [No further action]

No.	Synopsis of Proposed Constitutional Amendment	Proposal Introduced	Final Action by Commission
71	Provides for future amendments to the Constitution: (1) amendment by Constitutional Convention; (2) amendment by legislative proposal and popular approval	October 14, 1873, p. 74-76	Paragraph (1) LOST, 3 to 8, November 18, 1873, p. 162; Paragraph (2) LOST, 5 to 6, November 11, 1873, p. 142
72	Provides that the question of Woman Suffrage shall be submitted to a separate vote at the time of the submission to the people of the proposed Constitutional Amendments	October 14, 1873, p. 78	LOST, 5 to 6, November 11, 1873, p. 143
73	Concerns Sheriffs and Coroners	October 14, 1873, p. 78	LOST [No further action]
74	Reorganization of the State Senate: (1) composition of Senate as 21-member body, three-year terms for senators; (2) legislative redistricting into seven senatorial districts; (3) concerns legislative redistricting and terms; (4) decennial redistricting; (5) concerns vacancies	October 15, 1873, p. 80-81	LOST, 4 to 6, November 12, 1873, p. 151
75	Concerns Justices of the Peace	October 15, 1873, p. 81-82	LOST [No further action]
76	Concerns Judges of the Inferior Court of Common Pleas	October 15, 1873, p. 82-83	ADOPTED as amended, November 12, 1873, p. 147
77	Concerns the protection of private property	October 15, 1873, p. 84-85	ADOPTED as amended, December 23, 1873, p. 164-165

INTRODUCTION

93

No.	Synopsis of Proposed Constitutional Amendment	Proposal Introduced	Final Action by Commission
78	Concerns property tax: No property exempted from tax; uniform rule; personal property taxed at money value; Legislature can tax money	October 15, 1873, p. 85	Part 1 ADOPTED as amended, 7 to 4, November 18, 1873, p.160; Part 2 ADOPTED as amended, 8 to 0, November 18, 1873, p. 161; Part 3 ADOPTED as amended, 6 to 5, November 18, 1873, p. 161
79	Concerns the protection of property of females from being taken for debts of husbands	October 15, 1873, p. 85-86	LOST, 1 to 10, October 29, 1873, p. 135
80	Conviction of felony or otherwise infamous crime shall vacate public office	October 16, 1873, p. 95	ADOPTED as amended, October 28, 1873, p. 127
81	Petition of Charles Stokes: (1) prohibits jeopardizing the rights of [political] minorities; (2) concerns legislative reapportionment; (3) prohibits penalizing those who prefer to educate their own children; (4) concerns the separation of church and state	October 28, 1873, p. 122	LOST [No further action]
82	Creates office of Vice- Chancellor	October 28, 1873, p. 122	LOST, 3 to 8, November 13, 1873, p. 156
83	Concerns the newly created office of Vice-Chancellor	October 28, 1873, p. 128	LOST [No further action]
84	Provides that the Legislature establish and maintain free public schools for persons between the ages of five and eighteen years	October 29, 1873, p. 130	Paragraph 1 ADOPTED as amended, 6 to 5, November 13, 1873, p. 153; Paragraph 2 ADOPTED, 8 to 3, November 13, 1873, p. 154
85	(1) Provides for uniform taxation of property, income, etc.; (2) Concerns exemption from property tax	October 29, 1873, p. 130- 131	LOST, 1 to 9, November 18, 1873, p. 160

No.	Synopsis of Proposed Constitutional Amendment	Proposal Introduced	Final Action by Commission
86	Creates a court to fix the value of lands condemned for public purposes	October 29, 1873, p. 137	ADOPTED as amended, 5 to 3, November 13, 1873, p. 152
87	Concerns the election, term of office and compensation of Justices of the Supreme Court [and Judges of the Court of Chancery]	November 11, 1873, p. 137	LOST, November 12, 1873, p. 145
88	Concerns the composition and powers of the Court of Pardons	November 11, 1873, p. 138	LOST, November 12, 1873, p. 145
89	Concerns the past or future exemption of corporations from taxes	November 11, 1873, p. 138	LOST, November 12, 1873, p. 144
90	Abolishes capital punishment	November 18, 1873, p. 161	LOST, 2 to 8, November 18, 1873, p. 161
91	Concerns the disposition of public lands and other property	November 18, 1873, p. 161	LOST [No further action]
92	Strikes out Article IV, Sec. VII, Paragraph 8 (concerns special legislation for banks and money corporations)	December 23, 1873, p. 166	ADOPTED, December 23, 1873, p. 166

C. Understanding the Proposed Amendments Within an Historical Context

The authors contend that the amendments proposed by the Constitutional Commission cannot be fully understood outside the historical context from which they originated. Therefore, this section highlights several of the prominent historical antecedents that were likely to influence the members of the Commission. The authors' goal is to present a detailed historical background for the amendments, focusing on the contemporary political issues and social events that were likely to have influenced their introduction. For the purpose of this introduction, we will make reference to only a few of the major historical influences that may help the modern reader to better appreciate the commissioners' intent in proposing several constitutional amendments.

1. *The Railroad Lobby and the Stanhope Fraud*

The second paragraph of the constitutional amendment section of Governor Parker's 1873 annual message to the Senate and General Assembly contains a veiled reference to a contemporary episode in New Jersey's political history that is absolutely integral to an understanding of why the Commission was created and why it proposed many of the amendments that it did. The second paragraph is reproduced in full:

It will be admitted by all reflecting persons that there should be such radical reform in our system of legislation as cannot be secured under the present constitution. The necessity of providing every possible safeguard to secure the Legislature against imposition is obvious, if we consider that when an act has been certified as passed, by the signature of the presiding officers of each House, approved by the Governor and filed in the office of the Secretary of State, it becomes law, the exemplification of which under the Great Seal of the State is conclusive evidence as to its existence and contents, and that no evidence to prove that the act signed varies from the act voted upon is admissible in a court of law. So important are the interests affected by legislation, that in view of the decision of our Supreme Court on the subject we owe it to the public and to the fair fame of the State that such constitutional checks should be provided as will prevent the possibility of fraud or interpolation.²⁴²

Although the source of Parker's concern is not obvious to readers over a century after the fact, historical research uncovers why he was so concerned with safeguarding the Legislature against "imposition,"²⁴³ and with preventing "fraud or interpolation" in legislation, and why he suggested many of his proposed constitutional amendments to the Commission. Parker was making veiled references to two instances of alleged fraud in the passage of New Jersey legislation, one of which occurred in 1866 and concerned an innocent clerical error, the other of which was currently being litigated in 1872 and 1873 and involved the fraudulent insertion of language in railroad legislation. The latter incident, known as the Stanhope Fraud, attained scandalous proportions in Trenton by the time Parker made his message to the Legislature, and the integrity and dignity of the state legislature was at stake.

242. Annual Message, *supra* note 105, at 30.

243. By "imposition," Parker means "trick or deception."

The issues surrounding the Stanhope Fraud are perhaps best understood in light of the history of the railroad monopoly in New Jersey. When William E. Sackett wrote his political history of New Jersey state government, covering the years 1868 to 1894,²⁴⁴ he devoted the first chapters exclusively to railroads in the state.²⁴⁵ Indeed, a common thread interwoven throughout his history concerned the influence and power of the railroad lobby over members of the state legislature.²⁴⁶ The key issue centered around the monopoly granted by the legislature to the Camden and Amboy Railroad in 1830,²⁴⁷ which precluded any other railroad company from forming a competing line and exempted the Camden and Amboy and its successors from any taxes, other than a small transit duty payable to the State Treasury.²⁴⁸ The railroad soon developed a despicable reputation for its voracious taking of private property without just compensation while bribing the legislature to vote against any of its rivals. So great was the corrupt influence of the monopoly on the state legislature, and so notorious its reputation for bribery in its efforts to retain its exemption from local property tax and to support its commercial advantage, that New Jersey became

244. SACKETT, *supra* note 45.

245. *Id.* at 7-23.

246. *Id.* at 7-23, 48-65, 180-187, and 226-251.

247. Act of Feb. 4, 1830, 1830 N.J. Laws 83-91 (providing for the incorporation of the Camden and Amboy Railroad and Transportation Co.).

248. For a comprehensive treatment of New Jersey's taxation of railroads, see Pierson Muir Tuttle, A History of Railroad Taxation in New Jersey (1920) (unpublished Ph.D. dissertation, Harvard University) (on file with Harvard University Archives—Cambridge, Massachusetts). Originally, the state hoped to defray all of its expenses out of revenue generated from the new public utilities, particularly railroads. *Id.* at 32. Tuttle's research of state treasurer annual reports from 1834 to 1850 indicates that receipts from railroad taxes (mostly obtained from the Camden and Amboy) accounted for, on average, 69% of the state's ordinary expenses. *Id.* at 34. The percentage increased over the years, so that Tuttle's research for 1870 demonstrates that "the railroads were paying an amount which nearly covered the ordinary running expenses of the state" (i.e. railroads contributed \$584,298.89 to the state treasury in 1870 when the total state receipts were \$598,543.18). *Id.* at 110. By the turn of the century, taxes on railroads accounted for less than one-third of the state's total receipts. *Id.* at 290. The decrease in the proportion of railroad tax revenues as a percent of the state budget can be at least partially attributable to the effects of the passage of the General Railroad Law in 1873 and the approval of the state constitution's uniform taxation clause in 1875. For a useful historical account of the origins of New Jersey's state taxation of railroads, with an emphasis on its adverse impact on local finance in Hudson County, see WILLIAM G. MCLOUGHLIN, *The Beginning of the Railroad Tax System of New Jersey: Paper Read Before the Historical Society of Hudson County, January 23, 1917*, HUDSON COUNTY HISTORICAL SOCIETY PAPERS, No. 13 (1917).

derisively known as the “State of Camden and Amboy.”²⁴⁹ By the 1870’s, one could barely read a New Jersey newspaper without coming across mention of the evils of special legislation creating non-competing railroad lines, the pernicious exemption of railroad property from local property taxes, the accusation of bribery and corruption in the railroad monopoly’s lobbying of state legislators, and lawsuits filed by one railroad against another. The unmitigated power of railroads and the public’s hope for a general railroad law to put an end to their abuses, was without question the main state political news of the day.²⁵⁰

It is in this monopolistic environment that the main competitor²⁵¹ to the Camden and Amboy’s successor²⁵² actually went so far as surreptitiously inserting a clause in a pending bill that would, in effect, create a competing line with the monopoly, without the legislature realizing it.²⁵³ In this way, text was fraudulently inserted or “interpolated” in a section of a bill that, by its title, simply created a small railroad that connected the mining town of Stanhope (in Sussex County) with a main railroad line under the express purpose of transporting ore.²⁵⁴ The bill was one of many similar bills that were routinely passed by the legislature over the years that allowed the creation of a non-competing railroad line, without threatening the monopoly of the Camden and Amboy.²⁵⁵ The interpolation was crafted, however, to allow for the creation of a passenger and freight railroad *anywhere* in the

249. SACKETT, *supra* note 45, at 18.

250. For a political history of the Camden and Amboy Railroad, see George L.A. Reilly, *The Camden and Amboy Railroad in New Jersey Politics* (1951) (unpublished Ph.D. dissertation, Columbia University) (on file with Columbia University Library – New York).

251. The primary competitor to the Camden and Amboy at this time was the Pennsylvania Railroad Company. See *Pa. R. R. Co. v. Nat’l R. R. Co.*, 23 N.J. Eq. 441 (1873).

252. The United New Jersey Railroad and Canal Company was the corporate amalgamation of the former Camden and Amboy Railroad, the Delaware and Raritan Canal Company, and the New Jersey Railroad and Transportation Company, which, by virtue of the Camden and Amboy, could trace its legal origin to the 1830 statute. *Id.*

253. SACKETT, *supra* note 45, at 55-57 (alleging that Henry M. Hamilton “and some of his confederates” received the sum of \$162,800 from the National Railway Company to perpetrate the fraud). According to allegations, the money was divided between Hamilton, the would-be commissioners of the Stanhope Railroad and “certain members and officers of the New Jersey Legislature.” *Id.* at 57.

254. Act of Mar. 13, 1872, ch. CCXVII, 1872 N.J. Laws 520 (providing for the incorporation of the Stanhope Railroad Co.). The original manuscript of the bill as signed by the Senate President, Assembly Speaker and Governor, includes fraudulently inserted text in section 8. See Assem. Bill 237 (1872), located in N.J. State Archives, Department of State, Trenton.

255. See generally CADMAN, *supra* note 59.

state, potentially in direct competition with the monopoly.²⁵⁶ Almost immediately after passage of the law, by taking advantage of the interpolated clause, the Stanhope Railroad Company was established, then merged with six other railroad companies with the intention of forming a major competing railroad line between Jersey City on the Hudson River and Yardleyville on the Delaware.²⁵⁷ When the Camden and Amboy found out, it immediately filed suit in the Court of Chancery. The final decision was rendered three weeks after Parker's message, on February 6, 1873, barely a week after the Constitutional Commission was established.

In *Pennsylvania Railroad Co. v. National Railroad Co.*,²⁵⁸ Vice-Chancellor Amzi Dodd ruled that, in reference to an allegedly fraudulent section of a passed bill, it was not within the court's jurisdiction to "go behind" the authenticated act to show whether any part of the section was created by interpolation or fraud.²⁵⁹ Moreover, even if it was within the court's jurisdiction, the evidence obtained from such legislative research is not sufficient to conclusively prove the alleged fraud.²⁶⁰ "Without [the allegedly fraudulent] passages the act [was] complete in itself, [was] in the customary orderly form, and its provisions [were] easily understood; with them the arrangement of parts [was] interfered with, and the meaning obscured. They [were] interjected and unsuited to the context."²⁶¹ Vice-Chancellor Dodd went on, however, to rule that even "assuming the whole act to have been regularly passed and approved" it still did not authorize construction of the competing railroad line, concluding that the injunction of the monopoly holder, Camden and Amboy, should be granted.²⁶²

Governor Parker's reference to "the decision of our Supreme Court on the subject,"²⁶³ was to a landmark case rendered in 1866, *Pangborn v. Young*.²⁶⁴ In this decision, Chief Justice Beasley ruled that a court was

256. Act of Mar. 13, 1872, ch. CCXVII, 1872 N.J. Laws 520, 525 (permitting the corporation "to unite and consolidate as well as merge its stock, property, franchises and road with those of any other corporation").

257. *Pa. R.R. Co. v. Nat'l R.R. Co.*, 23 N.J. Eq. 441, 442 (1873).

258. 23 N.J. Eq. 441 (1873).

259. *Id.* at 459.

260. *Id.*

261. *Id.* at 459 (emphasis in original).

262. *Id.*

263. See *supra* note 242 and accompanying text.

264. 32 N.J.L. 29 (1866). Parker must have been intimately familiar with the *Pangborn* case: he served his first term as New Jersey Governor in 1863-66, when the legislative incident occurred that triggered the case. William C. Wright, *Joel Parker*, in THE

bound to accept the authenticity of a law based upon the certification of that law by the presiding officers of the Legislature.²⁶⁵ A court, therefore, cannot reliably “go behind” legislation, such as to compare a passed bill with the account of its passage in the legislative journals since those journals were not reliable sources in themselves. Nor does the constitutional requirement, that a journal of each house be kept, validate the accuracy of the content of the journals as being more reliable than a law duly certified by the house officers.²⁶⁶ The court stated:

[B]oth upon the grounds of public policy and upon the ancient and well-settled rules of law, the copy of a bill attested in the manner above mentioned, and filed in the office of the secretary of state, is the conclusive proof of the enactment and contents of a statute of this state, and that such attested copy cannot be contradicted by the legislative journals, or in any other mode.²⁶⁷

The reason the *Pennsylvania Railroad* and *Pangborn* decisions are paramount to understanding the work of the Constitutional Commission should now be clear. *Pangborn* lets stand an allegedly incorrect section of an enacted law, since the Supreme Court cannot invalidate an act that was duly certified by the Legislature. Parker realized that, if this rationale was applied to the circumstances surrounding the Stanhope Fraud, then a deliberately fraudulent section of law could not be invalidated by a court.

It is difficult to overestimate the impact of the Stanhope Fraud as a catalyst for amending New Jersey’s constitution. Without an appreciation of the significance of the Stanhope Fraud, many of Parker’s recommendations appear to be puzzling and disjointed proposals; with an understanding of the Stanhope Fraud, their significance becomes obvious and they fall perfectly into place. The evil of special legislation must be reigned in, since, due to the huge volume of private laws introduced in the Legislature, there is insufficient time to even have them read, let alone analyzed. Legislative compensation must be increased so that there is less incentive for bribery. Bills should be made available for public inspection on or before the first day

GOVERNORS OF NEW JERSEY, 1664-1974, at 132 (Paul A. Stellhorn & Michael J. Birkner, eds., 1982).

265. *Pangborn*, *supra* note 264, at 41.

266. *Id.* at 39-40.

267. *Id.* at 44. This doctrine is known as the “enrolled bill rule.” See Robert F. Williams, *State Constitutional Limits on Legislative Procedure: Legislative Compliance and Judicial Enforcement*, 48 U. PITT. L. REV. 797, 809, 811, 814-23 (1987).

of a legislative session so that other attempts at fraud can be immediately uncovered. Amendatory bills must have those sections to be amended inserted at length to prevent interpolation. Finally, a reasonably delayed effective date must be made for passed bills so that, if fraud or interpolation is discovered, authorities will have time to nullify the law before it wreaks havoc on the public. These were the constitutional remedies for evils that were too obvious to ignore any longer.

The Stanhope scandal was the proverbial “last straw” that finally forced the Legislature to act on constitutional reform. Two immediate legislative remedies were the passage of a bill that provided for procedures to adjudge as void an improperly enacted law,²⁶⁸ and the creation of a special committee to investigate the Stanhope Fraud.²⁶⁹ The final remedy was to create the Constitutional Commission. It is not mere coincidence that the Senate concurrent resolution that established the Constitutional Commission was passed immediately before the report of the Senate special committee to investigate the Stanhope Fraud was released.²⁷⁰ Nor is it only coincidental that several of the members of the Constitutional Commission were in some way closely involved in the Stanhope litigation and investigation.²⁷¹

268. Act of Mar. 3, 1873, ch. CXVI, 1873 N.J. Laws 27 (providing for decreeing and making known that certain laws and joint resolutions have become inoperative and void) (currently codified at N.J.S.A. 1:7-1 et. seq.).

269. The resolution that created the special Senate Committee to investigate the Stanhope Fraud was introduced by Senator William Moore on January 22, 1873 and adopted on the same day. See N.J. Senate Journal 1873, at 80. The Committee released its report on April 4, 1873. *Id.* at 1068-70. For Committee proceedings, see *Id.* at 1071-1082.

270. Sewell’s resolution was offered and passed on April 4, 1873. *Id.* at 1068. Senator Moore, Chairman of the Stanhope Investigation Committee released his report immediately after Sewell’s resolution was passed. See *supra* note 269.

271. Cutler, a renowned opponent of the railroad monopoly, was appointed as one of the members of the Investigation Committee. Taylor submitted an affidavit to the Committee. Gilchrist, as attorney general, was counsel for the defendants in the *Pa. R.R. Co.* case. Green was counsel for the defendants during the Senate investigation. Babcock was sworn to give testimony since, as Senate Secretary, he was intimately involved with certifying the Assembly Bill when it was sent to the Senate for its concurrence. In addition, it is important to note that several other Commission members had developed reputations as opponents to the Camden and Amboy monopoly. As director of several competing railroads, Gregory had a long history of opposing the monopoly. Zabriskie was denied Senate confirmation as Chancellor in 1866 because of his opposition to the railroad monopoly. Swayze was a vocal critic of the railroad lobby. Brinkerhoff advanced his political career on his advocacy of laws to tax the property of railroads. For a selection of contemporary newspaper articles and editorials concerning the Stanhope Fraud, see: “The Stanhope Railroad Bill,” *DAILY ST. GAZETTE* (Trenton, N.J.), May 3, 1872 (reprints correspondence between Governor Parker and legislative officials); “The Famous Stanhope Railroad Project,” *NEW BRUNSWICK TIMES*, May 7, 1872; “The Great

2. *Corruption and Special Legislation*

The Stanhope Fraud was just one of many incidents of corruption, bribery, and scandal that plagued New Jersey state and local politics in the decade after the Civil War. Allegations of vote-buying at elections,²⁷² rumors of bribery and “corrupting influences used among the members”²⁷³ of the Legislature, incidents of fiscal malfeasance by public officials,²⁷⁴ and continuous public complaints against railroads and other corporations chartered by special legislation, were widely circulated in the press during this period. Many of the amendments proposed by the Commission can only be fully understood as constitutional remedies for the real and perceived corruption that pervaded New Jersey politics. Thus, members of the Commission acted to curtail the power of the Legislature by reforming legislative procedures,²⁷⁵ punishing those convicted of bribery and fraud in legislation,²⁷⁶ strengthening the Governor’s veto power,²⁷⁷ reorganizing the structure of the Legislature,²⁷⁸ prohibiting or limiting special and private legislation,²⁷⁹ requiring a more stringent oath for state legislators,²⁸⁰ and dramatically increasing legislative compensation to lessen the temptation of bribery.²⁸¹

Railroad Question – The Vice Chancellor’s Decision...,” *NEWARK DAILY JOURNAL*, Feb. 5, 1873; “The Press on the Vice Chancellor’s Decision,” *DAILY ST. GAZETTE* (Trenton, N.J.), Feb. 8, 1873 (includes extracts from several editorials from different newspapers).

272. See MCCORMICK, *supra* note 60, at 122-58. That bribery at elections was a significant problem is evidenced by the passage of several statutes that increased punishment for the crime. See, e.g., Act of Mar. 31, 1871, ch. 399 (CCCXCIX), 1871 N.J. Laws 70-71; Act of Feb. 27, 1868, ch. LXX, 1868 N.J. Laws 157; Act of Mar. 27, 1866, ch. CCXCI, 1866 N.J. Laws 705; Act of Apr. 16, 1846; 1846 N.J. Laws 193.

273. See, e.g., N.J. Assem. Minutes 1873, at 840.

274. See, e.g., SACKETT, *supra* note 45, at 91-95 (explaining how the Jersey City Treasurer, Alexander D. Hamilton, absconded with public monies before fleeing to Mexico). A more notorious incident of fiscal malfeasance involved the New Jersey State Treasurer, Josephus Sooy, Jr., who resigned on August 31, 1875 after months of newspaper reports of his suspected theft of state funds while in office. See *generally* *DAILY ST. GAZETTE* (Trenton, N.J.), Aug. 31, 1875 (and coverage immediately before and after that date).

275. Table 2, proposals 36, 40, 59, & 63.

276. Table 2, proposals 3, 45, & 52.

277. Table 2, proposals 6 & 7.

278. Table 2, proposals 23, 68, 74 & 81(2).

279. Table 2, proposals 35 through 35.12, 36(3), 59(1), 59(3) & 63(2).

280. Table 2, proposal 5.

281. Table 2, proposals 4, 39 & 64.

To counteract the corrupting influence of certain corporations, most notoriously the railroad monopoly, the Commissioners proposed amendments protecting the property rights of private citizens in cases involving eminent domain,²⁸² rescinding property tax exemptions for corporations,²⁸³ prohibiting the loan or grant of public money, or providing any exclusive privileges, to corporations,²⁸⁴ strictly regulating corporations such as banks and railroads,²⁸⁵ and, most significantly, prohibiting the chartering of corporations by special law.²⁸⁶

A few words are in order to explain why special legislation should be viewed as a corruption issue. Public officials of the time ostensibly attributed the evil of special laws to the inordinate amount of time the Legislature required for their consideration. Indeed, Governor Parker's 1873 annual message to the Legislature stated: "The constitution should require general laws, and forbid the enactment of all special or private laws embracing subjects where general laws can be made applicable. This would dispense with at least nine-tenths of the business brought before the Legislature under the present system."²⁸⁷ He proceeded, as noted earlier, to provide a vivid example of the immense volume of special laws passed during the most recent session of the Legislature.²⁸⁸

Although the sheer volume of private and special bills was certainly a problem in itself, the practice of special legislation also provided the opportunity for bribery and corruption.

... objections made to special legislation during the period were the lobbying, the logrolling, and the bribery that were alleged to accompany it. The charge of bribery in the legislature caused, of course, the most serious concern. The fear that corporations sometimes paid legislators for special favors was strong enough to cause the enactment of new legislation against bribery.²⁸⁹

282. Table 2, proposals 22, 77 & 86.

283. Table 2, proposals 26, 27, 61, 78, 85 & 89.

284. Table 2, proposals 19, 35.8, 50, 56 & 58.

285. Table 2, proposals 35.5, 35.11, 46, 51, 70 & 92.

286. Table 2, proposals 35.8 & 46.

287. Annual Message, *supra* note 105, at 49.

288. *Id.* See *supra* note 106 and accompanying text.

289. CADMAN, *supra* note 59, at 163.

It is in this context that two laws were passed in the early 1870's that addressed corporate attempts to bribe members of the legislature.²⁹⁰ Parker's Proclamation of October 21, 1872,²⁹¹ issued just before the general election for that year, could be properly understood as "a reminder of the stringent laws against bribery by corporations."²⁹²

The giving of railroad passes to members of the Legislature, by which they could travel for free on rail lines anywhere in the State, was seen as a furtive attempt at bribery by the railroad companies. Two of Swayze's proposed constitutional amendments that were ruled out of order during the Commission's July 22 meeting addressed the pernicious practice of granting free railroad passes to legislators and judges.²⁹³ Accusations that certain members of the Legislature had sold their free passes for personal gain created somewhat of a scandal in 1874 that prompted the creation of a legislative committee, the "Special Committee on Erie Railroad Passes," to investigate the matter.²⁹⁴ After persistent requests by committee members to obtain testimony from the elusive accuser, the Committee reported that, absent "irrefragable proof," accused legislators were entitled to the presumption of innocence.²⁹⁵

Proposals that specifically dealt with the problem of corruption in state and local government included those regulating local budgets²⁹⁶ and those that prohibited the legislature from tampering with the internal affairs of counties and municipalities.²⁹⁷ The latter problem was certainly influenced by the notorious scandal of 1871 in which the Republican-controlled Legislature, through special legislation, removed the popularly elected Democratic government of Jersey City and replaced it with the Legislature's own appointed Board of Commissioners.²⁹⁸ The Jersey City Reorganization Act, and its probable influence on the Commission, will be treated in depth in the next section of this Introduction.

290. Act of Mar. 26, 1872, ch. 338 (CCCXXXVIII), 1872 N.J. Laws 46 (providing a supplement to an act relative to bribery); Act of Mar. 31, 1871, ch. 399 (CCCXCIX), 1871 N.J. Laws 70-71 (providing an act relative to bribery).

291. Governor Joel Parker, Proclamation of Oct. 21, 1873, 1873 N.J. Laws 841-42.

292. CADMAN, *supra* note 59, at 164.

293. DAILY ST. GAZETTE (Trenton, N.J.), July 23, 1873.

294. N.J. Assem. Minutes 1874, at 642; WEST JERSEY PRESS (Camden, N.J.), March 11, 1874.

295. The report of the "Special Committee on Erie Railroad Passes" appears in the N.J. Assem. Minutes 1874, at 1312-1314.

296. Table 2, proposals 19, 33, 49, 53 & 58.

297. Table 2, proposals 24, 35.3 & 48.

298. See SACKETT, *supra* note 45, at 28.

The Commission also proposed several amendments that could only be properly construed as relating to the ethics of government officials. These proposals clearly indicate a heightened concern that certain public officers were misusing their office for personal gain. In addition to the aforementioned amendments regarding bribery, members of the Commission sponsored proposals that required legislators to disclose any personal interest in pending legislation,²⁹⁹ required strict regulation of the granting of state contracts,³⁰⁰ and provided a constitutional requirement for vacating a public office for those officials convicted of a felony or other infamous crime.³⁰¹ Moreover, the Commission's myriad of proposed constitutional amendments that concerned the appointment, qualification and terms of certain public officials can be more fully appreciated in light of the history of legislative appointments in New Jersey. These proposals built upon the concerns expressed while the 1844 Constitution was drafted, when "[s]trong sentiment existed in the convention against continuing the extensive appointing powers of the Joint-Meeting, because of the corrupting influences and caucus bargainings associated with such a function."³⁰² Several Commission proposals would limit the Legislature's power to appoint officials in joint meetings by requiring the Governor to nominate executive and judicial officers with the advice and consent of the state Senate.³⁰³ Other proposed amendments which concerned the terms and salaries of public officials³⁰⁴ are appropriately understood within the context of government reform.

A word of caution is in order to readers of newspaper accounts of alleged corruption published during this period. Although there was ample evidence of actual incidents of corruption and scandal during this period, the press also reported their share of politically-motivated allegations that falsely implicated New Jersey politicians, particularly members of the New Jersey Legislature. Those newspapers that had a predilection for flagrant partisanship took great liberties in reporting mere allegations of legislative corruption as being factual, and the modern reader is urged to use caution when reading such newspaper accounts. Two examples stand out.

299. Table 2, proposal 52.

300. Table 2, proposal 60.

301. Table 2, proposal 80.

302. MCCORMICK, *supra* note 60, at 136-37.

303. Table 2, proposals 9, 12, 13, 14, 16, 41, 55, 75 & 76. It is interesting to note that New Jersey's 1852 and 1854 Constitutional Commissions were created to recommend alternatives to the appointment of judicial officers by Joint-Meeting of the Legislature. See *supra* notes 10 & 11.

304. Table 2, proposals 15, 17, 35.6, 47, 54, 73, 82, 83 & 87.

In summing up the New Jersey legislative session of 1872, the *New York Tribune* falsely alleged that Senator Taylor (who would become a member of the Constitutional Commission) “was influenced by corrupt motives in the position which he took in regard to the Philadelphia and New York Railroad bill.”³⁰⁵ The *Tribune* never retracted its allegations against the honorable Taylor. However, in his defense, the *Daily State Gazette* of Trenton printed an editorial entitled “Disreputable Journalism” that tried to set the record straight:

... the *Tribune* correspondent repeats in a still more offensive manner, his base slanders upon that pure and upright man, Senator Taylor, of Essex. Our readers need not be told that this correspondent has vilified the institutions and public men of New Jersey, with peculiar malevolence during the past session, nor that his slanders have been given particular prominence, and have been editorially sustained and abetted in the *Tribune*. But it may not be known to all that these vile charges, this persistent flinging of mud, was in pursuance of a settled policy on the part of that journal. And yet there is conclusive evidence that this is the case. After the correspondent’s outrageous slanders upon Senator Taylor and others, the friends of these gentlemen insisted upon the correspondent making a refutation, furnishing him at the same time with evidence that he had done them a gross wrong. The correspondent promised correction; but it never appeared. He was then asked why he had not fulfilled his promise, and he gave as a reason that his letters were mutilated after they reached the *Tribune* office, those portions making corrections of false statements being stricken out. We can prove that this is precisely as we state by unimpeachable testimony. It thus appears that this correspondent was merely the tool, faithfully following the instructions of his masters, to vilify and defame the institutions and public men of New Jersey. His efforts were mainly directed against the Republican party and its best, most trusted leaders. The purpose of the *Tribune* was undoubtedly to sow dissension and strife in the party, in the hope of making capital for the Sorehead movement. In pursuance of this traitorous purpose it maligns our purest men, and suppresses retractions of its own correspondent. And to this miserable pass, to these base uses, has its hatred to President Grant, brought the once boastfully fair, and high-toned *Tribune*. It used to be its boast that it would do justice though the heavens fell, and now we see it eagerly engaged in deliberately ruining reputations in the promotion of a selfish and

305. N.Y. TRIBUNE, March 29, 1872; DAILY ST. GAZETTE (Trenton, N.J.), April 1, 1872.

vindictive purpose. We do not hesitate to say that it is a dirty and disgraceful piece of business in which we never expected to see the *New York Tribune* engaged.³⁰⁶

Another noteworthy example of politically motivated allegations of corruption involved Senator C. Henry Sheppard of Cumberland County, who was actually arrested in the Senate Chamber on charges of bribery.³⁰⁷ Sheppard was falsely accused of accepting a bribe of two thousand dollars in exchange for his vote on railroad legislation pending in the Legislature. A grand jury cleared Sheppard after his accuser refused to testify. A newspaper editorial that solemnly remarked upon the Sheppard case offered a telling commentary on the widespread irresponsibility of press coverage of alleged scandals:

Among the serious evils resulting from the low standard of morality which many persons holding positions of public trust set up for themselves in the discharge of official duties, is the readiness with which charges of corruption, made against public men, even when unaccompanied by any proof, are credited by the community.

The public ear has become so accustomed to hearing of instances of men betraying their constituents for the sake of personal gain, that the old maxim, a man is to be considered innocent until proven guilty, seems likely to be reversed. And yet this condition of things is very dangerous to the welfare of the Commonwealth.

Our best and purest men, those who ought to occupy the places of honor and trust, will shrink from accepting them, if the reputation of a life time is to be at the mercy of every unscrupulous opponent, who, to accomplish his own ends, may seek to blast it, by making unfounded charges of corruption. In these days of telegraphs and newspapers, such charges are soon spread broadcast over the land, and in many cases the injury is done to the individual, before he has any opportunity to vindicate himself.

Take, for instance, the recent case of Senator Sheppard, of Cumberland County, in this State. He had always borne an unblemished reputation. But a fierce controversy raged in the Legislature over the passage of a certain bill. Much bad feeling was engendered. The community were shocked to hear

306. "Disreputable Journalism," *DAILY ST. GAZETTE* (Trenton, N.J.), April 8, 1872.

307. "The Bribery Law in Force: Serious Allegation Against Senator Sheppard of Cumberland – He is Arrested in the Senate Chamber," *JERSEY CITY TIMES*, April 5, 1873. See also "The Case of Senator Sheppard," *DAILY ST. GAZETTE* (Trenton, N.J.), April 24, 1873, and "Senator Sheppard Case," *HUNTERDON REPUBLICAN* (Flemington, N.J.), June 5, 1873.

that the Senator had been arrested, and bound over to await the action of a Grand Jury, upon a charge of bribery. The Grand Jury met last week in Trenton, transacted their business, and adjourned. As all who were familiar with the circumstances of the attack upon the Senator knew would be the case, no one appeared to make complaint against him. He is vindicated, but how few of those who read the charge will ever know of his vindication. The only remedy for this very serious state of things is to be found in all parties uniting in placing in nomination for all offices a better class of men than those who now so often succeed in forcing themselves into them. This course would soon restore popular confidence in our public men, and the love of fair play inherent in the breast of the people would then insist that no man's reputation should be sacrificed without just cause.³⁰⁸

Accounts of government corruption, whether based in fact or fiction, are commonly found in New Jersey newspapers that covered state politics during this period. A common theme that pervaded these accounts involved the alleged bribery of public officers (often members of the Legislature) for their support of special legislation (often concerning railroads). The prevalence of these scandals must have contributed to a public cynicism in the integrity of the state legislature and the identification of special legislation as the root cause of corruption. The Legislature, after years of inaction, finally responded to the public outcry by passing the General Railroad Law³⁰⁹ in April 1873, the same month that it passed the resolution that would create the Constitutional Commission that proposed a more generic constitutional ban on special legislation.

3. *The Jersey City Reorganization Act*

Arguably one of New Jersey's most controversial pieces of legislation to be enacted in the decade following the Civil War, the notorious "Act to reorganize the local government of Jersey City"³¹⁰ undoubtedly influenced the discussions of the Constitutional Commission and the two subsequent Legislatures. The law was a blatantly undemocratic attempt by the native-born, well-established, Republican elite in Jersey City to nullify

308. "Confidence in Our Public Men. How Shall it Be Restored?" WEST JERSEY PRESS (Camden, N.J.), May 21, 1873.

309. 1873 N.J. Laws 88-107, ch. 413 (CCCCXIII), "An Act to Authorize the Formation of Railroad Corporations and Regulate the Same."

310. 1871 N.J. Laws 1094-1164, ch. 424 (CCCCXXIV), "An Act to Re-Organize the Local Government of Jersey City."

the results of a recent election that put Irish Catholics in the office of Mayor and on the majority of the Board of Aldermen. Fearful of the religious, political and cultural differences of the emergent Irish population, the city's Republican elite convinced the Republican-controlled state legislature to pass special legislation that would effectively transfer Jersey City's mayoral and aldermanic powers to three local commissions, the members of which were directly appointed by the Legislature. Historically, the law reflected a virulent anti-immigrant and xenophobic sentiment that existed in post Civil War America.³¹¹ Passed by Republican majorities in both houses of the Legislature, on March 31, 1871, the law ostensibly reorganized the municipal charter of Jersey City, but actually disempowered the democratically-elected officials and tampered with fundamental constitutional rights of Jersey City residents.

Governor Randolph condemned the law in a sarcastic veto message that disparaged the extraordinarily anti-democratic nature of the law. The following excerpt is indicative of the tenor of the scathing veto message:

I can scarcely conceive of an antagonism stronger than that existing between the title of this bill, and the provisions contained within its sections. From the opening to the close, the provisions are of the most extraordinary character, the great and redeeming merit of the whole bill being that it recites in clear, nervous and unmistakable language its undoubted purpose to deprive the voters of Jersey City of all present opportunities of self-government, without their consent or approval being even asked, and against the remonstrances of many of its principal citizens. The bill, therefore, is meritorious, in that it makes no concealment of its object, and does not attempt to disguise its most unusual powers and purposes. Anti-republican in form – arbitrary in spirit and purpose, it can only be defended, if defensible at all, upon the ground that within the limits of Jersey City, at least, the principles of all our forms of government – Federal, State and Municipal – are supposed to be valueless.³¹²

311. For a scholarly account of the events surrounding the passage of this law, see *generally* Douglas V. Shaw, *The Making of an Immigrant City: Ethnic and Cultural Conflict in Jersey City, 1850-1877* (1974) (unpublished Ph.D. thesis, University of Rochester) (on file with the University of Rochester–Rochester, N.Y.). See also Douglas V. Shaw, "The Politics of Nativism: Jersey City's 1871 Commission Charter," in *URBAN NEW JERSEY SINCE 1870* at 84-95 (William C. Wright ed., 1975).

312. N.J. Assem. Minutes 1871, at 1155.

Randolph proceeded to decry the unconstitutionality of over a dozen of the bill's 170 sections that invested inordinate powers in the appointed commissions – powers that obviously negated fundamental rights of American citizens. Some of the most glaring examples noted by Randolph included section 16, which “provides that Commissioners shall have power to send for persons and papers, if such persons shall have papers that, *in the opinion of such commission*, may be proper evidence in the case before them”³¹³; section 42, which “seems to be the reverse of the right of eminent domain, and instead of requiring the owner to yield his land, on compensation, for a public purpose, it forces upon him the obligation of purchasing land at a price to be fixed by Commissioners”³¹⁴; and section 110, which “provides that where the penalty of crime shall be imprisonment, the trial may be by jury.”³¹⁵

Not persuaded by Randolph's veto message, the Republican-controlled legislature summarily overrode the Governor's veto on March 31, thereby enacting a manifestly unconstitutional law. To add insult to injury, many of the Legislature's hand-picked members of Jersey City's commission form of government turned out to be some of the most corrupt, arrogant and fiscally irresponsible officials the state has ever known. By 1873, due to their virtually unrestricted and unchecked power, Jersey City's local commissioners had created an enormous municipal debt on unwanted local projects that enriched themselves and their cronies. It is to this situation that Dudley S. Gregory³¹⁶ was speaking when, during the Constitutional Commission's session of October 15, 1873, he complained “of the outrages that had been committed on the rights of the people of Jersey City, to the amount of many thousands of dollars, in making roads and other improvements in which the people had no more interest than the people of Passaic.”³¹⁷ Gregory's proposed constitutional amendments that would provide public notice for amendments to municipal or county governments and place limits on local government debt are best understood in light of the Jersey City reorganization law.³¹⁸ Proposed amendments³¹⁹ by Green and

313. *Id.* at 1157. (Italics in original).

314. *Id.* at 1158.

315. *Id.* at 1161. (Italics in original).

316. Ironically, Gregory's son, Dudley S. Gregory, Jr., was an original legislative appointee to the Jersey City Board of Fire Commissioners. See 1871 N.J. Laws 1094, ch. 424 (CCCCXXIV), at 1097.

317. DAILY ST. GAZETTE (Trenton, N.J.), October 16, 1873.

318. Table 2, proposals 24 & 33.

Dickinson that would prohibit the Legislature from delegating the right to govern a local government to a commission, are also better appreciated and understood in light of the Legislature's reorganization of Jersey City. The law's impact also puts into perspective Gregory's rather unusual resolution³²⁰ that provided that a circular be sent to each municipality, requesting a written statement of indebtedness. And when Senator MacPherson made an eloquent speech during the 1874 Senate's consideration of the proposed constitutional ban on special legislation, he assuredly had the Jersey City Reorganization Law in mind.³²¹ For several years after its enactment, the Legislature was constantly reminded of the law's vicious intent and undemocratic purpose. And the law would become a clarion call among Democrats for a constitutional convention that would place limitations on the power of the Legislature.

4. *Suffrage Rights and Elections*

During the period after the Civil War, the issues of extending suffrage rights to black males and out-of-state military servicemen surfaced as primary sources of heated political debate.³²² The state Republican Party, as heirs to the "Party of Lincoln," actively supported extending suffrage rights, expecting to reap the political benefit at the polls from the newly enfranchised voters.³²³ Meanwhile, state Democrats opposed such measures with equal fervor.³²⁴ The Commission's consideration of suffrage rights must be understood within this context. When considering that, at this time in New Jersey's history, elections were often extremely close — "[s]o close was the margin between the two parties in most years that a shift of 3 or 4 percent in the votes would tip the balance from victory to defeat,"³²⁵ — the political significance of including previously excluded classes becomes

319. Table 2, proposals 35.3 & 48. For an in-depth analysis of such clauses in other states, see David O. Porter, *The Ripper Clause in State Constitutional Law: An Early Urban Experiment*, 1969 UTAH L. REV. 287, 450 (1969).

320. PROCEEDINGS, *supra* note 84, at 46.

321. See "The State Capital...The Constitutional Amendments – Eloquent Speech of Senator McPherson," NEWARK DAILY JOURNAL, February 5, 1874, and "An Able Speech – Senator McPherson's Rebuke to Partisan Legislation," JERSEY CITY HERALD, February 7, 1874.

322. MCCORMICK, *supra* note 60, at 143-46.

323. *Id.*

324. *Id.*

325. *Id.* at 124.

crucial. Thus, it is not purely coincidental that five of the first twelve proposed amendments³²⁶ offered by members of the Commission concerned suffrage rights.

a. Absentee Voting for Military Servicemen

The suffrage article of the 1844 Constitution was silent on the issue of absentee voting. This was not a major source of controversy until the Civil War when it became evident that soldiers deployed outside New Jersey were not legally permitted to vote without returning to their home state. The matter came to the fore in 1864 when Assembly Republicans introduced a bill³²⁷ that would statutorily provide for the absentee voting of out-of-state military servicemen. The Democratic Assembly majority opposed the bill, ostensibly because it conflicted with the suffrage article of the state Constitution, but more likely because its passage was expected to bring more Republican than Democratic votes.³²⁸ As a compromise, the Legislature passed a concurrent resolution that merely *requested* the military authorities to permit soldiers to visit their homes on election days, “as far as the exigencies of the military service shall allow.”³²⁹

Apparently, the issue was resurrected early on in the Constitutional Commission’s deliberations when, on October 8, 1873, Green and Buckley of the Suffrage Committee proposed a constitutional amendment that was taken verbatim from an identical amendment proposed by the New York Constitutional Commission.³³⁰ The proposition,³³¹ which finally gave New Jersey servicemen a constitutional right to vote when out of state during time of war, was approved unanimously, passed the succeeding Legislatures without debate, and was soundly approved by the public in 1875.

326. Table 2, proposals 1, 2, 3, 10 & 11.

327. Assem. Bill 190 (1864), “An Act to Enable Qualified Voters of this State, in the Military Service of this State, or of the United States, to Exercise the Right of Suffrage.” See also “Shall the Soldiers Vote?” a four-page Union Party leaflet supporting Assem. Bill 190. The leaflet was signed “MERCER.”

328. See “Reports of the Majority and Minority of the Committee on Elections to Whom was Referred Assem. Bill No. 190...and Concurrent Resolutions on the Same Subject,” (Trenton: Printed by David Naar, “True American” Office, 1864).

329. *Id.*, unnumbered leaf following page 19.

330. See *supra* note 210.

331. Table 2, proposal 10.

b. Black Male Suffrage

It is a curious and well-established fact of New Jersey's civic history that women and African Americans were implicitly granted the right to vote by the suffrage provision of the state's 1776 Constitution that extended the franchise to "all the inhabitants of this Colony, of full age, who are worth fifty pounds proclamation money, clear estate in the same, and who resided within the County in which they claim a vote for twelve months immediately preceding the election."³³² Slaves were explicitly denied suffrage rights by an act of the Legislature in 1790, which also explicitly affirmed the right of women to vote.³³³ Due to controversy surrounding allegations of voting fraud during an election in 1807, the Legislature, by statute, explicitly limited the franchise to "free, white, male citizens, twenty-one years of age...Aliens, women, slaves, and Negroes were thus clearly disenfranchised."³³⁴

According to McCormick, after 1807, "there was little agitation on the subject [of black suffrage] until the [1840s], when the legislature began to receive petitions from 'free people of color' as well as from white citizens praying for Negro suffrage. To these prayers the legislature gave but scant consideration. Similar petitions received by the constitutional convention of 1844 were ordered to lie on the table, and the word 'white' was engrafted onto the new franchise provisions of the constitution without objection."³³⁵ Thus, the 1844 Constitution expressly limited voting rights to "[E]very white male citizen of the United States, of the age of twenty-one years..."³³⁶

It is interesting to note that there were numerous petitions to the Legislature to reinstate the constitutional right of suffrage for African American males. As early as 1841, a convention of abolitionists advocated a

332. N.J. CONST. (1776), art. IV. See CHARLES R. ERDMAN, JR. *THE NEW JERSEY CONSTITUTION OF 1776* at 56, 82-83 (1929). See also MCCORMICK, *supra* note 60, at 69.

333. MCCORMICK, *supra* note 60, at 93, 97.

334. MCCORMICK, *supra* note 60, at 100, commenting on an Act of November 16, 1807, compiled in *LAWS OF THE STATE OF NEW JERSEY, COMPILED AND PUBLISHED UNDER THE AUTHORITY OF THE LEGISLATURE BY JOSEPH BLOOMFIELD* at 33-37 (1811). The preamble to the law states that "doubts have been raised, and great diversities in practice obtained throughout the state in regard to the admission of aliens, females, and persons of color, or negroes to vote in elections..." *Id.* at 33. See also, Marion Thompson Wright, *Negro Suffrage in New Jersey, 1776-1875*, 33 *JOURNAL OF NEGRO HISTORY* 172 (1948).

335. MCCORMICK, *supra* note 60, at 144.

336. N. J. CONST. (1844), art. II, ¶ 1.

new constitution which would extend voting rights to all males.³³⁷ An 1849 address to the Legislature by the Convention of Coloured Citizens of New Jersey petitioned “to so amend the Constitution as to leave out the word ‘white’ in Article 2nd, Right of Suffrage, Section 1st, of the Constitution of the State of New Jersey...”³³⁸ Several other petitions³³⁹ received by the state Legislature in January 1850 were referred to the Assembly Judiciary Committee and inspired its Chairman, Assemblyman William F. Day, to report favorably on the proposition and introduce a Joint Resolution by which “an amendment to the constitution of this state be and hereby is proposed, by which the word ‘white’ shall be erased from the first section of the second article thereof, entitled ‘right of suffrage.’”³⁴⁰ Numerous petitions to the Legislature by black citizens to remove the word “white” from the suffrage article of the state constitution were made during and immediately after the Civil War, often with the fervid support of Republican newspapers.³⁴¹ When Democratic Governor Randolph delivered a message to the Legislature on the imminent ratification of the Fifteenth Amendment to the Federal Constitution, he argued that, although the ratification “will practically change our State Constitution as it declares suffrage to whites alone,” the amendment provisions of the State Constitution prohibited the Legislature from striking out the word “white” without going through the necessary amendment process.³⁴² Nor did the eventual ratification of the Fifteenth Amendment quell further efforts to remove the word “white” from

337. State Convention of Abolitionists in New Jersey, “Address to the People,” January 12, 1841, cited in Wright, *supra* note 334, at 181 n. 31.

338. “Proceedings and Address of the Coloured Citizens of New Jersey Convened at Trenton, August 21st and 22nd, 1849” at 5-6, cited in Wright, *supra* note 334, at 188 n. 30.

339. N.J. Assem. Minutes 1850 at 480, cited in Wright, *supra* note 334, at 189 n. 42.

340. “Report of the Chairman of the Judiciary Committee of the House of Assembly, in Favor of Extending the Right of Suffrage to Colored People, read February 25, 1850, and ordered to be printed.” (Trenton: Printed by Sherman and Harron, 1850) at 8; printed in the N.J. Assem. Minutes 1850, at 668-673. The resolution was not approved by the Legislature.

341. See, e.g., DAILY ST. GAZETTE (Trenton, N.J.), March 24, 1863, SENTINEL OF FREEDOM (Newark, N.J.), March 29, 1864 and DAILY ST. GAZETTE (Trenton, N.J.), January 19 and February 2, 1866, cited in Wright, *supra* note 334 at 198 footnotes 51, 52 & 53. For the complete text of the March 22, 1864 petition presented by Senator E. W. Scudder cited in the N.J. Senate Journal 1864, at 568, see “Shall Color Be Longer a Bar to the Right of Suffrage?” GAZETTE & REPUBLICAN (Trenton, N.J.), March 24, 1869. For a scholarly account of the politics behind the issue of black suffrage during the post-Civil War period in New Jersey, see generally Moore, *supra* note 65.

342. See “The Constitutional Amendment,” DAILY ST. GAZETTE (Trenton, N.J.), March 25, 1869 and “Governor Randolph’s Message,” AM. STANDARD (Jersey City, N.J.), March 27, 1869.

the state Constitution.³⁴³ By the time Carter formally proposed his amendment, which, significantly, was the very first proposed amendment introduced by the Commission, there seems to have been little opposition to its passage. Latent racist (and sexist) sentiments among certain Democratic circles, however, surfaced during the final passage of all constitutional amendments in the Assembly in 1875 when several Assembly Democrats made a mockery of both black and female suffrage.³⁴⁴

c. Female Suffrage

The rather contentious issue of woman's suffrage emerged during Commission deliberations when three separate petitions from Elizabeth Cady Stanton, Cornelia C. Hussey and an unidentified source were read before the Commission.³⁴⁵ Although none of the three petitions proceeded to a vote, Ferry introduced a proposal³⁴⁶ that would submit the question of woman's suffrage to a separate vote at the time that the proposed Constitutional Amendments were voted on by the people. That this extraordinary proposal was only narrowly defeated by a 5 to 6 vote indicates that there was at least some support for woman's suffrage among the Commissioners. Ultimately, however, the Commission decisively opposed female suffrage, as evidenced in their "refusal to entertain" Swayze's late proposal to strike out the word "male" from Article II. [See *Daily State Gazette's* account of the proceedings for November 18, 1873, reproduced in Part III of this volume.]

343. See, e.g., the editorial entitled "The Word 'White' in the New Jersey Constitution," *DAILY ST. GAZETTE* (Trenton, N.J.), October 5, 1870 (reproduced in Part VIII of this volume); a joint resolution introduced on January 18, 1871, N.J. Assem. Minutes 1871, at 49; a joint resolution sponsored by Assemblyman Lefevre in 1871, cited in *MOUNT HOLLY HERALD*, March 25, 1871; and a petition presented on March 5, 1873 by Senator Hewitt requesting legislation to secure for black citizens "all the rights, privileges and immunities belonging to them as citizens of this State." N.J. Senate Journal 1873, at 509.

344. See *infra* note 685 and accompanying text.

345. Table 2, proposals 11, 66 & 67. Stanton's petition, "requesting an amendment restoring to the women of New Jersey their original right to vote," was mentioned in the now-famous work *HISTORY OF WOMAN SUFFRAGE*, edited by Stanton, Susan B. Anthony and Matilda Joslyn Gage, vol. 3, (Rochester, NY, Privately published, 1886) at 484. The editors remarked that the Commission decided that such an amendment would be "inexpedient." *Id.* Another petition, presented by Lillie Devereux Blake of the Executive Committee of the National Woman's Suffrage Association, was submitted to Senate President Taylor and read before the State Senate on February 12, 1874. See N.J. Senate Journal 1874, at 296. The petition was read and referred to the Judiciary Committee. No further action was reported. See also note 220 *supra* and accompanying text.

346. Table 2, proposal 72.

As in the case of black suffrage, there is an historical record of petitions requesting a change in the New Jersey Constitution to allow women to vote.³⁴⁷ As a member of the 1844 Constitutional Convention, Ten Eyck presented a petition supporting female suffrage.³⁴⁸ Ten years later, a petition concerning “Women’s Rights,” which presumably included the right of suffrage, was referred to a New Jersey Assembly committee which, in a rather condescending report, expressed a belief that women are most happy when “enshrined in the privacy of domestic life and domestic duty.”³⁴⁹ The committee rejected the petition, stating that it would be “inexpedient at the present time” to establish the legal equality of women with men.³⁵⁰ In a tract dated March 1, 1868, Lucy Stone bemoaned the fact that the New Jersey Constitution relegated women to the same political status of those disenfranchised men who were deprived of their voting rights on account of crime or insanity: “Thus it will be seen that the one hundred and thirty-four

347. For a scholarly account of the woman suffrage movement in New Jersey, see Dodyk, *supra* note 64. See also Sylvia Strauss, *The Passage of Woman Suffrage in New Jersey*, 111 NEW JERSEY HISTORY 19 (Fall/Winter 1993).

348. 1844 PROCEEDINGS, *supra* note 29, at 438: “Mr. Ten Eyck presented a petition from sundry inhabitants of the county of Burlington, asking that the right of suffrage be extended to women. He said he did not wish to be considered as in favor of the petition, because it had not come from the females themselves – but he believed that they were generally as well fitted to exercise the elective franchise, as those who style themselves the ‘Lords of the Creation’.”

349. “Report of the Committee of the House of Assembly, to Whom was Referred the Petition on ‘Women’s Rights,’ Read and Ordered to be Printed,” (Trenton: Printed at the True American Office, 1854), at 4.

350. *Id.* at 5. Although not expressly requesting to amend the state constitution, an 1857 petition by Harriet M. Lafetra “and others of the county of Monmouth” requested the Legislature “to appoint a Joint Committee to revise the Statutes of New Jersey so as to establish the legal equality of woman with man.” N.J. Assem. Minutes 1857, at 505. The petition was referred to a “special committee of three” which, although somewhat sympathetic, reported adversely. The committee report, signed by Assemblymen C.L.C. Gifford and John P. Harker, included reference to the perceived difficulty of amending the state constitution. An interesting excerpt of the committee’s report: “If the legislature should attempt to change the laws and remove all the legal liabilities and restrictions, it would not only require a complete renovation of the statute book, but of the constitution also, and opens a prospect anything but encouraging to a deliberative body, whose time is as short as that before us. It would be a task in comparison of which the labors of Hercules sink into insignificance. We would have to open the door to all offices, and permit women to be elected governors, members of the legislature, secretaries and treasurers of state, sheriffs, constables, members of corporate bodies, presidents, cashiers and directors of banks, (whether under general or special laws) – in fact, to all and every office directly or indirectly, in the gift of the people.” N.J. Assem. Minutes 1857, at 554.

thousand intelligent, educated, loyal women of New Jersey are degraded to the level of, and ranked politically with, the only classes of men who are esteemed too wicked, or too worthless to govern themselves.”³⁵¹ In 1869, the New Jersey Woman Suffrage Association petitioned the New Jersey Senate to introduce legislation to extend voting rights to women. The petition, “signed by about seventeen persons,” requested both houses of the Legislature “to provide for an amendment to our State Constitution, so that the exercises of the rights of suffrage shall be restored and extended to women.”³⁵² The Senate did not take the petition seriously.³⁵³ In 1872, petitions advocating female suffrage were presented in the Assembly³⁵⁴ by Assemblyman George Whittier on February 28 and in the Senate³⁵⁵ by Senator C. Henry Sheppard on March 5. The former petition languished in an Assembly committee; the latter was tabled indefinitely.

The establishment of the Constitutional Commission gave a rare opportunity for supporters of female suffrage in New Jersey to voice their grievances to a body that was created expressly for the purpose of amending the Constitution. But although petitions in favor of woman’s suffrage were placed before the Commission, none were released from committee.

d. Other Suffrage Issues

Another issue related to suffrage rights that caught the attention of the Commission concerned the voting qualifications of the large numbers of immigrants who were settling in New Jersey at this time. Carter’s proposal that would require a potential voter to pass a literacy test was most likely directed at non-English speaking immigrants.³⁵⁶ Moreover, the Commission

351. Lucy Stone, “Reasons Why the Women of New Jersey Should Vote, as Shown from the Constitution and Statutes of New Jersey,” Approved by the Executive Committee of the New Jersey State Woman Suffrage Association, Vineland, March 1, 1868, at 1. *See also* a petition signed by Lucy Stone and Antoinette B. Blackwell to the Senate and Assembly of New Jersey requesting “the amendment of the Constitution of this State as will secure to *Women* their right to vote.” N.J. Assem. Minutes 1868, at 734. For the Legislature’s negative response to the petition, *see* the report of the Assembly Judiciary Committee printed at N.J. Assem. Minutes 1868, at 1049-1052.

352. N.J. Senate Journal 1869, at 197.

353. *See* PATERSON DAILY PRESS, March 24, 1869, for an account of the Senate Judiciary Committee’s ridicule of the petition. For a scathing editorial on the Committee’s behavior, *see* “Woman’s Suffrage,” DAILY ST. GAZETTE (Trenton, N.J.), March 27, 1869.

354. N.J. Assem. Minutes 1872, at 513, 1427.

355. N.J. Senate Journal 1872, at 485.

356. Table 2, proposal 3.

devoted a significant amount of time discussing the residency requirements for recently naturalized citizens. The Commission's peculiar interest in residency requirements seems to have been focused on the possibility of voter fraud committed by newly enfranchised immigrants who might vote in multiple districts at the behest of unscrupulous party workers. After debate, the Commission settled on a thirty-day residence requirement. The 1874 Senate, however, rejected this proposal.

Other proposals concerning suffrage rights and elections discussed by the Commission included depriving the right of suffrage to anyone convicted of bribery "in elections,"³⁵⁷ allowing paupers to vote,³⁵⁸ establishing a poll tax,³⁵⁹ prohibiting bribery and wagering at elections,³⁶⁰ requiring numbered ballots,³⁶¹ instituting uniformity in elections statewide,³⁶² and constitutionally designating the first Tuesday after the first Monday in November as the day for legislative elections.³⁶³ This latter proposal was approved by the Commission and was incorporated into the state constitution in 1875, thus constitutionally providing for an election practice that exists to this day.

5. Free Public Schools³⁶⁴

In New Jersey's recent history, the "thorough and efficient" clause has been, and continues to be, the source of major education finance litigation, most notably a series of New Jersey Supreme Court decisions: *Robinson v. Cahill*³⁶⁵ and *Abbott v. Burke*.³⁶⁶ The text of the constitutional provision, as

357. *Id.* The 1874 Senate eventually rescinded this proposal and amended the 1844 Constitution by deleting the words "in elections." See N.J. CONST. (1844), art. II.

358. Table 2, proposal 37.

359. Table 2, proposal 20.

360. Table 2, proposal 42.

361. Table 2, proposal 43.

362. Table 2, proposal 44.

363. Table 2, proposal 38.

364. This section on Free Public Schools is substantially derived from Peter J. Mazzei, *New Light on New Jersey's "Thorough and Efficient" Education Clause*, 38 RUTGERS L. J. 1087 (2007). It is used here with permission.

365. See generally *Robinson v. Cahill*, 355 A.2d 129 (N.J. 1976) (per curiam) (finding the Public School Education Act of 1975 upheld the thorough and efficient clause of the New Jersey Constitution, but only insofar it was funded completely), supplemented by 358 A.2d 457, 459 (N.J. 1976) (per curiam) (enjoining the state from spending any funds in support of free public schools until the legislature had met the constitutional mandate of the thorough and efficient clause); *Robinson v. Cahill*, 351 A.2d 713, 720-21 (N.J. 1975) (imposing a provisional remedy to correct constitutional deficiencies of public school financing, in

it was adopted in 1875, appears unmodified in New Jersey's current Constitution: "The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in the State between the ages of five and eighteen years."³⁶⁷ The New Jersey Supreme Court's interpretation of this constitutional clause, and the legislature's implementation of it, has resulted in the significant redistribution of state funds appropriated for public education and accounts for a considerable portion of the annual New Jersey state budget. For the most part, jurists, legislators, education advocates and scholars have based their interpretation of the "thorough and efficient" clause on the *final* language of the clause as adopted by popular vote in 1875. However, through reconstructing the text of the original proposed constitutional amendment as introduced by a member of the 1873 New Jersey Constitutional Commission, and by carefully tracing its subsequent

reliance on the thorough and efficient clause of the New Jersey Constitution), *cert. denied sub nom. Klein v. Robinson*, 423 U.S. 913 (1975); *Robinson v. Cahill*, 303 A.2d 273, 295-98 (N.J. 1973) (holding that local financing resulting in great disparities in spending per pupil violated the constitutional requirement of a thorough and efficient system of public education), *cert. denied sub nom. Dickey v. Robinson*, 414 U.S. 976 (1973).

366. See *Abbott v. Burke*, 790 A.2d 842, 854 (N.J. 2002) (reaffirming the constitutional mandate of a thorough and efficient education and implementing further remedial measures to correct deficiencies in public preschool education), *clarifying opinion of* 748 A.2d 82, 85 (N.J. 2000) (implementing remedial measures in response to preschool program deficiencies and stating that "[o]ur Constitution requires a thorough and efficient education for all of our children because we believe that educated citizens are better able to participate fully in the economic and communal life of the society in which we all live"); *Abbott v. Burke*, 751 A.2d 1032, 1034 (N.J. 2000) (finding "that any funding formula that does not fund the complete cost of remediating the *infrastructure* and life cycle deficiencies that have been identified in the Abbott districts . . . will not comport with the State's constitutional mandate to provide facilities adequate to ensure a thorough and efficient education"), *clarifying opinion of* 710 A.2d 450, 454 (N.J. 1998) (implementing remedial measures "to ensure that public school children from the poorest urban communities receive the educational entitlements that the [thorough and efficient clause of the] Constitution guarantees them"), *on appeal after remand from* 693 A.2d 417, 420-21 (N.J. 1997) (finding that the funding provisions of the Comprehensive Educational Improvement and Financing Act "fail[ed] to assure expenditures sufficient to enable students in special needs districts to meet those standards" required by the thorough and efficient clause); *Abbott v. Burke*, 643 A.2d 575, 580 (N.J. 1994) (*per curiam*) (holding that "a thorough and efficient education . . . is an education that is the substantial equivalent of that afforded in richer districts"); *Abbott v. Burke*, 575 A.2d 359, 384 (N.J. 1990) (finding that "a thorough and efficient education in the poorer urban districts [could not] realistically be met by reliance on [a] system" based on local taxation) (internal quotation marks omitted); see also Paul L. Tractenberg, *The Evolution and Implementation of Educational Rights Under the New Jersey Constitution of 1947*, 29 RUTGERS L.J. 827, 892-936 (1998) (discussing the *Abbott* and *Robinson* decisions).

367. N.J. CONST. art. VIII, § IV, ¶ 1.

amendment by the Commission and the 1874 New Jersey Senate, the authors hope to shed new light on the framers' intent. Two sources of information that have recently become available³⁶⁸ invite us to rediscover the "thorough and efficient" clause within its historical context and with greater clarity. First, the transcription and indexing of the complete text of the proceedings of the 1873 Constitutional Commission,³⁶⁹ through which the exact changes in the language of the proposed constitutional amendment can be accurately traced and its intent more clearly discerned. Second, the recent compilation of newspaper accounts³⁷⁰ covering the debates and discussions of the Commission's and the 1874 and 1875 legislatures' deliberations concerning school finance, through which a remarkably rich and revealing record of the drafters' discussion can be resurrected, reassembled and analyzed. Together, it is hoped that these sources can provide an enlightening contribution to the official constitutional and legislative history of the "thorough and efficient" clause.

Despite the significance of the "thorough and efficient" clause, it appears that a constitutional requirement for free public education was not foremost on the minds of the 1873 Constitutional Commission's members. Indeed, the proposal's textual antecedent was not introduced until relatively late in the Commission's deliberations: of the ninety-two discrete proposed amendments offered by the Commission, this proposal was the eighty-fourth. Governor Joel Parker's message to the 1873 legislature,³⁷¹ which offered what he considered to be the most important recommendations for constitutional reform, did not even mention the issue of public schools. Moreover, the authors' review of hundreds of editorials and letters to the editor published in New Jersey newspapers during the 1873 to 1875 period did not reveal a single recommendation for a constitutional provision for establishing free public schools.³⁷² Nor did the rather comprehensive lists of

368. See, this volume, Parts III and IV.

369. *Record of Proceedings of the Constitutional Commission*, transcribed in Part III of this volume [hereinafter *Proceedings*]. The original manuscript volume containing the *Proceedings* is located in the New Jersey State Archives, Department of State (Trenton, N.J.) (labeled and cataloged as "CONSTITUTIONAL COMMISSION OF 1874 [sic], MINUTES"). See also *supra* note 84 and accompanying text.

370. A compilation of newspaper accounts covering the Commission's and the 1874 and 1875 Legislature's deliberations of the proposed constitutional amendments appears in Part IV of this volume.

371. Joel Parker, Governor, N.J., Annual Message to the New Jersey Legislature (Jan. 14, 1873), in N.J. SENATE J. 48-51 (1873). Reproduced in Part II of this volume.

372. The editorials and letters to the editor, commenting on public schools in the context of constitutional reform, either focused on the issue of the redistribution of the School

proposed constitutional amendments recommended by Assemblyman J. Daggett Hunt and Commission member Jacob L. Swayze include mention of free public schools.³⁷³

The most likely reason for the apparent disinterest in a constitutional provision concerning a public school system was that the New Jersey Legislature had recently enacted a landmark statute in 1871, which provided for free public schools and a reliable state revenue source that would pay for their maintenance and operation. A review of that law, and a brief history of prior key laws concerning education finance in New Jersey, is crucial to understanding the historical and legal context out of which the “thorough and efficient” clause originated.

*a. Major Public School Finance Laws in New Jersey to 1871*³⁷⁴

Although the New Jersey Legislature had established a School Fund as early as 1817,³⁷⁵ disbursements from the Fund were not made until 1829. In that year, the legislature passed a law³⁷⁶ that authorized distributions of the rather modest School Fund to counties, based on the amount of taxes received by the state from each county.³⁷⁷ The freeholders of each county would then apportion school funds to municipalities based on the amount of municipal taxes received by the county.³⁷⁸ In addition, the 1829 law authorized the residents of each township to vote on whether an additional

Fund to school districts located in the county in which the revenues were levied or on the exclusion of secular or college preparatory schools from the eligibility to receive public funds. No editorial or letter to the editor was located that proposed a constitutional amendment to make New Jersey’s public schools free. *See* this volume, Part VIII (reproducing all such editorials).

373. For a list of Hunt’s fourteen suggested constitutional amendments, *see supra* note 227 and accompanying text. For a list of Swayze’s sixteen suggested constitutional amendments that he offered early in the Commission’s deliberations, *see* DAILY ST. GAZETTE (Trenton, N.J.), July 23, 1873, reprinted in Part IV of this volume. Swayze’s sixteen proposed amendments were ruled out of order and do not appear in the Commission’s official proceedings.

374. For an excellent history of New Jersey public education up to 1871, *see generally* NELSON R. BURR, EDUCATION IN NEW JERSEY: 1630-1871 (1942).

375. *See* Act of Feb. 12, 1817, 1817 N.J. Pub. Laws 26 (creating a fund for the support of free schools).

376. *See* Act of Feb. 24, 1829, 1828 N.J. Laws 105 (establishing common schools).

377. *Id.* § 2, at 106 (requiring apportionment of funding “in the ratio that taxes for the support of the government of this state are paid by the respective counties”).

378. *Id.* § 3, at 106 (requiring apportionment of funding “in the ratio of the county tax paid by the several townships”).

amount was to be raised locally “by tax or otherwise” to supplement the School Fund revenue.³⁷⁹

The effect of this law on education finance in New Jersey was two-fold. Firstly, the law distributed monies from the School Fund according to those townships that had paid the highest county and state taxes. In other words, the wealthiest townships and cities were eligible to receive a higher proportion of the School Fund. Secondly, the law enabled the eligible inhabitants of each township to vote on whether or not locally-based revenue would be raised to supplement the money disbursed from the School Fund. Because the voters at the annual town meetings often voted down this supplemental revenue source, it was not unusual for a public school to be forced to close early in the school year or to require parents to pay tuition.³⁸⁰ Despite irregular increases to the School Fund over the next several decades, the inadequacies of the 1829 law were not to be satisfactorily resolved until 1871.³⁸¹

The next major reform in New Jersey’s education finance law occurred in 1844, when the Constitutional Convention, led by the urgent appeal of delegates James Parker of Perth Amboy and Richard Stockton Field of Princeton, succeeded in adding a paragraph to the state constitution that would ensure the permanency of the School Fund while safeguarding it against use by the legislature for any purpose other than the support of free schools.³⁸² The Convention proceedings indicate that the legislature had developed such an avaricious reputation for borrowing money from the fund to pay other state expenditures that by 1844 the School Fund was in debt by a considerable sum.³⁸³ This paragraph would be the starting point for the 1873 Constitutional Commission’s proposed amendments concerning public schools.

379. *Id.*

380. ROSCOE L. WEST, *ELEMENTARY EDUCATION IN NEW JERSEY: A HISTORY* 31 (1964); *see also* BURR, *supra* note 374, at 279-81.

381. *See* BURR, *supra* note 374, at 281.

382. *See* N.J. CONST. of 1844, art. IV, § VII, ¶ 6 (“The fund for the support of free schools . . . shall be securely invested and remain in a perpetual fund, and the income thereof . . . shall be annually appropriated to the support of public schools . . . and it shall not be competent for the legislature to borrow, appropriate, or use the said fund, or any part thereof, for any other purpose under any pretense whatever.”); PROCEEDINGS OF THE NEW JERSEY STATE CONSTITUTIONAL CONVENTION OF 1844, at 345-47, 400-07 (New Jersey Writers’ Project ed., 1942) [hereinafter 1844 PROCEEDINGS].

383. *See* 1844 PROCEEDINGS, *supra* note 382, at 401.

Two years later, in 1846, the legislature passed An Act to Establish Public Schools,³⁸⁴ which, although maintaining the inequitable distribution mechanism of the School Fund from the 1829 law, required townships to raise “at least equal to and not more than double the amount” apportioned from the School Fund.³⁸⁵ Since poorer districts continued to receive a smaller proportion of the School Fund, the matching funds raised by local taxation were also relatively smaller as compared to the wealthier districts. Not until 1851³⁸⁶ was apportionment of the School Fund based on each school district’s student population as enumerated in an annual school census, rather than on a municipality’s tax ratables.³⁸⁷ Specifically, the 1851 law instructed the county freeholders to distribute the School Fund monies among townships “in the ratio of the [number of] children therein, between the ages of five and eighteen years.”³⁸⁸ This was the first mention of the age limitation that would become integral to the 1873 Constitutional Commission’s education finance amendment. Even more importantly, the 1851 law established the basis for the distribution of state School Fund monies according to the population of school-aged children attending school in each school district.³⁸⁹ However, although distribution of the School Fund was based on the number of school-aged children attending school in each district, voters of each locality could (and often did) vote down local tax increases to supplement the School Fund disbursement.³⁹⁰

384. Act of Apr. 17, 1846, 1846 N.J. Laws 164 (establishing public schools).

385. *Id.* § 4, at 165.

386. Act of Mar. 14, 1851, 1851 N.J. Laws 267 (supplementing the Act of April 17, 1846).

387. *Id.* § 1, at 268. The 1829 and 1846 laws required school trustees to create a list of children in their school district between the ages of “four and sixteen years” and “five and sixteen years,” respectively. See Act of Feb. 24, 1829, 1828 N.J. Laws 105, § 9, at 107 (establishing common schools); Act of Apr. 17, 1846, 1846 N.J. Laws 164, § 9, at 166 (establishing public schools). Although these laws provided the foundation for the collection of statistical data on the precise number of school-aged children residing in each school district, School Fund monies were not actually distributed according to pupil population until enactment of the 1851 law. See Act of Mar. 14, 1851, 1851 N.J. Laws 267, § 5, at 269 (supplementing the Act of April 17, 1846).

388. § 5, 1851 N.J. Laws at 269 (supplementing the Act of April 17, 1846).

389. As we shall see, the 1873 Commission deliberately and emphatically continued this method of distributing School Fund monies.

390. See REPORT OF THE STATE BOARD OF EDUCATION AND STATE SUPERINTENDENT OF PUBLIC INSTRUCTION, FOR THE SCHOOL YEAR ENDING AUGUST 31, 1871, at 11-13 (1872), reprinted in LEGISLATURE DOC. NO. 3 (1872) [hereinafter 1872 REPORT]; see also BURR, *supra* note 374, at 281; WEST, *supra* note 380, at 31, 34, 42.

The next major school law in New Jersey was passed in 1867.³⁹¹ Its crowning achievement was providing the legal foundation for coordinating the administration of public schools under statewide supervision and control.³⁹² The law was by far more comprehensive than any other school law in the state prior to that time. However, in terms of education finance, the law continued New Jersey's reliance on the annual approval of voters in each locality to raise taxes that would supplement the School Fund appropriation.³⁹³ Townships whose voters rejected the local school tax were denied a share of the School Fund.³⁹⁴ Public schools in such townships either had to charge tuition fees or close down schools.

It was not until 1871 that the New Jersey Legislature passed a law that would make public schools truly free. An Act to Make Free the Public Schools of the State,³⁹⁵ was approved on April 6, 1871, and its beneficial effects were just beginning to be experienced by administrators of local schools by the time the 1873 Constitutional Commission commenced its labors. The law mandated that all public schools "shall be free to all persons over five and under eighteen years of age"³⁹⁶ and imposed a "State school tax of two mills on each dollar of the valuation" of real and personal property of State inhabitants in order to pay for them.³⁹⁷ Tuition fees were permanently abolished. For the first time in New Jersey's history, public schools would be entirely financed by a state-derived revenue source, the distribution of which was based on the population of each district's school-aged children (following the precedent of the 1851 law), with each locality given the option to raise additional revenues. Specifically, the law required the state-derived tax revenue to be used "to maintain free schools for at least nine months in each year."³⁹⁸ If the state-derived tax revenue was insufficient for a school to remain open for at least nine months, then the municipality was mandated to raise the additional funds, derived from the local property tax, necessary to keep each school within the municipality

391. See Act of Mar. 21, 1867, ch. CLXXIX, 1867 N.J. Laws 360 (establishing a system of public instruction).

392. See *Id.* § 1, at 360.

393. *Id.* § 76, at 378.

394. *Id.*

395. Act of Apr. 6, 1871, ch. DXXVII, 1871 N.J. Laws 94 (establishing free public schools and supplementing the Act of March 21, 1867).

396. *Id.* § 9, at 97.

397. *Id.* § 1, at 94.

398. *Id.*

open for at least nine months.³⁹⁹ However, if the municipality did not raise sufficient additional funds to keep its schools open for at least nine months, then the municipality would forfeit all of its state-derived tax revenue from the School Fund that it would otherwise be entitled to under the Act. As a result of the law's new state-derived tax, combined with the additional statutory requirement for local governments to raise additional funds, if necessary, to keep schools open for nine months, a large increase in funds was suddenly available for public schools statewide.

It is difficult to overstate the law's historic significance. The law was heralded in the press⁴⁰⁰ and widely praised by politicians and advocates of public education as the culmination of decades of public education laws in New Jersey. In his annual message to the 1872 legislature, Governor Parker proudly announced:

For the first time in the history of this State our schools are free. Every child within her limits now has the means of common school education. Our fathers, who wisely laid the foundation of a school fund, hoped and labored for this grand result, but were not permitted to witness its accomplishment. This consummation has been reached in our day, and New Jersey, in respect to her educational system, now stands in the very forefront of States. Let our interest in this great cause suffer no abatement. Whatever is required to keep the schools free should be done.⁴⁰¹

In the Annual Report of the State School Board for 1872, State School Superintendent Ellis Apgar extolled the law and commended the 1871 legislature for its passage.⁴⁰² In so doing, he wrote what could be described

³⁹⁹. *See Id.*

⁴⁰⁰. *See, e.g.*, Editorial, The Free School Law, DAILY ST. GAZETTE (Trenton, N.J.), Apr. 29, 1871 (“No act of our last legislature is more worthy of special praise and commendation than that which placed upon a substantial foundation and made free the public schools of our state.”).

⁴⁰¹. Joel Parker, Governor, N.J., Inaugural Address (Jan. 16, 1872), LEGISLATURE DOC. NO. 2, at 8 (N.J. 1872). In the next paragraph, however, Parker tempered his enthusiastic support for increased education funding with a cautionary concern for New Jersey's taxpayers: “But in providing means to carry forward educational work, care should be taken not to press too heavily by direct taxes.” *Id.* He then alluded to the high taxes recently levied to support the expenses of the Civil War and the detrimental effects of state taxation on New Jersey's agricultural economy. *See Id.*

⁴⁰². *See generally* 1872 REPORT, *supra* note 390, at 11-13; *see also* REPORT OF THE STATE BOARD OF EDUCATION AND STATE SUPERINTENDENT OF PUBLIC INSTRUCTION, FOR THE SCHOOL YEAR ENDING AUGUST 30, 1870, at 49-58 (1871), LEGISLATURE DOC. NO. 2 (1871) (presenting Apgar's case for the need for a free school law) (“In my judgment, no act could be

as the most informative and eloquent summary of the history of public school finance in New Jersey up to that time:

FREE SCHOOLS AT LAST.

Free schools and public schools, virtually, are synonymous, but not until the passage of the free school act, by the Legislature of last winter, were they practically so in New Jersey. Our cities and larger towns have had free public schools for many years, but they have been made free by special legislation and local taxation. The schools in the county [i.e., the sparsely-populated, predominantly-rural counties of New Jersey], established under the general law of the State have been pay schools, or virtually private schools with reduced tuition rates. Those who attended them were obliged to pay tuition fees – the State simply paid a part of the expenses of maintaining the schools, and thus reduced the amount to be paid by the patrons. By the passage of the free school act our whole school machinery is very much simplified, and the full benefits of a public school system is accorded to all the children of the State. If the Legislature of 1871 had done nothing more than pass the bill, entitled “An act to make free the public schools of the State,” they would for this act alone have been entitled to the lasting gratitude of their constituents. Of all the work they did during the session none was more pressing than this, and none so intimately connected with all that concerns the highest welfare of the State. The bill, in its main features, is excellent, and puts the maintenance of the schools upon a perfectly sound basis.

The most important feature of the law, is that which substitutes for our township school tax a uniform State tax. By this change our school system is, for the first time in its history, placed upon a sure and substantial basis. Our schools will no longer depend for their support upon a fund which a mere majority at a town meeting may any year withhold. Heretofore the continuance of our schools every year depended upon the result of the vote at town meeting upon the question of school tax. If no money was voted, the

passed by the Legislature this winter which would receive so hearty an approval by the people, or be productive of more good than one which would...give us free schools.”).

schools were necessarily closed; if an insufficient amount was voted, the schools were supported in part by tuition fees; and even if enough was voted, the schools had only an assurance of one year's existence, for at the next town meeting all support might be withheld. This method of raising school money has always been the source of much contention and bitter feeling. Every year those opposed to schools would exert themselves to defeat the tax, and consequently those in favor of schools were obliged to do all in their power to secure the tax, and thus the division line between those opposing and those favoring our system of public school education was kept distinctly drawn. The townships are still authorized to vote school money, and they are even required to do so in case the money derived from the State is not sufficient to maintain free schools nine months, but the amount to be voted will not be, as heretofore, the principal fund upon which the schools are to depend for their support. The principal support will come from the State, and if any sum is needed to be voted by the townships it will be small, and will not meet with that opposition that it has heretofore.

A State school tax is preferable to a local school tax also, because it is more just, equal, and uniform. In the case of a local tax the individual with property is taxed for the benefit of the one without property; but to raise the same amount per child, one section, as for instance a township or a county, with but little wealth, might be taxed from two to four times as heavily as another section more favored with this world's goods. The practical result of this system of local taxation is, that the poorer the section the heavier will be the tax; whereas just the opposite should be the case if any difference is made. If each county were required to raise, by county tax, the money it requires for school purposes, it is evident that the poorer the county the greater would be the amount of tax per dollar to yield the same amount per child. . . .

The inequality of a township school tax is, necessarily, still greater than that of a county school tax, for there is more difference between the wealth of the poorest and the richest township in the State than there is between the poorest and the richest county. This inequality of taxation is now removed by our State tax. The fundamental principle which underlies our whole system of public instruction, namely, that property is to be taxed for the support of schools, is now made general and uniform throughout the State. It is much easier and far more just for the wealthiest county in the State to be

taxed one half of one per cent. more than is apportioned to her as a State tax than it would be to impose upon the poorest county a tax more than three times as great as the wealthiest would be required to pay as a county tax.⁴⁰³

There is no question that at least some of the members of the 1873 Constitutional Commission, and of the two subsequent legislatures, were intimately familiar with the 1871 law.⁴⁰⁴ For example, members of the Commission were fully cognizant of the state-imposed “two mills”⁴⁰⁵ tax, as evidenced by Commission member Dudley S. Gregory’s proposed amendment, requiring the revenue raised from that tax to be expended on a county, as opposed to a statewide, basis.⁴⁰⁶ The Commission was also keenly aware of the law’s particular age limitation for students “between five and eighteen years of age,” which was first enunciated in the aforementioned 1851 law and resurrected in the language of the 1871 law.⁴⁰⁷ This law provided the textual source for the school age range expressed in the Constitution that survives to this day.⁴⁰⁸ Finally, the Commission was impressed with the law’s peculiar designation of New Jersey’s public school

403. 1872 REPORT, *supra* note 390, at 11-13.

404. Most notably, John Wesley Taylor, an original (albeit brief) member of the Commission and Senate President during the 1874 and 1875 legislatures, played a prominent role in drafting the 1871 law. As a state senator in 1871, Taylor made several substantive changes to the second reprint of what would become the 1871 law – the legislation known as Assembly Bill No. 135 (“A135”) – after the bill passed the Assembly. For a list of Taylor’s amendments to A135, all of which were incorporated into the final version of the chapter law, see Amendments in Senate to House Bill Number One Hundred and Thirty-Five (1871), on file with the New Jersey State Library (Trenton, N.J.) (maintained in the bound volume of bills for 1871); see also N.J. SENATE J. 789 (1871) (identifying Taylor as the author of the amendments). Earlier in his career, Taylor was a school teacher in Morristown and Caldwell, NJ during the 1850’s. Taylor also served several successive terms on the Newark Board of Education beginning in 1869.

405. Act of Apr. 6, 1871, ch. DXXVII, § 1, 1871 N.J. Laws 94, 94. Two mills is equivalent to two thousandths of a dollar assessed, levied and collected on the valuation of taxable real and personal property. See *Id.*

406. See *infra* note 422 and accompanying text.

407. See Act of Mar. 14, 1851, § 6, 1851 N.J. Laws 267, 269; Act of Apr. 6, 1871, ch. DXXVII, § 8, 1871 N.J. Laws 94, 96. But note that in section 9 of the April 6, 1871 law, the school age range is expressed as “over five and under eighteen years of age.” Act of Apr. 6, 1871, § 9, 1871 N.J. Laws at 97. The latter seems to mean from six to seventeen years of age. The authors’ search of the legislative history of this Act could not uncover a reason for the discrepancy.

408. See N.J. CONST. art. VIII, § IV, ¶ 1.

system as “free public schools”⁴⁰⁹ and spent considerable time and effort reconciling this term with the terminology used in the existing Constitution.

b. The Constitutional Commission’s Consideration of a Free School Amendment

In response to mounting public pressure to reform the state’s 1844 Constitution, the 1873 legislature acted on the recommendation of Governor Joel Parker to create a Constitutional Commission.⁴¹⁰ The bipartisan Commission consisted of fourteen members: two members of different political parties from each of the state’s seven congressional districts.⁴¹¹ The Commission’s members were appointed by the Governor with the advice and consent of the State Senate.⁴¹² The Commission had no power to submit recommendations directly to the people, but rather was only permitted to forward their proposed changes to the next legislature for further study and action.⁴¹³ The body met on nineteen days between May 8 and December 23, 1873 and submitted its recommended constitutional amendments to the 1874 legislature.⁴¹⁴

It is virtually impossible to follow the deliberations of the Commission on the public school question without consulting the official proceedings, newspaper accounts of those proceedings, and the Commission’s report.⁴¹⁵

⁴⁰⁹. Act of Apr. 6, 1871, § 1, 1871 N.J. Laws at 94.

⁴¹⁰. For a comprehensive analysis of the 1873 New Jersey Constitutional Commission and its work, see this volume, especially pages 28-94 and Parts II, III, IV and VII.

⁴¹¹. *Id.* at 27-30.

⁴¹². *Id.* See also Part II.

⁴¹³. *Id.* See also Joel Parker, Governor, N.J., Annual Message to the New Jersey Legislature (**Jan. 13, 1874**), in N.J. SENATE J. 42-43 (1874) (“The Commission had no power to make a Constitution, as some in their criticism seemed to imply, nor could it even submit the proposed amendments to a popular vote, but it was a body merely advisory to the Legislature, a committee of able and experienced gentlemen residing in various sections of the State, to aid in the most important work legislators can be called upon to do.”). Gov. Parker’s entire message related to the constitutional amendments is reproduced in this volume, Part IV.

⁴¹⁴. See this volume, Part IV.

⁴¹⁵. The Report of the Constitutional Commission exists in two forms. The first, a sixteen-page document entitled “Report of the Constitutional Commission of New Jersey,” dated December 23, 1873, provided the recommended amendments, listed in order of constitutional section in a format that instructed the reader to strike out an existing section of the Constitution and/or to insert the text of the recommended amendment. Perhaps the only extant copy of this document was affixed to the official manuscript minutes of the General

Any one of those sources, without the aid of the others, is insufficient for the purpose of determining intent. Accordingly, any interpretation of the current “thorough and efficient” clause, without analyzing its antecedent language as expressed in its previous versions, and without consulting the existing record of debate by its drafters, would most likely be deficient. To complicate matters further, the Commission’s proceedings do not always clearly identify each separately proposed amendment, but often refer to a proposed amendment ambiguously (such as “the proposition of Mr. Thompson to amend Article II”) or obliquely (by referring to a proposal by its now defunct “Paper Number” or by its now irrelevant paragraph number). Only by isolating and uniquely identifying each proposed amendment and carefully indexing the entire official proceedings, can there be a hope of accurately retracing each proposal from introduction to final action. The authors maintain that what follows is an accurate account, as far as the extant sources permit, of the Commission’s treatment of the public school amendment.⁴¹⁶

Before discussing the Commission’s specific proposed constitutional amendment that would eventually transform into the “thorough and efficient” clause,⁴¹⁷ it is instructive to note that the Commission considered four

Assembly for March 23, 1874 located in the New Jersey State Archives, Department of State (Trenton, N.J.). The text of the report was reproduced in the printed volume of the 1874 Assembly Minutes, at pages 1130-43, and in the printed volume of the 1874 Senate Journal, at pages 48-59. The second version of the report, entitled “Constitution of the State of New Jersey, As Proposed to Be Amended by the Constitutional Commission,” also dated December 23, 1873 and printed at the “True American” Office in Trenton (1873), consisted of twenty-nine pages and reproduced the complete text of the 1844 Constitution with changes recommended by the Commission incorporated into the text. Both forms of the report have been reproduced in this volume, Part III.

416. The history of the “thorough and efficient” education clause has been comprehensively researched in Harriet Lipman Sepinwall, *The History of the 1875 “Thorough and Efficient” Amendment to the New Jersey Constitution in the Context of Nineteenth Century Social Thought on Education: The Civil War to the Centennial* (May 1986) (unpublished Ph.D. dissertation, Rutgers University) (on file with Alexander Library, Rutgers University) [hereinafter Sepinwall, *History of the 1875*]; see also Harriet Lipman Sepinwall, *The New Jersey Constitution and the 1875 “Thorough and Efficient” Education Amendment*, 59 J. RUTGERS U. LIBR. 53 (2000). However, neither of Sepinwall’s works used newspapers as a research source on the Commission’s deliberations. For example, Sepinwall’s dissertation states “[n]either newspaper nor magazine articles publicized the work of the Commission.” Sepinwall, *History of the 1875*, *supra*, at 199; and “the Commission’s deliberations were private and secretive,” at 248. Moreover, Sepinwall did not have access to the transcribed and indexed proceedings of the Commission. See *supra* notes 368-369 and accompanying text.

417. *Proceedings*, *supra* note 369, at 130. For an index to the Commission’s consideration of this proposed amendment, see Part VII of this volume, “Proposal 84”.

additional proposed amendments related to public schools. We will briefly discuss these four separate and distinct amendments relating to public schools that were introduced by the Commission prior to the introduction of the textual antecedent of the “thorough and efficient” clause.

On October 8, 1873, Commission member Dudley S. Gregory proposed three constitutional amendments that concerned public schools.⁴¹⁸ The first,

The School Fund shall be appropriated exclusively for the maintenance and support of the public schools in the State under its exclusive control.

was referred to the Committee on Bill of Rights, Right of Suffrage, Limitation on the Powers of Government, and General and Special Legislation (“Committee on the Bill of Rights”), on the same day.⁴¹⁹ It was reported out of the Committee on October 21, 1873, but on motion of Commission member Benjamin F. Carter, was rejected by the Commission.⁴²⁰ The purpose and intent of this amendment was to reinforce the 1844 Constitution’s stricture that the School Fund be used for no other purpose than for public schools. The Commission evidently decided that it was superfluous language to the existing provision in the Constitution that read “and it shall not be competent for the legislature to borrow, appropriate, or use the said fund, or any part thereof, for any other purpose under any pretence whatever.”⁴²¹

Gregory’s second proposed amendment relating to public schools,

Not less than two mills on the dollar of taxable values each year shall be raised in each county by tax annually, to be expended on public schools therein and not elsewhere.

was also referred to the Committee on Bill of Rights on October 8, 1873.⁴²² This proposal was released from the Committee on October 21, 1873, but,

⁴¹⁸. *Proceedings, supra* note 369, at 42-44.

⁴¹⁹. *Id.* at 43-44. For an index to the Commission’s consideration of this proposed amendment, *see* Part VII of this volume, “Proposal 29”.

⁴²⁰. *Proceedings, supra* note 369, at 99; *see also* DAILY ST. GAZETTE (Trenton, N.J.), Oct. 22, 1873.

⁴²¹. N.J. CONST. of 1844, art. IV, § VII, ¶ 6. For a record of the 1844 Constitutional Convention’s debate on this clause, *see* 1844 PROCEEDINGS, *supra* note 382, at 345-47, 400-07; *see also supra* note 382 and accompanying text.

⁴²². *Proceedings, supra* note 369, at 44. For an index to the Commission’s consideration of this proposed amendment, *see* Part VII of this volume, “Proposal 30”.

although eventually rejected by the Commission, it precipitated a contentious debate among Commission members which in turn spawned the textual antecedent to the “thorough and efficient” clause. We will return to this proposal later.⁴²³

Gregory’s third proposed amendment concerning public schools,

Laws shall be passed by this Legislature to compel the attendance of able bodied children at the public schools or such schools as their parents or guardians may prefer, of all children in the State between the ages of _____ and _____ years, for at least _____ months in each year.

was also referred to the Committee on Bill of Rights,⁴²⁴ but unlike Gregory’s first two proposed amendments, this proposed draft of a constitutional amendment for compulsory education was not reported out of the Committee.⁴²⁵ The import of this amendment is best appreciated when one considers that, at this time in our state’s history, “[twenty-three percent] of the children of school age were still not attending any school.”⁴²⁶

The fourth proposed constitutional amendment relating to public schools was introduced by Commission member Swayze on October 22, 1873.⁴²⁷ This proposal, which was offered as one of many of the Commission’s enumerated legislative prohibitions on special laws, forbade the legislature from passing special laws “[p]roviding for the management of common

⁴²³. See *infra* notes 433-452 and accompanying text (tracing the history of Gregory’s second proposed amendment relating to public schools).

⁴²⁴. *Proceedings*, *supra* note 369, at 44. For an index to the Commission’s consideration of this proposed amendment, see Part VII of this volume, “Proposal 31”.

⁴²⁵. One must infer that the Committee on Bill of Rights rejected this proposal, as it was not included on the list of proposed amendments released from the Committee on October 21, 1873. Note that less than six months later, the legislature approved a compulsory education statute that required “any child between the ages of eight and thirteen years” to attend a public or private school for “at least twelve weeks in each year, six weeks at least of which attendance shall be consecutive.” Act of Mar. 27, 1874, ch. DXXIII, 1874 N.J. Laws 135 (establishing attendance requirements for children at school). Home schooling was an alternative, but required the child being instructed at least twelve weeks each year “in the branches of education commonly taught in the public schools.” Exception was made for children who had a “physical or mental condition . . . as to render such attendance inexpedient or impracticable.” *Id.*

⁴²⁶. BURR, *supra* note 374, at 281 (citing the 1871 and 1872 New Jersey Reports of the Superintendent of the Public Schools).

⁴²⁷. See *Proceedings*, *supra* note 369, at 111.

schools.”⁴²⁸ This proposal was subsequently amended twice by the Commission before its final adoption resulting in the text: “[The legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say:]⁴²⁹ . . . providing for the management and support of free public schools.”⁴³⁰ The purpose and intent of this amendment becomes apparent when it is realized that, by 1873, the legislature had passed numerous special acts that either benefited the public schools of certain municipalities or school districts without benefiting all public schools in the State, or interfered with the local administration of public schools.⁴³¹ Swayze’s amendment protested both the inequitable advantages that several wealthier school districts in the state’s larger cities enjoyed from the legislature’s largesse through special legislation, as well as the legislature’s meddling with municipal control of public schools.⁴³²

We will now return to Gregory’s second aforementioned proposal: The proposed amendment offered by commission member Gregory, requiring that “[n]ot less than two mills on the dollar of taxable values each year shall be raised in each county, by tax, annually to be expended on public schools therein, and not elsewhere,”⁴³³ used similar language that was based on, and derived from, the 1871 free school law.⁴³⁴ Gregory’s proposal, supported by commission members who represented the State’s more densely populated and wealthier counties,⁴³⁵ was clearly an attempt to constitutionally limit the

⁴²⁸. *Id.* For an index to the Commission’s consideration of this proposed amendment, see Part VII of this volume, “Proposal 35.10”.

⁴²⁹. See *Proceedings*, *supra* note 369, at 109.

⁴³⁰. *Id.* at 111, 133-34, 166.

⁴³¹. See, e.g., Act of Apr. 4, 1873, ch. DCIX, 1873 N.J. Laws 729 (setting forth control and government of Jersey City public schools); Act of Mar. 27, 1873, ch. CCCLXXXVIII, 1873 N.J. Laws 457 (providing for erection, finishing and repairing of school houses in the City of Elizabeth).

⁴³². See 1872 REPORT, *supra* note 390, at 11 (“Our cities and larger towns have had free public schools for many years, but they have been made free by *special legislation* and local taxation.” (emphasis added)).

⁴³³. *Proceedings*, *supra* note 369, at 44.

⁴³⁴. See Act of Apr. 6, 1871, ch. DXXVII, § 1, 1871 N.J. Laws 94, 94 (providing for “a State school tax of two mills on each dollar of the valuation contained in said abstracts”).

⁴³⁵. Gregory represented Hudson County. The other Commission members who supported Gregory’s proposal that would allow each county to retain School Fund revenues raised in that county were: William Brinkerhoff of Jersey City (Hudson County), Benjamin Buckley of Paterson (Passaic County), George J. Ferry of Orange (Essex County), Robert S. Green of Elizabeth (Union County), and Algernon S. Hubbell of Newark (Essex County). For their voting record on Gregory’s proposal, see *Proceedings*, *supra* note 369 at 98-100. For a

distribution of School Fund revenues generated by the existing two mill state tax to public schools located within the county that raised the revenue. Gregory's proposed amendment is indicative of the contentious issue that divided residents of wealthy cities in urbanized counties from those of less prosperous towns in sparsely populated counties: whether to allocate School Fund monies on the basis of the ability to raise property tax revenue, as was the case prior to the 1851 law, or strictly according to the population of school-aged children. Gregory, who represented the relatively wealthier and more populous Hudson County,⁴³⁶ clearly tried to protect the interests of wealthier property taxpayers by retaining a larger percentage of School Fund monies within their county's borders. Commission members Samuel H. Grey and Augustus W. Cutler, representing the more sparsely populated and less wealthy counties of Camden and Morris, respectively,⁴³⁷ argued that School Fund monies should be disbursed strictly on the basis of the number of school-aged children attending school in each school district, regardless of a county's wealth.⁴³⁸

The official proceedings of the Commission indicate that its members were highly divided on this issue, but provide absolutely no record of the content of the discussion or indication of whether such discussion even took place. The proceedings record the following skeletal account of the Commission's deliberation on Gregory's proposal:

Paragraph No. 22, as follows:

"Not less than two mills on the dollar of taxable values each year shall be raised in each county, by tax, annually to be expended on public schools therein, and not elsewhere" was taken up.

Mr. Cutler moved to strike out the words "therein and not elsewhere."

table of Commission members indicating their profession, political party, city of residence, Congressional District represented and age at the time that the Commission met, *see supra* Table.1. For a handy reference of New Jersey county and municipal population statistics during this period, *see* "Abstract of Census of the State of New Jersey According to the Census of 1870, Compiled by the Secretary of State," *reprinted in* 1871 N.J. Laws 1668-85.

⁴³⁶. *Id.*

⁴³⁷. *Id.*; *see also supra* Table 1.

⁴³⁸. DAILY ST. GAZETTE (Trenton, N.J.), Oct. 22, 1873.

Which was lost by the following vote:

Yeas: Messrs. Carter, Cutler, Dickinson, Grey, Ten Eyck – 5.

Nays: Messrs. Brinkerhoff, Buckley, Ferry, Green, Gregory, Hubbell – 6.

The paragraph was then adopted.

. . . .

Mr. Green moved to reconsider the vote by which Par. No. 22 was adopted.

The motion was agreed to and the paragraph taken up.

Mr. Green moved the following as a substitute:

“The amount raised in each county by tax for school purposes in each year shall be expended on public schools in the county in which it is raised and not elsewhere.”

Which was lost by the following vote:

Yeas: Messrs. Brinkerhoff, Ferry, Green, Hubbell – 4.

Nays: Messrs. Buckley, Carter, Cutler, Dickinson, Gregory, Grey, Ten Eyck – 7.

Mr. Grey moved that the consideration of the paragraph be postponed to Tuesday next, at 11 o'clock.

Mr. Green moved the adoption of the paragraph as it now stands.

Which was agreed to by the following vote:

Yeas: Messrs. Brinkerhoff, Buckley, Ferry, Green, Gregory, Hubbell – 6.

Nays: Carter, Cutler, Dickinson, Grey, Ten Eyck – 5.⁴³⁹

The two most valuable pieces of information gained by this excerpt from the official proceedings are, first, the precise language of the proposed amendment offered by Gregory and later substituted by Green, and, second, the actual votes of the individual members of the Commission. Gregory's original proposal was adopted by the slightest of margins,⁴⁴⁰ indicating that a bare majority of the members present on October 21, 1873 favored that School Fund monies collected from the 1871 law's "two-mill tax" be distributed within the county which generated the revenue, and not shared with any other county. The voting record confirms what we would expect: members from the wealthy, urbanized counties of Hudson (Gregory and Brinkerhoff), Essex (Hubbell and Ferry), Union (Green) and Passaic (Buckley) supported Gregory's proposal while members from the more rural, and more sparsely populated counties of Gloucester (Carter), Morris, (Cutler), Mercer (Dickinson) and Burlington (Ten Eyck) opposed it.⁴⁴¹ Green's proposed substitute was rejected, not because it would allow each county to expend its revenue collected for funding public schools solely on those public schools located within the county which raised the revenue, but

⁴³⁹. *Proceedings, supra* note 369, at 98-100.

⁴⁴⁰. Although the 1873 Constitutional Commission was comprised of fourteen members, none of its nineteen meetings were attended by every member. *See supra* notes 145-153 and accompanying text. See also Appendix 5 of this volume, "The Constitutional Commission: Members' Dates of Attendance". The Commission usually conducted its business with less than twelve members present, as on October 21, 1873. This fact becomes crucial whenever a proposal was voted on and then reconsidered at a later meeting when different members were present.

⁴⁴¹. *Proceedings, supra* note 369, at 98-100.

because it substituted the “two-mill tax” with the less definitive phrase “the amount raised in each county by tax for school purposes.” The latter phrase was objectionable presumably because it did not specify a precise formula (i.e., “not less than two-mills on the dollar”) from which the School Fund revenue would be generated, but instead left it to the Legislature to statutorily decide an appropriate amount.

Although the official proceedings require the modern reader to make certain inferences as to the meaning and intent of the Commission, a newspaper that covered the Commission’s deliberations in more detail provides a most enlightening and revealing account of the discussion that took place in the Commission on October 21, 1873:

The paragraph No. 22 [i.e., Gregory’s proposed amendment concerning the distribution of the revenues from the two-mill tax] was taken up. Mr. Cutler moved to strike out the words “therein and not elsewhere,” requiring moneys raised by counties for schools to be expended in those counties.

Mr. Green opposed the motion to strike out, and showed by the Comptroller’s report that several counties were compelled to contribute to the support of schools in other counties. He thought the money raised by the two mill tax ought to be expended in the county where it was raised.

Mr. Hubbell advocated the report of the committee, and opposed the amendment. The idea of compelling one county to support schools in other portions of the State was not considered just or right.

Mr. Grey thought it was the duty of the State to see that the youth of the State are trained up in good citizenship; then it would appear right that the State should insist upon those portions of the State most able, to aid the weaker portions. The principle is that men are protected by the State in the measure of their wealth, and the wealthy are just as much interested in the proper education of the people in Cape May as they are in the counties in which they reside.

Mr. Green dissented from this principle. This money is raised for the education of children. Now, instead of paying this money in to the State

Treasury, where it is distributed on another principle, he showed that seven counties had by this principle paid \$106,000 towards other counties.

Mr. Cutler took the opposite view. One county could not say to another, We have no need of thee; we were one grand State, and the children of the State are the property of all. The wealthy portions should consider what they have gained by legislation. Some counties have more property than others. He referred to the reports of the Comptroller for 1871 and 1872, characterizing them as able, and their arguments on this question as unanswerable, in favor of the present system. The difficulty was more in consequence of an imperfect system of taxation than any inequality. He was a convert to the doctrine that the children of the State ought to be educated by the State.

Mr. Gregory thought the principle was clearly wrong, and producing unjust taxation, and presented a number of arguments to support his proposition. They were subjected to errors in the enumeration of children, and from a variety of other causes. People were willing to have the children educated, but we should compel the counties to do their duty, and the object of educating the children of the State would be answered.

Mr. Gr[e]y said it was only because the tax was for State purposes that it is justified. It was the misfortune of cities that they did not have as many children as other portions in proportion to their wealth. It is because it is a state duty to educate the children that this tax is justified. It was part of the government, and the principle was justified on the ground of rearing good citizens. It cannot be sustained on any other principle.

Mr. Gregory still advocated his views against the principle. The valuations are not equal. If they were there would not be so much to complain of.

Mr. Hubbell said it was not the duty of the State to educate the children without some effort on the part of the people. The Eastern States entertain no such idea. The principle of instruction is based upon the exertions of the

people, and in that proportion they should be helped by the State. – There is no sound reason why the State should educate the children, except in the proportion to the exertions of the people of the several counties to that end.

Mr. Ferry gave instances of the injustice of the principle as it operated on the town of Orange. The proposition he regarded as unjust and unequal, and he hoped it would not pass.

Mr. Gr[e]y further advocated his proposition, and referred to the present Constitution of the State, to show that for more than thirty years it has been considered the duty of the State to educate the children of the State.

The question was then taken, and the motion to strike out was lost, 5 to 6.

The paragraph (22) was then adopted as reported by the Committee.

. . . .

Mr. Green moved to reconsider the vote by which paragraph 22 was adopted. – Agreed to.

Mr. Green then moved to amend so as to leave the amount to be raised for schools to the people and the Legislature, and to be expended where it was raised and not elsewhere. The amendment was lost, 4 to 7.

Mr. Gr[e]y moved to postpone the further consideration of this matter to Tuesday next, at 11 o'clock. [The motion was lost.]

Mr. Dickinson moved to strike out the whole paragraph. He thought we were descending into the business of legislation.

Mr. Green then moved to adopt paragraph 22.

Mr. Gr[e]y raised the question whether under this clause the people of a particular locality may not spend the money for any kind of school purposes. Do we not enable religious societies to use this money in any manner they please? The schools may be public, but still under a particular locality or society.

The Chair decided Mr. Dickinson's motion out of order. The proper question was to adopt.

The question was then taken on Mr. Green's motion to adopt, and it was adopted – 6 to 5.⁴⁴²

The same newspaper that recorded this vivid exchange also published a scathing editorial that reprimanded the Commission for adopting Gregory's proposed amendment.⁴⁴³ Although written from the perspective of a Mercer County (less urbanized) interest, the editorial definitively connects Gregory's proposal to the 1871 law, while advocating the law's original intent to share School Fund monies on a statewide basis, according to the number of school-aged children in each school district. The editorial, entitled "Ungenerous and Unwise Policy," is reproduced in its entirety:

The Constitutional Commission on Tuesday adopted a provision that the two mill school tax should be expended in each county where assessed and paid, and not elsewhere. We think with Mr. Dickinson that in adopting such measures as this the Commission is entrenching upon the province of the Legislature. At all events, this policy which it is proposed to incorporate in the fundamental law, is ungenerous and unwise, and we feel perfectly confident that this amendment will never be adopted by the Legislature or the people. What is called the two mill act was passed in 1871, and was designated in the title "An act to make free the public schools of the State."

⁴⁴². DAILY ST. GAZETTE (Trenton, N.J.), Oct. 22, 1873. Note that Gregory's proposed amendment was offered as a new paragraph (Paragraph 22) to the existing article I of the 1844 Constitution.

⁴⁴³. Editorial, *Ungenerous and Unwise Policy*, DAILY ST. GAZETTE (Trenton, N.J.), Oct. 23, 1873.

It provides “that for the purpose of maintaining free public schools there shall be assessed, levied and collected annually on the inhabitants of this State, and upon the taxable, real and personal property therein, a State school tax of two mills on each dollar,” &c. The act further provides that the Comptroller shall apportion the tax among the several counties, and that the State Superintendent of Public Schools shall apportion the moneys received from this tax among the counties in proportion to the number of school children in each.

This law is an act of beneficence and wisdom on the part of the Commonwealth of New Jersey. It is an embodiment of the progressive and enlightened spirit of our State. It has been highly commended by prominent friends of education all over the country as one of the most liberal and praiseworthy acts upon the statute books of the states. It was an act of State policy, broad and general in its application. It was not the design to limit its beneficent effects to particular sections—to compel the wealthy portions of the State to support their public schools, and to allow the poorer sections to do the best they could. Its design was by a general act to make an assessment upon the property of the State sufficiently large to give every child in the State—irrespective of where he lived, or the circumstances of his parents—nine months’ schooling every year. The amendment adopted by the Commission will defeat this object, and largely circumscribe the generous catholicism of the act. For at present thirteen out of the twenty-one counties receive more money than they are assessed, and several of them would obtain but very little benefit from the law if they only received the amount they are assessed under it. For instance, Atlantic County is assessed \$8,851.34, and is apportioned \$20,835.19; Cumberland is assessed \$23,206, and receives \$43,520.54; Ocean is assessed \$8,841.70, and receives \$19,749.70.

Are the children in these counties, because they unfortunately happen to be poor, to have thrust upon them the additional misfortune of enforced ignorance? Is the State to say to these poor children—that do most abound where the gifts of fortune are rarest—“Educate yourselves out of your limited means, or live in ignorance”? Is this niggardly policy to be engrafted in the fundamental law of New Jersey? Never. It is the policy of liberal and progressive New Jersey to assess the abundant means of her inhabitants to educate all her children. To say that the taxes of the rich shall be expended

only for the benefit of the rich, and that the poor must support themselves, is to strike at the very foundation of the free school system. If such a principle might be applied to counties, it might to townships and wards, to school districts, and even to individuals. It means nothing more nor less than that no part of the taxes of the rich shall be taken to educate children of the poor, a principle at variance with the policy and practice of enlightened government.⁴⁴⁴

Whether such an opinion as expressed in this editorial influenced members of the Commission is not certain. Regardless, on the next day, October 22, 1873, Hubbell moved to reconsider the vote by which Gregory's proposal was adopted.⁴⁴⁵ Hubbell then substituted the following proposed constitutional amendment to replace Gregory's proposal:

21. The several counties of this State shall each year raise by a tax, upon the valuation of their taxable property, a sum sufficient in addition to the sum to be derived from the School Fund to support the public schools of such county.⁴⁴⁶

Consideration of Hubbell's proposal was postponed until October 28, 1873.⁴⁴⁷ On that date, the official proceedings provide the following account:

Paragraph 21 [i.e., Hubbell's proposed substitute of Gregory's proposed amendment] was taken up.

Mr. Hubbell moved to strike out the word "counties" in the first line and insert in lieu thereof the words: "cities, towns, township[s] and boroughs."

Mr. Grey moved to add "wards and school districts."

⁴⁴⁴. *Id.*

⁴⁴⁵. *See Proceedings, supra* note 369, at 104-05.

⁴⁴⁶. *Id.* at 105. Note that Hubbell's substitute for Gregory's proposed amendment was designated as "Paragraph 21" (instead of "Paragraph 22") of article I of the 1844 Constitution, because the Commission had subsequently deleted another proposed supplemental paragraph to article I. Newspaper accounts did not provide a helpful record of discussion on Hubbell's substitute.

⁴⁴⁷. *Id.* at 105, 125-26.

The motion of Mr. Grey was not agreed to.

The question being taken on the adoption of the amendment offered by Mr. Hubbell, it was lost by the following vote:

Yeas: Messrs. Ferry, Green, Gregory, Hubbell, Thompson – 5.

Nays: Messrs. Carter, Cutler, Dickinson, Grey, Swayze, Ten Eyck – 6.

Mr. Green moved to amend Paragraph 21, by substituting the following:

“The several counties of this State shall not be required in any year to raise by tax more than a sum sufficient, in addition to the sum to be derived from the School Fund, to support the public schools of such county.”

Which was disagreed to by the following vote:

Yeas: Messrs. Ferry, Green, Gregory, Hubbell – 4.

Nays: Messrs. Buckley, Carter, Cutler, Dickinson, Grey, Swayze, Ten Eyck, Thompson – 8.

The question was taken on the adoption of the paragraph [i.e., Gregory’s original proposed amendment concerning the distribution of the revenues from the two mill tax], when it was lost by the following vote:

Yeas: Messrs. Gregory and Hubbell [– 2].

Nays: Messrs. Buckley, Carter, Cutler, Dickinson, Ferry, Green, Grey, Swayze, Ten Eyck, Thompson – 10.⁴⁴⁸

What can we make of this? First of all, it is clear that Hubbell believed that Gregory's (and his own substitute offered on October 22, 1873) proposed amendment – that the distribution of the two-mill tax revenues be used only to pay for public schools within the county from which the revenue was raised – did not go far enough. Hubbell advocated that *municipalities* (cities, towns and boroughs) only pay for the public schools within their own borders and not share their revenues with other *municipalities*. As a resident of Newark, which at this point in history enjoyed the state's highest municipal tax rates and had the finest public school system in the state,⁴⁴⁹ Hubbell believed that it would be more fair and equitable for wealthier municipalities to pay only for their own schools and let the less wealthy municipalities pay for their own. Objecting to Hubbell's proposal, Grey sarcastically proposed that the amendment go even further and let individual municipal wards and schools districts (the absolute smallest political subdivisions) pay for their own schools.⁴⁵⁰ Grey's sardonic remark was not even voted on;⁴⁵¹ however, more importantly, the Commission decided to reject Hubbell's substitute by the same vote tally in

⁴⁴⁸. *Id.* at 125-26; *see also* DAILY ST. GAZETTE (Trenton, N.J.), Oct. 29, 1873.

⁴⁴⁹. *See generally* the various accounts of the Newark public schools submitted by the Newark Superintendent in the annually issued *Report of the State Board of Education and State Superintendent of Public Instruction, For the School Year*, for reporting years 1870 through 1876. For example, in his 1872 account of the Newark School District, Newark Superintendent George B. Sears proudly reported that:

[O]ur school facilities are increasing year by year. We have a fine house on Central Avenue just completed. . . . Two other houses are now in process of building, and one more at least, will be commenced during the year. When these are completed, it can hardly be said that we have even an ordinary school house, much less a poor one; all in good condition, class-rooms seated with modern school furniture of the most approved patterns, and each house provide with suitable out-houses.

1872 REPORT, *supra* note 390, app., at 5.

⁴⁵⁰. Grey's sarcasm is similar to the DAILY ST. GAZETTE's editorial of October 23, 1873 which argued with the same *reductio ad absurdum* logic: "To say that the taxes of the rich shall be expended only for the benefit of the rich, and that the poor must support themselves, is to strike at the very foundation of the free school system. *If such a principle might be applied to counties, it might to townships and wards, to school districts, and even to individuals.*" Editorial, *supra* note 443 (emphasis added).

⁴⁵¹. *Proceedings*, *supra* note 369, at 125 (stating that "[t]he motion of Mr. Grey was not agreed to" (emphasis added)).

which it previously agreed to Gregory's proposal.⁴⁵² In a last ditch effort to resurrect Gregory's proposal, Green then proposed an amendment that would protect wealthy counties from having to raise more revenue than is needed to support the public schools within their own borders. As with Gregory's proposal, Green's proposal would not require wealthier counties to share their tax revenues with less wealthy counties. Green's proposal was rejected by an even larger margin than Gregory's. Finally, Gregory's original proposal was voted on one last time and it was rejected overwhelmingly.

We must conclude that the Commission consciously and emphatically advocated the redistribution of School Fund revenues on a statewide basis, according to the population of school-aged children attending school in each school district, as expounded in the existing 1871 law. The resounding defeat of Gregory's, Hubbell's and Green's proposals indicate that the Commission agreed with the principle that wealthier areas should be constitutionally obligated to share their contribution to the state School Fund with poorer areas and that the only factor used in the distribution of School Fund revenues was to be the number of children between the ages of five-and-eighteen years attending school in each school district. Effectively, the Commission as a whole understood their amendment regarding public schools as a constitutional validation of the principle of public school finance as expressed in the 1871 statute.

c. *Swayze's Proposal for a "Thorough System of Education": The Textual Antecedent to the "Thorough and Efficient" Clause*

During Commission deliberations, the earliest mention of a suggestion to provide a constitutional requirement for free public education occurred on October 28, 1873, when, in opposition to Hubbell's proposed amendment that would establish a municipal tax to replace the state tax for the support of public schools, Swayze "suggested that the Legislature should be directed to provide a thorough system of education of all the children in the State."⁴⁵³

452. *Id.* at 125. Hubbell's substitute was rejected by a vote of five to six, with Ferry, Green Gregory, Hubbell and Thompson voting in favor and Carter, Cutler, Dickinson, Grey, Swayze and Ten Eyck voting against. *See Id.* The change in votes on Gregory's proposal can be accounted for by the fact that different members of the Commission were present on October 22, 1873 than were present on October 28 1873. *See*, Appendix 5 of this volume, "The Constitutional Commission: Members' Dates of Attendance". The loss of Benjamin Buckley's (Passaic County) and William Brinkerhoff's (Hudson County) votes and the gain of Swayze's (Sussex County) vote, accounted for the reversal in the Commission's approval of Gregory's proposal.

453. DAILY ST. GAZETTE (Trenton, N.J.), Oct. 29, 1873.

Swayze's suggestion does not appear in the official proceedings for that date, but only in newspapers that covered that day's proceedings of the Commission.⁴⁵⁴ On the next day, Swayze formally introduced a proposed amendment along the lines of what he had in mind the day before. Thus, the first reference in the Commission's official proceedings to the constitutional amendment that would eventually become the "thorough and efficient" clause appears in the minutes for October 29, 1873: "Mr. Swayze offered an amendment to the Constitution relative to a public school system[,] [w]hich was [referred] to the Committee on the Legislative Department"⁴⁵⁵ Unfortunately, the Commission secretaries did not record the actual language of Swayze's proposal. However, newspaper accounts of the proceedings for October 29, 1873 did provide a more detailed summation, as follows:

Mr. Swayze offered an amendment on the school question, for the establishment of free schools; the fund to be sacred, not to be borrowed, by the Legislature; [the] fund to be sacredly reserved for this one special object. No money to be paid to any creed, religion, church, or sectarian association, nor to any academy, or private school, or school belonging to any denomination or association. The word "free" is introduced instead of "public" schools. No school district to have any of the State fund unless a school is kept open for the term of at least three months.

Mr. Swayze proceeded to speak at some length on the amendment proposed.

The amendment was referred to the Legislative Department.⁴⁵⁶

Based on the rambling and disjointed nature of the sentences, it appears that the newspaper journalist jotted down words and phrases spoken by Swayze.

The next reference to Swayze's proposed amendment in the official proceedings, on November 12, 1873, indicates that the Committee on the Legislative Department, of which Swayze was a member, was "relieved from

⁴⁵⁴. See *infra* note 456 and accompanying text (collecting two relevant newspaper accounts).

⁴⁵⁵. *Proceedings*, *supra* note 369, at 130.

⁴⁵⁶. *The Constitutional Commission*, DAILY ST. GAZETTE (Trenton, N.J.), Oct. 30, 1873; see also NEWARK DAILY ADVERTISER (Newark, N.J.), Oct. 30, 1873 (giving a similar account).

. . . further consideration” of the proposal.⁴⁵⁷ Being “relieved from further consideration” was euphemistic for stating that the majority of the Committee on Legislative Department rejected Swayze’s proposal. Normally this would have resulted in the defeat of the proposal, if not for Swayze’s motion that it be printed.⁴⁵⁸ A newspaper account, which referred to Swayze’s proposal as “the proposition in reference to the *remodeling* of the system of education,”⁴⁵⁹ clearly indicates that Swayze’s proposal was not a mere tinkering with the existing constitutional provision concerning the public school funding,⁴⁶⁰ but rather, was proposed as a major overhaul. The Commission evidently consented to Swayze’s motion to print his proposal, for on the next day, November 13, 1873, the Commission took up Swayze’s printed proposal, identified in the minutes as “Paper No. 17.”⁴⁶¹ Although “Paper No. 17” is not extant, we will attempt to reconstruct at least some of the text of Swayze’s printed proposal. Based on the official minutes supplemented with newspaper accounts of deliberations, it appears that Swayze’s original proposal contained five sections:

Section 1:

The fund for the support of free schools, and all money, stock, and other property which may hereafter be appropriated for that purpose, or received into the treasury under the provision of any law heretofore passed to augment the said fund, shall be securely invested and remain a perpetual fund, and the income thereof, except so much as it may be judged expedient to apply to an increase of the capital, shall be annually appropriated to the support of [public] free schools, for the equal benefit of all the people of the State, and it shall not be competent for the legislature to borrow, appropriate,

457. *Proceedings*, *supra* note 369, at 151. “The Committee on Legislative Department were relieved from the further consideration of an amendment to the Constitution offered by Mr. Swayze on the subject of education.” *Id.*; see also DAILY ST. GAZETTE (Trenton, N.J.), Nov. 13, 1873.

458. “On motion, the proposition was ordered printed.” *Proceedings*, *supra* note 369, at 151; see also *The Constitutional Commission*, DAILY ST. GAZETTE (Trenton, N.J.), Nov. 13, 1873 (“Mr. Swayze, from the Legislative Committee, reported the proposition in reference to the remodeling of the system of education, and moved that the same be printed. The committee did not recommend the propositions.”).

459. *The Constitutional Commission*, *supra* note 458 (emphasis added).

460. See N.J. CONST. of 1844, art. IV, § VII, ¶ 6.

461. See *Proceedings*, *supra* note 369, at 152.

or use the said fund, or any part thereof, for any other purpose under any pretence whatever.⁴⁶²

Section 2:

A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the [Legislature] shall establish and maintain free schools for the gratuitous instruction of all persons in this State between the ages of five and [eighteen] years.⁴⁶³

Section 3:

No school district to have any of the State Fund unless a school is kept open for the term of at least three months.⁴⁶⁴

⁴⁶². This is the text of the New Jersey Constitution of 1844 article IV, section VII, paragraph 6, with the word “free” replacing the word “public” in the phrase “shall be annually appropriated to the support of public schools.” See *The Constitutional Commission*, DAILY ST. GAZETTE, Nov. 14, 1873 (“Mr. Swayze moved the adoption of the first section stating that the only change was the introduction of the word *free* instead of *public*.” (emphasis added)). Swayze’s intent appears to have been to address an inconsistency in the 1844 Constitution that referred to New Jersey’s public schools as “free schools” and “public schools” in the same sentence. See N.J. CONST. of 1844, art. IV, § VII, ¶ 6. Moreover, Swayze evidently wanted it to be unmistakably clear that public schools were indeed free.

⁴⁶³. Swayze possibly borrowed this text virtually verbatim from the Missouri Constitution, substituting “Legislature” for “General Assembly” and “eighteen” for “twenty-one.” See MO. CONST. of 1865, art. IX, § I, in II FRANKLIN B. HOUGH, AMERICAN CONSTITUTIONS 795 (Albany, Weed, Parsons, & Co. 1872) (“[T]he General Assembly shall establish and maintain free schools for the gratuitous instruction of all persons in this State between the ages of five and twenty-one years[.]”). Evidently, Swayze sought to make the constitutional amendment consistent with the school age range expressed in the 1871 statute that established free public schools. See Act of Apr. 6, 1871, ch. DXXVII, § 9, 1871 N.J. Laws 94, 97. However, in proposing Missouri’s particular phrase “between the ages of x and y years” Swayze either deliberately or unknowingly changed the meaning of the 1871 law, which stated “over five and under eighteen years of age.” *Id.* The latter seems to indicate the ages between five and seventeen. For an explanation of HOUGH, as well the Commission’s extensive use of this work as a research source, see *supra* note 200, and accompanying text.

⁴⁶⁴. This language is a journalist’s paraphrase of one (presumably the third) of Swayze’s five proposals regarding his free school amendment. See *The Constitutional Commission*, *supra* note 456; NEWARK DAILY ADVERTISER, *supra* note 456. Swayze may have

Section 4:

The term “free schools” or public schools, used in this Constitution shall be construed to mean common schools that aim to give to all a rudimentary education only, and not to include schools designed to fit and prepare pupils to enter college, or schools controlled by or under the influence of any creed or religious society, or denomination whatever.⁴⁶⁵

Section 5:

[N]o school money shall be appropriated for the use of any school, academy, seminary, college, university, or other institution of learning by the State, or any township, borough or city, when the said institution is controlled by any creed, sect or religious society.⁴⁶⁶

According to the newspaper account in the November 14, 1873 issue of the *Daily State Gazette*, Swayze’s proposal was taken up and read by one of the Commission’s secretaries.⁴⁶⁷ The newspaper relates that Swayze spoke on several different sections of his proposal, explicitly mentioning sections one and five, while implicitly referring to section four:

The question of education was then taken up, and read by the Clerk.

Mr. Swayze moved the adoption of the first section, stating that the only change was the introduction of the word *free* instead of *public*. He referred to the disposition of members of Congress to vote away about \$90,000,000 of public lands for school purposes, and each member wants to get as much land for his own district as he can. He also referred to the disposition to appropriate money to educate young men for entrance into colleges, and

based this proposal on a requirement that public schools remain open for “at least three months” a year in order to be eligible to receive state funds, similarly found in eight other state constitutions at this time. *See* HOUGH, *supra* note 200, at 793-94, 807-08.

⁴⁶⁵. *See The Constitutional Commission, supra* note 462 (identifying this language as “Sec. 4” of Swayze’s proposed amendment).

⁴⁶⁶. *See Id.* (referring to this text as “Section 5” of Swayze’s proposed amendment).

⁴⁶⁷. *See Id.*

claimed that the State should not go further than to give a common school education. He also spoke upon Section 5, which provides that no school money shall be appropriated for the use of any school, academy, seminary, college, university, or other institution of learning by the State, or any township, borough or city, when the said institution is controlled by any creed, sect or religious society.⁴⁶⁸

In addition to fleshing out Swayze's proposal, this newspaper account provides a clue as to Swayze's intent that is not available in any other source. The newspaper tantalizingly records Swayze's disapproval of Congress's practice of politically distributing federal lands dedicated to educational purposes in the context of his advocacy of free public schools. Swayze is likely referring to the Federal Morrill Act of 1862, in which federal land was allocated to states as an incentive for establishing agricultural, scientific and related college programs.⁴⁶⁹ Although the meaning is not clear, Swayze appears to be complaining that, when left to a legislature, public funds for education are not distributed rationally, according to need, but politically. Regardless, Swayze is quite clear in his objection to the use state funds for college preparatory schools.

More significantly, Swayze's speech propelled the Commission into an animated discussion that focused on student age restrictions (i.e., "Section 2"), the record of which was completely omitted from the official minutes. The newspaper account is reproduced here:

There was quite a discussion upon the age at which children should be permitted to attend and leave school. The proposition was made that they should be admitted when five years old, and quit when 18 years of age.

Mr. Gregory said that the poor people in Jersey City were enabled to send children who were under five years of age. The parents were laborers, and they could send their children there while they were out at work. This, he said, makes the schools popular, and he did not see why we should limit the age, as children there quit school when they are about twelve years of age. After some further remarks upon the same subject, Mr. Gregory moved to strike out the words "five years."

⁴⁶⁸. *Id.* (emphasis added).

⁴⁶⁹. See Act of July 2, 1862 ("Merrill Act"), Pub. L. 37-108, 12 Stat. 503 (1862).

Mr. Swayze suggested that the section should read, “persons under the age of eighteen years.”

Mr. Hubbell did not believe in the system in the sense of the proposition, as it had been tried in other States and found to be defective. It is the opinion in Connecticut, where it has been tried, that it was injurious. He made a statement of a conversation he had with a member of the trustees of the public schools of that State, who said the schools had not worked well under the system, and is injurious to the education of the people. He said there was no responsibility resting upon the parents, and thought that they should pay at least part of the cost of their children’s education. In his own district the system did not work well, for when the State found the pupils’ books and other material, they were destroyed. He concluded by reiterating the fact that he did not believe in the proposition.

Mr. Swayze said that until a few years past he was opposed to free schools, but of late he had become a convert, and is now convinced that the free school system is the best. He did not send his children to school, but was willing to pay his share of tax, and believed in levelling [sic] up, and not levelling [sic] down.

Mr. Ferry stated that he believed the present Constitution contained all that was necessary, and would like to have a number of points expunged from the propositions, and said we do not need to make amendments to the Constitution in this manner.

Mr. Cutler objected to striking out the words “five years,” for to do so in cities would be to make the schools, instead of being as they are schools for education, if the amendment was adopted, they would be turned into nurseries and would be made places to take care of children under three years old. As the president of the Board of Education of Morris county, he is continually importuned to admit children of that age. He doubted if a child should be allowed to go to school before seven or eight years of age, and would be very sorry to send a child to school before it was four years old.

Mr. Swayze withdrew his amendment.

Mr. Gregory said schools have been established in all parts of the State, and there may possibly be annoyance by admitting children of such tender years. He referred to the establishment of public schools some 50 or 60 years ago, and did not see any danger in the proposition to strike out the words “five years.”

Mr. Hubbell said he was in favor of public schools, and it was a mere question as to how they were to be maintained.

Mr. Dickinson made a number of remarks upon the intention of the public schools, saying that they were intended for poor children. The State did not intend to make them professional men, but to furnish them with education with which they may pursue the particular art they may feel inclined to follow.

The proposition to strike out the words five years was lost by a vote of 4 to 5.⁴⁷⁰

The newspaper gives a remarkably lucid account of the Commission’s deliberations on the age limits for when a student is entitled to free school. The Commission deliberately and consciously decided that public schools were not intended for students younger than five years of age.

After this discussion, Ferry proposed that the Commission vote on Swayze’s proposal “as a whole” and the entire proposal was rejected by a vote of four to two.⁴⁷¹ After Ferry’s motion, and without the Commission’s agreement to any of Swayze’s five sections, Grey offered a substitute consisting of the existing 1844 New Jersey Constitution, article IV, section VII, paragraph 6, supplemented with a slightly amended version of Swayze’s proposed “Section 2,” and the identical text of Swayze’s proposed “Section

470. See *The Constitutional Commission*, *supra* note 462.

471. *Proceedings*, *supra* note 369, at 152. Five votes were needed for passage as nine of the Commission’s fourteen members were present on this day. Ferry’s motion lends further evidence that Swayze’s proposal was composed of multiple sections.

4.”⁴⁷² Evidently, Grey disagreed with Swayze’s proposed “Sections 3” and “Section 5.” Thus, Grey’s proposed substitute consisted of the existing 1844 Constitution, article IV, section VII, paragraph 6,

The fund for the support of free schools, and all money, stock, and other property which may hereafter be appropriated for that purpose, or received into the treasury under the provision of any law heretofore passed to augment the said fund, shall be securely invested and remain a perpetual fund, and the income thereof, except so much as it may be judged expedient to apply to an increase of the capital, shall be annually appropriated to the support of public schools, for the equal benefit of all the people of the State, and it shall not be competent for the legislature to borrow, appropriate, or use the said fund, or any part thereof, for any other purpose under any pretence whatever.⁴⁷³

followed by two supplementary sentences:

“A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the Legislature shall establish and maintain free public schools for the gratuitous instruction of all persons in this State between the ages of five and eighteen years.”⁴⁷⁴

“The term ‘free schools’ or ‘public schools’ used in this Constitution shall be construed to mean common schools that aim to give to all a rudimentary education only, and not to include schools designed to fit or prepare pupils to enter college, or schools controlled by or under the influence of any creed, religious society or denomination whatever.”⁴⁷⁵

After Grey introduced his substitute, an extensive debate ensued over the precise term to be used to denote the public school system. The Commission spent considerable time in arguing whether to call the school system “public

472. *See Id.*

473. N.J. Const. of 1844, art. IV, § VII, ¶ 6.

474. *Proceedings*, *supra* note 369, at 152. This is the text of Swayze’s proposed “Section 2,” with the addition of the word “public” after the word “free.” *See supra* text accompanying note 463.

475. *Proceedings*, *supra* note 369, at 152-53. This is nearly identical to Swayze’s proposed “Section 4.” *See supra* text accompanying note 465.

schools,” “free schools,” or a combination of both.⁴⁷⁶ One source of confusion must have been the inconsistent terminology used in the existing 1844 Constitution, which referred to the schools as “free schools” and “public schools” in the same paragraph.⁴⁷⁷ Swayze’s original proposal addressed this inconsistency by using the term “free schools” instead of “public schools” in both instances.⁴⁷⁸ His intent was clearly to constitutionally emphasize that public schools were to be free, as actualized by the 1871 law.⁴⁷⁹ Grey’s substitute, however, retained the original, inconsistent language of the existing paragraph 6 while proposing additional inconsistencies by referring to the school system as “free public schools” in his first supplementary sentence and “free schools” or “public schools” in his second supplemental sentence.⁴⁸⁰

Although both the official proceedings and newspaper sources provide only a fragmentary record of the Commission’s attempts to reconcile the inconsistencies between “free schools,” “free public schools,” and “public schools” in Grey’s substitute, it is noteworthy that the Commission devoted so much attention to, and had such a difficult time agreeing on, a consistent terminology to denote the state school system. A careful review of the extant record, both official and unofficial, indicates that there seems to have been two underlying issues that accounted for the Commission’s preoccupation with the terms “public” and “free” in designating the state school system. The first issue centered on the belief held by some of the members that schools should not be entirely free. Obviously, some members of the Commission (most notably Gregory and Hubbell) did not agree with State School Superintendent Apgar’s assertion that the terms “free schools” and “public schools” should be synonymous.⁴⁸¹ For instance, Hubbell stated outright that parents “should pay at least part of the cost of their children’s education.”⁴⁸² Hubbell represented the viewpoint held by some statesmen of this era (often from an older generation) that opposed providing a constitutional guarantee of free education on the grounds that the parents

476. *The Constitutional Commission*, *supra* note 462. “After a very long discussion, the name by which the public schools are to be known was decided to be ‘Free Public Schools.’” *Id.* The authors’ review of more than ten newspapers did not reveal a record of the actual debate.

477. *See* N.J. CONST. of 1844, art. IV, § VII, ¶ 6.

478. *See supra* text accompanying note 462.

479. *See* Act of Apr. 6, 1871, ch. DXXVII, § 1, 1871 N.J. Laws 94, 94.

480. *See supra* text accompanying notes 473-475.

481. *See* 1872 REPORT, *supra* note 390, at 11.

482. DAILY ST. GAZETTE (Trenton, N.J.), Nov. 14, 1873.

would not take responsibility in the education of their children if they did not financially contribute themselves.⁴⁸³ Thus, Hubbell alluded to the opinion of a member of the Board of Trustees of the Connecticut schools⁴⁸⁴ who believed that that state's free school system was "injurious to the education of people," and supported his contention with his observation that pupils' books and other material were destroyed.⁴⁸⁵ Hubbell therefore argued for the inclusion of the term "public schools," and the exclusion of the term "free schools," in the constitution.⁴⁸⁶

The second issue involved the concern that the use of the phrase "free schools" in the state constitution could be misinterpreted as meaning *any* school was eligible to receive state funds. The concern here, explicitly addressed in Swayze's "Section 4" and "Section 5,"⁴⁸⁷ was that "free schools," without mention of "public schools," could be interpreted as meaning that schools operated by religious organizations or schools that prepared students for college would constitutionally be eligible to receive state funds.⁴⁸⁸ Thus, the reasons why the Commission struggled with the apparently trivial distinction in terminology for the school system were because of a divergence in the opinion of members in terms of whether public schools should or should not be entirely free, and whether school funds should be appropriated to private schools or college preparatory schools. It is absolutely clear, based on the Commission's proceedings and report, that the Commission ultimately agreed with Swayze's original intent that public schools were free and that religious, private or college preparatory schools would not be eligible for state funds.⁴⁸⁹ What follows is

⁴⁸³. See John Dinan, *The Meaning of Education Clauses in American State Constitutions* 13-14 (paper presented at the Annual Meeting of the American Political Science Association, Phila., Pa., Aug. 31, 2006 - Sept. 3, 2006) (on file with author) ("During the 19th Century, the establishment of free schools was still a disputed question in many states around the country and the battle was frequently joined as to whether to exclude mention of 'free' in education clauses. . . . Nineteenth Century convention delegates perceived a difference between establishing a state system of public schools and operating a system of 'free schools,' and some delegates supported the former but opposed the later.").

⁴⁸⁴. See *supra* text accompanying note 470.

⁴⁸⁵. See *Id.*

⁴⁸⁶. See *Id.*

⁴⁸⁷. See *supra* text accompanying notes 465 and 466.

⁴⁸⁸. See *supra* note 483.

⁴⁸⁹. See *infra* note 525 and accompanying text. The Commission's report to the Legislature retained references to "free" schools and contained the explicit exclusion of schools "designed to fit or prepare pupils to enter college, or schools controlled by or under the influence of any creed, religious society or denomination whatever." *Id.*

an attempt to reconstruct, as far as the extant sources allow, the Commission's consideration of Grey's substitute of Swayze's original proposal.

Carter moved to amend the first paragraph of Grey's substitute⁴⁹⁰ by striking out the word "free" from the first line and inserting the word "public," thereby making the terminology consistent by using "public schools" in each instance.⁴⁹¹ This motion was defeated,⁴⁹² evidently because most members of the Commission agreed with Swayze's recommendation to use the word "free." Carter then moved to add the word "free" before the word "public" in the phrase "shall be annually appropriated to the support of public schools." The Commission agreed with this motion.⁴⁹³ Gregory then moved to strike out the word "free" in Carter's proposal so as to use "public schools" in both instances (which essentially was Carter's original motion).⁴⁹⁴ Gregory's motion was similarly defeated.⁴⁹⁵ The amended first paragraph of Grey's substitute thus referred to the state's public schools as "free schools" and "free public schools." The Commission would later return to this inconsistency.⁴⁹⁶

The Commission then proceeded to discuss the first supplementary sentence of Grey's substitute.⁴⁹⁷ Green moved to add to the end of the first supplementary sentence the following: "The amount raised by taxes for schools in each county in each year shall be expended therein and not else where."⁴⁹⁸ Green obstinately raised the previously settled, yet still contentious, proposal that would allow each county to retain the School Fund revenues that it collected while not requiring it to share its revenue to support public schools located in other, less wealthy counties. A newspaper recorded Green's comments and Swayze's response:

490. That is, the existing provision. See N.J. CONST. of 1844, art. IV, § VII, ¶ 6; see also *supra* text accompanying note 473.

491. *Proceedings, supra* note 369, at 153.

492. *Id.*

493. *Id.* Note that the official proceedings erroneously record Carter's motion as adding "after the word 'free, the word 'public.'" See *Id.*

494. *Id.*

495. *Id.* Gregory, like Hubbell, clearly opposed the constitutional provision that public schools be free. See *supra* note 470 and accompanying text.

496. See *infra* notes 522-524 and accompanying text.

497. See *Proceedings, supra* note 369, at 153.

498. *Id.*

Mr. Green spoke of the inequality of tax in certain portions of the State, and claimed that the money raised by a county should not be spent for the support of other counties.

Mr. Swayze opposed the amendment of Mr. Green, claiming that it was the duty of the State to support the schools.⁴⁹⁹

At the urgency of Swayze, Green's proposal was defeated, four to seven.⁵⁰⁰ Carter then revisited the controversial issue of amending the specified age range of school pupils by proposing to reduce the upper-age limitation to sixteen years, instead of eighteen.⁵⁰¹ Carter's motion was also defeated.⁵⁰² After rejecting any changes to Grey's first supplementary section, it was adopted by the Commission by the vote of six to five.⁵⁰³

Grey's second supplementary sentence was then taken up by the Commission. Cutler moved to strike out the words "[s]chools designed to fit or prepare pupils to enter college, or"⁵⁰⁴ so as to read:

The term "free schools" or "public schools" used in this Constitution shall be construed to mean common schools that aim to give to all a rudimentary education only, and not to include schools controlled by or under the influence of any creed, or religious society or denomination whatever.⁵⁰⁵

Cutler's motion was defeated, five to six.⁵⁰⁶ Evidently, Cutler was a proponent of the principle that college preparatory schools should be entitled to receive state school funds, but the majority of the Commission members present did not agree. Hubbell then moved to amend Grey's second

499. *The Constitutional Commission*, *supra* note 462.

500. *Proceedings*, *supra* note 369, at 153. As with Greogory's and Hubbell's proposals, Green's proposal was defeated by members representing less wealthy counties. Voting for Green's proposal were representatives of relatively urbanized and wealthy counties: Ferry (Essex), Green (Union County), Gregory (Hudson), and Hubbell (Essex). *Id.* Voting against were members who represented rural, less wealthy counties: John F. Babcock (Middlesex), Carter (Gloucester), Cutler (Morris), Dickinson (Mercer), Grey (Camden), Swayze (Sussex), and Ten Eyck (Burlington). *Id.*; *see also infra* Table 1.

501. *Proceedings*, *supra* note 369, at 153.

502. *Id.*

503. *Id.*

504. *Id.* at 153-54.

505. *Id.* at 154 (as amended by author).

506. *Id.*

supplementary sentence by deleting all words after the word “only” so as to read:

The term “free schools” or “public schools” used in this Constitution shall be construed to mean common schools that aim to give to all a rudimentary education only.⁵⁰⁷

Hubbell’s motion was also defeated, by a vote of five to five.⁵⁰⁸

Grey’s second supplementary sentence was then adopted without amendment, eight to three.⁵⁰⁹

Two further supplementary sentences were proposed. First, Carter proposed to add a sentence that would give the legislature the authority to establish a compulsory education law.⁵¹⁰ Carter’s proposal is nearly identical to the text of the first clause of a similar provision in the Missouri Constitution of 1865.⁵¹¹ Carter’s proposal was defeated four to seven,⁵¹² suffering a similar fate to that of a previously rejected compulsory education amendment.⁵¹³

Second, Cutler proposed to add a section that would dedicate future revenues from the sale of federal and state lands to the state School Fund.⁵¹⁴ Cutler’s proposal is very similar to the text of several state constitutions:⁵¹⁵

The proceeds of all lands that may be hereafter granted by the United States to this State; also the proceeds of the sales of public lands that may hereafter be paid over to this State by the United States; unless otherwise provided by Congress, also, the proceeds of the sales of land or other

507. *Id.* (as amended by author).

508. *Id.* Six votes were needed for passage.

509. *Id.*

510. *Id.*

511. *Compare Id.* (“The Legislature shall have power to require by law that every child of sufficient mental and physical ability shall attend the free public schools during the period between the ages of six and fifteen years, for such term in each year as may be from time to time designated by law.” (Carter’s proposal)), with MO. CONST. of 1865, art. IX, § 7, in HOUGH, *supra* note 200, at 797 (“The General Assembly shall have power to require, by law, that every child, of sufficient mental and physical ability, shall attend the public schools, during the period between the ages of five and eighteen years, for a term equivalent to sixteen months, unless educated by other means.”).

512. *Proceedings, supra* note 369, at 154.

513. *See supra* notes 424-425 and accompanying text.

514. *Proceedings, supra* note 369, at 154-55.

515. *See HOUGH, supra* note 200, at 800-07 (collecting several constitutional sources).

property now belonging to this State, shall be securely invested and sacredly preserved as a free school fund, the annual income of which fund shall be faithfully appropriated for establishing and maintaining free schools, and for no other uses or purposes whatever.⁵¹⁶

Cutler's proposed amendment was defeated by a vote of five to six.⁵¹⁷

Realizing that the Commission's amendment to the existing article IV, section VII, paragraph 6 contained inconsistent terminology when defining the state's public schools ("The fund for the support of free schools..." in the beginning of the first sentence, contrasted with phrase "...shall be annually appropriated to the support of 'free public schools,' later on in the paragraph), Swayze suggested to interchange the words "free" and "public" so that the phrase would read "...shall be annually appropriated to the support of 'public free schools.'" The Commission adopted Swayze's suggestion.⁵¹⁸

On the last day that the Commission met, December 23, 1873, there were two further attempts to amend this proposal after a final reading of all proposed amendments adopted by the Commission. First, Carter moved to amend the second supplementary sentence by replacing the word "rudimentary" with the word "liberal."⁵¹⁹ This motion was defeated,⁵²⁰ evidently because the Commission intended that the Constitution provide for only a basic education in the state's public schools, and not to provide for college preparatory schools.⁵²¹ Second, the Committee on Future Amendments, General Provisions and Final Revision, which was responsible for putting all the Commission's recommended constitutional amendments in a final draft form, suggested deleting the word "free" after the word "public," presumably in the second supplemental sentence.⁵²² Although a newspaper

516. *Proceedings*, *supra* note 369, at 154-55.

517. *Id.* at 155.

518. *Id.* (as amended by authors). The *Proceedings* state that Swayze suggested to "[a]dd to Article IV, Sec. VII, Paragraph 6, Line 18, after the word 'public,' the word 'free[,]'" [w]hich was adopted." *Id.* (emphasis added). However, based on the language of this provision as it appears in the Commission's Report, *see supra* note 415, the authors contend that Swayze actually suggested to move (not "add") the word "free" after the word "public."

519. *Id.* at 166.

520. *Id.* All newspaper accounts located by the authors that mention Carter's proposed substitution of the word "rudimentary" with the word "liberal" were not helpful in elucidating Carter's intent.

521. As we shall see, the 1874 Senate emphatically rejected the Commission's intent to exclude college preparatory schools from the state public school system. *See infra* notes 539-559 and accompanying text.

522. *Constitutional Commission*, DAILY ST. GAZETTE (Trenton, N.J.), Dec. 24, 1873.

reported that the Commission rejected the Committee's suggestion four to five,⁵²³ it is evident that the Commission ultimately decided to remove the words "or 'public free schools'" in the second supplementary sentence.⁵²⁴ The following is the final text of the Commission's proposed amendment to article IV, section VII, paragraph 6 of the New Jersey Constitution of 1844, as it appears in the Commission's report to the 1874 legislature (words underlined indicate words to be added):

The fund for the support of free schools, and all money, stock and other property which may hereafter be appropriated for that purpose, or received into the treasury under the provision of any law heretofore passed to augment the said fund, shall be securely invested, and remain a perpetual fund; and the income thereof, except so much as it may be judged expedient to apply to an increase of the capital, shall be annually appropriated to the support of public free schools, for the equal benefit of all the people of the state; and it shall not be competent for the legislature to borrow, appropriate or use the said fund, or any part thereof, for any other purpose, under any pretense whatever. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the legislature shall establish and maintain public schools for the gratuitous instruction of all persons in this state between the ages of five and eighteen years. The term "free schools" used in this constitution, shall be construed to mean schools that aim to give to all a rudimentary education, and not to include schools designed to fit or prepare pupils to enter college, or schools controlled by or under the influence of any creed, religious society or denomination whatever.⁵²⁵

As we shall see, this text would be significantly revised by the 1874 Senate before its final transformation into the "thorough and efficient" clause.⁵²⁶

The preceding analysis of the extant record of the 1873 Constitutional Commission's deliberations on public schools, as recorded in the Commission's official proceedings, newspaper coverage of those

⁵²³. *Id.*

⁵²⁴. See either version of the report of the Constitutional Commission, *supra* note 415.

⁵²⁵. *Id.*

⁵²⁶. See discussion *infra* notes 531-582 and accompanying text (documenting the 1874 Senate's revision of the Commission's free school amendment).

proceedings, and the Commission's report to the legislature, leads to the following general observations:

(1) The Commission consciously and deliberately decided that the state's public schools were to be free. The 1844 Constitution's provision concerning public schools⁵²⁷ and the 1871 law⁵²⁸ creating free schools were prominently used by the Commission as textual sources in drafting the precursory language of the "thorough and efficient" clause.

(2) The Commission consciously and deliberately decided that revenue generated from the existing statewide two-mill property tax, as established by the 1871 law,⁵²⁹ was the primary source for paying for all of the state's public schools.

(3) The Commission consciously and deliberately decided that the revenue collected from the statewide two-mill property tax, as established by the 1871 law,⁵³⁰ was to be distributed to school districts based solely on the population of school-aged children (between the ages of five and eighteen) attending school. In other words, a school district with 1,000 students would be apportioned precisely four times the amount of state School Fund revenue than a school district with 250 students.

(4) The Commission consciously and deliberately decided that a county or municipality's relative wealth would not be a factor used in the distribution of state School Fund revenues. The Commission indisputably understood and intended that wealthier regions of the state would contribute a relatively higher proportion of tax revenues to the state School Fund than would poorer regions of the state. In doing so, the Commission consciously and deliberately favored the principle that wealthier areas of the state were constitutionally obligated to share their revenue generated from the state-imposed property tax to support schools in less wealthy areas of the state, ***but only to the extent that the distribution of School Fund revenue was based on the population of school-aged children attending school in each school district.***

(5) The Commission consciously and deliberately decided that free public schools were not intended for children younger than five years of age.

527. N.J. CONST. of 1844, art. IV, § VII, ¶ 6.

528. See *generally* Act of Apr. 6, 1871, ch. DXXVII, 1871 N.J. Laws 94 (establishing free public schools and supplementing the Act of March 21, 1867).

529. *Id.*

530. *Id.*

(6) The Commission consciously and deliberately decided that sectarian and college preparatory schools were ineligible to receive monies from the state School Fund.

d. The 1874 Senate's Revision of the Commission's Free School Amendment

Although the New Jersey Senate received the Commission's report on January 13, 1874,⁵³¹ it did not consider the public school amendment until February 3, 1874, when a motion was made to approve the Commission's proposal to insert the word "free" between the words "public" and "schools" in the existing article IV, section VII, paragraph 6.⁵³² This motion was approved by the Senate,⁵³³ but not until after an intense discussion on the merits of the Commission's entire public school amendment. Although the official journal does not record any of the debate that took place, several newspapers dutifully chronicled the Senate's deliberations on the public school amendment as recommended by the Constitutional Commission.⁵³⁴ Newspapers' accounts of the Senate proceedings indicate that Republican Senator J. Henry Stone of Union County, Republican Senate President John W. Taylor of Essex County and Democratic Senator John Hopper of Passaic County played prominent roles in the discussion. One newspaper commences its account of the Senate's discussion of the Commission's proposed public school amendment with the following uncompromising, opposing remarks by Senator Stone:

Mr. Stone [i.e., Senator J. Henry Stone of Union County] moved that the Senate disagree to the amendment, saying that the word "free" should be stricken out, as it was of such a general character that its meaning could not be understood. The first part of the amendment [i.e., the first supplementary

⁵³¹. A copy of the Constitutional Commission's report was attached to the Governor's Annual Message to the 1874 legislature, which was received by the Senate on January 13, 1874. See N.J. SENATE J. 22, 48-59 (1874); see also *supra* note 415.

⁵³². N.J. SENATE J. 177 (1874).

⁵³³. *Id.* The insertion of the word "free" between the words "public" and "schools" in the existing article IV, section VII, paragraph 6 was the only part of the Commission's public school amendment that the legislature agreed to without further amendment. See Part VII of this volume, "Proposal 84".

⁵³⁴. For a compilation of newspaper accounts of the New Jersey Senate's and General Assembly's consideration of the Commission's proposed amendments, see *generally*, Part IV of this volume.

sentence to the existing article IV, section VII, paragraph 6] contains an argument and a conclusion, and that no Constitution should be adopted which argues in itself the reason of its adoption. His next objection was to that portion which said that the Legislature shall establish and maintain public schools. If this was adopted it is probable that the people would lose interest therein, and they should have something to say as to taxation. He opposed the entire amendment as being too general.⁵³⁵

First, Stone seems to make the same argument in opposition to free schools as was made previously by Commission members Gregory and Hubbell.⁵³⁶ The full Senate's approval of this proposed insertion of the word "free," despite Stone's objection, clearly indicates the Senate's agreement with the sentiment of the majority of the Commission that the state's public schools should indeed be free. Secondly, Stone clearly objects to the Commission's two supplemental sentences to the existing article IV, section VII, paragraph 6. Another newspaper records Stone's objection to the Commission's first supplemental sentence by asking his fellow senators a rhetorical question, perhaps prophetically: "Mr. Stone said the amendment proposes to instruct the Legislature what its duties shall be, and it is powerless to effect what is set down for it to do. Suppose we adopt this amendment and the Legislature does not choose to act under it, who is to compel them."⁵³⁷

Stone's question was not addressed, but the majority of the State Senate likely shared Stone's opposition to the two supplemental sentences proposed by the Commission. The influential Senate President, John W. Taylor, gave more compelling reasons to oppose the Commission's two supplemental sentences.⁵³⁸ Because the record of Taylor's comments is so essential to understanding the "thorough and efficient" clause, different (although similar) accounts from several newspapers are included here:

[from the *Newark Daily Journal*:]

535. NEWARK DAILY J. (Newark, N.J.), Feb. 4, 1874.

536. See *supra* notes 433-452 and accompanying text.

537. DAILY ST. GAZETTE (Trenton, N.J.), Feb. 4, 1874.

538. During the Senate's consideration of the Constitutional Commission's proposed amendments, it was typical for Taylor to temporarily relinquish the Senate President's podium (usually to fellow Republican Senator William J. Sewell) so that he could actively advance or oppose proposals from the floor of the Senate. See N.J. SENATE J. 84, 109, 129, 176, 274 (1874).

Mr. Taylor also opposed the amendment, as something could be done without it, and as heretofore no State in the Union had been more successful as far as education was concerned than New Jersey, and was opposed to the word “rudimentary,” because there was no efficient system of free schools except they are properly graded, and if they were not there was nothing for scholars to look up to. He said if this word was inserted what would become of the Normal School. He had no objection to prohibit sectarian schools being supported by the State.⁵³⁹

[from the *Daily State Gazette*:]

Mr. Taylor said we ought not to amend the Constitution unless it is to meet a need felt by the State. There is certainly no need for a constitutional demand for free education in New Jersey. “I am also opposed to it if it is designed to restrict the limits of free education.” This amendment cuts off all schools from the State support which go beyond the three R’s. It would cut off all the high schools of Newark and Morristown, where pupils are prepared for college; there is nothing taught in these schools that unfits a boy for citizenship. It would cut off the Normal School, for there the pupils learn not the rudiments, but how to teach others.⁵⁴⁰

[from the *Jersey City Evening Journal*:]

Mr. Taylor . . . said: “It is hardly necessary to amend this part of the Constitution unless the people really feel the want of a change. The people of New Jersey do not need any legislative injunction in the cause of education. No State in the Union is as liberal, or has gone so many steps forward in education as this, as her action during the last three years proves.” He was opposed to the amendment, because, if it did not comport with the civilization of our people; if the clause was to goad the people on, he was opposed to it; if it was to restrain them, he was opposed to it. He was persuaded that the thing would regulate itself. This clause leaves the Constitution open to argument. He was also opposed to it because it gave an

539. NEWARK DAILY J. (Newark, N.J.), Feb. 4, 1874.

540. DAILY ST. GAZETTE (Trenton, N.J.), Feb. 4, 1874.

interpretation to the term “free schools.” The framers of the clause have a dictionary injected into it. He supposed “schools” meant education, and free meant “rudimentary.” The proposed amendment would lop off the High School in Newark, and all of the High Schools in the State, and leave us in the three Rs “reading, riting and rithmetic.” There can be no system of free schools unless they are properly graded.⁵⁴¹

[from the *Daily Public Opinion*:]

Mr. Taylor agreed with the Senator previously speaking [i.e., Senator Stone], and thought too much of a dictionary was injected into the proposed amendment; the rudimentary education there provided for might exclude the State Normal School, the High School of Newark, &c., from the open rights under such Constitutional amendment.⁵⁴²

Careful analysis of Taylor’s remarks leads the reader to deduce the following:

(1) Taylor is making a veiled, but certain, reference to the 1871 free school law⁵⁴³ when he argues that a constitutional amendment is unnecessary. When he proudly states that “no State in the Union had been more successful as far as education was concerned” he is clearly referring to the legislature’s passage of the 1871 free school law,⁵⁴⁴ of which he himself was a co-author.⁵⁴⁵ That is why, in one of the newspaper accounts, Taylor states “No State in the Union is as liberal, or has gone so many steps forward in education as [New Jersey’s] action *during the last three years proves*.”⁵⁴⁶ Taylor is essentially stating that the Commission’s two supplemental sentences to the existing article are superfluous because the legislature has already done its duty to provide a system of free public schools.

(2) More importantly, Taylor’s opposition to the Commission’s two supplemental sentences is focused on the Commission’s explicit limitation

541. JERSEY CITY EVENING J. (Jersey City, N.J.), Feb. 4, 1874.

542. DAILY PUB. OPINION (Trenton, N.J.), Feb. 4, 1874.

543. See Act of Apr. 6, 1871, ch. DXXVII, 1871 N.J. Laws 94 (establishing free public schools and supplementing the Act of March 21, 1867).

544. *Id.*

545. See *supra* note 404.

546. JERSEY CITY EVENING J. (Jersey City, N.J.), Feb. 4, 1874 (emphasis added).

that schools provide a rudimentary education only, thereby explicitly excluding graded schools, high schools and schools that train teachers (“normal” schools). Taylor clearly objects to the Commission’s proposal precisely because it excludes a system of “graded” schools that inherently provides for progressive levels of education. It is in this context that Taylor introduces the term “efficient” for the first time in the Commission’s or legislature’s discussion of the public school amendment. It is crucial to understand that Taylor uses the term “efficient” in relation to the method or process of education, and not in relation to the distribution of the School Fund revenues. In other words, Taylor is stating that an efficient system of education necessarily requires that schools be “graded,” providing rudimentary (“the three Rs”) but also more successively advanced levels of education. When we realize that the majority of school districts in New Jersey during this period (most notably in the scarcely populated, rural areas of the state, but also not uncommonly in some of the state’s larger municipalities) had primitive, crammed, and often dilapidated school houses that were attended by children ranging from the ages of five-to-eighteen years, taught in one room, by one (often inexperienced) school teacher,⁵⁴⁷

⁵⁴⁷. For descriptive accounts assessing the condition of New Jersey public schools during this time period, see generally accounts submitted by the various county and municipal school superintendents in the annually issued *Report of the State Board of Education and State Superintendent of Public Instruction, For the School Year*, for reporting years 1870 through 1876. The various reports contain a myriad of accounts of the deplorable condition of public schools throughout New Jersey. For example, the Middlesex County Superintendent’s report for 1873 states:

Among the hindrances to progress in some of our larger districts may be mentioned the want of proper school room capacity for the classification of scholars. Many of our schools having only one room should be supplied with two departments and two teachers. When from sixty to eighty pupils of all ages and stages of advancement, are crowded together in one apartment under one teacher, it is quite impossible, no matter what may be the capabilities of the teacher, to maintain proper control and to secure sufficient time for careful recitations. For the reason assigned some of our larger schools are the most backward with little prospect of advancement until provision made for a separate department for primary studies.

REPORT OF THE STATE BOARD OF EDUCATION AND STATE SUPERINTENDENT OF PUBLIC INSTRUCTION, FOR THE SCHOOL YEAR ENDING AUGUST 31, 1873, app., at 61-62 (1874). Additionally, reports of the various county and municipal school superintendents commonly bemoan the forced continuation of “ungraded schools.” See, e.g., REPORT OF THE STATE BOARD OF EDUCATION AND STATE SUPERINTENDENT OF PUBLIC INSTRUCTION, FOR THE SCHOOL YEAR ENDING AUGUST 31, 1874, app., at 16 (1875) (account of the Phillipsburg Superintendent). Although wealthier school districts were able to afford sufficient facilities to accommodate different levels of classes (primary, secondary, intermediate, grammar and high

we can appreciate Taylor's insistence that the state's system of free schools be "properly graded." Perhaps most significantly, Taylor clearly opposes the Commission's "leveling down" approach to funding schools, instead of "leveling up." Taylor is concerned that by constitutionally providing that only rudimentary, elementary education be funded by revenues from the state School Fund, the Commission's proposal, if approved, would result in the ruination of graded schools, high schools and other schools offering more advanced educational courses.

(3) Taylor clearly had no objection to the exclusion of sectarian schools from receiving state School Funds.

After Taylor spoke, Senator Hopper of Passaic County voiced his agreement with Stone and Taylor in opposing the adoption of the Commission's proposal. Specifically, Hopper reiterated the importance of graded schools. Three accounts of Hopper's speech, from three different newspapers, are reproduced here:

[from the *Newark Daily Journal*:]

"Mr. Hopper agreed with the former speakers and said it was an incitement to scholars to have graded schools, and referred to his son, who is now practicing law with him, who was educated in one of the Paterson free schools."⁵⁴⁸

[from the *Daily State Gazette*:]

"Mr. Hopper said the amendment was not only crudely and roughly expressed, but fraught with danger, and would involve our public schools in interminable difficulties. There was no necessity for the restriction as to rudimentary education – the establishment of the high school is an incitement to the lower grades."⁵⁴⁹

school), less fortunate school districts required all children between the ages of five and eighteen to be taught in the same classroom.

It is important to note that, as a public school teacher in Morristown and Caldwell, NJ during the early 1850's, and as a member of the Newark Board of Education in the early 1870's, Taylor must have had a more than casual familiarity with New Jersey's public school system.

⁵⁴⁸. NEWARK DAILY J. (Newark, N.J.), Feb. 4, 1874.

⁵⁴⁹. DAILY ST. GAZETTE (Trenton, N.J.), Feb. 4, 1874.

[from the Jersey City Evening Journal:]

“Mr. Hopper was opposed to the amendment. He was in favor of leaving the Constitution precisely as it is. The workings of our present school system shows that it is all that can be desired.”⁵⁵⁰

At this point, appearing that the Senate would reject the two supplemental sentences recommended by the Commission, Democratic Senator Augustus W. Cutler of Morris County attempted to salvage at least some part of the Commission’s proposed amendment. Cutler was a member of the Constitutional Commission throughout its duration and actively participated in the Commission’s deliberations on the public school amendment. Consequently, it is not unlikely that Cutler felt compelled to defend the Commission’s proposal. A newspaper reports that Cutler “said it was possible to so amend the proposition [i.e., the Commission’s two supplementary sentences] as to make it acceptable.”⁵⁵¹ Cutler then proposed to amend the first supplementary sentence as follows (words in brackets [] indicate words to be deleted; words underlined indicate letters to be added):

[A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people,⁵⁵²] [t]The legislature shall establish and maintain public schools for the gratuitous instruction of all persons in this state between the ages of five-and-eighteen years.⁵⁵³

The Senate agreed with Cutler’s motion, sixteen to one.⁵⁵⁴ Cutler then moved to amend the second supplementary sentence as follows (words in brackets [] indicate words to be deleted; words underlined indicate words to be added):

The term “free schools” used in this constitution, shall be construed to mean schools that [aim to give to all a rudimentary education, and not to include schools designed to fit or prepare pupils to enter college, or schools] are not

550. JERSEY CITY EVENING J. (Jersey City, N.J.), Feb. 4, 1874.

551. DAILY ST. GAZETTE (Trenton, N.J.), Feb. 4, 1874.

552. N.J. SENATE J. 177 (1874).

553. This passage has been created by the authors, applying the N.J. Senate Journal account, *see* N.J. SENATE J. 177 (1874), to the pre-amendment version of the text as it appeared in the Commission’s report. *See supra* note 525 and accompanying text.

554. N.J. SENATE J. 177 (1874).

controlled by or under the influence of any creed, religious society or denomination whatever.⁵⁵⁵

Cutler's intent was threefold. First, he removed the offending term "rudimentary" to which Senators Taylor and Hopper had just previously, objected.⁵⁵⁶ Second, Cutler deleted the Commission's exclusion of high schools from the meaning of "free schools," obviously in support of "graded" schools intending to allow high schools to receive state School Fund revenues. Third, Cutler ensured that the proposed amendment would explicitly exclude sectarian schools from receiving state School Fund revenues. The Senate accepted Cutler's motion, eleven to five.⁵⁵⁷

Taylor then moved to delete the entire second supplementary sentence as proposed by the Commission and amended by Cutler, leaving only the first supplemental sentence as amended by Cutler:

The legislature shall establish and maintain public schools for the gratuitous instruction of all persons in this state between the ages of five and eighteen years.⁵⁵⁸

Taylor's motion was agreed to thirteen to four.⁵⁵⁹

Cutler then moved to further amend Taylor's proposal by adding the phrase "provide by general laws the means to" so as to read (words underlined indicate words to be added):

The Legislature shall provide by general laws the means to establish and maintain public schools for the gratuitous instruction of all persons in this State between the ages of five and eighteen years.⁵⁶⁰

555. This passage has been created by the authors, applying the N.J. Senate Journal account, *see* N.J. SENATE J. 177-78 (1874), to the pre-amendment version of the text as it appeared in the Commission's report. *See supra* note 525 and accompanying text.

556. *See supra* text accompanying notes 538-542, 548-550.

557. N.J. SENATE J. 177-78 (1874). The Senate Journal erroneously states that Cutler's motion was not agreed to. *See Id.*

558. This passage has been created by the authors, applying the N.J. Senate Journal account, *see* N.J. SENATE J. 178 (1874), to the pre-amendment version of the text. *See supra* notes 525 and 553 and accompanying text.

559. N.J. SENATE J. 178 (1874).

560. This passage has been created by the authors, applying the N.J. Senate Journal account, *see* N.J. SENATE J. 178 (1874), to the pre-amendment version of the text. *See supra* note 558 and accompanying text.

The intent of Cutler's proposed insertion of that text appears to be the same as the intent of Swayze when, as a member of the Constitutional Commission, he introduced a proposed amendment that would prohibit the legislature from passing private or special laws "providing for the management of common schools."⁵⁶¹ The Senate approved Cutler's amendment, seventeen to two.⁵⁶²

After Cutler proposed the additional phrase, Stone reiterated his opposition to amending or supplementing the existing article IV, section VII, paragraph 6⁵⁶³ at all, preferring that the paragraph should remain exactly as it was written by the 1844 Constitutional Convention. Accordingly, Stone moved to strike out the supplementary sentence as amended by Cutler.⁵⁶⁴ Stone's motion was defeated three to thirteen.⁵⁶⁵ Although the Senate's official minutes did not record any debate, newspaper accounts recorded an interesting exchange:

[from the *Daily State Gazette*:]

Mr. Cutler defended the proposition [to add the first supplementary sentence] as fixing in the organic law the enunciation of the determination of the people of the State to maintain a system of free schools. The adoption of the amendment could do no harm.

Mr. Stone said the same reasoning could apply to the insertion of the ten commandments; they could do no harm, but they were entirely unnecessary in that place.⁵⁶⁶

[from the *Newark Daily Journal*:]

⁵⁶¹. See *supra* text accompanying notes 427-432.

⁵⁶². N.J. SENATE J. 178 (1874).

⁵⁶³. See N.J. CONST. of 1844, art. IV, § VII, ¶ 6.

⁵⁶⁴. N.J. SENATE J. 178 (1874).

⁵⁶⁵. *Id.*

⁵⁶⁶. DAILY ST. GAZETTE (Trenton, N.J.), Feb. 4, 1874.

“Mr. Stone claimed that the motion was ridiculous, as the State had never maintained public schools, but only furnished aid to do so.”⁵⁶⁷

[from the *Jersey City Evening Journal*:]

A number of motions, for and against the remaining clauses, and the whole matter got into a beautiful confusion, several Senators not being able to tell what motion was really before the Senate.

Mr. Hewitt [i.e., Republican Senator Charles Hewitt of Mercer County] thought the public school system should be recognized in the fundamental law of the State.

Mr. Stone thought the thing was getting still more ridiculous.⁵⁶⁸

Overriding Stone’s attempt to retain the original, un-amended language of the Constitution’s existing article IV, section VII, paragraph 6, the Senate approved Cutler’s motion, twelve to four.⁵⁶⁹ The Senate’s further discussion of the public school amendment was postponed.⁵⁷⁰ At this point, the Senate’s amended version of article IV, section VII, paragraph 6 of the New Jersey Constitution was as follows (words underlined indicate words to be added):

The fund for the support of free schools, and all money, stock and other property which may hereafter be appropriated for that purpose, or received into the treasury under the provision of any law heretofore passed to augment the said fund, shall be securely invested, and remain a perpetual fund; and the income thereof, except so much as it may be judged expedient to apply to an increase of the capital, shall be annually appropriated to the support of public free schools, for the equal benefit of all the people of the state; and it shall not be competent for the legislature to borrow, appropriate or use the said fund, or any part thereof, for any other purpose, under any

567. NEWARK DAILY J. (Newark, N.J.), Feb. 4, 1874.

568. JERSEY CITY EVENING J. (Jersey City, N.J.), Feb. 4, 1874.

569. N.J. SENATE J. 179 (1874).

570. *Id.*

pretense whatever. The Legislature shall provide by general laws the means to establish and maintain public schools for the gratuitous instruction of all persons in this State between the ages of five and eighteen years.⁵⁷¹

When the Senate returned to the discussion of the constitutional amendment concerning public schools on February 24, 1874, Taylor unexpectedly moved to amend Cutler's amended version of the Commission's first supplementary sentence to read:

The legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in this state between the ages of five and eighteen years.⁵⁷²

This would be the first time that the exact language of the "thorough and efficient" education clause was used. Both the official minutes and newspaper accounts are tantalizingly reticent on why Taylor used the particular language that he proposed. It is reasonable to assume that Taylor deleted Cutler's reference to general laws because the Senate had since adopted a constitutional prohibition on special legislation "[p]roviding for the management and support of free public schools" on February 18.⁵⁷³ Taylor made no change to the phrase "between the ages of five and eighteen years," in order to retain the school age range specified in the 1871 free school law. The only puzzling question that remains is why Taylor replaced Cutler's phrase "establish and maintain public schools for the gratuitous instruction of" with "provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of." First, New Jersey's system of free public schools was already established by the 1871 statute, hence Cutler's word "establish" was unnecessary. Secondly, Taylor evidently replaced Cutler's phrase "maintain public schools for the gratuitous instruction of" with language that was more consistent with the recently amended article IV, section VII, paragraph 6 of the N.J.

⁵⁷¹. This passage has been created by the authors, applying the N.J. Senate Journal account, see N.J. SENATE J. 177-79 (1874), to the text of the Commission's proposed amendments to article IV, section VII, paragraph 6 of the 1844 New Jersey Constitution. See N.J. CONST. OF 1844, art. IV, § VII, ¶ 6 (as submitted to the 1874 Legislature); see also *supra* note 525 and accompanying text.

⁵⁷². This passage has been created by the authors, applying the N.J. Senate Journal account of Taylor's amendment, see N.J. SENATE J. 454-55 (1874), to Cutler's amendment. See *supra* note 571 and accompanying text.

⁵⁷³. N.J. SENATE J. 363 (1874). The Senate's passage of the constitutional prohibition on private and special legislation rendered superfluous any reference to general laws.

Constitution, which used the term “free” instead of “gratuitous.”⁵⁷⁴ Thirdly, and this is conjectural, Taylor may have borrowed virtually verbatim language from Pennsylvania’s recently adopted Constitution, which read:

The General Assembly shall provide for the maintenance and support of a thorough and efficient system of public schools, wherein all the children of this Commonwealth above the age of six years may be educated ⁵⁷⁵

An alternative source of Taylor’s proposed language could have been the analysis of school finance clauses of state constitutions as indexed in Hough’s *American Constitutions*.⁵⁷⁶ As an original member of the 1873 Constitutional Commission, Taylor would have received a copy of Hough’s work, which identified six state constitutions (Illinois, Maryland, Minnesota, Nebraska, Ohio and West Virginia) that contained similar “thorough and efficient” language.⁵⁷⁷ Thus, for example, it is also possible that Taylor was influenced by the Maryland Constitution, article VIII, section I, which used the phrase “*thorough and efficient system of free public schools*.”⁵⁷⁸

⁵⁷⁴. See *supra* notes 532-533 and accompanying text.

⁵⁷⁵. PA. CONST. OF 1873, art. X, § 1, as adopted by the Constitutional Convention on November 3, 1873 and ratified and adopted by the people at a special election held December 16, 1873. See 5 FRANCIS NEWTON THORPE, *THE FEDERAL AND STATE CONSTITUTIONS, COLONIAL CHARTERS, AND OTHER ORGANIC LAWS OF THE STATE, TERRITORIES, AND COLONIES NOW OR HERETOFORE FORMING THE UNITED STATES OF AMERICA* 3142 (1909). For the record of proceedings of the Pennsylvania Constitutional Convention, as it pertained to that State’s “thorough and efficient” clause, see II *DEBATES OF THE CONVENTION TO AMEND THE CONSTITUTION OF PENNSYLVANIA: CONVENED AT HARRISBURG, NOVEMBER 12, 1872; ADJOURNED NOVEMBER 27, TO MEET AT PHILADELPHIA, JANUARY 7, 1873*, at 419-31 (Harrisburg, Pa., Benjamin Singerly 1873).

⁵⁷⁶. See HOUGH, *supra* note 200, at 793-808. As an original member of the 1873 Constitutional Commission, Taylor would have received a copy of HOUGH. See *Proceedings*, *supra* note 369 at 12 (recording the Commission adopting Cutler’s resolution “that the [Commission] secretaries be directed to furnish each member of the Commission with a copy of Hough’s *Constitutions*”). Moreover, a newspaper that covered the proceedings on that day added: “Mr. Taylor said that Hough’s *Constitutions* contained the constitutions of every State in the Union, and also the Constitution of the United States. The work was classified, and its index alphabetically arranged, and it would be a most important aid in the work on which they entered.” See FREDONIAN (New Brunswick, N.J.), May 9, 1873. Further evidence that Taylor was quite familiar with Hough’s work is that fact that Taylor’s personal law library contained two copies. See “Catalogue of the Law Library of John W. Taylor, Deceased, To Be Sold At Auction Friday and Saturday, April 26-27, 1895 at No. 74 Market St., Newark, N.J., M. M. Miller, Auctioneer,” at 25.

⁵⁷⁷. See HOUGH, *supra* note 200, at 793-808.

⁵⁷⁸. *Id.* at 794 (emphasis added).

Regardless of the source of the language for Taylor's "thorough and efficient" clause, the Senate approved it fifteen to zero,⁵⁷⁹ without debate and without opposition, almost as though Taylor had previously convinced the other Senators that his proposal was the most appropriate. Even Senator Stone, who adamantly opposed any change to the existing 1844 Constitution's article IV, section VII, paragraph 6,⁵⁸⁰ voted for Taylor's "thorough and efficient" clause.⁵⁸¹ After approval by the 1874 Senate, the 1874 Assembly and both houses of the 1875 legislature passed the "thorough and efficient" clause without further amendment and without debate.⁵⁸² The clause was finally adopted by the people at a special election held on September 7, 1875 by a vote of 69,674 to 26,834.⁵⁸³

Whatever the textual source of Taylor's proposal, it is absolutely clear that the 1874 Senate, as the 1873 Constitutional Commission, understood the funding formula for the maintenance and support of free public schools to be no different than the funding formula as expounded in chapter 527 of the laws of 1871,⁵⁸⁴ namely that the state would collect revenue from a uniformly-levied, statewide, two-mill property tax which would be deposited in a state School Fund and distributed to school districts solely on the basis of the population of school-aged children attending public schools in each school district. Behind the leadership of John W. Taylor, the legislature succeeded in engrafting upon the state's organic law the legislature's responsibility for raising and distributing sufficient revenues for the

579. N.J. SENATE J. 454-55 (1874).

580. See *supra* text accompanying notes 535-537 and 566-569.

581. N.J. SENATE J. 455 (1874).

582. After partisan wrangling over whether the Assembly would consider the proposed amendments as reported by the Commission or the Senate's amendments to the Commission's report, the 1874 Assembly approved the Senate's amendments without debate. See N.J. ASSEMBLY MINUTES 1254, 1266-67 (1874); see also *infra* notes 657-671 and accompanying text. See also Part IV of this volume. The 1875 Senate and Assembly approved the "thorough and efficient" clause without debate. See *infra* notes 672-685 and accompanying text. See also Part IV of this volume.

583. See A STATEMENT OF THE DETERMINATION OF THE BOARD OF STATE CANVASSERS RELATIVE TO AN ELECTION HELD IN THE STATE OF NEW JERSEY ON THE SEVENTH DAY OF SEPTEMBER, IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND SEVENTY-FIVE, FOR PROPOSED AMENDMENTS TO THE CONSTITUTION OF THIS STATE, located in the New Jersey State Archives, Department of State (Trenton, N.J.). An abridged version of this imposing document, including the county (but not the municipal) tabulations of votes on the amendments, has been reproduced in Part V of this volume.

584. See Act of Apr. 6, 1871, ch. DXXVII, 1871 N.J. Laws 94 (establishing free public schools and supplementing the Act of March 21, 1867).

maintenance and support of free public schools on the basis of the less permanent statutory law of 1871.

6. *Uniform Taxation of Property*

Unquestionably, one of the most controversial issues debated by the Commission concerned uniformity in taxation. Cutler's proposal⁵⁸⁵ that required property of every kind and description to be taxed uniformly without exception, arguably caused the most heated discussion both during Commission proceedings and the proceedings of the 1874 Senate. The proposal also incited a public outcry, chiefly over the question of taxing church property, which resulted in numerous petitions to the Legislature and set editorial pages afire for the next two years in many New Jersey newspapers. A brief overview of the historical antecedents that likely influenced Cutler's proposed amendment may prove instructive.

There seem to have been four predominant issues that influenced Cutler's rather drastic proposal to tax all property uniformly, without any exceptions for exemptions of any kind. First, as seen earlier,⁵⁸⁶ railroad property was exempt from local taxation as early as the 1830's as a means of encouraging the expansion of railroad lines throughout the state. By the 1870's, this proved to be an enormous financial burden on the municipalities through which the railroads ran. The first intention of Cutler's proposed amendment, therefore, was to eliminate the state's generous local property tax exemptions enjoyed by railroad corporations through special legislation enacted over the previous forty years. The most immediate effect of this constitutional provision would be an increase in local revenues for those municipalities that were statutorily prohibited from taxing railroad property within their geographic borders. As expected, support for Cutler's amendment, as it related to the taxation of railroad property, came primarily from those municipalities that had a significant presence of railroads. The equitable taxation of railroad property was such a major political issue during this period that Governor Parker gave it mention in his 1874 annual message to the Legislature:

The just mode of taxing railroad corporations has been a question much considered and concerning which there has been much difference of opinion.

585. Table 2, proposal 78.

586. See *supra* notes 245-249 and accompanying text.

Many of the railroad charters exempt their property from local taxation, in consideration of paying to the State a certain rate upon capital or cost of works. There has long existed much dissatisfaction with this system, especially in those localities where a large amount of property had been acquired by some of the companies which shared the protection and other advantages of local government. 587

Thus, one of the purposes of Cutler's proposed amendment was to constitutionally rescind the property tax exemption enjoyed by the railroad monopoly since 1830 that, by the 1870s, bankrupted those localities through which railroad tracks were laid and in which train depots and stations were built.

A second issue that Cutler was addressing through his proposed amendment concerned the widespread variation in assessments of real property situated in different parts of the state, which had the effect of unfairly taxing properties of similar value. Parker also alluded to this problem in his message to the 1874 Legislature: "It is represented that in some counties real estate is assessed at its full value, while in others it is not rated at more than one-half its actual worth. The Legislature should at once act upon this subject and provide for the equalization of values, so that every section will bear its just proportion of the public burdens."⁵⁸⁸

A third issue, prevalent at the time that the Constitutional Commission met, but long since forgotten, involved the perceived injustice of the Five County Act⁵⁸⁹ of 1869. For the purpose of attracting immigrant populations to designated counties and cities, this statute exempted mortgages on residences, businesses and associations from property taxes on real estate situated anywhere in Hudson, Union and Essex Counties; the city of New Brunswick in Middlesex County; and in Passaic County, except for the townships of West Milford, Pompton and Wayne. The law permitted owners of real property in the aforementioned places to only be liable for property taxes on the equity on that property, and not on the property's assessed

587. N.J. SENATE JOURNAL 1874 at 31.

588. *Id.* Another proposed constitutional amendment considered by the Constitutional Commission, sponsored by Gregory early on in its deliberations, would have addressed the problem by requiring uniformity in real estate valuations set at 50% of the property's "saleable value" and a five-year, state-conducted equalization of local property valuations. See Table 2, proposal 61.

589. 1869 N.J. Laws 1225, "An Act relative to Taxes in certain counties of this State," ch. 511 (DXI), approved April 2, 1869.

value. Thus, for example, a resident who purchased a \$1,000 property in Hudson County with a \$900 mortgage, would only pay property taxes on \$100. The effect was to grossly disadvantage owners of properties situated outside those counties and municipalities mentioned in the Five County Act, since property owners of similar assessments in other jurisdictions would pay property taxes, in some cases, many times more than a similar property in one of the designated areas. It is not surprising, therefore, that Cutler, a resident of Morris County, would propose this amendment. The fairness of the Five County Act caused a serious rift between different areas of the State, and the question of its repeal, by virtue of Cutler's amendment, became a major political issue during the 1875 special election.⁵⁹⁰

A fourth issue that Cutler was addressing with his uniform taxation proposal was the matter of discontinuing property tax exemptions on properties owned by religious, charitable, philanthropic or educational societies and organizations. The argument in favor of rescinding property tax exemptions for churches surfaced nationally during the decade after the Civil War, as had the propriety of appropriating public funds to parochial schools and institutions.⁵⁹¹ Initially, the public reaction to Cutler's proposal, as it related to railroad property, equalization of property valuations, and the Five County Act, paled in comparison to the uproar caused by the suggestion to tax property owned by religious and non-profit organizations. Hundreds of petitioners opposing the taxation of churches, philanthropies and other such organizations voiced their concern to the 1874 and 1875 Legislatures.⁵⁹² Indeed, so incendiary was the proposal, that even after the 1874 Senate amended the proposal so that church property would retain its tax-exempt status, the issue continued to be vigorously discussed in newspapers until well after the 1875 special election. Evidence of the furor

590. See *infra* notes 722-729 and accompanying text.

591. See, e.g., "Should Church Property Be Taxed?" DAILY ST. GAZETTE (Trenton, N.J.), September 11, 1873; and Lyman Atwater, "Taxation of Churches, Colleges and Charitable Institutions," THE PRINCETON REVIEW, Vol. 3, Issue 10 at 340-349 (April 1874).

592. See, e.g., a petition by the New Jersey Historical Society, dated January 21, 1874, that "respectfully remonstrate[s] against the adoption of the proposed change in the Constitution of New Jersey, which will take from the Legislature the power of continuing such exemptions from taxation as by charter have been granted to this Society, and other educational, charitable and religious institutions....," N.J. SENATE JOURNAL 1874, at 98. For references to petitions to the Legislature that protested the taxation of church property, see N.J. SENATE JOURNAL 1874, at 245, 277, & 340. One of the many petitions received by members of the Legislature on this subject contained the signatures of 850 taxpayers who were opposed to the taxation of church property. See, e.g., PATERSON DAILY PRESS, February 12, 1874.

that this proposed amendment caused could be found in virtually any newspaper covering politics in New Jersey.⁵⁹³ A veritable avalanche of editorials and letters to the editors appeared in newspapers of all political persuasions that condemned the proposal to tax church property, although a relative few expressed support for the proposal. When the Senate discussed Cutler's amended proposal in February 1874, the part concerning taxing church property was emphatically rejected.⁵⁹⁴ However, the press continued to erroneously report that even the Senate's amended version would tax church property. The issue took on a life of its own. By the time the September 1875 election was held, many voters, including officials of the Catholic Church, still presumed, incorrectly, that passage of this amendment would result in taxing church property. This partially fueled the Catholic-Protestant controversy.⁵⁹⁵

7. *Senate Reapportionment*

A major political issue that figured into the deliberations of the Constitutional Commission (as well as earlier and later state constitutional discussions) concerned the fairness of the current method of apportioning the state Senate. Since New Jersey's 1776 Constitution, one member of the upper house of the Legislature was elected by voters of each county, instead of districts based on equal population.⁵⁹⁶ This had the effect of giving greater political power to the state's sparsely populated counties, to the detriment of residents of counties having higher populations. Any attempts at correcting this unfairness consistently met with opposition from those state Senators who represented less-populated counties. In fact, Sackett attributed the primary reason for the Legislature's reluctance to approve a constitutional convention to the Senate's refusal to change its method of apportionment:

593. See, e.g., "Exemption of Church Property from Taxation Unconstitutional," WEST JERSEY PRESS (Camden, N.J.), January 14, 1874; "Church Taxation," WOODBURY CONSTITUTION, January 14, 1874; "Shall Church Property Be Taxed?" WEST JERSEY PRESS (Camden, N.J.), January 21, 1874; "Taxation of Church Property," MONMOUTH DEMOCRAT (Freehold, N.J.), January 29, 1874; "Taxation of Church Property," HUNTERDON REPUBLICAN (Flemington, N.J.), January 29, 1874; "Taxing Church Property," PATERSON DAILY PRESS, January 31, 1874; "Taxing Churches," NEW BRUNSWICK TIMES, February 5, 1874; "Taxing Church Property," WEST JERSEY PRESS (Camden, N.J.), February 18, 1874.

594. N.J. SENATE JOURNAL 1874 at 366.

595. See *intra* notes 714-721 and accompanying text.

596. WILLIAMS, *supra* note 24, at 15-16.

Authority for a Constitutional Convention is not, however, an easy thing to secure from New Jersey Legislatures [T]he smaller counties, which are monstrosly over-represented, outnumber the larger counties which are as monstrosly under-represented, two to one, and their determination to preserve their unfair preponderance in the Senate is the explanation of the intrepidity with which the Senate has for fifty years defeated all attempts to make a new Constitution.⁵⁹⁷

The proposed amendments to reorganize the Legislature offered by Ferry⁵⁹⁸ and Buckley,⁵⁹⁹ who represented, respectively, the urbanized counties of Essex and Passaic, should be understood as attempts to reapportion the state Senate according to population. Moreover, the unusual proposal that would prohibit the creation of additional counties in the state, without the requisite voter approval, should also be interpreted in light of Senate apportionment.⁶⁰⁰ Additional counties would translate into additional state Senators who could potentially rebalance political power that was currently enjoyed by the less populated counties. With this in mind, it is important to note the many attempts to legislatively create new counties during the late 1860s and early 1870s.⁶⁰¹ Interestingly, the 1947 Constitutional Convention forbade discussion of Senate reapportionment and it was not until the results of the 1966 Constitutional Convention that the New Jersey State Senate was apportioned by equally-populated legislative districts.⁶⁰²

597. SACKETT, *supra* note 45, at 94-95; *see supra* note 111 and accompanying text.

598. Table 2, proposal 68.

599. Table 2, proposal 74.

600. Table 2, proposal 57.

601. For example, at about the time that the Constitutional Commission was formed, a bill was introduced in the Legislature to create a new county “Centre” out of parts of Monmouth, Middlesex and Mercer counties. *See* NEW BRUNSWICK TIMES, Feb. 4, 1873. The attempt to create the new county of Delaware comprised of the municipalities of Chesterfield, Bordentown, Florence, Mansfield, New Hanover, Plumstead, New Egypt, Upper Freehold, Washington and Hamilton was defeated on March 7, 1873. *See* N. Y. TIMES, March 18, 1873. A new county to be called “Long Branch” was proposed to be created out of Raritan, Middletown, Shrewsbury, Ocean and Wall townships. *See* DAILY ST. GAZETTE (Trenton, N.J.), January 9, 1873. The new county of “Chingarora” was proposed to be created out of Shrewsbury, Holmdel, Middletown, Raritan and Matawan. *See* DAILY ST. GAZETTE (Trenton, N.J.), January 9, 1873. And a bill to create the County of Newark which would be comprised solely of the City of Newark was introduced in the 1874 Legislature. *See* NEWARK MORNING REGISTER, March 2, 1874 and NEWARK EVENING COURIER, March 2, 1874.

602. For exhaustive coverage of these developments *see* ERNEST REOCK, UNFINISHED BUSINESS, THE NEW JERSEY CONSTITUTIONAL CONVENTION OF 1966 (2003).

8. *Gubernatorial Veto*

The New Jersey Constitutional Commission proposed two amendments to the gubernatorial veto provision of the 1844 Constitution. One proposal would have increased the Governor's veto power by requiring a two-thirds majority of each house of the Legislature to override a veto, instead of a simple majority. The second proposal would provide the Governor with a line item veto.

a. *Strengthening the Governor's Veto Power*

One of the most controversial proposed amendments discussed by the Commission was the proposal to require a two-thirds majority of both houses of the Legislature to override a Governor's veto. The 1844 Constitution required "a majority of the whole number" of each house to override a veto.⁶⁰³ This was decided in the 1844 Convention by the slimmest of margins and after contentious debate over whether to require an extra-majority vote for a legislative override. The 1873 Commission would relive the heated discussion that took place thirty years before. On October 7, 1873 the Executive Committee (Cutler, Gregory and Carter) proposed to substitute "two-thirds" for the word "majority." The requirement for an extra-majority of each house of the legislature to nullify a veto would obviously weaken the power of the Legislature.

Two factions formed in the Commission. One, led by President Ten Eyck (who also served as a delegate to the 1844 Constitutional Convention), opposed the two-thirds requirement on the grounds that it would violate the separation of powers by investing the Governor with undue legislative power. During a lengthy speech⁶⁰⁴ in which he recalled the "fiery debate" on the subject during the 1844 Constitutional Convention,⁶⁰⁵ Ten Eyck decried this "one man power" as an encroachment upon the Legislature's lawmaking responsibility and an ineffective remedy for legislative corruption. "Why should the Legislature be any more corrupt than the Governor?"⁶⁰⁶ he asked. The evils of special legislation would be remedied by the Commission's proposals on legislative procedure and its ban on

603. N. J. CONST. (1844) art. V, ¶ 7.

604. See newspaper account of proceedings for October 15, 1873, compiled in Part III of this volume.

605. See 1844 PROCEEDINGS, *supra* note 29, at 175-207, 448-450.

606. See newspaper account of proceedings for October 15, 1873, compiled in Part III of this volume.

special legislation. There was no need to reform the veto power. Moreover, Ten Eyck argued, strengthening the Governor's veto power could just as easily circumvent the will of people by negating the intentions of the majority in the Legislature: "[The Governor] could with the veto power as proposed, and with a minority in the Legislature, just sufficiently large to prevent the passage by a two-third vote over his head, prevent legislation, and thus the will of the majority might be stifled."⁶⁰⁷

The other faction, led by Carter, supported strengthening the veto power by alluding to the fact that the vast majority of states at that time, in addition to the federal constitution, had the two-thirds requirement. In a speech,⁶⁰⁸ Carter argued that the times had changed since 1844, both in terms of the drastic increase in the volume of legislation considered and the extent of corrupting influences on the Legislature. He argued that a strengthened veto would be an appropriate and effective remedy for legislative corruption since it would foster "due reflection and proper consideration" in the legislative process. Requiring a simple majority to override a veto cannot safeguard against legislative corruption: "If corrupt means have been resorted to to secure the passage of the bill, the present veto power of the Governor amounts to nothing, as the same vote that passed the bill will do it again."⁶⁰⁹

Carter also maintained that the Governor, as the only state official elected statewide, should be given a greater role in the legislative process: "Under our government, the only direct representative of all the people of the State is the Governor. The members of Assembly represent their respective districts, and the Senate as a body, the counties and State. When deliberating upon the different acts passed by the Legislature, and submitted to him, the Governor is not governed by districts, or counties, or any sectional lines, but the important question with him is – what is best for all the people of the State?"⁶¹⁰

After several votes and reconsiderations, the Commission finally approved the strengthened veto by a 7 to 5 vote.⁶¹¹ The Commission's intense deliberations on this issue would prove all for naught, however; the 1874 Senate summarily rejected the amendment.

607. *Id.*

608. See newspaper account of proceedings for October 23, 1873, compiled in Part III of this volume.

609. *Id.*

610. *Id.*

611. PROCEEDINGS, *supra* note 369, at 128.

b. The Line Item Veto

Compared with the heated discussion that surrounded the Commission's proposed amendment to strengthen the ordinary veto, the debate on the line item veto was relatively tame. A proposed line item veto was initially offered by the Executive Committee on October 7, 1873. This proposal was rejected, presumably because it applied only to "the appropriation bill" and not to all bills that contained an appropriation. Green amended the proposal in the Committee of the Whole on the next day, so as to apply to "any bill" authorizing an expenditure of money. This version was also rejected by the Commission. Persistent, Green offered an entirely new version of the proposal on October 16. This latest version was almost identical to the New York Constitutional Commission's line item veto amendment that was submitted to the New York Legislature in March. The only difference was that Green substituted the word "majority" for "two-thirds," so that it would be consistent with the override requirement of the ordinary veto. The New Jersey Constitutional Commission agreed with this version, without debate, on October 16. The text of each proposal as it progressed through the Commission is reproduced here:

As originally proposed by the Committee on the Executive and Judiciary Department, on October 7, 1873:

The Governor shall have power to veto separate items in the appropriation bill without defeating the whole, and the Houses shall only reconsider the item or items objected to.⁶¹²

As amended by Green in the Committee of the Whole, on October 8, 1873:

In any bill passed by the Legislature authorizing the expenditure of money from the Treasury, the Governor may exercise the veto power as to any separate item or items of expenditure without defeating the whole, and the Legislature shall only reconsider the item or items objected to.⁶¹³

As re-amended by Green and adopted by the Commission on October 16, 1873:

612. *Id.* at 36.

613. *Id.* at 350.

If any bill presented to the Governor contain several items of appropriation of money, he may object to one or more of such items, while approving of the other portions of the bill. In such case, he shall append to the bill, at the time of signing it, a statement of the items to which he objects; and the appropriation so objected to shall not take effect. If the Legislature be in session, he shall transmit to the House in which the bill originated, a copy of such statement, and the items objected to shall be separately reconsidered. If on reconsideration one or more of such items be approved by a majority of the members elected to each House, the same shall be part of the law, notwithstanding the objections of the Governor; all the provisions of this section, in relation to bills not approved by the Governor, shall apply to cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.⁶¹⁴

The Commission would make one more change. On the last day of the Commission's deliberations, while the Committee on Revision made its final review of its report, an incongruity was discovered. Realizing that the ordinary veto was amended to require a two-thirds majority override, and that the line item veto override required only a simple majority, the Commission amended the line item veto amendment so as to conform to the two-thirds override requirement of the ordinary veto.⁶¹⁵

When discussed in the 1874 Senate, "a majority" was again substituted for the "two-thirds" legislative override. This change would make the item veto far less potent since it could be easily overridden by the same number of legislators who passed the original bill containing appropriations. Evidently, only by lowering the threshold for an override would the Senate consent to the line item veto.

The Senate's amended version of the line item veto was eventually ratified by the electorate in September 1875, making New Jersey the eighth state in the union to adopt the line item veto.⁶¹⁶ Concerning New Jersey's

614. *Id.* at 88-89 [based on the New York Constitutional Commission's proposed amendment to Article IV, § 8 of the New York Constitution].

615. *Id.* at 165.

616. The first states to adopt the line item veto, through 1875, were: Georgia (1861 and 1865), Texas (1866), West Virginia (1872), Pennsylvania (1873), Arkansas (ratified October 13, 1874), New York (ratified November 3, 1874), Florida (adopted May 4, 1875), New Jersey (ratified September 7, 1875), Nebraska (ratified October 12, 1875), and Missouri (ratified November 30, 1875). Based on the present authors' research using FRANCIS NEWTON THORPE, *THE FEDERAL AND STATE CONSTITUTIONS* (1909).

line item veto, two points are noteworthy. First, of the seven state constitutions that had a line item veto provision in effect at this time, three (West Virginia, Arkansas and New Jersey) required only a simple majority for a legislative override, while four (Georgia, Texas, Pennsylvania and New York) required an extra majority. Secondly, New Jersey's line item veto provision would not be changed until 1947, when the Constitutional Convention required a two-thirds majority legislative override while allowing the Governor to reduce, and not only veto, an appropriation.

A brief historical background of the line item veto in the United States may prove instructive. It has been well established that, among American constitutions, the line item veto first appeared in the constitution of the Confederate States of America (CSA) in 1861.⁶¹⁷ The intent of the line item veto, as expressed in the constitutional convention of the Confederacy, appears to have been two-fold:

In the first place, the ordinary veto had proved inadequate when applied to appropriation bills. Since such measures had to be considered as a whole, improper expenditures could not be separated from those which were necessary, nor was it feasible to negative an entire appropriation act because of a few objectionable items. Secondly, the item veto was introduced as a part of a plan to adapt English budget principles to American conditions in order to secure greater harmony between the executive and the legislature. The leaders of the South greatly admired the English governmental system but they were not blind imitators, for they did not wish to set up a parliamentary type of government in the Confederate States. Hence, it was provided that proposals for expenditure should originate with the President while Congress, with two unimportant exceptions, was forbidden to initiate appropriations unless they were authorized by a two-thirds vote of both houses. To defend his budget estimates, the President was given the item veto.⁶¹⁸

617. See John A. Fairlee, *The Veto Power of the State Governor*, 11 AMERICAN POLITICAL SCIENCE REVIEW 473, 483 (1917); Roger H. Wells, *The Item Veto and State Budget Reform*, 18 AMERICAN POLITICAL SCIENCE REVIEW 783 (1924); *The Item Veto in the American Constitutional System*, 25 GEORGETOWN LAW JOURNAL 106, 109 (1936); U.S. Congress. House of Representatives. Committee on Rules. (99th Congress, Second Session), "Item Veto: State Experience and Its Application to the Federal Situation," at 6-7 and 203-210 (1986) [hereinafter, "Item Veto"]. See also, Richard Briffault, *The Item Veto in State Courts*, 66 TEMP. L. REV. 1171 (1993).

618. See Wells, *supra* note 617, at 782.

Although never utilized by President Jefferson Davis, the line item veto immediately caught the attention of some of the Southern states.⁶¹⁹ Thus, the first American states to adopt the item veto were from the South: Georgia⁶²⁰ in 1861 (and 1865) and Texas in 1866. The textual similarities between the CSA, Georgia and Texas constitutions are unmistakable.⁶²¹

The next state to consider the line item veto appears to have been New York, during its 1867 Constitutional Convention.⁶²² During the convention, a delegate proposed the item veto, indicating that it had been adopted and successfully utilized in two southern states.⁶²³ However, the Convention defeated the proposal. The New York Constitutional Commission of 1872-73, in its report published in March 1873, recommended the line item veto that was to become incorporated into the New York Constitution in 1874. It was this version of the line item veto, and not the provision as found in the constitution of the CSA, that was to become the model for New Jersey.

9. *Miscellaneous Proposals*

Other proposals offered by the Commission, such as those to abolish capital punishment,⁶²⁴ to authorize local referenda for the sale of liquor and to provide for an additional tax on liquor sales,⁶²⁵ to prohibit the Legislature

619. This is not to say that Northern states did not appreciate the value of the line item veto: "While the South is given credit for the item veto as an institutional innovation, southern states were no more likely to adopt this provision in their constitutions than other states. During the years 1865-1879, there was no national or sectional movement promoting the item veto as part of a broad reform effort. State action was rather haphazard." "Item Veto," *supra* note 617, at 8.

620. Georgia's 1861 constitution, drafted after its succession, contained a line item veto that was based on the CSA's constitution. The provision was reproduced verbatim in the Georgia state constitution in 1865. See "Item Veto," *supra* note 617, at 8.

621. Compare CSA Constitution, art. I, § VII (See Hough, *supra* note 200, Vol. II, at 875) with Georgia Constitution, art. IV, § II, ¶ 6 (See Hough, *supra* note 200, Vol. I, at 265) and Texas Constitution, art. IV, § XXV (See Hough, *supra* note 200, Vol. II, at 373). Each constitution begins with the phrase: "[The Executive] may approve any appropriation and disapprove any other appropriation in the same bill."

622. See "Item Veto," *supra* note 617, at 8. See also LINCOLN, *supra* note 207, at 339-343.

623. *Id.* Presumably, the two states were Georgia and Texas.

624. Table 2, proposal 90.

625. Table 2, proposals 25 & 62.

from passing special laws changing the law of descent,⁶²⁶ and to limit the granting of pardons,⁶²⁷ can each be only fully appreciated and understood with study of their historical antecedents. The proposal⁶²⁸ to provide for a Constitutional Convention for the purpose of making future amendments to the state constitution was thought to rectify an obvious omission of the 1844 Constitution. This proposal, however, was defeated by the Commission. Proposed amendments concerning jury verdicts⁶²⁹ were defeated, although, as part of the proposed ban on special legislation, the Commission approved a provision that prohibited the Legislature from passing laws related to “selecting, drawing, summoning or empaneling grand or petit juries.”⁶³⁰ The rather innocuous proposal that gave the Governor the power to convene the “Senate alone” likely has as its origin the Commission’s misfortune of having so many of its members decline or resign after the 1873 Legislature adjourned *sine die*. Since the Governor was not disposed to call the entire Legislature only for the Senate’s confirmation of his nominees that would fill six vacancies on the Commission, the Governor simply appointed the additional members. Technically and legally, this was contrary to the nomination requirements as set forth in the Constitutional Commission’s enabling resolution, which required the Senate’s advice and consent of each nominee to the Commission.⁶³¹ Directly experiencing the effect of this constitutional flaw, Commission President Ten Eyck offered an amendment to permit the Governor to convene the Senate without the presence of the Assembly.⁶³² When Ten Eyck proposed his amendment, it was received with support from at least one newspaper, which also gave additional clues to its intent.⁶³³ The proposal was deemed important enough to pass the triple

626. Table 2, proposal 35.7. The reason for this proposed amendment has been attributed to the frequency of special legislation passed in 1873 that changed the law of descent for certain men who had died intestate. See *The Law of Descent in New Jersey*, PROCEEDINGS OF THE NEW JERSEY HISTORICAL SOCIETY, VOL. IV, THIRD SERIES, NO. 3 (1904-05), at 174.

627. Table 2, proposals 32 & 88.

628. Table 2, proposal 71. Interestingly, Carter’s motion to include a reference to Constitutional Commissions as an additional vehicle for future amendments to the Constitution was defeated by the Commission. See PROCEEDINGS, *supra* note 369, at 141.

629. Table 2, proposals 21 & 34.

630. Table 2, proposal 35.4.

631. N.J. Senate Journal 1873, at 80.

632. Table 2, proposal 65. A report on the Executive Powers in the 1844 Convention recommended to add the phrase “or the Senate only,” but the phrase was later struck out. See 1844 PROCEEDINGS, *supra* note 29, at 44 and 448.

633. The *Fredonian* supported his proposal:

gauntlet of approvals by the Commission, two successive legislatures, and the people. The provision is in the current state constitution⁶³⁴ and was utilized as recently as July 2002, when the New Jersey Governor convened the Senate to deal with the state budget deficit,⁶³⁵ and February 2005, when the Acting Governor convened the Senate in a special session to pass legislation concerning government ethics reform.⁶³⁶

VII. LEGISLATIVE CONSIDERATION OF THE COMMISSION'S PROPOSALS

A. Significant Revision by the 1874 Senate

The Senate of 1874 received the Commission's report on January 13, 1874 as an attachment to Governor Parker's second annual message to the Legislature.⁶³⁷ In his message, Parker found it necessary to challenge the misconception fostered in some newspapers that the Commission had the authority to change the Constitution on its own. He stated:

The Commission had no power to make a Constitution, as some in their criticism seemed to imply, nor could it even submit the proposed amendments to a popular vote, but it was a body merely advisory to the Legislature, a committee of able and experienced gentlemen residing in various sections of the State, to aid in the most important work legislators can be called upon to do.⁶³⁸

"It may often happen in this State that the Governor may need the 'advice and consent of the Senate,' and at the same time deem it injudicious to call together the whole Legislature. It is only nominally a new power placed in his hands, for it affords him an opportunity for dividing responsibility with the Senate, and in a State like this, where every Senator can reach the Capital at a day's notice, the amendment proposed commends itself to common sense."

FREDONIAN (New Brunswick, N.J.), Oct. 24, 1873.

634. N.J. CONST. art. V, § I, ¶ 12.

635. See Charles Stile & Wendy Rudermann, *McGreevey Orders Senate Session Today*, BERGEN RECORD (Hackensack, N.J.), July 2, 2002.

636. See Deborah Howlett, *N.J. Senate Approves Pay-to-Play Reform Bill*, STAR-LEDGER (Newark, N.J.), March 1, 2005.

637. N.J. SENATE JOURNAL 1874, at 48-59. This is Report A, see *supra* page 78 of this Introduction. Two versions of the Commission's report are reproduced in Part III of this volume.

638. Annual Message, in N.J. SENATE JOURNAL 1874, at 43. The entire Governor's message as it pertains to the constitutional amendments is reproduced in Part IV of this volume.

Although obviously not in total agreement with the Commission's recommendations, Parker honored the Commission at the close of his message by stating, "Seldom has a deliberative body convened in which so little local prejudice or parti[s]an feeling existed, or in which greater patriotism, wisdom and discretion were displayed."⁶³⁹

The 1874 Senate commenced its consideration of the Commission report,⁶⁴⁰ consisting of thirty-nine unnumbered distinct proposals arranged consecutively by constitutional section, on January 21.⁶⁴¹ Based on references to proposed amendments in the Senate Journal,⁶⁴² it appears that the Senate printed the Commission's proposals in bill form, with line numbering, and numbered each "bill" as follows: "Senate No. 1" comprised those amendments that would amend or supplement Article I (Rights and Privileges) of the 1844 New Jersey Constitution; "Senate No. 2" comprised those amendments that would amend or supplement Article II (Right of Suffrage) of the 1844 New Jersey Constitution; "Senate No. 3" comprised those amendments that would amend or supplement Article IV (Legislative) of the 1844 New Jersey Constitution; "Senate No. 4" comprised those amendments that would amend or supplement Article V (Executive) of the 1844 New Jersey Constitution; "Senate No. 5" comprised those amendments that would amend or supplement Article VI (Judiciary) of the 1844 New Jersey Constitution; and "Senate No. 6" comprised those amendments that would amend or supplement Article VII (Appointing Power and Tenure of Office) of the 1844 New Jersey Constitution. One last "bill," entitled "Senate No. 7," acted as a final reprint of all proposed amendments agreed to by the 1874 Senate.⁶⁴³ It was this final version that was sent for concurrence to the 1874 Assembly and to the 1875 Legislature, and it was this document that formed the textual basis for the amendments voted on at the September 7, 1875 special election.

Over the course of two months, in addition to its regular legislative duties, the Senate considered each proposed constitutional amendment individually and, after deliberation, performed one of three actions: approved a proposed amendment without change, changed the language of a proposed amendment, or rejected the amendment outright. Except for a proposal⁶⁴⁴ by

639. *Id.*

640. This is Report A, *see supra* page 78 of this Introduction. Two versions of the Commission's report are reproduced in Part III of this volume.

641. N.J. SENATE JOURNAL 1874, at 84-85.

642. *See, e.g.*, a reference to "Bill No. 3, Article IV". *Id.* at 132.

643. "Senate No. 7" is reproduced in Part IV of this volume.

644. *See* Part VII of this volume, "Proposal 93".

Senator Stone to completely revise the Judiciary Article, which was eventually withdrawn by its sponsor, the Senate did not add any new proposed amendments of its own, although it clearly had the authority to do so.⁶⁴⁵

As Senate President and a former, albeit brief, member of the Constitutional Commission, John W. Taylor assumed the role of shepherding the proposed amendments, as well as advocating their further amendment, through the Senate. In fact, several times during deliberations, Taylor appointed another Senator (usually Senator Hopper or Senator Sewell) to act as Senate President Pro-Tem so that Taylor was able to advance, oppose or amend proposed amendments from the Senate floor.⁶⁴⁶ Senator Augustus W. Cutler, the only other sitting legislator who was a member of the Commission, also took a proactive role in the discussion of the amendments. The fact that Taylor, a Republican, and Cutler, a Democrat, were often on opposite sides during the deliberations is indicative of the partisan differences on constitutional issues. Indeed, the passage, amendment, or rejection of several proposals was decided by the slightest of margins when the votes were cast. However, after considerable revision of the Commission's proposals, the Senate finally approved a list of amendments on March 12, 1874 by a vote of 14-0, and forwarded the amendments to the Assembly on the same day.⁶⁴⁷

A chief question in the Senate's treatment of the Commission's proposed amendments centered not so much on how the partisanship of the Legislature would play out, but rather on how much of its own powers the Legislature would be willing to relinquish. The Senate's version of amendments reflected just how far the Legislature was willing to go to curtail its constitutional powers. The crucial issue of establishing a constitutional prohibition for special legislation, which had the overwhelming support of the general public, was adopted with minor changes from the Commission's original proposal. However, the Senate refused to surrender too much of its powers. For example, the Senate rejected the Commission's recommendation to require a two-thirds majority to override a Governor's veto, although it

645. It should be noted that the 1874 Senate made amendments, often substantial in character, to many of the Commission's proposals that were adopted. Notable examples include the Senate's addition of the State Comptroller to the list of officials to be appointed in Joint Meeting of the Legislature, and Taylor's substitute of the "thorough and efficient" clause for the Commission's version of the amendment concerning free public schools.

646. See, e.g., N.J. SENATE JOURNAL 1874 at 84, 109, 129, 176 & 274.

647. *Id.* at 787.

approved a weaker version of the proposed line item veto.⁶⁴⁸ It rejected the proposal that would have prohibited legislators from receiving other appointments during their term of office.⁶⁴⁹ Although Senators accepted an increase in legislative compensation to \$500 per annual session, they rejected the Commission's recommendation that would allow other allowances and incidental expenses.⁶⁵⁰

Regarding legislative procedures, the Senate rejected the Commission's rather stringent recommendation that required all bills and resolutions to be printed and read, section by section, on three separate days.⁶⁵¹ This recommendation, which probably arose as a reaction to the Stanhope Fraud, was ostensibly rejected because the Senate felt that the passage of an 1873 law,⁶⁵² to void inappropriately passed legislation, was sufficient for the task. A more likely reason, however, was simply the Legislature's refusal to endure the reading of every word of every bill introduced in a typical legislative session. The Senate also rejected the Commission's proposal that would require all passed laws to have an effective date of the July 4 after the date of passage, preferring to continue to specify a law's effective date by legislation.⁶⁵³ The Senate also refused to accept the constitutional requirement that a public official immediately vacate his office upon conviction of a crime.⁶⁵⁴ Evidently, the legislature did not accept interference with its constitutional authority of impeachment.

Finally, the legislature agreed to relinquish some of its appointment power by allowing the Governor to nominate (with the Senate's advice and consent, of course) such relatively minor civil offices as the State Prison Keeper and judges of the inferior Courts of Common Pleas.⁶⁵⁵ However, appointments of the state's primary fiscal officers, namely the State Treasurer and State Comptroller, were to be made by the Legislature.⁶⁵⁶ All told, the Senate's recommendations amended constitutional provisions relating to the appointment of over a dozen civil officers including many

648. *See Id.* at 370, 373.

649. *See Id.* at 176.

650. *See Id.* at 133.

651. *Id.*

652. *See supra* note 268 and accompanying text.

653. N.J. SENATE JOURNAL 1874, at 201. *But see also* N.J.S.A. 1:2-3.

654. *Id.* at 374. The Senate's rejection of this proposal resulted in disappointment expressed by Governor Parker in his 1875 message to the Legislature. *See* N.J. SENATE JOURNAL 1875, at 39. *See* N.J.S.A. 2C:51-2 concerning forfeiture of public office.

655. N.J. SENATE JOURNAL 1874, at 376 & 747-748.

656. *Id.* at 375, where the Senate approved Stone's amendment to include the Comptroller among officers appointed in Joint Meeting.

officers created by statute. Probably unaware of the implications on the future development of New Jersey's constitutional history, the Senate's action continued a trend, initiated by the 1844 Constitutional Convention that would culminate in the extraordinary appointment powers provided to the New Jersey Governor by the 1947 Constitutional Convention.

B. The Assembly is "Snubbed": Partisan Politics

The Assembly received the Senate's proposed amendments, in the form of "Senate No. 7," on March 16, 1874.⁶⁵⁷ Although controlled by a Republican majority with Garret A. Hobart as Speaker, Assembly Democrats almost immediately raised an objection that threatened the passage of the Senate's proposed amendments. Members of the Assembly felt insulted that the Senate acted directly on the Commission's proposed amendments while the Assembly was merely able to vote on the Senate's amended version. They also objected to the fact that the Senate had two months to deliberate upon the Commission's recommendations, while the Assembly received the Senate's version of proposed amendments less than one week before that House was scheduled to adjourn *sine die*.

Although the official Assembly Minutes do not record the discussion surrounding the objection raised by Democratic members, several newspapers provided a stark account of their grievance. For example, one Democratic newspaper reported:

In the House tonight the subject of the Constitutional Amendments came up, and Mr. Ward objected to taking them up as they came from the Senate, on the ground that it was improper for the House to take them up as they came from the Senate. He said this was the proper House to take up the report of the Commission, this being the popular branch of the Legislature, and to them was intended the report, and it should have come to their House first, and the effort of the Senate to cut off debate on these amendments was an outrage on the House and the people of the State. In this view, Mr. Ward was sustained by Mr. Morrow, of Essex, and Capt. Gill, of Union.⁶⁵⁸

Other newspapers that covered the Assembly discussion added:

657. N.J. ASSEM. MINUTES 1874, at 840.

658. AM. STANDARD (Jersey City, N.J.), March 20, 1874 [reporting on the Assembly evening session of March 18, 1874].

Mr. Gill said the Senate had been five or six weeks discussing the amendments, and now at the close of the session send them to the House, with the idea that the House will adopt *en masse* what it has been so long [digesting]. The questions involved in the amendments are serious and important, and must be handled with great care and deliberation. He did not want the Senate to dictate the manner in which the House shall act on the changes. It had been attempting to do so from the first.⁶⁵⁹

Mr. Gill said the amendments of the Commission should be taken up first. The Assembly had been snubbed all along by the Senate. They had rights which should be respected, and they propose to take no learnings from the Senate.⁶⁶⁰

However, contrary to the Assembly's intimation that the Senate somehow "snubbed" the lower House, the fact is that the Assembly received the Commission's report at the same time as the Senate. The Assembly had the opportunity to consider the Commission's report as early as January 13, 1874, when both Houses received the Governor's annual message with the Commission's Report attached therewith. Moreover, it seems quite natural that the Senate would be the first House to consider the Commission's Report. First, the Senate had two representatives, Taylor and Cutler, as members of the Commission, and its Secretary, Babcock, as a third. As there was no Assemblyman or Assembly staff appointed to the Commission, there would naturally be an inherent continuity if consideration of the Commission's report originated in the Senate. Second, as the "Upper House," it is not unusual that the Senate considered the amendments first. It is more likely that the real motive behind the objections from certain Democratic members of the Assembly was purely political. Postponing a vote on the amendments would have been tantamount to their defeat and there still existed the sentiment, voiced primarily by Democrats, that the commission form of amending the Constitution was an inadequate substitute for a Constitutional Convention. Thus, a newspaper editorialized:

The Amendments having been thoroughly discussed and analyzed by the Senate, it would seem that the [Assembly] might pass upon and adopt them without that minute scrutiny which would have been desirable had they been first considered in that body, but the members are disposed to insist

659. NEWARK DAILY JOURNAL, March 19, 1874.

660. JERSEY CITY EVENING JOURNAL, March 19, 1874.

upon the broadest recognition of their right to the exercise of equal, co-ordinate powers, and it is quite probable, therefore, that they will commence *de novo* and go over the whole field already traversed by the Senate, acting altogether independent of its conclusions. The result of such a course, if it shall be persisted in, can hardly be otherwise than unfortunate, since confusion and delay must, in the circumstances of the case, prove fatal to many if not all of the proposed Amendments. If it shall become obvious that *all* cannot be agreed to, it is to be hoped that the [Assembly] may be induced to pass over the more unimportant and act alone upon those of more vital consequence and value – such, for instance, as those which prohibit special legislation, regulate the subject of taxation and the like. To permit any Amendments to fail now, after one branch of the Legislature has agreed to them, would be a misfortune; to permit them all to fail would be little less than a political calamity.⁶⁶¹

Speaker Hobart was faced with a political dilemma. If he simply ignored the Democrats' concern that the Senate had "snubbed" the Assembly, he faced criticism from members of his House that he did not defend the dignity of the General Assembly. If he consented to the Democrats' objection, the amendments would risk certain defeat in the 1874 Legislature, since the Assembly lacked the time to consider the Commission's Report entirely and then amend the Report to be identical to the Senate version. Hobart's brilliant solution was to create a five-member special committee which would decide the Assembly's course of action.⁶⁶² The question put to the committee was whether the Assembly would consider the Commission's Report or the Senate's version, "Senate No. 7," of the proposed amendments. Shrewdly, Hobart allowed a Democrat, Julius C. Fitzgerald, to name the members to the special committee. Acting as Speaker Pro-Tem, Fitzgerald, apparently unaware of Hobart's machinations, obligingly named three Democrats and two Republicans,⁶⁶³ thereby ensuring that the Committee would decide in favor of the Democrats' wish that the Assembly consider the Commission's Report. At this stage, the passage of the amendments seemed unlikely since the Assembly would not have enough time to consider the Commission Report and then send its recommendations back to the Senate for their concurrence. Several newspapers commented on the haste in which

661. "The State Legislature," PATERSON DAILY PRESS, March 23, 1874.

662. N.J. ASSEM. MINUTES 1874, at 1005-1006.

663. Fitzgerald named Democratic Assemblymen Alexander T. McGill, Andrew J. Smith, Frank M. Ward and Republican Assemblymen Phineas Jones and Samuel Morrow to the "Committee on a Plan to Consider the Constitutional Amendments." *Id.* at 1006.

Fitzgerald appointed a Democratic majority to the five-member special committee: "Speaker Fitzgerald, whose alacrity in making the appointment of the committee and the placing of three Democrats thereon, was noticed by all."⁶⁶⁴

But here is where Hobart's political ingenuity was most apparent. First, realizing that they would need more time to consider the amendments, the Assembly Republicans passed a resolution to extend the legislative session one week, from March 20 to March 27.⁶⁶⁵ This unusual measure was quickly approved by the Senate, with Taylor's complicity, on the same day.⁶⁶⁶ The one-week extension would give the Assembly at least a handful of session days to consider the amendments before adjourning *sine die*.⁶⁶⁷ Second, Hobart cunningly accepted the report of the Democratic-controlled special committee. Upon the expected recommendation of the five-member Assembly Committee, the House decided to consider the report of the Commission,⁶⁶⁸ and not the Senate's amended version "Senate No. 7," thereby apparently endangering the swift passage of the Senate's recommendations.

However, over the next few days, Speaker Hobart adroitly substituted, section by section, the Senate's version for the Commission's Report before adopting "Senate No. 7" on March 25 by a vote of 45-9.⁶⁶⁹ Thus, the constitutional amendments were duly approved by both houses of the 1874 Legislature. The dexterity with which Hobart quickly ushered the amendments through the Assembly in only three days should be understood as being purely politically motivated. In the decade after the Civil War, the control of either house of the Legislature frequently changed hands between Democratic and Republican majorities. As Republican leaders,⁶⁷⁰ both Hobart and Taylor were aware of the possibility that either or both houses of the Legislature could be controlled by the Democrats in 1875. Failure to

664. NEWARK DAILY JOURNAL, March 19, 1874.

665. N.J. ASSEM. MINUTES 1874, at 1011-12.

666. *Id.* at 1081-82.

667. Actually, the Assembly deliberated upon the constitutional amendments on only two days: March 23 and 25. N.J. ASSEM. MINUTES 1874 at 1130 et. seq. and 1252 et. seq. Plans to discuss the amendments on March 24 were postponed. *Id.* at 1183-84, 1212.

668. *Id.* at 1108-09.

669. *Id.* at 1252-67.

670. It should be noted that a principle of the New Jersey State Republican Party platform for 1874 advocated "the judicious amendment of the State Constitution." See PROCEEDINGS OF THE NEW JERSEY REPUBLICAN CONVENTION, HELD IN TRENTON, AUGUST 27, 1874, WITH A SKETCH OF HON. GEORGE A. HALSEY, CANDIDATE FOR GOVERNOR OF NEW JERSEY (New York: W.H. Barnes, Publisher, 1874) at 4.

pass the constitutional amendments in 1874, when both houses were controlled by Republicans, would not merely delay passage for one year, but, much more significantly, would jeopardize passage in their current form. Thus, behind Hobart's shrewd leadership, the Assembly substituted the Senate's recommendations for the Constitutional Commission's Report, thereby ensuring approval of the amendments before the Legislature adjourned.⁶⁷¹

C. A Final Attempt to Defeat the Amendments Fails

The amendments were then returned to the Senate where they remained until the 1875 session. Fortunately for the Republicans, and for the fate of the constitutional amendments, the 1874 electorate returned a Republican majority to the state Senate where Taylor was re-elected Senate President. The Assembly, however, changed to a Democratic majority with George O. Vanderbilt of Mercer County chosen Speaker of the Assembly.⁶⁷² On January 26, 1875, the Senate proceeded to take up the amendments.⁶⁷³ Unexpectedly, Senator John Hopper, a Democrat from Passaic County, moved to change the proposed amendment concerning the prohibition of giving or loaning public money to private entities by removing the phrase "individual association, or."⁶⁷⁴ Almost certainly a political ruse to delay passage of all constitutional amendments in hopes that the Democrats would control the next Legislature, Hopper apparently attempted to take advantage of a clerical error in one of the Commission's two versions of its report. The language of the proposed amendment in question, as it appeared in one of the two reports of the Constitutional Commission, omitted a comma that was included in the Senate's version. The differences are reproduced as follows:

Report A⁶⁷⁵ of the Constitutional Commission as relating to the amendment to Article I: "No county, city, borough, town, township or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual association or corporation"⁶⁷⁶

671. N.J. ASSEM. MINUTES 1874, at 1252-67.

672. N.J. SENATE JOURNAL 1875, at 14-15; N.J. Assem. Minutes 1875 at 11.

673. N.J. SENATE JOURNAL 1875, at 70-76.

674. *Id.* at 77.

675. See *supra* page 78, of this Introduction. Two versions of the Commission's report are reproduced in this volume.

676. Report A, at 3.

Report B⁶⁷⁷ of the Constitutional Commission and the Senate version of proposed constitutional amendments as relating to the same amendment: “No county, city, borough, town, township or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual, association or corporation”⁶⁷⁸

The meaning is obviously different in both proposals: the first would appear to prohibit local governments from giving or loaning money or property to associations or corporations only (“individual” acting as an adjective), while the second would apply to individuals as well as associations and corporations. Hopper’s objection was veiled in a humanitarian concern that the proposed amendment would prevent a public entity from assisting the state’s poor.⁶⁷⁹ When considering that the textual source of this proposal was taken from an amended version of a recently proposed New York constitutional amendment, Hopper’s objection was not without merit. When Buckley originally proposed this amendment, he undoubtedly borrowed virtually verbatim language from a proposed amendment of the New York Constitutional Commission, which read:

No county, city, town, or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual, association or corporation, or become directly or indirectly the owner of stock in, or bonds of any association or corporation; nor shall any such county, city, town or village be allowed to incur any indebtedness except for county, city, town, or village purposes. *This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor as may be authorized by law.*⁶⁸⁰

Buckley made minor revisions to the first sentence of the New York proposed amendment, accounting for the different types of municipal corporations between the two states. However, he decided to omit the second sentence entirely. Further amendments and supplements were then made to Buckley’s proposal by the Constitutional Commission. By the time the 1874 Senate received the Commission’s report, the amendment read as follows:

677. See *supra* page 78-79 of this Introduction. Two versions of the Commission’s report are reproduced in this volume.

678. Report B, at 4.

679. DAILY ST. GAZETTE (Trenton, N.J.), January 27, 1875.

680. N.Y. CONST., art. VIII, § XI as proposed by the New York Constitutional Commission, printed in N.Y. TIMES, March 18, 1873. See *supra* note 118. (Emphasis added).

No county, city, borough, town, township or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual[,] association or corporation, or become security for or be directly or indirectly the owner of any stock or bonds of any association or corporation; nor shall any county, city, borough, town, township or village incur or be authorized by the legislature to incur, any indebtedness or to impose any tax except for state, county, city, township or village purposes. And no county shall contract or incur any debt, by bond or otherwise, exceeding two per cent. of the valuation of its taxable property; and no town, borough or township exceeding four per cent.; and no city exceeding eight per cent. on a like valuation, excepting for its water supply.⁶⁸¹

Hopper seems to have advocated the reinsertion of a provision, similar to New York's, that would explicitly state that local governments can lawfully appropriate money for the aid of poor individuals. His objection, however, was evidently received as being a politically motivated attempt to defeat all proposed amendments. Taylor and other Republican Senators quickly dispensed with Hopper's stratagem, and the latter's motion to amend was overwhelmingly defeated the next day by a vote of 12 to 1.⁶⁸² The original amendment as proposed by the Senate was then adopted 18 to 0.⁶⁸³

With virtually no discussion or debate, the remaining constitutional amendments in "Senate No. 7" were quickly approved on the same day. This was the last time the proposed amendments were considered in the state Senate. They were sent to the Assembly for their final concurrence and on February 16, 1875, the Assembly approved all amendments as originally proposed by the 1874 Senate.⁶⁸⁴ It is unclear why the Democratic majority in the Assembly approved the amendments. Perhaps the Assembly Democratic leadership was concerned that the amendments' defeat at this juncture, after having passed the 1874 Legislature and the 1875 Senate, could politically backfire by causing an appearance of obstinacy. However, regardless of the reason for the Assembly Democrats' consent to pass the amendments, it is clear that several members of their caucus spitefully, even viciously, opposed their passage. Although the official Assembly minutes

681. N.J. CONST., art. I, ¶ 19 as proposed by the New Jersey Constitutional Commission. See Table 2, proposal 19.

682. N.J. SENATE JOURNAL 1875 at 82. See also, DAILY TRUE AMERICAN, Jan. 27, 1875.

683. *Id.*

684. N.J. ASSEM. MINUTES 1875, at 354-71.

give no indication of the remarkably frivolous and contemptuous manner in which many Democrats in that house considered and voted on the amendments, certain Republican newspapers recorded for posterity the deplorable antics that took place during the Assembly's final vote on the constitutional amendments:

The House took up this afternoon the Constitutional Amendments, but the majority of the members seemed to have no idea of the importance of these changes and paid little or no attention to them. Many members were absent from their seats, others congregated in the lobbies to smoke or lounge, and some seemed to look upon the whole thing as a farce or joke and vote "no" occasionally "just for the fun of the thing," or to have a chance to make a set speech in "Mr. Speaker, I change my vote to aye." As for the reading clerk, he got *carte blanche* from some members to put them down as voting aye to each amendment, and did so every time, but occasionally he forgot who were in their seats and who were absent, and in more than one case names were put down of men who were never near the House the whole afternoon. From the roll call on each amendment it is learned that about forty members were present and voted each time, but so hurried was the roll and so little attention was paid by the members to voting that after the first two or three amendments most of the "ayes" were guessed at. Mr. Swing, of Salem, who is known as the inveterate "no" voter of the House, carried out his character by voting "no" frequently and his vote is so recorded, but it is doubtful whether he cared either way how he voted or perhaps didn't know how to vote. His regular "no" invariably called out a laugh, and in this House the man that makes the most fun, so as to pass away time, seems to be considered the best of good fellows.

The amendments were taken up one by one, and the yeas and nays taken on each. The first received 33 votes, none negative; second amendment, 37 to 0; third, 31 to 0.

On the Suffrage amendment Mr. Van Cleef moved to strike out the word "male," so as to permit of female suffrage, which was negatived and was not meant in earnest.

On the amendment to strike the word "white" from the constitution, Messrs. Doyle, Fitzgerald, T.P. Henry and Patterson voted "No," but when the vote was announced Mr. Fitzgerald arose and said that, "though he was very much against the grain to vote for this amendment, he supposed he must accept the inevitable, and would therefore change his vote to "aye." The others who had voted "no" then followed him in changing their votes.

The rest of the amendments were then accepted unanimously, save by the frequent "no" of Mr. Swing, except that which fixed the pay of the members at \$500, and against this were recorded Messrs. Dodd, Doyle, Gill, Hendrickson, Morrow, Skellinger, Patterson, Swing and Woodruff.

It was five o'clock when the Amendments were finished, their whole consideration and passage taking up only a few minutes over an hour and the House then adjourned.⁶⁸⁵

Several Assembly Democrats clearly objected to many of the Senate's Republican-initiated constitutional amendments, and in so doing, voiced the racism and sexism that was prevalent at this time. A careful review of the Assembly's official handwritten minutes for February 16, 1875 lends documentary support to the newspaper accounts, as it is obvious that several Assembly Democrats' votes were changed from "Nay" to "Aye."⁶⁸⁶ Besides their political differences, their cavalier behavior perhaps can be interpreted as an attempt to capitalize on the sentiment that preferred to use a constitutional convention as the method for changing the state's constitution. Instead of simply voting against the amendments, they apparently attempted to garner the public's sympathy by ridiculing the whole process of amending a state's constitution by an appointed commission, instead of a popularly elected convention. With the approval of two successive Legislatures completed, the final hurdle would be the vote on the constitutional amendments by the people.

685. NEWARK DAILY ADVERTISER, Feb. 17, 1875. *See also*, N. Y. TIMES, Feb. 17, 1875 and PATERSON DAILY PRESS, Feb. 17, 1875, which introduce the Assembly Democrats' antics with the phrase "Some of the Democrats to-day were obliged to show the cloven foot when the amendment striking the word "white" from the Constitution was on its passage."

686. *See* the manuscript version of the N. J. Assembly Minutes for February 16, 1875 in the New Jersey State Archives, Department of State, Trenton.

TABLE 3: PROPOSED AMENDMENTS APPROVED BY THE CONSTITUTIONAL COMMISSION: FINAL ACTION BY THE 1874 SENATE⁶⁸⁷

No.	Synopsis of Proposed Constitutional Amendment	Final Action by 1874 Senate
1	Strikes out the word “white” in suffrage article so as to extend suffrage rights to African-American males	APPROVED, January 28, 1874, p. 130
2	Concerns suffrage residency requirements	LOST, January 28, 1874, p. 131
3	Deprive suffrage right from one convicted of bribery “in legislation” or who is a defaulter to state or general government; Legislature may pass law to require literacy test for suffrage	APPROVED as amended, January 28, 1874, p. 130
5	Legislative Oath	APPROVED as amended, February 24, 1874, p. 457-458
6	Requires two-thirds majority of both Houses of the Legislature to override Governor’s veto	LOST, February 18, 1874, p. 370
7	Line Item Veto	APPROVED as amended, February 18, 1874, p. 373
8	Governor prohibited from election to any other federal or state office during his term	APPROVED, February 18, 1874, p. 373-374
9	Appointment and nomination of Militia officers	APPROVED, February 18, 1874, p. 374-375
10	Provides suffrage rights for those in military service who are out of state during time of war	APPROVED as amended, January 28, 1874, p. 132

687. Table 3 is based upon the authors’ analysis of the 1874 New Jersey Senate Journal, “Senate No. 7,” the Proceedings of the 1873 Constitutional Commission and the Commission’s Report. The numerical assignments to proposed amendments in this table were created by the authors and identify those proposed amendments in Table 2 that were approved by the Commission. The information contained is provided to the extent available. Page references are to the 1874 Senate Journal. See Part VII of this volume for a far more comprehensive analysis.

No.	Synopsis of Proposed Constitutional Amendment	Final Action by 1874 Senate
12	Provides that Judges of Courts of Common Pleas be nominated by Governor with advice and consent of Senate, instead of by appointment by Joint Meeting of the Legislature	Records are unclear concerning this proposal
13	Keeper and Inspector of State Prison are not appointed by Joint Meeting of the Legislature	APPROVED as amended, February 18, 1874, p. 376
14	Keeper of State Prison and Surrogates of Counties to be nominated by Governor with advice and consent of the Senate	APPROVED as amended, February 18, 1874, p. 376
15	Attorney General to have a three year term, instead of a five year term	LOST, February 18, 1874, p. 376
17	Sheriffs and Coroners elected for three year terms	APPROVED, February 18, 1874, p. 377
18	Legislators prohibited from receiving appointment to certain other offices	LOST, February 3, 1874, p. 176
19	Prohibits counties or municipalities from giving or loaning money to any individual, association or corporation; provides for local tax and debt limitations	Part 1 was APPROVED; Parts 2 and 3 were REJECTED, February 24, 1874, p. 456
22	Provides that in cases where private land is taken by corporations, the property owner shall have the right of appeal and have damages reassessed by verdict of a jury	See Proposed Amendment 77
24	Requires publication in newspapers of proposed amendments to local governments	APPROVED as amended, February 11, 1874, p. 274
28	Prohibits appropriations to religious corporations	APPROVED, February 24, 1874, p. 456
35	Prohibits Legislature from passing private, local or special laws in enumerated cases	APPROVED as amended, February 18, 1874, p. 360-363
35.1	Prohibits Legislature from passing private, local or special laws related to laying out, opening, altering and working roads or highways	APPROVED, February 18, 1874, p. 360
35.2	Prohibits Legislature from passing private, local or special laws related to vacating roads, town plots, streets, alleys and public grounds	APPROVED, February 18, 1874, p. 360

No.	Synopsis of Proposed Constitutional Amendment	Final Action by 1874 Senate
35.3	Prohibits Legislature from passing private, local or special laws related to regulating the internal affairs of towns or counties; appointing local officers or commissions to regulate municipal affairs	APPROVED, February 18, 1874, p. 360-361
35.4	Prohibits Legislature from passing private, local or special laws related to selecting, drawing, summoning or impaneling grand or petit juries	APPROVED, February 18, 1874, p. 361
35.5	Prohibits Legislature from passing private, local or special laws related to regulating the rate of interest on money	LOST, February 18, 1874, p. 361
35.6	Prohibits Legislature from passing private, local or special laws related to creating, increasing or decreasing fees, percentage, or allowances of public officers during the term for which said officers are elected or appointed	APPROVED, February 18, 1874, p. 361-362
35.7	Prohibits Legislature from passing private, local or special laws related to changing the law of descent	APPROVED, February 18, 1874, p. 362
35.8	Prohibits Legislature from passing private, local or special laws related to granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever	APPROVED, February 18, 1874, p. 362
35.9	Prohibits Legislature from passing private, local or special laws: The Legislature shall pass general laws for the cases enumerated in this section, and for all other cases which in its judgment may be provided for by general laws	APPROVED first sentence, February 18, 1874, p. 363; APPROVED second sentence, February 18, 1874, p. 363-364
35.10	Prohibits Legislature from passing private, local or special laws related to the management of common schools	APPROVED, February 18, 1874, p. 363

No.	Synopsis of Proposed Constitutional Amendment	Final Action by 1874 Senate
35.11	Prohibits Legislature from passing private, local or special laws related to granting to any corporation, association or individual the right to lay down railroad tracks	APPROVED, February 18, 1874, p. 362-363
35.12	Prohibits Legislature from passing private, local or special laws related to providing for changes in venue in civil or criminal cases	APPROVED, February 18, 1874, p. 363
36	Legislative procedures: (1) No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of said act, or which shall enact that any existing law, or any part thereof, shall be applicable except by inserting it in such act (2) No law shall be revived or amended by reference to its title only, but the act revived or the section or sections amended shall be inserted at length (3) No general law shall embrace any provision of a private, special or local character	APPROVED, February 3, 1874, p. 177
38	Date of legislative elections	APPROVED, January 28, 1874, p. 132-133
39	Legislative compensation	APPROVED as amended, January 28, 1874, p. 134
40	Requires bills to be printed and read throughout on three days; prohibits reading of title only	LOST, January 28, 1874, p. 133
41	Concerns Justices of the Peace	Records are unclear concerning this proposal
47	No law shall extend term of a public officer, nor change his salary	LOST, February 18, 1874, p. 377
50	Prohibits Legislature from authorizing the investment of trust funds in any private corporation	LOST, February 4, 1874, p. 200

No.	Synopsis of Proposed Constitutional Amendment	Final Action by 1874 Senate
55	Inspectors of State Prison removed from list of officials to be appointed by Joint Meeting of the Legislature	Records are unclear concerning this proposal
56	Prohibits Legislature from limiting the amount to be recovered from injuries or death in suits against corporations	LOST, February 4, 1874, p. 200-201
57	Prohibits the division of counties without the approval of the majority of voters of such counties	LOST, February 24, 1874, p. 455
59	Legislative procedures: No act of the Legislature shall take effect until July 1 after date of passage	LOST, February 4, 1874, p. 201
65	Governor shall have power to convene the Senate alone	APPROVED, February 18, 1874, p. 369-370
76	Concerns Judges of the Inferior Court of Common Pleas	Records are unclear concerning this proposal
77	Concerns the protection of private property	LOST, January 27, 1874, p. 111
78	Concerns property tax: No property exempted from tax; uniform rule; personal property taxed at money value; Legislature can tax money	First sentence APPROVED as amended, February 18, 1874, p. 365; Second sentence LOST, February 18, 1874, p. 366; Third sentence LOST, February 18, 1874, p. 366; Fourth sentence LOST, February 18, 1874, p. 366-367
80	Conviction of felony or otherwise infamous crime shall vacate public office	LOST, February 18, 1874, p. 374
84	Provides that the Legislature establish and maintain free public schools for persons between the ages of five and eighteen years	APPROVED as amended, February 24, 1874, p. 454-455
86	Creates a court to fix the value of lands condemned for public purposes	LOST, February 18, 1874, p. 364-365
92	Strike out Article IV, Sec. VII, Paragraph 8 (concerns special legislation for banks and money corporations)	APPROVED, February 24, 1874, p. 455

No.	Synopsis of Proposed Constitutional Amendment	Final Action by 1874 Senate
93	Concerns the reorganization of the Judiciary [Ed. Note: This was the only proposed constitutional amendment that was initiated in the Legislature; all other proposals originated in the Constitutional Commission. See Proposal 93 in the tabular analysis in Part VII of this volume for further detail.]	WITHDRAWN, March 11, 1874 [see <i>Daily State Gazette</i> , March 12, 1874].

VIII. THE RATIFICATION VOTE ON SEPTEMBER 7, 1875

A. *An Unintelligible Ballot and an Uninterested Electorate*

Both houses of the 1875 Legislature merely assented to the 1874 Senate's proposed constitutional amendments. However, the 1875 Legislature played an unexpectedly pivotal role in the ratification of the constitutional amendments by dictating precisely how the amendments would be displayed on the ballot at the special election held later that year. On March 1, Republican Senator J. Henry Stone of Union County, a staunch ally of Taylor throughout the Senate's two-year consideration of the constitutional amendments, introduced a concurrent resolution authorizing that "a Joint Committee be appointed to prepare a bill for the submission of the Constitutional Amendments to a vote of the people of this State."⁶⁸⁸ The Senate passed the resolution immediately and it was received in the Democratic-controlled Assembly for concurrence on the same day. Instead of passing the resolution, however, it was read and ordered to lie on the table, indefinitely.⁶⁸⁹ Over one week later, realizing that the Assembly was delaying passage of the resolution, Stone hurriedly introduced a bill⁶⁹⁰ on March 9 that would provide for the particulars of the ballot and the special election on the constitutional amendments.⁶⁹¹ The bill appears to have been quickly drafted and hastily printed, leaving blanks for the precise date of the

688. N.J. SENATE JOURNAL 1875, at 299.

689. N.J. ASSEM. MINUTES 1875, at 541-42.

690. "An Act to provide for submitting proposed amendments to the constitution of this state, to the people thereof," Senate Bill 228, 99th N.J. Senate, Reg. Sess. (N.J. 1875).

691. N.J. Senate Journal 1875, at 402.

election and containing numerous typographical errors and omissions.⁶⁹² On March 16, the Assembly finally passed the concurrent resolution and Assemblymen Rudolph F. Rabe (Democrat, Hudson County), Samuel Morrow, Jr. (Republican, Essex County) and Henry Moffett (Democrat, Burlington County) were appointed to the Joint Committee by Speaker Vanderbilt.⁶⁹³ On the same day, Senate President Taylor appointed Senators Stone (Republican, Union County), Frederick A. Potts (Republican, Hunterdon County) and John Hopper (Democrat, Passaic County) to the Joint Committee.⁶⁹⁴ The proceedings of the strictly bipartisan Joint Committee, containing three Republicans and three Democrats, are not extant. However, based on the textual differences between the introduced and enrolled versions of S228, it appears that the Joint Committee corrected the typographical errors in the original bill, specified the date of the special election as September 7, 1875, required the publication of the proposed amendments in authorized newspapers at least once per week during the two months before the election, and added an effective date.

Senate Bill 228 was originally referred to the Senate Judiciary Committee on March 15, but was transferred to the special Joint Committee once appointments thereto were made. The Joint Committee reported the bill, with amendments, to the Senate on March 17.⁶⁹⁵ Without debate, the Senate approved the bill, 18 to 0, on March 18⁶⁹⁶ and forwarded it to the Assembly for its concurrence. In the Assembly, the bill was referred to the Judiciary Committee which reported it favorably a week later on March 23. The bill was finally posted for a vote during the evening Assembly session on April 7 when Speaker Vanderbilt acknowledged the importance of the bill and reminded the house of the urgency in passing it before the Assembly adjourned *sine die*.⁶⁹⁷ After making further amendments to the provision concerning the frequency of the publication of the proposed amendments in

692. See, e.g., the misspelled words “amendment” in the bill’s preamble (instead of “amendments”), “return” in section 4 (instead of “returns”), and “deliverea,” and “withid” in section 6. Most significantly, although the bill’s section 8 requires publication of “this act” in authorized newspapers, the bill amazingly neglected to require the publication of the actual proposed amendments. Finally, the bill omitted what would become section 13, the effective date. See Senate Bill 228 (1875). Curiously, Stone was permitted to introduce the bill “on leave,” that is, without being present at the Senate session on March 9.

693. N.J. SENATE JOURNAL 1875, at 487-88. The Assembly Minutes omit reference to the passage of the resolution and to the Assembly appointments to the Joint Committee.

694. *Id.* at 488.

695. *Id.* at 470, 516.

696. N.J. SENATE JOURNAL 1875, at 537.

697. DAILY ST. GAZETTE (Trenton, N.J.), April 8, 1875.

newspapers, the Assembly passed the bill unanimously on April 8.⁶⁹⁸ Later that evening, the Senate quickly concurred with the Assembly amendments⁶⁹⁹ and Governor Joseph D. Bedle approved it without fanfare. The press routinely reported passage of the bill but neglected to mention what would prove to be one of the most controversial issues in the special election: the inadequate wording of the proposed amendments on the ballots.

Section 3 of the law required that the proposed amendments be listed in the order of constitutional section affected, with each proposal simply identified by reference to the section, paragraph and article of the Constitution affected. The actual text of the proposed amendments did not appear on the ballot. Section 3 reads as follows:

3. *And be it enacted*, That at such election each voter may present a ballot on which shall be written or printed, or partly written or partly printed, in the form following, namely:

For all propositions on this ballot which are not canceled with ink or pencil, and against all which are so canceled;

For the proposed amendment, designated paragraph nineteen to article one, relative to "Rights and privileges;"

For the proposed amendment, designated paragraph twenty, article one, relative to "Rights and privileges;"

For the proposed amendment, designated section one of article two, relative to Rights of suffrage;"

[And so on for each of the twenty-eight proposed amendments.]⁷⁰⁰

In other words, the law that specified how the amendments were to be presented on the ballot actually permitted the display of the constitutional amendments as "blind amendments" in which the voter really had no way of knowing what he was voting for. The only attempt that the law provided to address this obvious problem was to require the publication in certain newspapers of all proposed amendments, once a week, during the four weeks before the election.⁷⁰¹

698. N.J. Assem. Minutes 1875, at 1237. It appears that the Assembly amended the bill by requiring the proposed amendments to be published once a week in newspapers during the four weeks, instead of two weeks, before the election.

699. N.J. Senate Journal 1875, at 827.

700. Act of April 8, 1875, ch. 367 (CCCLXVII), 1875 N.J. Laws 72-77 (providing that proposed amendments to the N.J. Constitution be submitted to the people), reproduced in Part V of this volume.

701. *Id.* at 76.

Thus, without a copy of a newspaper that reproduced the complete text of the proposed constitutional amendments, a voter could not intelligently cast his ballot. The only other printed sources that contained the text of the proposed amendments were “Senate No. 7” of 1874 (which was not printed for public use) and the Senate Journal or the Assembly Minutes of 1874 (which were not readily available to the public at large).

As the election drew near, New Jersey newspapers of all political persuasions criticized the confusing, even unintelligible, presentation of amendments on the ballot, although Democratic newspapers were particularly disparaging. Newspaper editorials, such as the following, were typical commentaries on the unintelligibility of the ballots:

We anticipate [in] a week, the time for the publication of the Constitutional Amendments to be voted on at the Special Election in September, to give our readers abundant opportunity for their study. To form any sort of an intelligent idea of what they are to vote for or against in many particulars, they will need to have at hand a copy of the Constitution for comparison with the Amendments proposed, and even then it will be found not altogether freed from difficulty. However, if they go at it in season, they may get a tolerable conception of what “For the proposed amendment designated paragraph nineteen to article one, relative to ‘Rights and Privileges,’ &c. &c., means, as printed upon their ballots, by the time the election is held, though it will hardly be safe to think about it too long before making a commencement. For a thing commended to us as being very simple and easily understood, it is about as complicated and intricate a piece of Legislative and Commission patch-work as has ever fallen under our notice.⁷⁰²

We have gone to considerable trouble and expense for the express purpose of informing our readers what the amendments really are and yet we very much doubt whether one in a score of voters really understands the subject. Unless a strong concerted effort is made, there is a chance that not one tithe of the qualified electors will attend at the polls.⁷⁰³

The official announcement of the proposed amendments [i.e., as they were required to be printed in newspapers and to appear on the ballot] does

702. JERSEYMAN (Morristown, N.J.), Aug. 3, 1875.

703. NEW BRUNSWICK TIMES, Sept. 1, 1875.

not give the articles of the old Constitution which are proposed to be amended, and the mass of the voters are left in the dark as to the effect, force or object of many of the changes proposed.⁷⁰⁴

One thing is very certain – not half the people know anything about what they are going to vote upon. The whole thing is mixed up inextricably so far as the large majority are concerned, and as they must vote blindly it will be as well to vote against all the amendments on the principle, that as the Constitution has served its purpose for thirty years or so, it may safely be trusted for a few years to come. The only way to render the subject understandable is to prepare a new Constitution by a convention, and afterward submit it to the people entire – then there will be a chance for them to know what they are voting upon, and vote understandably.⁷⁰⁵

Democratic newspapers, which generally opposed the commission method of amending the state Constitution from the start, used this opportunity to reject all proposed amendments and call for a constitutional convention:

The advocates of the proposed constitutional amendments confess the outrage on the fundamental principles of republican government perpetrated in the submission to the people when they admit that [voting] throughout the state at the special election to-morrow will be light, because the great majority of the voters do not understand the matter. No argument need be used to convince any intelligent person that such a method of changing the organic law is radically wrong. The people are called upon to exercise their most important privilege, to use the supreme power which finally resides in them, without an adequate opportunity of understanding what they are about. This is a manifest fraud and swindle and no amount of honest denunciation can make it appear worse than it shows at the bare presentation. The people of New Jersey want a constitutional convention, the proper instrument whereby to thoroughly revise and amend the organic law, so as to adapt it to changed times and circumstances....It is high time politicians were taught that they are only servants and that the people wield the supreme power. Let the electors of New Jersey emphatically vote down every proposed

704. HUNTERDON REPUBLICAN (Flemington, N.J.), Sept. 2, 1875.

705. THE ARGUS (Jersey City, N.J.), Sept. 6, 1875.

amendment to the Constitution until the obstructionists who defy the popular will are removed out of the way.⁷⁰⁶

The inadequacy of the wording of the proposed amendments, as they were required to appear on the ballot, inspired a former member of the Constitutional Commission to offer his own clarifications to the press. In an effort to assist a confused electorate in understanding the meaning of the proposed amendments, Benjamin F. Carter offered succinct interpretations of what each question meant. These objective, non-partisan explanations were published in a few newspapers before the election.⁷⁰⁷ Far more commonly, however, newspaper editors took the liberty of providing their own, politically-slanted explanations of the proposed amendments while advising readers on how to vote on each proposal.⁷⁰⁸

The confusion of voting on “blind amendments” was compounded with the ballot’s rather unusual instructions that directed voters to “cancel” or strike a line through, each proposition that the voter did not approve of; the voter was instructed not to “so cancel” a proposition that they did approve of. In other words, by handing in an unmarked ballot, a voter would indicate his approval of all amendments.

Making matters worse was the fact that a few of the proposed constitutional amendments appearing on the ballot were actually composites of separate and distinct proposals as originally approved by the 1873 Constitutional Commission and by the 1874 Senate. This would seem to violate the principle of voting on one separate subject matter per question. For example, the two different suffrage questions concerning extending suffrage rights to (a) black males and to (b) military personnel stationed outside the state during time of war, were presented as one question.⁷⁰⁹ A voter could not vote for one proposed amendment without voting for the other. Another example was the complex proposal which prohibited special legislation:⁷¹⁰ although each separate prohibited case of special legislation was treated as a distinct proposition by the 1873 Commission and the 1874 Senate, all proposed prohibited instances of special legislation appeared on

706. PATERSON DAILY GUARDIAN, Sept. 6, 1875.

707. See, e.g., explanations of proposed amendments written by Carter that were published in the CAMDEN DEMOCRAT, Sept. 4, 1875, and the DAILY TRUE AMERICAN (Trenton, N.J.), Sept. 7, 1875. Carter’s explanations originally appeared in the WOODBURY CONSTITUTION.

708. See, e.g., HUNTERDON REPUBLICAN (Flemington, N.J.), Sept. 2, 1875.

709. See Table 4, question #3.

710. *Id.*, question #11.

the ballot as one conjoined amendment. Thus, for example, a voter could not vote against the prohibition of special legislation concerning the impaneling of juries, without voting against all proposed prohibitions.

Moreover, six proposals merely changed the paragraph number of constitutional provisions.⁷¹¹ Thus, our analysis should dispel the myth that there were twenty-eight *amendments* to the New Jersey constitution that were approved by the people in 1875. In actuality, twenty-eight *questions* were approved, six of which made no substantive changes and others of which consisted of more than one proposed amendment.

Nor does it seem that the public was particularly interested in or informed about voting on the constitutional amendments. A few weeks before the election to be held on September 7, one newspaper commented:

It is very evident that unless some special effort is speedily made to stir up and inform the people in the way of circulars or public addresses, the vote upon the Constitutional Amendments next month will be a remarkably light one, in this section of the State at least, if not everywhere else. We have conversed within the past few days with a number of prominent gentlemen belonging to both parties from different parts of our County, and the testimony is uniform that people generally do not understand the Amendments, do not feel enough interest in the matter to take the trouble to inform themselves in regard to them, and are indisposed to vote either for or against them.⁷¹²

On the day before the election, a “roving” reporter for the *Newark Daily Advertiser* concluded:

The general result after interviewing some two dozen or more of our citizens, taken at random from all classes, was that hardly anybody had read the amendments as proposed to be made; that very few understood the nature of the election to be held tomorrow and that very few cared to understand it; that the general interest is too slight to admit of the polling of a large vote, unless there is a great awakening on the subject within twenty-four hours.⁷¹³

711. *Id.*, questions #22, #23, #25, #26, #27, and #28.

712. JERSEYMAN (Morristown, N.J.), Aug. 24, 1875.

713. NEWARK DAILY ADVERTISER, Sept. 6, 1875.

B. Two Issues that Influenced the Special Election

Although newspaper accounts of a general public disinterest in the constitutional amendments would prove to be true, a few of the proposed amendments (most notably, the one concerning uniformity in property taxation, designated “Question 12” on the ballot) caused significant controversy during the final weeks before the special election. The fate of all amendments became entangled in two, separate issues that awakened an apathetic electorate to participate in an election that many probably would otherwise have avoided. Indeed, the substance and merit of most of the proposed amendments appear to have been overshadowed by the religious and political tumult of the Catholic and Protestant controversy and the repeal of the Five County Act.

1. *The Catholic and Protestant Controversy*⁷¹⁴

One of the most remarkable aspects to the history of the 1875 constitutional amendments is that their ratification was enveloped within a religious controversy that involved the Catholic Church’s opposition to five amendments that its leaders believed were harmful to its interests.

Of twenty-eight proposed amendments, five ultimately figured in the religious-political controversy. The first amendment prohibited counties and localities from giving money or property or lending money or issuing credit to individuals, associations, or corporations. The second barred state and municipal appropriations of money and donations of land to societies, associations, or corporations. The eighth added “free” to “public schools” and mandated legislative “maintenance and support of a thorough and efficient system of free public schools”; this was seen to bar the diversion of public moneys to parochial schools, which were not free to all. The eleventh amendment prohibited the legislature from passing “private, local or special law” that dealt with a number of matters, including the “free public schools.” A twelfth amendment stipulated that “property shall be assessed for taxes under general laws, and by uniform rules, according to its true value.”⁷¹⁵

714. For an excellent scholarly account of the Catholic and Protestant controversies in New Jersey during this period, and their impact on the election on the constitutional amendments, see McSeveney, *supra* note 62.

715. *Id.* at 30.

Perhaps the most disturbing amendment for the Catholic leadership was that designated “Question 12” on the ballot, which required uniformity in property tax assessments. This provision was misinterpreted by Catholic leaders as rendering church property liable to taxation. As mentioned earlier,⁷¹⁶ although one of the *original* intentions of this amendment, as introduced and eventually passed by the Constitutional Commission, was to constitutionally rescind virtually all property tax exemptions in the state (including property owned by religious organizations), the 1874 Senate decisively amended the clause so that religious organizations would continue to be exempt from property tax. Ironically, the Catholic Church’s misguided attempt to defeat the uniform taxation amendment had the effect of mobilizing Protestants and Republicans to vote in favor of all the amendments.⁷¹⁷ In the week before the election, Archbishop Michael Corrigan of Newark, through an official circular, advised the priests of New Jersey’s Catholic churches to instruct their congregants to vote against *all* the amendments.⁷¹⁸ While his rather excessive directive to “strike out **the whole ballot**” was probably influenced more by the ballot’s indecipherability than by a political opposition to all proposed amendments, Corrigan was accused of religious interference in secular affairs. When Republican newspapers obtained a copy of Corrigan’s circular, they reproduced it alongside scathing

716. See *supra* notes 585-595 and accompanying text.

717. McSeveney, *supra* note 62 at 33.

718. Bishop Corrigan’s circular reads as follows:

Newark, N.J., Sept. 3, 1875

Rev. Dear Sir:

Having taken legal advice, I am informed that by the New Constitutional Amendments, Church property is liable to taxation. This would involve so heavy an additional burden to the Diocese, that I feel it my duty to recommend you to instruct your people to strike out the objectionable clause, or, better still, to make assurance doubly sure, let them strike out **the whole ballot**.

It is not enough to abstain from voting; let them vote, and vote against the Amendments.

Very truly yours,

M., Bp. Of Newark

P.S.—Remember that our people must cancel, by pen or pencil, the whole ballot, and then vote it, thus canceled, in order to protest against this injustice.

Remember, also, that the Special Election in regard to these Constitutional Amendments, will take place next Thursday, September 7th.

Letter from Michael Corrigan, Archbishop of Newark, to New Jersey Catholic Churches (Sept. 3, 1875) (on file with Monsignor William Noe Field Archives and the Special Collections Center, Walsh Library, Seton Hall University). (Emphasis in original).

editorials that derided the Church's opposition to such long awaited constitutional reforms as the abolition of special legislation and the provision for a reliable and adequate funding source for public schools.⁷¹⁹ The effect was to produce an outpouring of Protestant (and Republican) voters who overwhelmingly supported the amendments.⁷²⁰

In his personal journal, under the heading "Constitutional Amendments," Corrigan gave his version of events in the following penned entry:

On. Sept. 7th, there was a special election in the State to confirm certain Constitutional Amendments. These were aimed directly at Catholics, making any division of school funds illegal, and subjecting all property to taxation. The Protestant ministers incited their congregations to oppose us. The Secret Societies did the same thing. I remember reading in the streets at Trenton a proclamation from Calvin Lodge, (No. 13 or 14), urging all Protestant voters to vote *en masse* in favor of the Amendments, and to put down the *Jesuits* in New Jersey. The "Catholic Union" issued a Circular – (copy in Archives) – giving a Catholic ballot. This gave great offense, most unreasonably, and caused a tremendous excitement. I wrote a note of five or six lines, calling attention to the taxation of Church property, for which I was much censured, as desiring to interfere in politics!⁷²¹

719. JOSEPH M. FLYNN, *THE CATHOLIC CHURCH IN NEW JERSEY* 426-28 (1904); Carl Derivaux Hinrichsen, *The History of the Diocese of Newark, 1873-1901* (1963) (unpublished Ph.D. dissertation, Catholic University of America) (on file with the Catholic University of America – Washington, D.C.) at 69-78; Sackett, *supra* note 45, at 116-17; McSeveney, *supra* note 62, at 30-35.

720. *Id.* See also the following newspapers editorials, many of which are reproduced in this volume: "The Bishop of Newark Tells the Priests to 'Direct' Their People to Vote Down all the Amendments," *PATERSON DAILY PRESS*, Sept. 7, 1875; "Why do They Wish to Vote Them Down?" *PATERSON DAILY PRESS*, Sept. 6, 1875; "The Roman Catholic Church and the Free School System," *PATERSON DAILY PRESS*, Sept. 6, 1875; "The 'Catholic Union' Issues Its Ukase," *PATERSON DAILY PRESS*, Sept. 7, 1875; "The Constitutional Election – Bishop Corrigan's Circular Letter," *NEWARK DAILY ADVERTISER*, Sept. 6, 1875; "The Catholics vs. the Public Schools," *DAILY ST. GAZETTE* (Trenton, N.J.), Aug. 27, 1875; "The Democratic Catholic Alliance," *DAILY ST. GAZETTE* (Trenton, N.J.), Sept. 4, 1875; [No Title: first line reads "The Catholic Union of New Jersey"], *N.Y. TIMES*, Sept. 7, 1875; "The Constitutional Election – Decisive Triumph of the Protestant Ticket! – The Papists Nowhere!" *DAILY ST. GAZETTE* (Trenton, N.J.), Sept. 8, 1875; "The Amendments in Danger: The Catholics in Open Hostility," *JERSEYMAN* (Morristown, N.J.), Sept. 7, 1875.

721. JOSEPH F. MAHONEY AND PETER J. WOSH (EDITORS), *THE DIOCESAN JOURNAL OF MICHAEL AUGUSTINE CORRIGAN, BISHOP OF NEWARK, 1872-1880*, (1987) at 77-78.

2. The Repeal of the Five County Act

The state's Catholics were not the only opponents to the proposed amendment designated "Question 12" on the ballot. The same question was also opposed, for entirely different reasons, by residents of those counties that had benefited from the Five County Act of 1869.⁷²² As mentioned earlier, the Five County Act allowed mortgagees of property situated in Hudson, Essex, Union, Middlesex and Passaic counties to be exempt from property tax on the mortgaged portion of a property's assessed value. One of the main controversies surrounding "Question 12" was whether or not its approval would effectively repeal the Five County Act. The repeal of the Five County Act became intricately enmeshed in the political debate on the approval or rejection of the proposed constitutional amendments in the weeks before the 1875 special election. Newspapers from those counties that would suffer from the law's repeal by the adoption of "Question 12" were strongly opposed to its passage. For example, a Paterson newspaper provided the following account of a rally held in Jersey City to drum up opposition to the proposed "Question 12":

...Leon Abbett said that if any one were to read the section bearing on the Five County Act he would see that although it seems fair and proper on the face of it, yet there are so many interests at stake – farmers, laborers, manufacturers, – that it really is not. That which is proper for farmers is different for manufacturers. Most of the Jersey City lots have been built on by poor men who were obliged to borrow to build with. The poor man couldn't build these houses and couldn't live if they had not been able to build, as we know it is better and cheaper for a poor man to build a home. A mortgage will run as long as the interest is paid, but if you tax the mortgages you cannot keep the \$5,000,000 now out on the mortgage, in the county it will go where it is not taxed. It means that 2,000 people will have to raise the money and pay off their mortgages; it means ruin to nine-tenths of those who have mortgages. The country districts, of course, want this passed, as they are jealous of the money that is coming into the town, but we must as a body, without reference to the party, go to the polls and vote boldly against this amendment; and it is the duty of each citizen of Hudson County to have their ballots printed with this amendment scratched through to remind them

722. See *supra* note 589 and accompanying text.

of the obnoxious section, for it affects the laboring interest more than any other.⁷²³

Newspaper editorials published in the “Five Counties” often gave dire predictions of the financial burdens that would befall residents if “Question 12” were adopted.⁷²⁴

Expectedly, those newspapers from counties which were excluded from the law’s benefits urged the passage of the amendment. Thus, the following editorial appeared in the Morris County-based *Jerseyman*:

...the “Five County Act,” in so far as it gave special privileges to the Counties interested and proved a benefit to them, was and is a detriment and an injustice to the other Counties of the State. And if it is the fact that these special privileges will be destroyed by this amendment, and the voters of those Counties unanimously oppose it, as suggested, for that reason, then it is certainly the interest of the people in all other Counties to support it unanimously, and thus secure its adoption as part of the Constitution.⁷²⁵

Interestingly, the repeal of the Five County Act eclipsed the importance of most other questions on the ballot, and the lack of consensus on the legal implications of the passage of “Question 12” further piqued the voters’ interest. There were clearly divergent opinions as to whether the approval of “Question 12” would nullify the Five County Act and various newspapers informed their readers with selective answers. For example, in August 1875, the editor of the *Daily State Gazette* wrote a letter to former Constitutional Commission President Ten Eyck, requesting his opinion on the matter. Ten Eyck argued, although waveringly, that the amendment would indeed nullify the Five County Act. Accordingly, his response was reprinted in the *Gazette*

723. “The Five County Act,” *PATERSON DAILY PRESS*, September 2, 1875.

724. See, e.g., “The ‘Five County Act,’” *PATERSON DAILY PRESS*, August 20, 1875; “The Constitutional Amendments – The Five County Act,” *NEWARK DAILY ADVERTISER*, August 31, 1875; “The Five County Act,” *PATERSON DAILY PRESS*, September 2, 1875; “The ‘Five County Act,’” *NEW BRUNSWICK TIMES*, September 4, 1875; “Vote Against Paragraph 12, Section 7, Article 4, of the Proposed Amendment to the Constitution,” *NEW BRUNSWICK TIMES*, September 6, 1875.

725. *JERSEYMAN* (Morristown, N.J.), August 10, 1875.

and several other newspapers from areas outside the Five Counties.⁷²⁶ Conversely, the *Newark Daily Advertiser* interviewed former Commission member Gilchrist with the same question. Gilchrist argued that the amendment would not negate the Five County Act and urged residents to “ignore the validity of the amendment, as to its alleged effect in the taxation of mortgages” and boldly advised affected mortgagees to “deny that his mortgage is taxable.”⁷²⁷ The issue continued to cause disagreement and outright confusion even after the approval of all constitutional amendments. In February 1876, the General Assembly passed a resolution⁷²⁸ requesting the state Attorney General to issue a formal legal opinion on the subject. In his opinion, addressed to Assembly Speaker John D. Carscallen, Attorney General Jacob Vanatta opined that the Constitution’s recently approved taxation clause would *not* repeal the Five County Act or any other past Act, but that its purpose and effect was “to restrain and regulate the *future* action of the Legislature.”⁷²⁹

C. Election Results

Although newspapers generally reported the approval of all proposed amendments as early as the day after the September 7, 1875 election, the official count of votes for and against each question was not certified until three weeks later. On September 28, the State Board of Canvassers met in the Senate Chamber at 2:00 p.m. – the same room where the Constitutional

726. “The Five County Act,” *DAILY ST. GAZETTE* (Trenton, N.J.), August 12, 1875. Ten Eyck’s response was as follows:

Mt. Holly, Aug. 10, 1875.

Wm. Cloke, Esq.: *Dear Sir:* I can only answer your questions by saying that my understanding of the scope of the article to which you refer, is to make the assessment of taxes uniform throughout the State, and to prevent the passage of special acts on the subject of taxation. The adoption of the proposed Article would, in my opinion, affect the act to which you refer. But you are a lawyer, and you know the whole thing will be open to construction in the Courts, so to this complexion it may come at last.

Yours, very truly,
JOHN. C. TEN EYCK

727. “The Amendments,” *NEWARK DAILY ADVERTISER*, September 10, 1875.

728. *N.J. ASSEM. MINUTES* 1876, at 262.

729. Opinion of the Attorney-General as to Repeal of the “Five County Act,” by Amendments to the Constitution, Document No. 36 in *DOCUMENTS OF THE 100TH LEGISLATURE OF THE STATE OF NEW JERSEY*, (Jersey City: Pangborn, Dunning & Dear, 1876).

Commission performed its labors two years before.⁷³⁰ Assembled as the Board of Canvassers were Governor Joseph D. Bedle, Chairman of the Board, and five state senators: Senator Leon Abbett (Democrat, Hudson County), Senator John Hopper (Democrat, Passaic County), Senator J. Henry Stone (Republican, Union County), Senator William Sewell (Republican, Camden County), and Senator Hosea F. Madden (Democrat, Atlantic County). In the absence of Secretary of State Henry C. Kelsey, Assistant Secretary of State Joseph D. Hall served as Clerk to the Board. After taking an oath, the seven men proceeded to the arduous task of counting and tabulating the popular vote for the constitutional amendments. Prior to the election, pre-printed returns, with blanks after the words “For” and “Against” for each of the twenty-eight questions as they appeared on the ballot, were provided to every municipal clerk in the state.⁷³¹ After counting the votes cast at the municipality (or ward), the municipal clerk entered the number of votes for and against each question, as well as tallied the number of rejected ballots. Each completed municipal return was signed by the Clerk and three Judges of Election at the local level and delivered to the Secretary of State. It was these returns that the Board of Canvassers used to tabulate the vote for and against each question, by municipality and by county. The official, complete tabulation, which must have taken several hours of careful and meticulous labor, exists in the form of an oversized document currently located in the New Jersey State Archives.⁷³²

According to the official determination of the election results by the Board of State Canvassers, the total number of ballots cast in the statewide special election was 96,715. Using McCormick’s analysis of New Jersey

730. For the account of the actions of the State Board of Canvassers on September 28, 1875, see New Jersey Board of State Canvassers, Minutes 1832-1910, Volume I, located in the New Jersey State Archives, Department of State, Trenton. See also, DAILY ST. GAZETTE (Trenton, N.J.), September 29, 1875.

731. For examples of municipal returns of the November 7, 1875 election, see Burlington County, Clerk’s Office, Election Records, 1840-1914 located in the New Jersey State Archives, Department of State, Trenton.

732. *A Statement of the Determination of the Board of State Canvassers Relative to an Election Held in the State of New Jersey on the Seventh Day of September, in the Year of Our Lord One Thousand Eight Hundred and Seventy-Five, For Proposed Amendments to the Constitution of This State*, located in the New Jersey State Archives, Department of State, Trenton. An abridged version of this imposing document, including the county (but not the municipal) tabulations of votes on the amendments, has been reproduced in Part V of this volume.

voting statistics,⁷³³ which estimated the total number of eligible voters at general elections held 1840-1876, the 1875 special election on the constitutional amendments had a voter turnout of 38% (96,715 ballots cast compared with an estimate of 255,000 eligible voters).⁷³⁴ This voter turnout represented roughly half the voter turnout of statewide general elections held in the years immediately before and after 1875.⁷³⁵ Interestingly, the rather low voter turnout for the 1875 constitutional amendments was much higher than that of the popular election that approved the 1844 New Jersey Constitution – in which only 25% of eligible voters cast ballots (23,871 ballots cast compared with an estimate of 94,990 eligible voters).⁷³⁶

The low voter turnout at the 1875 special election seems to confirm newspaper accounts that the public at large was not particularly interested in, or informed about, the special election. One could only wonder what the turnout would have been if the Catholic and Protestant controversy was not a factor. By analyzing the votes by county and municipality, there is indisputable evidence that localities having high concentrations of Catholic and Democratic voters accounted for a predominance of “no” votes for several amendments.⁷³⁷

733. MCCORMICK, *supra* note 60, at 157. It should be noted that McCormick does not give statistics for 1875. Figures for that year are based on McCormick’s methodology. In particular, McCormick notes:

Explanation: In 1850 adult white males constituted 23% of the total population. The proportion in 1860 was 24%. In 1870, adult males, white and colored, made up 25% of the total population. For the years 1840-1853, I have roughly calculated the adult white males at 23% of the total population. For the years 1856-1865, I have applied the factor 24%, and for the period 1868-1876 I have used 25%. Population figures in the intervals between census years have been estimated by interpolation. The estimate of males over 21 is not, of course, to be taken as being identical with the potential electorate, for deductions would have to be made for aliens and other ineligible.

Id. at 157.

The population of New Jersey in 1875 was taken from the official state census: ABSTRACT OF THE CENSUS OF THE STATE OF NEW JERSEY FOR THE YEAR 1875 (1876), *reprinted in* LAWS OF NEW JERSEY 582 (1876) (having been printed originally by order of the Legislature).

734. MCCORMICK, *supra* note 60, at 157.

735. *Id.* McCormick gives the following estimated voter turnouts for this period in New Jersey’s history of elections: in 1871, 68%; in 1872, 70%; in 1874, 73%; in 1876, 84%.

736. See Bebout, *supra* note 29, at 636. According to Bebout, the total number of votes cast for the 1844 Constitution was 23,871. Based on McCormick’s estimate of the total number of white males over 21 years of age in 1844 (94,990), this represents a voter turnout of 25.1%.

737. See *supra* note 732.

Except for one, all proposed amendments received more than 70% voter approval.⁷³⁸ The exception, “Question 12” on the ballot, concerning the uniform taxation of property, was the proposal that both the Catholic Church and proponents of the Five County Act most vehemently opposed. It passed with only 53.53% of the vote.⁷³⁹ Hudson County, one of the designated “Five Counties,” which also had a high concentration of Irish Catholic immigrants and Democratic voters, accounted for a significant part of the negative vote for that question, providing only 941 votes for and 13,208 against “Question 12.”⁷⁴⁰ An analysis of the final vote tally reveals that question twelve was the only proposed amendment on the ballot to have lost in any county. This was true in four of the “Five Counties”: Hudson, Essex, Passaic and Union.⁷⁴¹ Hudson County was the only county to vote against all amendments.⁷⁴²

On September 29, 1875, Governor Bedle formally announced the approval of each of the proposed constitutional amendments in an official proclamation,⁷⁴³ thus completing a most fascinating chapter in the history of the New Jersey Constitution.

D. An Error is Brought to Light

Interestingly, the 1874 and 1875 Legislatures did not detect an obvious error that resulted from the adoption of one of the Commission’s proposed amendments. The 19th ballot question that gave the Governor the power to appoint judges of the Court of Common Pleas, with the advice and consent of the state Senate, was not accompanied with another question that removed the constitutional provision in effect since 1844 that gave that appointment power to the Joint Meeting of the Legislature. The proposed amendment to Art. VII, § II, ¶ 1, without the intended removal of ¶ 2, therefore allowed for both gubernatorial and legislative appointment of Judges to the Inferior Courts of Common Pleas. Thus, the popular approval of the amendment

738. See *id.* and Table 4.

739. See *supra* note 732.

740. *Id.*

741. *Id.*

742. *Id.*

743. The official, manuscript version of the proclamation of Governor Bedle, declaring that the amendments to the Constitution have been approved and ratified by the people of New Jersey, is located in the New Jersey State Archives, Department of State, Trenton. The proclamation was printed in several newspapers (see, for example, the DAILY ST. GAZETTE (Trenton, N.J.), September 29, 1875) and in LAWS OF NEW JERSEY 1876 at 433-439. It is reproduced in Part V of this volume.

resulted in “the impossible situation of providing for the appointment of Common Pleas Judges by both the Governor and the legislature in joint session.”⁷⁴⁴ This clerical error was noticed by the press as early as July 31, 1874⁷⁴⁵ but was evidently ignored. Over a year later, in August 1875,⁷⁴⁶ the error was again brought to light by the press, but it was too late to correct before the September 7 election. The constitutional error caused some confusion during the 1876 Legislature when several judicial appointments were to be made.⁷⁴⁷ Evidently, the Governor and Legislature agreed that the Constitutional Commission and two successive legislatures intended that the Governor would appoint Judges of the Courts of Common Pleas with the advice and consent of the Senate: all judicial appointments during the 1876 legislative session were routinely made by gubernatorial nomination and senatorial consent.⁷⁴⁸ When the issue was finally addressed by the New Jersey Supreme Court in 1895, the presumption was made that the errant ¶ 2 should be disregarded:

One of the amendments to the constitution adopted in 1875 provided for the insertion in paragraph 1 of the last-named section [i.e. art. VII, § II, ¶ 2] (which paragraph required nomination and appointment by the governor, with the advice and consent of the senate) of the words “and judges of the inferior court of common pleas.” But, by a singular inadvertence, paragraph 2, which provided for the appointment of such judges by the joint meeting of

744. ERDMAN, *supra* note 27, at 19.

745. See “A Very Important Question,” DAILY ST. GAZETTE (Trenton, N.J.), July 31, 1874 which refers to “a rather remarkable oversight on the part of the Legislature, or perhaps a clerical error, it is difficult to tell which.” The full text of the article is reproduced in Part VIII of this volume.

746. See, e.g., DAILY ST. GAZETTE (Trenton, N.J.), Aug. 20, 1875: “It will be observed that the amendment to paragraph 1, section 2, Article VII, provides for a change in the mode of appointing judges of the court of common pleas, and that the provision is in conflict with paragraph 2 of the same section. It is obvious however, that the legislature meant to strike out paragraph 2, and the failure to do so must have been through an oversight. The intention is evident from the fact that they provided for changing the number of the subsequent paragraphs. What the effect of this error will be can, of course, only be determined by the courts.” See also, JERSEYMAN (Morristown, N.J.), Aug. 31, 1875 which erroneously concludes: “If adopted, the Judges would have to receive a double appointment – one by the Governor and another by the Joint Meeting.”

747. “New Jersey Legislature – The State Constitution in Conflict with Itself...,” N.Y. TIMES, January 31, 1876.

748. The first appointments of Judges of the Courts of Common Pleas by gubernatorial nomination and senatorial consent were approved by the Senate on March 28, 1876 in Executive Session. See SENATE JOURNAL 1876, at 780-81.

both houses of the legislature, was not stricken out of the constitution. An ineffectual attempt to strike it out was made in 1890, and the two clauses now stand in our constitution. But as the amendment of 1875 clearly expressed the people's intent that such judges should be nominated and appointed by the governor with the advice and consent of the senate, which appointment was incompatible with the mode provided by paragraph 2, subsequently governors and senators have properly treated the latter paragraph as repealed by implication.⁷⁴⁹

Amazingly, this error in the state's constitution survived seventy-two years before finally being corrected by the 1947 Constitutional Convention. Efforts to fix the error were defeated in special elections held in 1890 and 1927, presumably because the public's sentiment was to vote down other proposed amendments appearing on the ballot.⁷⁵⁰

TABLE 4: THE PROPOSED AMENDMENTS APPEARING ON
THE SEPTEMBER 7, 1875 BALLOT

Ballot Question No.	Synopsis	Commission's Proposed Amendment No.	Commission's Proposal Amended by 1874 Senate?	Voter Approval %
1	Counties or municipalities prohibited from giving or loaning money to any individual, association or corporation	19	No	72.94
2	Prohibits the donation of land or money to any society, association or corporation whatever	28	No	72.89
3	Strike out "white" from suffrage Article and extend voting rights to military servicemen outside the state during time of war	1, 10	No	71.10
4	Deprive suffrage right from anyone convicted of bribery	3	Yes	72.34

749. State ex rel. Schalk v. Wrightson, 58 NJL 50 at 92 (1895). See also, State ex rel. Kenny v. Hudspeth, 59 NJL 504 (1896).

750. ERDMAN, *supra* note 27, at 21.

INTRODUCTION

Ballot Question No.	Synopsis	Commission's Proposed Amendment No.	Commission's Proposal Amended by 1874 Senate?	Voter Approval %
5	Change date of legislative elections	38	Yes	73.19
6	Legislative compensation	39	Yes	71.54
7	Legislative procedures	36	Yes	72.85
8	Thorough and efficient system of free public schools	84	Yes	72.14
9	Delete Article IV, Section VII, Paragraph 8 concerning special legislation for banks	92	No	72.52
10	Requires sufficient public notice for private, special or local bills	24	Yes	73.09
11	Legislature shall not pass private, local or special laws in enumerated cases	35.1 to 35.12	Yes	71.84
12	Property shall be assessed for taxes under general laws and by uniform rules	78	Yes	53.53
13	Legislative Oath	5	Yes	73.05
14	Governor shall have power to convene the Senate alone	65	No	72.55
15	Governor's Line Item Veto	7	Yes	73.46
16	Governor prohibited from election to other state or federal offices	8	No	72.96
17	Adjutant General and Quartermaster General shall not be appointed by Joint Meeting of the Legislature	9	No	72.51
18	Governor shall appoint Adjutant General and Quartermaster General with advice and consent of the Senate	9	No	72.47

Ballot Question No.	Synopsis	Commission's Proposed Amendment No.	Commission's Proposal Amended by 1874 Senate?	Voter Approval %
19	Judges of Court of Common Pleas shall be appointed by Governor with advice and consent of Senate	76	No	71.14
20	Appointment of Comptroller by Joint Meeting of the Legislature; Appointment of the Keeper of the State Prison shall not be by Joint Meeting of the Legislature	13	Yes	71.50
21	Appointment of the Keeper of the State Prison by Governor with advice and consent of the Senate	14	No	71.00
22	Change Section Numbers	--	--	71.70
23	Change Section Numbers	--	--	71.91
24	Appointment and terms of Coroners and Sheriffs; Sheriffs required to annually renew their bonds	17	No	71.34
25	Change Section Numbers	--	--	71.65
26	Change Section Numbers	--	--	71.92
27	Change Section Numbers	--	--	71.96
28	Change Section Numbers	--	--	72.07

IX. CONCLUSION: STATE CONSTITUTIONAL DISCOURSE

The years 1873 to 1875 saw a process leading to major revisions in the New Jersey Constitution. All twenty-eight questions submitted by the legislature were approved by the voters in a special election in 1875. During 1873 and 1874 matters relating to the whole range of state constitutional concerns, although with a special focus on the legislative branch, were fully

debated in both the Constitutional Commission and the Legislature. A review of the 1873-75 events also indicates how debates over state constitutional change reflect state political issues of the day, and how the resulting state constitutional changes can affect the future of the state.

A careful review of the activities of the Constitutional Commission and Legislature, as well as the political and historical context of these activities and the public reaction to them provides a window on the governmental concerns of that period and the nature of professional and media discourse about both the process of state constitution-making and the topics that should be included within state constitutions. Not surprisingly, party politics played a central role in this discourse.⁷⁵¹ Further, this study reflects the important role of newspapers in late-nineteenth-century state constitutional revision.

The New Jersey experiences reflected in this study demonstrate the new importance of constitutional commissions in the process of state constitution-making. This role became increasingly important, albeit in other states. There has not been another successful constitutional commission in New Jersey since the 1873 Commission.

Although it was initially employed as a delaying device as an alternative to a constitutional convention, and despite criticism of its legitimacy based on its unrepresentative character, the Commission emerged as highly successful. Despite the early doubts about it, the Commission produced influential proposals in large part because of the strong leadership of its President, John C. Ten Eyck. Strong and skillful leadership has been recognized as a fundamental ingredient of successful state constitutional conventions and commissions.⁷⁵² The importance of compromise should also not be overlooked.

Often political change, and specifically state constitutional change, comes in the wake of scandal or crisis. This was true of the 1873-1875 period in New Jersey, when a wide variety of legislative abuses paved the way for proposed changes in the state constitution that would restrict the Legislature's authority. These changes were, under the pressure of the Commission's recommendations, proposed by the Legislature itself! Still,

751. G. ALAN TARR, *UNDERSTANDING STATE CONSTITUTIONS* 133 (1998).

752. See ELMER E. CORNWELL, JR., JAY S. GOODMAN & WAYNE SWANSON, *STATE CONSTITUTIONAL CONVENTIONS: THE POLITICS OF THE REVISION PROCESS IN SEVEN STATES* 199 (1975): "The key roles played by the presidents of the various conventions emerged unmistakably. All that we know descriptively about convention behavior underscores the vital importance of the role of the presiding officer."

however, the Commission and the Legislature resisted the impulse to put too much in the way of policy matters in the constitution.⁷⁵³

Once in a while the time is simply right for state constitutional change. This seems to have been true in the 1873-1875 period in New Jersey, as well as in a number of other states during that period. The same thing seems to have been true in New Jersey in 1947.⁷⁵⁴

Finally, the authors believe that this study clearly illustrates the fact that in many states there remains a wealth of untapped material that can be assembled to fill in gaps in our understanding of each state's constitutional history, as well as state constitutional development in regions and in the nation as a whole. Hopefully this study will build on earlier compilations of newspaper and other documentary materials,⁷⁵⁵ and serve as a model for future studies like it in other states.

753. TARR, *supra* note 751, at 132-33.

754. See CONNORS, *supra* note 25, at 119-126.

755. See *supra* notes 71-76 and accompanying text.

PART II: PRELIMINARIES

Part II includes the preliminary, official documents concerning the recommendation for, creation of, and appointments to, the 1873 Constitutional Commission. These materials reflect the political and legal basis for the Commission and its members to perform their mandated functions.

The segment of Governor Joel Parker's 1873 Annual Message to the Legislature that concerned constitutional amendments served as a basis for the Legislature's concurrent resolution to form a constitutional commission as well as a starting point for the Commission's work. Governor Parker's Proclamation of April 16, 1873 called a special session of the State Senate to consent to his fourteen nominations to the Commission. Relevant excerpts from the official proceedings of the special Senate session held on April 24, 1873, during which the Governor's nominees were confirmed, follows. Finally, a second Proclamation, dated April 29, 1873, that authorized the convening of the Commission, concludes this Part.

ANNUAL MESSAGE

OF HIS EXCELLENCY

JOEL PARKER,*Governor of New Jersey,*

TO THE LEGISLATURE-SESSION OF 1873.

* * *

CONSTITUTIONAL AMENDMENTS.

The present constitution of the State of New Jersey was adopted nearly thirty years ago. The convention by which it was framed was composed of able men, among whom were many distinguished jurists, and the work which came from their hands was thought to be as good as human wisdom could devise; but experience proves that with increasing population, wealth and enterprise, and with new subjects of legislation constantly arising, some amendments to our organic law are needed.

It will be admitted by all reflecting persons that there should be such radical reform in our system of legislation as cannot be secured under the present constitution. The necessity of providing every possible safeguard to secure the Legislature against imposition is obvious, if we consider that when an act has been certified as passed, by the signature of the presiding officers of each House, approved by the Governor and filed in the office of the Secretary of State, it becomes law, the exemplification of which under the Great Seal of the State is conclusive evidence as to its existence and contents, and that no evidence to prove that the act signed varies from the act voted upon is admissible in a court of law. So important are the interests affected by legislation, that in view of the decision of our Supreme Court on the subject we owe it to the public and to the fair fame of the State that such constitutional checks should be provided as will prevent the possibility of fraud or interpolation.

Haste in legislation is a great evil which requires correction. The brief session to which the Legislature is now virtually limited by the constitution, does not give opportunity for the proper consideration of the business which

under the present system is brought before it. If all bills were presented on the first day of the session the time would scarcely suffice, but a large majority are introduced at so late a period that it is impossible even to read them with the deliberation necessary to a full knowledge of their contents, much less to discuss their provisions. That part of our constitution which limits the pay of members of the Legislature to a mere pittance after the period of forty days is unwise as well as a standing imputation upon the honor of the representatives of the people in every Legislature that assembles under it. It should be stricken out, and a reasonable annual salary paid, without limit as to the duration of the session. If legislation be necessary, sufficient time to deliberate and act understandingly should be given. Either the session should be longer or the business less.

But this is not the only or the most important change required to prevent hasty legislation. Other amendments to the constitution may be made that will enable the Legislature thoroughly to examine and discuss every measure brought before it, without extending the session beyond the period heretofore usual in this State. The constitution should require general laws, and forbid the enactment of all special or private laws embracing subjects where general laws can be made applicable. This would dispense with at least nine-tenths of the business brought before the Legislature under the present system. The general public laws passed at the last session are contained in about one hundred pages of the printed volume, while the special and private laws occupy over twelve hundred and fifty pages of the same book. If made comprehensive and liberal, why should not cities, towns, corporations of all kinds, and associations of individuals organize and act under general laws? Those heretofore passed in this State have not answered the desired object because the constitution permits special legislation on the same subjects, and so long as this is permitted there will be those who will seek such legislation.

Should it be deemed advisable not to provide for general laws, haste in legislation could be prevented by a constitutional amendment requiring the preamble of every private or special bill containing the substance of its important provisions to be published, and the bill itself filed in the office of the Secretary of State, for public information on or before the first day of the session; and providing further that if a bill pass without these requirements having been observed, it shall be held void, and of no effect by any court of competent jurisdiction before which its validity shall be questioned, upon certificate of the Secretary of State that the same was not filed as above stated in his office. This would give employment to the Legislature at the commencement of the session, enable each member to inform himself of the

contents and ascertain the merits of each bill before being called upon to vote upon it, and prevent the sudden introduction of important and exciting measures near the close of the session when pressure of business necessarily prevents due consideration. All efforts to confine the introduction of bills to the early part of the session by means of statutes or rules of the Houses, which can be repealed or suspended, are fruitless. A constitutional amendment such as I suggest would prove effectual. It would be attended with incalculable good, and little or no evil could result, for it is not probable that occasion would arise after the Legislature convened for the passage or amendment of a private or special law, the necessity for which would not previously be known, and which could not without prejudice be postponed for a year.

There are other evils besides that of hasty legislation that might be cured by an amended constitution. The power of cities and other municipalities to contract debts should be limited. A court having special and exclusive jurisdiction over all cases of condemnation of lands and assessments for improvements should be provided for. In acts to amend existing laws, the section or sections to be amended should be required to be inserted. No law should be permitted to take effect until the expiration of a reasonable fixed time after the close of the session in which it is passed, unless in case of emergency, which emergency should be expressed in the bill, and determined to exist by the recorded votes of at least two-thirds of the members of each House.

It would also be well to provide for the system of minority representation in the General Assembly.

If general laws be not required, and special laws be allowed, the constitution should be so amended as to prohibit and declare void all acts that shall pass which are included in the following classes of legislation, viz.:

Acts which purport to make irrevocable grants of special privileges or immunities to individuals or corporations.

Acts that violate the principle of equal and uniform taxation, by exempting property of individuals or corporations (except that always exempted by the general tax law) from State or local taxes of any description which the people at large are required to pay; or by prescribing a rule of assessment different from the general rule, and making discriminations as to the subjects of taxation.

Acts chartering railroad, turnpike or transportation companies, that do not require the rates of travel or transportation to be uniform, and which allow differential rates that tend to build up one city or section of the State to the injury of another.

Acts authorizing a municipality to tax the people for subscriptions to the capital stock of railroad or turnpike corporations, or for donations or loans of its credit thereto.

Acts which appoint and authorize persons named therein, and not chosen by the people, to project and construct public improvements, or exercise governmental power in a city or other municipality.

Should you concur in the views herein expressed, and desire to incorporate any of them, or any others that may suggest themselves, in the organic law of the State, two modes of effecting the object exist. An act may be passed providing for the election of delegates to a convention to prepare a constitution for the government of the State, and for submitting the same to the people for ratification or rejection; or specific amendments may be proposed and referred to the next Legislature, to be submitted to the people in accordance with Article IX of the present constitution. An objection to the latter mode is that in the haste attending a short session, with the minds of the members engrossed by other business, some needed changes may not be provided for, and the amendments proposed may not be maturely considered and digested. To obviate this objection, a bill could be passed during your session authorizing the appointment from each Congressional District of two persons, who shall be members of different political parties, to meet soon after your adjournment, and in open session consider, prepare, and put in proper form such amendments to the constitution as they may deem necessary, and report them to the next Legislature. The press would doubtless print their proceedings, opportunity would be given to the people to discuss the various changes proposed, and when the Legislature convened the members would be prepared to act with due deliberation and in accordance with the views of their constituents.

The time is favorable for a calm consideration of this important subject. If action be now taken, no exciting political canvass to inflame or prejudice the public mind will intervene before the completion of the work.

* * *

JOEL PARKER.

EXECUTIVE CHAMBER,
TRENTON, N. J., Jan. 14, 1873.

Sources:

NEW JERSEY LEGISLATIVE DOCUMENTS, 1873, [Document No. 1], p. 30-33.
SENATE JOURNAL, 1873, p. 48-51.

CONCURRENT RESOLUTION

* * *

Mr. Sewell offered the following resolution:

Resolved, (House of Assembly concurring) That the Governor be and he is hereby requested and empowered to appoint by and with the consent of the Senate, a commission, to consist of two persons from each congressional district, to suggest and prepare amendments to the State Constitution for submission to and consideration by the next Legislature; which commission shall meet at such time and place as the Governor by proclamation shall designate,

Which was read and agreed to.

* * *

Sources:

SENATE JOURNAL (APRIL 4), 1873, p. 1068.

ASSEMBLY MINUTES (APRIL 4), 1873, p. 1426.

* * *

The concurrent resolution of the Senate relative to a Commission to revise the Constitution was taken up and concurred in.

* * *

Source: ASSEMBLY MINUTES (APRIL 4), 1873, p. 1431.

PROCLAMATION BY THE GOVERNOR.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
TRENTON, APRIL 16, 1873.

WHEREAS, on the fourth day of April instant, the legislature of the state of New Jersey passed a resolution requesting and empowering the Governor to appoint, by and with the advice and consent of the senate, two persons from each congressional district within this state to suggest and prepare amendments to the state constitution, for submission to and consideration by the next legislature;

AND WHEREAS, the legislature adjourned sine die on the day said resolution was passed, and before official information of its passage came to me;

AND WHEREAS, it is important that amendments to the constitution should be prepared and ready to be submitted for consideration at the opening of the next session of the legislature;

Therefore, I, Joel Parker, governor of the state of New Jersey, by virtue of the power in me vested, do convene the senate of the state of New Jersey, hereby requiring the senators to assemble in the senate chamber, at the state house, in the city of Trenton, on Thursday, the twenty-fourth day of April, A. D. 1873, at the hour of twelve o'clock, noon, for the purpose of considering nominations then and there to be made by me (in compliance with the request, and under the authority of said resolution,) of two persons from each of the congressional districts of this state, to suggest and prepare amendments to the constitution of New Jersey for submission to and consideration by the next legislature.

Given under my hand and the great seal of the state of New Jersey, at Trenton, this sixteenth day of April, A.D. eighteen hundred and seventy-three, and of the independence of the United States the ninety-seventh.

[L.S.]

JOEL PARKER.

By the Governor.

HENRY C. KELSEY, *Secretary of State*.

Sources:

LAWS OF 1873, p. 843-844.

SENATE JOURNAL, 1873, p. 1149-1150.

JOURNAL
OF THE
SPECIAL SESSION OF THE TWENTY-NINTH SENATE.

TRENTON, April 24, 1873.

In accordance with the proclamation of the Governor, the Senate of New Jersey convened in extra session at 12 o'clock, noon.

Under the direction of the President, the Secretary called the Senate, when the following Senators appeared and answered the call:
Messrs. Banghart, Beesley, Cornish, Cutler, Edsall, Havens, Hendrickson, Hewitt, Hopkins, Irick, Jarrard, Lydecker, Newkirk, Sewell, Sheppard, Stone, Taylor (President), Williams, Wood—19.
Absent—Messrs. MacPherson and Moore.

The President laid before the Senate the following Proclamation [of] the Governor, which was read by the Secretary: [See previous page for text.]

Mr. Irick moved that a committee be appointed by the President, to wait upon the Governor and inform him that the Senate was in session, and ready to receive any communication he might be pleased to make.

Which motion was agreed to and the President appointed Messrs. Irick, Stone and Williams as said committee.

The Committee retired, and shortly after returned, and reported that they had waited upon the Governor, and that the Governor would communicate with the Senate by message.

The report was received and the committee discharged.

A message was received from the Governor by the hands of his Private Secretary, endorsed "Nominations."

On motion of Mr. Williams, the Senate then went into Executive Session.

EXECUTIVE SESSION.

The Senate having convened in Executive Session, under the direction of the President, the Secretary called the roll, when the following Senators appeared and answered to the call:

Messrs. Banghart, Beesley, Cornish, Cutler, Edsall, Havens, Hendrickson, Hewitt, Hopkins, Irick, Jarrard, Lydecker, Newkirk, Sewell, Sheppard, Stone, Taylor (President), Williams, Wood—19.

The President laid before the Senate a sealed communication from the Governor, endorsed "Nominations."

Mr. Hopkins moved that the President break the seal of said communication, and that it be read by the Secretary,

Which motion was agreed to.

And the Secretary then read as follows:

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
TRENTON, APRIL 24, 1873.

MR. PRESIDENT:

I hereby nominate for appointment, by and with the advice and consent of the Senate,

For Commissioners to suggest and prepare amendments to the Constitution of this State for submission to and consideration by the next Legislature:

First Congressional District—Benjamin F. Carter, Samuel H. Grey.

Second Congressional District—Mercer Be[a]sley, John C. Ten Eyck.

Third Congressional District—Robert S. Green, John F. Babcock.

Fourth Congressional District—Martin Ryerson, Jacob L. Swayze.

Fifth Congressional District—Augustus W. Cutler, Benjamin Buckley.

Sixth Congressional District—Theodore Runyon, John W. Taylor.

Seventh Congressional District—Abraham O. Zabriskie, Robert Gilchrist.

[L. S.]

JOEL PARKER.

Attest:

JOHN A. HALL,

Private Secretary.

Mr. Williams moved that the Senate do advise and consent to the nominations of John W. Taylor, Augustus W. Cutler and John F. Babcock, without the usual reference to a Committee.

Which motion was agreed to, the yeas and nays being taken, by the following vote:

In the affirmative, were

Messrs. Banghart, Beesley, Cornish, Edsall, Havens, Hendrickson, Hewitt,

Hopkins, Irick, Jarrard, Lydecker, Newkirk, Sewell, Sheppard, Stone, Williams, Wood—17.

In the negative—none.

Mr. Sewell moved that the remainder of the nominations be referred to the Judiciary Committee, with instructions to report upon the same at the afternoon session.

Which motion was agreed to.

Mr. Stone moved that the Executive Session do now rise.

Which motion was agreed to, and the Executive Session arose.

* * *

[AFTERNOON.]

EXECUTIVE SESSION.

The Senate having convened in Executive Session, under the direction of the President, the Secretary called the roll, when the following Senators appeared and answered to the call:

Messrs. Banghart, Beesley, Cornish, Cutler, Edsall, Havens, Hendrickson, Hopkins, Irick, Jarrard, Lydecker, Newkirk, Sewell, Sheppard, Stone, Taylor (President), Williams, Wood—18.

Mr. Williams, Chairman of the Judiciary Committee, reported favorably upon the following nominations of the Governor for Commissioners to suggest and prepare amendments to the Constitution of this State for submission to and consideration by the next Legislature:

First Congressional District—Benjamin F. Carter, Samuel H. Grey.

Second Congressional District—Mercer Be[a]sley, John C. Ten Eyck.

Third Congressional District—Robert S. Green.

Fourth Congressional District—Martin Ryerson, Jacob L. Swayze.

Fifth Congressional District—Benjamin Buckley.

Sixth Congressional District—Theodore Runyon.

Seventh Congressional District—Abraham O. Zabriskie, Robert Gilchrist.

And recommend that said nominations be confirmed by the Senate.

Which report was accepted.

Upon the question, will the Senate advise and consent to the foregoing nominations? the yeas and nays were ordered taken, and resulted as follows:

In the affirmative, were
Messrs. Banghart, Beesley, Cornish, Cutler, Edsall, Hendrickson, Hopkins, Irick,
Jarrard, Lydecker, Newkirk, Sewell, Sheppard, Stone, Taylor
(President), Williams, Wood—17.

In the negative, was
Mr. Havens—1.

On motion of Mr. Irick the Executive Session then arose.

Source: SENATE JOURNAL, 1873, p. 1149-1154.

PROCLAMATION BY THE GOVERNOR.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT,
TRENTON, APRIL 29TH, 1873.

WHEREAS, on the fourth day of April, A. D. eighteen hundred and seventy-three, the legislature of the State of New Jersey passed a resolution requesting and authorizing the governor to appoint, by and with the advice and consent of the senate, a commission, to consist of two persons from each congressional district within this state, to suggest and prepare amendments to the state constitution, for submission to and consideration by the next legislature;

AND WHEREAS, on the twenty-fourth day of April, A. D. eighteen hundred and seventy-three, Abraham O. Zabriskie, Robert Gilchrist, Theodore Runyon, John W. Taylor, Augustus W. Cutler, Benjamin Buckley, Martin Ryerson, Jacob L. Swayze, Robert S. Green, John F. Babcock, Mercer Beasley, John C. Ten Eyck, Samuel H. Grey and Benjamin F. Carter were, in conformity with said resolution, appointed such commissioners;

AND WHEREAS, by the said resolution the governor is empowered to convene said commissioners at such time and place as he, by proclamation, may designate;

Therefore, I, Joel Parker, governor of the state of New Jersey, by virtue of the power in me vested, do hereby convene the said commission, requiring the members thereof, hereinbefore named, to assemble in the senate chamber, at the state house, in the city of Trenton, on Thursday, the eighth day of May, A. D. eighteen hundred and seventy-three, at the hour of twelve o'clock, noon, for the purpose of suggesting and preparing amendments to the constitution of this state, to be reported for submission to and consideration by the legislature at its next session.

Given under my hand and the great seal of the state of New Jersey, at Trenton, this twenty-ninth day of April, A. D. eighteen hundred and seventy-three, and of the independence of the United States the ninety-seventh.

[L.S.]

JOEL PARKER.

By the Governor.

HENRY C. KELSEY, *Secretary of State*.

Source: LAWS OF 1873, p. 844-845.

PART III: PROCEEDINGS AND REPORT OF THE CONSTITUTIONAL COMMISSION

Part III begins with a transcription of the official, hand-written Proceedings of the 1873 Constitutional Commission, held by the New Jersey State Archives, Trenton, New Jersey. This has never been published before. The bracketed page numbers refer to the pages in the hand-written Proceedings. In our Part VII, which is a table of proposed amendments considered by the Commission and the 1874 and 1875 Legislatures, and action thereon, the references to Constitutional Commission Proceedings are to these original bracketed page numbers (and not to the page numbers of this book).

Next, Part III supplements the official Proceedings with contemporary newspaper accounts that we have compiled and edited. The official Proceedings do not contain any record of debate, so it is only through reliance on newspaper coverage that any record of the debates survives. We believe that this resource is indispensable in understanding the background and intent of the proposals. This compilation will facilitate such understanding. The newspaper coverage of debates on any particular day was published the following day.

Our newspaper compilations are the result of exhaustive research of 14 daily and 24 weekly newspapers published between 1873 and 1875, covering Northern, Central and Southern geographic regions of the state and representing the viewpoints of Democratic, Republican and Independent presses. Of the 38 newspapers examined, the authors have identified a handful of newspapers from which the accounts of proceedings originated, the other newspapers generally reproducing verbatim or merely summarizing the source accounts. The primary newspapers were: the *Daily State Gazette* of Trenton, the *Daily True American* of Trenton, the *Newark Daily Advertiser*, and the *Newark Daily Journal*. The other newspapers borrowed their accounts from one of these four newspapers and may have supplemented such accounts with unique snippets or full speeches that were not included in the accounts of the primary newspapers. In order to provide the reader with the fullest and fairest account of newspaper coverage of Commission and legislative proceedings, without sacrificing readability, the authors have adopted the following methodology:

(1) After a careful, comparative study of each of the newspapers' accounts of a particular day's proceedings, we determined which newspaper provided the most comprehensive account and reproduced the text. The name of that newspaper appears in brackets, such as [*Daily State Gazette*], immediately above and at the right-hand margin of the

excerpt.

(2) We then supplemented this selected newspaper's account with unique information from any of the other newspapers. If any of the other newspapers offered additional information (whether the text of an entire speech or merely a speaker's few words), we supplemented the selected newspaper's account with the additional information at the appropriate place and with attribution. In all cases, the name of the newspaper appears in brackets, such as *[Daily True American]* immediately above and at the right-hand margin of the excerpt.

(3) If more than one newspaper provided significantly different accounts of the same discussion, and the editors were unable to reconcile them, then multiple accounts were included. When this occurs, the most comprehensive newspaper coverage appears first, followed by the differing accounts enclosed as follows: { }.

(4) Except for editorial corrections of punctuation, spelling and other obvious errors in form, which do not affect the substance of the text, the reproduced text is taken verbatim from the newspapers. Bracketed [text] is used by the authors to a) add editorial notes and b) denote corrections that were made by the authors. The use of (sic) denotes an error which as been reproduced as found in the original newspaper text.

(5) At the end of each day's compilation of newspaper proceedings, a more complete bibliographic citation to the specific newspaper articles used in that day's compilation is provided.

Overall, our goal is to provide a continuous, flowing account of proceedings and debates as reported in contemporary newspapers, with as little redundancy as possible. It is our hope that the resulting composite can be used to supplement the State-recorded minutes by providing a record, albeit unofficial, of debates and discussion that were omitted from the official proceedings.

To facilitate a subject matter search of the official Proceedings of the Commission and the Legislature, as well as newspaper coverage of those proceedings, the authors have prepared an Index to this volume, which should be used in conjunction with Part VII, which captures, in tabular form, the consideration of the Commission's proposals from introduction to final action. The reader should first consult the Index, which will act as a subject guide to each proposed amendment by number. For example, a search for "Education – Thorough and Efficient Clause" in the Index will refer the reader to **Proposed Amendment 84** in Table VII. The reader can then

**PART III: PROCEEDINGS AND REPORT
OF THE CONSTITUTIONAL COMMISSION**

243

examine the entries under Proposed Amendment 84 in Table VII to locate all page references in the official Proceedings where this proposal is discussed. For a record of debate, if any, the reader can consult the authors' compilation of newspaper accounts of proceedings for that day.

Finally, Part III contains the two different versions of the Commission's Report. Report A only contains the text of the Commission's proposed amendments. Report B, on the other hand, reproduces the text of the 1844 Constitution with the Commission's proposed amendments inserted.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

245

[Affixed to the inside front cover of the bound volume:]

**State of New Jersey
Constitutional Commission,
Secretaries' Office,
Trenton, July 22^d, 1873**

The following are the Committees appointed by the President at the session of July 22, 1873:

On Bill of Rights, Right of Suffrage, Limitation on Powers of Government, and General and Special Legislation:

JOHN W. TAYLOR, of Essex,	PostOfficeAddress,	Newark,	6 ^h Dist.
ROBERT S. GREEN, of Union,	“ “ “ ,	Elizabeth,	3 ^d “
BENJAMIN BUCKLEY, of Passaic,	“ “ “ ,	Paterson,	5 ^h
Algernon S. Hubbell, [name handwritten]	“ “ “ ,	Newark	

On the Legislative Department – Its Organization and Constitution.

~~ROBERT GILCHRIST~~ , of Hudson,	PostOfficeAddress,	Jersey City,	7 ^h “
SAMUEL H. GREY, of Camden,	“ “ “ ,	Camden,	1 st “
PHILEMON DICKINSON, of Mercer,	“ “ “ ,	Trenton,	2 ^d “
JOHN F. BABCOCK, of Middlesex,	“ “ “ ,	New Brunswick,	3 ^d “
JACOB L. SWAYZE, of Sussex,	“ “ “ ,	Newton,	4 ^h “
Wm. Brinkerhoff, [name handwritten]	“ “ “ ,	[Jersey City]	

On the Executive and Judiciary Departments, and Appointing Power and Tenure of Office.

AUGUSTUS W. CUTLER, of Morris,	PostOfficeAddress,	Morristown,	5 ^h “
DUDLEY S. GREGORY, of Hudson,	“ “ “ ,	Jersey City,	7 ^h “
BENJAMIN F. CARTER, of Gloucester,	“ “ “ ,	Woodbury,	1 st “

On Amendments, General Provisions and Final Revision.

SAMUEL H. GREY, of Camden,	PostOfficeAddress,	Camden,	1 st “
GEORGE J. FERRY, of Essex,	“ “ “ ,	Orange,	6 ^h “
JOSEPH THOMPSON, of Somerset,	“ “ “ ,	Readington,	4 th “

[page 1]*

***Record of Proceedings
of the Constitutional Commission***

Trenton, Thursday, May 8, 1873.

At 12 o'clock M. the Commission met in the Senate Chamber.

Hon. John W. Taylor called the Commission to order.

Hon. Robert Gilchrist nominated Hon. Abraham O. Zabriskie for Temporary Chairman, and he was elected without opposition.

Mr. Gilchrist nominated John F. Babcock for Temporary Secretary, and he was elected, without opposition.

Mr. Taylor moved that the Rules of the Senate of New Jersey, as far as they are applicable, govern this Commission, until other rules are adopted. Which motion was adopted.

Under the direction of the Chairman, the Secretary called the Roll, when the following members answered to their names:

Messrs. Abraham O. Zabriskie, Robert Gilchrist, John W. Taylor, Augustus W. Cutler, Benjamin Buckley, Martin Ryerson, Jacob L. Swayze, Robert S. Green, John F. Babcock, John C. Ten Eyck, Samuel H. Grey, Benjamin F. Carter.

Absent: Theodore Runyon, Mercer Beasley.

[page 2]

Mr. Gilchrist stated that he was authorized to announce that Messrs.

***Bracketed page numbers refer to pages in the handwritten Proceedings of the Constitutional Commission. See *supra* note 84 of the Introduction for the complete bibliographic citation for the Proceedings.**

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

247

Runyon and Beasley had declined to serve on the Commission, and that His Excellency, the Governor would at an early date appoint others to fill the vacancies.

Under the direction of the President, the Secretary read the following Proclamation of His Excellency, the Governor:

“State of New Jersey
“Executive Department
“Trenton, April 29th, 1873

“Proclamation by the Governor:

“Whereas, on the fourth day of April, A.D. eighteen hundred and seventy-three, the Legislature of the State of New Jersey passed a resolution requesting and authorizing the Governor to appoint, by and with the advice and consent of the Senate, a Commission to consist of two persons from each Congressional District within this State, to suggest and prepare amendment[s] to the State Constitution, for submission to and consideration by the next Legislature;

“And whereas, on the twenty-fourth day of April, A.D. eighteen hundred and seventy-three, Abraham O. Zabriskie, Robert Gilchrist, Theodore Runyon, John W. Taylor, Augustus W. Cutler, Benjamin Buckley, Martin Ryerson, Jacob L. Swayze, Robert S. Green, John F. Babcock, Mercer Beasley, John C. Ten Eyck, Samuel H. Grey, and Benjamin F. Carter were, in conformity with said resolution, appointed **[page 3]** said commissioners;

“And whereas, by the said resolution the Governor is empowered to convene said Commissioners at such time and place as he, by proclamation, may designate;

“Therefore, I, Joel Parker, Governor of the State of New Jersey, by virtue of the power in me vested, do hereby convene the said Commission, requiring the members thereof, herein before named, to assemble in the Senate Chamber, at the State House in the City of Trenton, on Thursday, the eighth day of May, A.D. eighteen hundred and seventy-three, at the hour of twelve o’clock, noon, for the purpose of suggesting and preparing amendments to the Constitution of this State, to be reported for submission

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

to and consideration by the Legislature at its next session.

“Given under my hand and the Great Seal of the State of New Jersey, at Trenton, this twenty-ninth day of April, A.D. eighteen hundred and seventy-three, and of the Independence of the United States the ninety-seventh.

(L.S.)

Joel Parker.

“By the Governor,

“Henry C. Kelsey, Secretary of State”

“The following is a copy of the Resolution passed by the last Legislature, by virtue of which you were appointed:

“*Resolved* (House of Assembly concurring), That the Governor be, and is hereby requested and empowered **[page 4]** to appoint, by and with the consent of the Senate, a Commission, to consist of two persons from each Congressional District, to suggest and prepare amendments to the State Constitution, for submission to and consideration by the next Legislature; which Commission shall meet at such time and place as the Governor, by proclamation, shall designate.”

Mr. Grey moved that a committee to consist of five persons be appointed by the President to nominate Permanent Officers of the Commission.

The motion was agreed to, and the President appointed the following gentlemen [to] said committee: Messrs. Grey, Green, Cutler, Taylor and Buckley.

Mr. Taylor moved that when this Commission adjourns it be to meet at three o'clock this afternoon.

Which motion was agreed to.

Mr. Carter moved that that portion of the Annual Message of Governor Parker, for 1873, relating to amendments to the Constitution be read.

Which motion was agreed to.

And the Secretary read as follows:

“The present Constitution of the State of New Jersey was adopted

nearly thirty years ago. The Convention by which it was framed was composed of able men, among whom were [page 5] many distinguished jurists, and the work which came from their hands was thought to be as good as human wisdom could devise; but, experience proves that, with increasing population, wealth and enterprise, and with new subjects of legislation constantly arising, some amendments to our organic law are needed.

“It will be admitted by all reflecting persons that there should be such radical reform in our system of legislation as cannot be secured under the present Constitution. The necessity of providing every possible safeguard to secure the Legislature against imposition is obvious, if we consider that, when an act has been certified as passed by the signature of the presiding officer of each House, approved by the Governor, and filed in the office of the Secretary of State, it becomes a law, the exemplification of which under the Great Seal of the State is conclusive evidence as to its existence and contents, and no evidence to prove that the act signed varies from the act voted upon is admissible in a court of law. So important are the interests affected by legislation that, in view of the decision of our Supreme Court on the subject, we owe it to the public and to the fair fame of the State that such constitutional checks should be provided as will prevent the possibility of fraud or interpolation.

“Haste in legislation is a great [page 6] evil which requires correction. The brief session to which the Legislature is now virtually limited by the Constitution does not give opportunity for the proper consideration of the business which, under the present system, is brought before it. If all bills were presented on the first day of the Session the time would scarcely suffice; but, a large majority are introduced at so late a period that it is impossible even to read them with the deliberation necessary to a full knowledge of their contents, much less to discuss their provisions. That part of our Constitution which limits the pay of members of the Legislature to a mere pittance, after the period of forty days, is unwise, as well as a standing imputation upon the honor of the representatives of the people in every Legislature that assembles under it. It should be stricken out and a reasonable annual salary paid, without limit as to the duration of the session. If legislation be necessary, sufficient time to deliberate and act

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

understandingly should be given. Either the session should be longer, or the business less.

“But this is not the only, nor the most important change required to prevent hasty legislation. Other amendments to the Constitution may be made that will enable the Legislature thoroughly to examine and **[page 7]** discuss every measure brought before it, without extending the session beyond the period heretofore usual in this State. The Constitution should require general laws embracing subjects where general laws can be made applicable. This would dispense with at least nine-tenths of the business brought before the Legislature under the present system. The general public laws passed at the last session are contained in about one hundred pages of the printed volume, while the special and private laws occupy twelve hundred and fifty pages of the same book. If made comprehensive and liberal, why should not cities, towns, corporations of all kinds, and associations of individuals organize and act under general laws? Those heretofore passed in this State have not answered the desired object, because the Constitution permits special legislation on the same subjects, and so long as this is permitted there will be those who will seek such legislation.

“Should it be deemed advisable not to provide for general laws, haste in legislation could be prevented by a constitutional amendment requiring the preamble of every private or special bill containing the substance of its important provisions to be published, and the bill itself **[page 8]** filed in the office of Secretary of State for public information on or before the first day of the Session; and providing further that if a bill pass without these requirements being observed it shall be held void and of no effect by any court of competent jurisdiction before which its validity shall be questioned, upon certificate of the Secretary of State that the same was not filed, as above stated, in his office. This would give employment to the Legislature at the commencement of the session, enable each member to inform himself of the contents and ascertain the merits of each bill before being called upon to vote upon it, and prevent the sudden introduction of important and exciting measures near the close of the session, when pressure of business necessarily prevents due consideration. All efforts to confine the introduction of bills to the early part of the session by means of

statutes or rules of the House, which can be repealed or suspended, are fruitless. A constitutional amendment such as I suggest would prove effectual. It would be attended with incalculable good, and little or no evil could result; for, it is not probable that occasion would arise after the Legislature convened for the passage or amendment of a private or special [page 9] law, the necessity for which would not previously be known, and which could not, without prejudice, be postponed for a year.

“There are other evils besides that of hasty legislation that might be cured by an amended Constitution. The power of cities and other municipalities to contract debts should be limited. A court having special and exclusive jurisdiction over all cases of condemned lands and assessment for improvements should be provided for. In acts to amend existing laws, the section or sections to be amended should be required to be inserted. No law should be permitted to take effect until the expiration of a reasonable fixed time after the close of the session in which it is passed, unless in case of emergency, which emergency should be expressed in the bill and determined to exist by the recorded vote of at least two-thirds of the members of each house.

“It would also be well to provide for the system of minority representation in the General Assembly.

“If general laws be not required, and special laws be allowed, the Constitution should be so amended as to prohibit and declare void all acts that shall pass which are included in the following classes of legislation, viz.:

[page 10]

“Acts which purport to make irrevocable grants of special privileges or immunities to individuals or corporations; acts that violate the principle of equal and uniform taxation by exempting property of individuals or corporations (except that always exempted by the general tax law) from State or local taxes of any description which the people at large are required to pay, or by prescribing a rule of assessment different from the general rule, and making discrimination as to the subjects of taxation; acts chartering railroad or turnpike or transportation companies that do not require the rates of travel or transportation to be uniform and which allow differential rates

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

that tend to build up one city or section of the State to the injury of another; acts authorizing a municipality to tax the people for subscriptions to the capital stock of railroad or turnpike corporations or for donations or loans of its credit thereto; acts which appoint and authorize persons named therein and not chosen by the people to project and construct public improvements or exercise governmental power in a city or other municipality.

“Should you concur in the views herein expressed, and desire to incorporate any of them or any others that may suggest themselves in the organic law of the State, two modes of ef- **[page 11]** fecting the object exist.” &c., &c.

Mr. Gilchrist moved that the Committee on Permanent Organization be requested to report tomorrow morning.

Which was agreed to.

On motion of Mr. Taylor, the vote by which the above motion was agreed to was reconsidered, and amended so as to request the Committee to report at the afternoon session. The original motion, as amended, was then agreed to.

On motion of Mr. Ryerson, the Commission adjourned to meet at 3 o'clock P.M.

Afternoon Session

At three o'clock the Commission met, pursuant to the adjournment.

Mr. Grey, from the Committee on Permanent Organization, presented the report of the Committee, as follows:

For President – Hon. Abraham O. Zabriskie.

For Secretaries – Edward J. Anderson and Joseph L. Naar.

That the janitor of the building be requested to act as Sergeant-at-Arms.

The report of the Committee was adopted and the officers took [their]

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

253

[page 12] seats.

The President, Mr. Zabriskie, returned his thanks to the Commission for the honor conferred upon him by their action.

Mr. Gilchrist offered the following:

“Resolved, That the President appoint a committee of six who shall report the manner of conducting the business of the Commission, and some general outline of the subjects proposed to be considered by the Commission.”

The resolution was adopted, and the President appointed, as said committee, Messrs. Gilchrist, Buckley, Taylor, Ten Eyck, Ryerson, and Carter.

Mr. Cutler offered the following:

“Resolved, That the secretaries be directed to furnish each member of the Commission with a copy of Hough’s Constitution, and a copy of the Rules of the Senate.”

Which was adopted.

Mr. Taylor offered the following:

“Resolved, That the State Comptroller be requested to furnish such stationery, books and other articles to facilitate the business of the Commission, as the secretaries may be directed to procure.”

Which was adopted.

Mr. Ten Eyck moved that, in order to enable the committee just appointed to look into and discuss the subject referred to them, when the Commission **[page 13]** adjourn it be to meet one month from this date.

On motion of Mr. Taylor the resolution was amended by fixing July 8^h as the day of reassembling.

The resolution as amended was then adopted.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

On motion of Mr. Grey, the Commission then adjourned.

Tuesday, July 8th, [1873].

Pursuant to adjournment, the Commission met in the Senate Chamber at 12 o'clock M.

The Commission was called to order by Mr. E. J. Anderson, one of the secretaries, who stated that he had been informed by His Excellency, the Governor, of the resignation of Mr. Martin Ryerson, and the appointment of his successor. The Governor had made the following appointments to fill the existing vacancies:

For the Second District – Philemon Dickinson, in the place of Mercer Beasley, declined.

For the Fourth District – Joseph Thompson, in the place of Martin Ryerson, resigned.

For the Sixth District – George F. Ferry, in the place of Theodore Runyon, declined.

For the Seventh District – Dudley [page 14] S. Gregory, in the place of Abram O. Zabriskie, deceased.

By direction, the Secretary called the roll when the following members answered to their names: Messrs. Babcock, Buckley, Carter, Cutler, Ferry, Gilchrist, Gregory, Green, Grey, Swayze, Taylor, Ten Eyck, Thompson – 13.

The Commission proceeded to the election of a President, to fill a vacancy caused by the death of Mr. Zabriskie.

Mr. Gilchrist nominated Hon. John C. Ten Eyck of the 2^d Congressional District.

There being no other nomination, Mr. Ten Eyck was declared unanimously elected.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

255

Messrs. Carter and Buckley were appointed a committee to conduct the President-elect to the chair.

On taking his seat, Mr. Ten Eyck said:

“Gentlemen: I desire to tender my profound thanks for this mark of your favor. I am sure I shall always remember it with the liveliest emotions of pleasure. I shall regard it as a sweet flower that has blossomed by my pathway of life.

“Allow me a word, and but a word, with regard to this Commission. Constitutional government, as we all know, is most conducive to the welfare and happiness of the people. Other and more arbitrary forms may be more brilliant and vigorous, and [page 15] may enhance the state and grandeur of a few, but our Republican form secures – better secures – the rights and privileges of the many.

“In framing a new Constitution, or in proposing amendments to one already formed, permit me, for myself, to say, that while I would avoid all theoretical and experimental projects, I would favor such measures as a vastly growing business; the pursuits of industry and labor; a pure elective franchise; a wise and efficient administration of law; [eradication of] evils in existing forms and methods of legislation; and such as the interests of education – free and common to all; good morals, a higher civilization and true progress – may require.

“But a few words more.

“How strangely are the ways of Providence sometimes repeated! In 1844 an eminent gentleman, a great lawyer, and a learned Chancellor was unanimously called to preside over the convention that framed the present Constitution of the State, and yet about the time that body ceased its labors, he was called to his everlasting rest; another presided in his stead and signed that excellent and well-digested instrument.*

***[Ed. note: Ten Eyck is referring to Isaac Halstead Williamson, the initial president of the 1844 New Jersey Constitutional Convention, who tendered his resignation due to illness on June 28, 1844, the day before the 1844 Convention adjourned. Alexander Wurts replaced Williamson as Convention President on the same day. Williamson died on July 10, 1844.]**

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

“Eight weeks ago, in this very spot, chosen by the united voices of us all, stood the manly form of our late distinguished President [Abraham Zabriskie]. We heard his few well chosen words. We separated – we to our business, and our homes; he, for a long and **[page 16]** extended journey.

“Hurrying back from the Pacific coast to resume this very post of duty, Death, like an Indian arrow, struck him on the way, and he fell amidst the native grandeurs of the distant West.

“The cars rushed onwards, bearing his body through the mountain passes, but his immortal spirit soared aloft, high above their topmost summits, to live, [I] humbly trust, in joys perpetual.

“What can I say? He has done his duty nobly and is justly mourned and honored. He has raised a monument to himself, enduring as brass, which will last when marble tablets shall have crumbled into dust; but I will leave it to you, gentlemen, who are better able, to speak of him.

“What can we do? We can, at least, try to imitate his virtues and examples, and in all our acts, here as elsewhere, strive to do our duty to the State and Nation.

“Begging your assistance and indulgence, and returning my warmest thanks for your kind consideration, you will please proceed with the business of the Commission.”

Mr. Gilchrist, from the committee appointed to prepare a general plan for conducting the business of the Commission, presented the following report, saying that while he did so, as Chairman of the Committee, he did not assent in all particulars to the plan proposed:

[page 17]

“The committee appointed by the Constitutional Commission to prepare a plan of business and to present a list of subjects proper to be considered by the Commission, present the following report:

“Since the organization of the Committee, a vacancy has occurred, through the resignation of Hon. Martin Ryerson, by which their number has been reduced to five.

“The Committee recommend the adoption of the following plan of business:

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

257

“1. That the subjects now embraced in the Constitution requiring the consideration of the Commission be classified under the five following heads:

“I. Legislative Department, Bill of Rights, and Right of Suffrage.

“II. Executive.

“III. Judiciary.

“IV. Appointing Power and Tenure of Office.

“V. Future Amendments, General Provisions, and Final Revision.

“2. That there be five committees appointed by the President of the Commission, and that each general head and the subjects included therein be referred to a separate committee, with instructions, if any changes are found desirable, to report them in the form of amendments, to be embodied in the recommendations of the Commission to the Legislature.

“3. That the Committee to which shall be referred the subjects included under the first general head, viz.: Legislative Department, Bill of Rights, **[page 18]** and Right of Suffrage, consist of five members, and that the other committees consist of three members each.

“4. That the hour of meeting of the Commission be 10 o'clock A.M., and the hour of adjournment be 3 o'clock P.M., unless otherwise ordered.”

Mr. Buckley moved the adoption of the report.

Mr. Gilchrist moved to amend by inserting after the words “Legislative Department,” in the list of subjects recommended by the Committee, the words: “Except the Organization and Constitution of the Legislative Bodies.”

On the question being put by the Chair the motion was declared lost.

Mr. Taylor moved to amend, by substituting for the list of subjects proposed by the report of the Committee, the following:

“1. Bill of Rights.

“2. Right of Suffrage.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

- “3. Limitation upon Powers of Government.
- “4. General and Special Legislation.
- “5. Legislative Department.
- “6. Executive Department.
- “7. Judiciary Department.
- “8. Appointing Power and Tenure of Office.
- “9. Future Amendments.
- “10. General Powers and Final Revision.”

The motion was adopted by the following vote:

In the affirmative were:

Messrs. Babcock, Cutler, Ferry, Gil- **[page 19]** christ, Green, Grey, Swayze, Taylor, Thompson – 9.

In the negative were:

Messrs. Buckley, Carter, Gregory, Ten Eyck – 4.

Mr. Gilchrist moved to amend the report of the Committee by substituting for paragraphs 2 and 3 (relating to the number of committees and the subjects to be considered by them), the following:

“2. That there be four committees appointed by the President of the Commission, and that the subjects be referred to them as follows:

To Committee No. 1. – Bill of Rights, Right of Suffrage, and Limitation upon Powers of Government

To Committee No. 2. – Legislative Department – Its Organization and Constitution

To Committee No. 3. – Executive Department, Judiciary Department, and Appointing Power and Tenure of Office

To Committee No. 4. – Future Amendments, General Provisions, and Final Revision

And that the Committees shall consist of three members each, excepting the Committee on Legislative Department, which shall consist of five members.

Mr. Swayze moved to strike out of the amendment offered by Mr. Gilchrist

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

259

such portion of it as provides for the appointment of committees.

The motion was lost.

The question was then taken on the amendment offered by Mr. Gilchrist, [page 20] and it was adopted.

Mr. Green moved to amend the report of the Committee by adding the following:

“That all reports of the Committees, before final action, shall be referred to the Committee [of] the Whole.”*

The motion was agreed to.

Mr. Green moved to further amend the report of the Committee by adding the following:

“That the Commission, in addition to their report, will lay before the Legislature, in separate form, any suggested amendments that may be concurred in by the votes of any four members.”

Mr. Swayze moved that the amendment lie on the table.

The question being taken, the motion was lost.

Mr. Carter moved to amend the amendment offered by Mr. Green, by substituting the following:

“That the Commission, in making its report to the Legislature, will present the minority as well as the majority views, and as such, of the Commission on the various amendments suggested.”

Mr. Swayze moved to amend the amendment offered by Mr. Green by striking out the words “four members,” and inserting in lieu thereof the words “one member.”

***[Ed. Note: This rule that required Committee reports to be referred to a Committee of the Whole was rescinded on October 16, 1873. See *infra* [page 87]. For the minutes of the Committee of the Whole, see *infra* [pages 350-356].]**

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

The motion was not agreed to.

Mr. Carter, with the consent of the Com- [page 21] mission, withdrew the amendment offered by him.

The question was taken on the adoption of the amendment offered by Mr. Green, and it was not agreed to.

The Report of the Committee, as amended, was then agreed to.

Mr. Taylor offered the following:

“Resolved, That the secretaries be directed to procure, for the use of the members of the Commission, one hundred copies of the State Constitution printed in the form in which Legislative bills are usually printed.”

Which was adopted.

Mr. Grey moved that before the appointment of the Committees, the Constitution be read and considered by sections.

On which motion the yeas and nays were taken with the following result:

In the affirmative were:

Messrs. Gilchrist, Gregory, Green, Grey – 4.

In the negative were:

Messrs. Babcock, Buckley, Carter, Cutler, Ferry, Swayze, Taylor, Ten Eyck, Thompson – 9.

So the motion was declared not agreed to.

Mr. Gregory offered the following:

“Resolved, That the Commission, when it adjourns, adjourns to _____, at which adjourned meeting each member shall report subjects for amendments to the Constitution.”

[page 22]

Mr. Taylor moved to amend the resolution by striking out all after the words “at which adjourned meeting,” and insert in lieu thereof the words “the President shall announce the several Committees.”

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

261

The motion was agreed to by the following vote:

In the affirmative were:

Messrs. Babcock, Buckley, Cutler, Ferry, Green, Swayze, Taylor, Ten Eyck, Thompson – 9.

In the negative were:

Messrs. Carter, Gilchrist, Gregory, Grey – 4.

Mr. Swayze moved to fill the blank by inserting as the date of re-assembling the first Tuesday in October.

Mr. Grey moved that the blank be filled by the words 22^d day of July.

Mr. Swayze withdrew his motion.

Mr. Taylor moved to amend by inserting the second Tuesday in October.

The question being put, the motion was declared not agreed to.

Mr. Taylor moved to amend by inserting the first Tuesday in October.

The yeas and nays being called, the motion was disagreed to by the following vote:

In the affirmative were:

Messrs. Buckley, Carter, Ferry, Gregory, Taylor, Ten Eyck – 6.

In the negative were:

Messrs. Babcock, Cutler, Gilchrist, Green, Grey, Swayze, Thompson – 7.

[The motion of Mr. Grey was then agreed to, and the resolution offered by Mr. Gregory, as amended, adopted.]

Mr. Swayze moved the following amend- **[page 23]** ment to the Rules:

“The Commission to do business shall consist of not less than twelve members, and all questions shall be decided by a majority of members present; except, when a final vote is taken on any proposed amendment to the Constitution, it shall require for its adoption the vote of two-thirds of the whole number of the members of the Commission.

“But a majority of members present may adjourn from day to day.

“A member of the Commission may call for the yeas and nays on any question and have the same entered on the minutes, and in every such case it shall be the duty of the secretaries to so enter them.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

“The determination of a question, although fully debated, shall be postponed for three days on the motion of any member of this Commission.

“Any member may at any time during the sessions of the Commission offer amendments to the Constitution and call for their consideration.”

Under the Rules, these amendments were laid over until the next sitting.

Mr. Gilchrist called the attention of the Commission to the death of the Hon. Abram O. Zabriskie, and addressed the Commission referring to that event and the character of the deceased.

Mr. Gregory also addressed the Commission on the same subject.

Mr. Green moved that the Chair appoint a committee of three to report [page 24] resolutions expressive of the feelings of the Commission on the occasion of the death of the late President.

Mr. Gregory seconded the motion.

The question being put, the motion was unanimously agreed to, and the Chair appointed as said Committee, Messrs. Green, Gregory and Carter.

The Committee retired and subsequently reported the following:

“While reverently bowing to the dispensation of an all-wise Providence, which has called from this sphere of earthly usefulness, in the full vigor and maturity of his great powers, the late President of this body, a due respect to the memory of a great life ended sanctions the expression of our sorrow at the irreparable loss this body has sustained in his death.

“Honored by the State and his fellow citizens with high trusts, he always merited the confidence reposed in him by the faithful and conscientious discharge of every duty. As a citizen, he was patriotic and public spirited; as a lawyer, learned, ingenious and faithful; as an advocate, fearless, zealous and powerful; as a judge, able, just and upright; as a legislator, while he tenaciously maintained and upheld all that had been proved to be beneficial, he was willing and eager to correct such portions of the law as experience had demonstrated to be erroneous, and to eradicate

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

263

provisions which lapse of [page 25] time had rendered obsolete.

“Resolved, That this Commission, charged by the Legislative and Executive branches of the government with the responsible duty of suggesting amendments to the organic law of the State, has, by his death, been deprived not only of its President, but of its most valued advisor. Massive in intellect, rich in culture, varied in experience, wise in counsel, noble in impulse, untiring in industry, exhaustive in research, he was preeminently fitted properly and satisfactorily to discharge the arduous duties with which he, as a member, was intrusted.”

“Resolved, That we deeply sympathize with the family of the deceased, and that a copy of these resolutions, properly engrossed, be transmitted to them by the President, and enrolled on the minutes of the Commission.”

On motion, the report of the Committee was accepted, and the resolutions unanimously adopted.

On motion, the Commission then adjourned.

[page 26]

Trenton, 22^d July, 1873.

At 10 o'clock A.M. the Commission met, pursuant to the adjournment in the Senate Chamber, the President, Hon. John C. Ten Eyck, in the chair.

The roll was called when the following gentlemen answered to their names: Messrs. Babcock, Carter, Grey, Ten Eyck, Thompson – 5.

There being no quorum present, the Commission took a recess until 11:15 A.M.

At that hour the roll was again called, with the following result:
Present: Messrs. Babcock, Carter, Cutler, Dickinson, Gregory, Green, Grey, Swayze, Ten Eyck, Thompson – 10.

The minutes of the preceding session were read and adopted.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

The President announced the appointment of the following committees:

1. Committee on Bill of Rights, Right of Suffrage, Limitation on Powers of Government, and General and Special Legislation:

John W. Taylor, of Essex; Robert S. Green, of Union; Benjamin Buckley, of Passaic.

2. The Legislative Department – Its Organization and Constitution:
[page 27] Robert Gilchrist, of Hudson; Samuel H. Grey, of Camden; Philemon Dickinson, of Mercer; John F. Babcock, of Middlesex; Jacob L. Swayze, of Sussex.

3. The Executive, Judiciary and Appointing Power, and Tenure of Office:

Augustus W. Cutler, of Morris; Dudley S. Gregory, of Hudson; Benjamin F. Carter, of Gloucester.

4. Amendments, General Provisions and Final Revision:
Samuel H. Grey, of Camden; George J. Ferry, of Essex; Joseph Thompson, of Somerset.

The Commission took up the consideration of the Amendments to the Rules offered by Mr. Swayze at the preceding session, and which were laid over under the Rules.

Paragraph 1, as follows, was taken up: “The Commission, to do business, shall consist of not less than twelve members, and all questions shall be decided by a majority of members present; except, when a final vote is taken on any proposed amendment to the Constitution it shall require for its adoption the vote of two-thirds of the whole number of the members of the Commission.”

Mr. Green moved for a division of the question, and it was agreed to.

The first part of the Rule was taken up. Mr. Carter moved to amend by striking out the words “not less than twelve,” and insert in lieu thereof the words “a majority of all the.”

The motion was agreed to.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

265

[page 28]

Mr. Green moved to amend by striking out all of the Rule after the words “shall consist of a majority of all the members.”

The motion was agreed to.

Mr. Swayze, under leave, withdrew the second and third paragraphs of the proposed amendment, as follows:

“But a majority of members present may adjourn from day to day.”

“A member of the Commission may call for the yeas and nays on any question and have the same entered on the minutes, and in every such case it shall be the duty of the secretaries to so enter them.”

The 4th paragraph of the amendment to Rules, as follows, was taken up:

“The determination of a question, although fully debated, shall be postponed for three days, on the motion of any member of the Commission.

Mr. Carter moved to strike out the word “shall” and insert “may.”

The motion was agreed to.

The question being taken on the adoption of the paragraph, as amended, the motion was lost.

The Commission considered the 5th paragraph, as follows:

“Any members may at any time during the sessions of the Commission offer amendments to the Constitution, and call for their consideration.”

Mr. Green moved to amend by adding, at the end of the paragraph, the words, “except when some other amendment is **[page 29]** under discussion.”

The question was taken and the amendment adopted.

Mr. Green moved to further amend paragraph 5th by striking out the words, “at any time during the sessions of the Commission.”

Which motion was agreed to.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

The 5th paragraph, as amended was agreed to.

Mr. Gregory offered the following:

“*Resolved*, That a printed copy of the names of the members of the several committees be furnished to each member of the Commission, including their post office address.”

The resolution was adopted.

Mr. Swayze offered the following:

“*Resolved*, That the President appoint a committee to consist of three to prepare a circular inviting suggestions and recommendations for amending the Constitution, and hand it to the secretaries, who will procure and furnish to each member of the Commission _____ copies for distribution, at their discretion.”

After discussion, Mr. Swayze withdrew the resolution.

Mr. Green moved that, when any suggestions be forwarded to the secretaries of the Commission, that they be directed to forward them to the chairmen of the appropriate Committees.

Which motion was agreed to.

Mr. Grey moved that the Constitution of [State of New Jersey] **[page 30]** be read by sections.

Which motion was agreed to, and the Constitution was read by one of the secretaries.

Mr. Cutler offered the following:

“*Resolved*, That the President of this Commission shall be, *ex officio*, a member of each of the Committees authorized by the Commission.”

The President decided that the resolution was an amendment to the rules, and must therefore lie over until the next session.

Mr. Carter offered the following, and moved that it be referred to the Committee on Bill of Rights, Right of Suffrage, Limitation on Powers of Government, and General and Special Legislation:

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

267

“Suggestion to amend Article II. Section 1st of the Constitution:

“1st. Strike out the word ‘white’, so as to conform to the Constitution of the United States.

“2^d. Insert after the words ‘five months,’ ‘and of the township, ward, or election district in which he resides sixty days.’

“3^d. In section 2^d, add to this section: ‘or in legislation, or who has been found to be a defaulter to the general or State government. After the year 1885, the Legislature may also pass laws to prevent persons on arriving at their majority from voting who cannot read the Constitution of the State in the English language.’”

The reference asked for was given and the paper referred to the Committee on Bill of Rights, &c.

[page 31]

Mr. Carter offered the following and asked that it be referred to the Committee on the Legislative Department – Its Organization and Constitution:

“Suggestion to amend the 7th part of Section 4 of Article IV of the Constitution, by substituting the following:

“7. Members of the Senate and General Assembly shall receive a compensation for their services of five hundred and fifty dollars per annum, excepting the President of the Senate and Speaker of Assembly, who shall receive each six hundred dollars per annum, to be paid out of the Treasury of the State, and in addition each member shall receive five cents for each mile necessarily traveled, in going to the seat of government at the commencement of the session of the Legislature, and returning at its close; and there shall not be any other allowance or emolument directly or indirectly, but this shall be in full for postage, stationery, and all other incidental expenses and perquisites.”

As requested, the paper was referred to the Committee on Legislative Department – Its Organization and Constitution.

Mr. Grey moved that when this Commission adjourn it be to meet on Tuesday, October 14th at 11 A.M., unless sooner convened by the President.

The motion was agreed to.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

Mr. Green moved to reconsider the vote by which the motion was agreed to.
Which was agreed to.

Mr. Babcock moved to amend by **[page 32]** fixing as the day of meeting Tuesday, September 9^h.
The motion was lost.

Mr. Gregory moved to amend by fixing it as the 7^h day of October.
Which was agreed to.

On motion, the Commission then adjourned.

Trenton, 7^h October, 1873.

Pursuant to adjournment, the Commission met at 11 A.M.

The roll was called when the following gentlemen answered to their names:
Messrs. Carter, Cutler, Ten Eyck, Thompson – 4.

The Committee (*sic*) took a recess until 12 o'clock M.

On reassembling at that hour, the roll was called and the following answered to their names:
Messrs. Buckley, Carter, Cutler, Ferry, Gregory, Green, Swayze, Ten Eyck, Thompson – 8 (*sic*).

The President laid before the Commission the following communication which, on motion of Mr. Carter, was ordered spread on the minutes:

Hon. John C. Ten Eyck, Pres. N.J. Con. Commission:

Dear Sir: Permit me for myself and the other members of our family to **[page 33]** express, through you, to the New Jersey Constitutional Commission our heartfelt thanks for the very kind and complimentary

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

269

sentiments contained in the resolutions of that body adopted on the occasion of my late father's death.

It is a mark of respect to his memory that we highly appreciate.

Please accept also my thanks for your own expressions of sympathy.

With great respect,
I remain yours truly,
L[ansing]. Zabriskie

Jersey City, July 24, 1873.

The several committees were called, but none were prepared to report.

The Commission took up for consideration the following resolution, which had been offered by Mr. Cutler at the meeting of July 22^d and was laid over under the rules.

“Resolved, That the President of this Commission shall be, ex officio, a member of each of the committees authorized by the Commission.”

On the question being taken, the resolution was adopted.

Mr. Dickinson offered the following as a proposed amendment to the Constitution:

“Every member of the Legislature, before he enters on his duties, shall take and subscribe the following oath or affirmation:

‘I do solemnly swear (or affirm) that I will support the Constitu- **[page 34]** tion of the United States and the Constitution of this State, and will honestly discharge the duties of Senator (or Member of the House of Assembly) according to the best of my ability; and I do solemnly swear (or affirm) that I have not paid or contributed anything or made any promise in the nature of a bribe, to corruptly influence, directly or indirectly, any vote at the election at which I was chosen as member of the Senate (or House of Assembly); and I do further solemnly swear (or affirm) that I have not accepted or received and I will not accept or receive, directly or indirectly, any money or other valuable thing from any corporation, company or person, for any vote or influence I may give or withhold on any bill, resolution or appropriation or for any other act, as a member of the Senate or General Assembly of this State.’

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

“The forgoing oath or affirmation shall be administered by one of the Judges of the Supreme Court, or a President Judge of the Court of Common Pleas, in the hall of the House to which the member is elected; and the Secretary of State shall read and file the oath or affirmation subscribed by such member; any member who shall refuse to take such oath or affirmation shall forfeit his membership and be disqualified thereafter from holding any office of profit or trust in this State.”

[page 35]

Mr. Gregory moved that the paper lie on the table.

The motion was lost.

Mr. Dickinson moved that it be referred to the Committee on Legislative Department – Its Organization and Constitution.

Which motion was agreed to.

Mr. Dickinson moved that when the Commission adjourn, it be to meet on Tuesday, October 21st.

After discussion, the motion was withdrawn.

Mr. Swayze offered the following:

“*Resolved*, That the further consideration of the preparation of amendments to the Constitution of the State to be submitted to the next Legislature be indefinitely postponed; and that, instead thereof, we would respectfully recommend the Legislature, at its next session, to pass an act calling a Constitutional Convention to revise the Constitution. The said convention to consist of two members from each county, as representatives of Senatorial Districts, and two members from each Assembly district; and the said delegates to be chosen in equal numbers from the ranks of the two great political parties.”

The question was taken on the adoption of the resolution, with the following result:

In the affirmative were:

None.

In the negative, were:

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

271

[page 36] Messrs. Buckley, Carter, Cutler, Dickinson, Ferry, Gregory, Green, Ten Eyck, Thompson – 9.

The resolution was declared lost.

Mr. Cutler, from the Committee on the Executive and Judiciary Departments, and the Appointing Power and Tenure of Office, presented the following:

The Committee respectfully report the following amendments to Article V of the Constitution, entitled “Executive,” viz:

Amend Section 7, by erasing the words “a majority” wherever they occur, and insert the words “two-thirds” in place thereof; and adding to the end of Section 7 the following:

“The Governor shall have power to veto separate items in the appropriation bill without defeating the whole, and the Houses shall only reconsider the item or items objected to.

Add to Section 8 the words “nor shall [he] be elected to any office under the United States or this State during his term of office.”

Aug. W. Cutler,
D. S. Gregory,
Benj. F. Carter.

On motion of Mr. Buckley, the report was accepted and ordered to lie on the table.

Mr. Cutler, from the same Committee, presented the following:

The Committee respectfully report the following amendments **[page 37]** to Article VII, Section 1, “Militia Officers:”

Amend Paragraph 5, by adding after the words “Major Generals” the words “the Adjutant General and the Quartermaster General.”

Amend Paragraph 9, by striking out after the word “appoint” the words “Adjutant General, Quartermaster General, and.”

Aug. W. Cutler,
D. S. Gregory,
Benj. F. Carter.

The report was accepted and ordered to lie on the table.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

On motion, the Commission adjourned until Wednesday morning at 10 o'clock.

Wednesday, Oct. 8th, 1873.

At 11 A.M. the Commission met.

Present: Messrs. Buckley, Carter, Dickinson, Ferry, Gregory, Green, Grey, Swayze, Thompson – 9.

In the absence of the President, Mr. Philemon Dickinson was elected Temporary Chairman.

The minutes were read and approved.

Mr. Green, from the Committee on Bill of Rights, Right of Suffrage, Limitation on Powers of Government, and General and Special Legislation, presented the following:

“The Committee on Bill of Rights report that at present they have no suggestions to make advising any amendment or alteration thereof.”

Oct. 8, 1873

Robt. S. Green,
B. Buckley.

[page 38]

Mr. Green, of the same committee, reported as follows:

The Committee on Right of Suffrage, to whom was referred the suggestions of Mr. Carter, report amendments to Art. II of the Constitution, in which are substantially embraced the first two suggestions of Mr. Carter, and report the third of said suggestions back to the Commission with the recommendation that the same be not adopted.

Oct. 8, 1873

Robt. S. Green,
B. Buckley.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

273

**Article II
Right of Suffrage.**

Line 1. Strike out word "white."

Line 2. After word "been" insert "a citizen for ten days and."

Line 3. After word "months," insert "and of the election district in which he may offer his vote thirty days."

So as to read:

"Every male citizen of the United States, of the age of twenty-one years, who shall have been a citizen for ten days, and a resident of this State one year, and of the county in which he claims his vote five months, and of the election district in which he may offer his vote thirty days next before the election, shall be entitled, &c."

Add to end of section:

"provided that, in time of war, no elector in the actual military service of the State or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the Legislature shall have power to pro- **[page 39]** vide the manner in which, and the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside."

The report was received and ordered to lie on the table.

Mr. Buckley presented a petition from Elizabeth Cady Stanton and others asking the Commission "to prepare and recommend such an amendment to the Constitution as shall secure the right of suffrage to the women of the State on equal terms with the men."

Mr. Grey, from the Committee on the Legislative Department, reported progress.

Mr. Carter, from the Committee on the Executive and Judiciary Departments, and Appointing Power and Tenure of Office, reported as follows:

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

Amend Article VII, Sec. 2, Civil Officers, Division 2. Strike out the words "appointed by the Senate and General Assembly in Joint Meeting," and substitute the words "nominated by the Governor, and appointed by him, with the advice and consent of the Senate."

Division 3, after the word "Treasurer," strike out the words "and the Keeper."

Division 4. Strike out the word "and" between "Chancery" and "Secretary," and insert after the words "The Secretary of State" the words "the Keeper of the [page 40] State Prison and Surrogates of Counties," and add after the words "five years" the words "except the Attorney General who shall hold his office for three years."

Division 6. Erase the words "and Surrogates."

Division 7. Erase the word "annually," and insert after the words "the General Assembly" the words "and they shall hold their offices for three years," and erase the words "they may be reelected until they shall have served three years, but no longer."

Aug. W. Cutler,
D. S. Gregory,
Benj. F. Carter.

Mr. Buckley offered the following as proposed amendments to the Constitution:

"No member of the Legislature shall receive any civil appointment within this State or to the Senate of the United States from the Governor, the Governor and Senate, or from the Legislature, or from any city government during the time for which he shall have been elected; and all such appointments and all votes given for any such member for any such office or appointment shall be void."

Which was referred to the Committee on the Executive and Judiciary Departments, and Appointing Power and Tenure of Office.

Also,

"No county, city, township or village shall hereafter give any money or property, or loan its money or credit to or in aid of any individual, association or [page 41] corporation or become security, or indirectly the

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

275

owner of stock or bonds of any association or corporation, nor shall any city, township or village be allowed to incur any indebtedness except for county, city, township or village purposes.”

Which was referred to the Committee on Bill of Rights, &c.

Also,

“A State poll tax, not to exceed in amount the sum of three dollars shall be levied on every male citizen of the age of twenty-one years and upwards; and the non-payment of the said poll tax for the period of one year, after the same shall have become due, and be demanded by the person authorized to collect the same, shall be deemed and taken to be a refusal on the part of said citizen to pay the said tax, and such refusal on the part of any such male citizen of the aforesaid age shall deprive him of the right of suffrage until the said poll tax is paid.”

Which was referred to the Committee on Bill of Rights, &c.

Mr. Thompson offered the following:

“Amend Article I, Paragraph 7, by adding ‘three-fourths of the jurors rendering a verdict in any civil suit shall have the same force and effect as though agreed upon by the whole number, impanelled on said jury.’”

Also,

Amend Article I, Paragraph 16, by adding “and in all cases where [page 42] lands are taken by any incorporated company, any land owner being aggrieved by award of Commissions shall have the right of appeal and have the damages re-assessed by the verdict of a jury.”

Which were referred to the Committee on Bill of Rights, &c.

Mr. Gregory offered the following:

“The Legislature shall meet once in two years unless on the requirement of the Governor of the State for special objects and on extraordinary occasions, he may assemble it at other times.”

Which was referred to the Committee on the Legislative Department.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

Also,

“Notice of the substance of applications of proposed amendments to municipal and county governments shall be published in the city or county concerned for thirty days in one or more newspapers published therein having the largest circulation, before application is made to the Legislature. Such application shall not be received or considered thirty days after the meeting of the Legislature.”

Which was referred to the Committee on Legislative Department.

Also,

“The cities and townships at the expiration of each five years after the adoption of this amendment shall vote a ballot **[page 43]** marked ‘license’ or ‘no license’ for the sale of intoxicating liquors. In case the majority at each of such elections shall be ‘no license,’ none shall be granted in such counties for the ensuing five years. The Legislature shall pass a general law of penalties against the sale therein, to be enforced during said term, if the majority vote of the county be ‘no license.’”

Which was referred to the Committee on Bill of Rights, &c.

Also,

“No real estate shall be exempted by law from its full share of all State, county, township and city taxes and assessments.”

Which was referred to the Committee on Bill of Rights, &c.

Also,

“No act shall be passed exempting any real estate from its full share of the State, county, township and city taxes by payment of any sum to the State, county, township or city.”

Which was referred to the Committee on Bill of Rights, &c.

Also,

“No appropriation or payment of money shall be made by the State or any county, township, city or village to religious corporations.”

Which was referred to the Committee on Bill of Rights, &c.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

277

Also,

“The School Fund shall be appropriated exclusively for the maintenance and support **[page 44]** of the public schools in the State under its exclusive control.”

Which was referred to the Committee on Bill of Rights, &c.

Also,

“Not less than two mills on the dollar of taxable values each year shall be raised in each county by tax annually, to be expended on public schools therein and not elsewhere.”

Which was referred to the Committee on Bill of Rights, &c.

Also,

“Laws shall be passed by this Legislature to compel the attendance of able bodied children at the public schools or such schools as their parents or guardians may prefer, of all children in the State between the ages of _____ and _____ years, for at least _____ months in each year.”

Which was referred to the Committee on Bill of Rights, &c.

Mr. Grey offered the following:

Amend Article V, Paragraph X by adding the words “where the innocence of the person accused clearly appears” between the word “conviction” and the word “in” in line 58.

Which was referred to the Committee on the Executive Department, &c.

Mr. Gregory offered the following:

“No county or township shall be indebted by bonded debt above two per cent. of its taxable values for the time being. No city more than ten per cent., excepting for its water supply.”

Which was referred to Com. on Bill of Rights, &c.

[page 45]

Mr. Grey offered the following:

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

Add to Paragraph 10, Article I, line 44 after the word "offence" the words "but in all criminal prosecutions, the jury may return a verdict of 'not proven' instead of acquitting the prisoner, and such verdict shall not be a bar to a subsequent trial of the same person for the same offence."

Which was referred to the Committee on Bill of Rights, &c.

Mr. Carter moved that the reports of the committees now made be printed.
Which was agreed to.

Mr. Grey moved to recommit to the Committee on the Executive, &c., the report made by said committee, amending Article VII, Section 8, for the purpose of amendment.

Which was agreed to.

Mr. Green offered the following:

Amend Art. IV, Section 7, by adding "the Legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say:

"Laying out, opening, altering and working roads or highways.

"Vacating roads, town plots, streets, alleys and public grounds.

"Regulating the internal affairs of towns or counties.

"Appointing local officers or commissions to regulate municipal affairs.

"Selecting, drawing, summoning or impaneling grand or petit juries.

"Regulating the rate of interest on money.

[page 46]

"Creating, increasing or decreasing fees, per centage or allowances of public officers during the term for which said officers are elected or appointed.

"Changing the law of descent.

"Granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever.

"The Legislature shall pass general laws providing for the cases enumerated in this section, and for all other cases which in its judgement

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

279

may be provided for by general laws.”

Which was referred to the Committee on Bill of Rights, &c.

Mr. Gregory offered the following resolution:

“That the secretaries send a circular to the Mayor of each of the cities, to the clerks of the boards of Chosen Freeholders of the several counties, and to the clerk of each township of the State requesting a statement of the amount of the present indebtedness of their respective cities, counties and townships; the time when and the purpose for which the same was created, and the time when payable; and also the amount of the present assessment rolls of said cities, counties and townships.”

Which was adopted.

A motion to reconsider was subsequently made and carried, and after discussion the resolution was again adopted.

Mr. Buckley moved that when the Commission adjourn it be to meet tomorrow morning at 10 o'clock.

Which was agreed to.

[page 47]

Mr. Carter, from the Committee on the Executive, &c., presented an amended report as follows:

Add to Section 8, Article V: “Nor shall he be elected by the Legislature to any office under the government of this State or of the United States during his term of office.”

Which report was accepted and ordered to lie on the table.

Mr. Grey moved to take from the table the reports already made and to reconsider the vote by which they were ordered printed.

Which was agreed to.

The Commission then resolved itself into Committee of the Whole, and after a sitting of half an hour the Committee rose and the President resumed the Chair. The Committee reported progress and asked leave to sit again.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

Which leave was granted.*

Mr. Grey offered the following resolution:

“Resolved, That all amendments to the Constitution proposed by any committee be printed for the use of the members, and where a proposed amendment changes the phraseology of any section, the secretaries be directed to have printed the section of the Constitution as it now stands, and as it will read should the proposed amendment be adopted.”

Which was adopted.

Mr. Green offered the following:

“No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of said act, or which shall [page 48] enact that any existing law, or any part thereof, shall be applicable except by inserting it in said act.

“No law shall be revived or amended by reference to its title only, but the act revived or the section or sections amended shall be inserted at length.

“No general law shall embrace any provision of a private, special or local character.”

Which was referred to the Committee on the Legislative Department, &c.

Mr. Ferry offered the following:

Amend Art. II, Line 8, by striking out the word “pauper.”

On motion, the Commission adjourned.

* [Ed. Note: For the minutes of the Committee of the Whole, see *infra* [pages 350-356].

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

281

Thursday Oct. 9th, 1873.

At 11 A.M. the Commission met.

Present: Messrs. Buckley, Carter, Dickinson, Ferry, Gregory, Green, Swayze, Ten Eyck – 8.

Mr. Dickinson, from the Committee on the Legislative Department – Its Organization and Constitution, presented the following report:

To the New Jersey Constitutional Commission:

Your Committee upon the Legislative Department – Its Organization and Constitution respectfully report the amendments to Article IV of the Constitution numbered 1, 2, 3, 4, and 5, accompanying this report, and recommend their adoption.

Your Committee report back amendments Nos. 6, 7, 8, 9, and 10, and desire to be relieved from the further consideration **[page 49]** thereof. Amendments Nos. 6 and 9 are in substance adopted by the Committee in amendments Nos. 2 and 5.

Dated Trenton Oct. 8, 1873

S. H. Grey, Chairman.

Amendments.

Article IV, Section 1, Paragraph 3, instead of present paragraph, the following:

No. 1.

3. Members of the Senate and General Assembly shall be elected yearly and every year, on the first Tuesday after the first Monday in November; and the two houses shall meet separately on the second Tuesday in January next after the said day of election, at which time of meeting the legislative year shall commence; but the time of holding such election may be altered by the Legislature.

Article IV, Section 4, Paragraph 7, instead of present paragraph, the following:

No. 2.

7. Members of the Senate and General Assembly shall receive annually

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

the sum of seven hundred and fifty dollars during the time for which they shall have been elected, and while they shall hold their office; but no other payment, allowance or compensation whatever. The President of the Senate and Speaker of the House of Assembly shall in virtue of their office, receive an additional compensation equal to one-third of their allowance as members.

Article IV, Section 4, Paragraph 6, instead of the first 18 words of the present paragraph, the following:

No. 3.

[page 50]

6. All bills and joint resolutions shall be printed before they are received or considered and shall be read throughout, sections by sections, on three several days, in each House before the final passage thereof, but the reading of the title only of any bill or joint resolution shall never be taken as the reading thereof; provided that in cases of actual invasion or insurrection, the Legislature may, by a two-thirds vote of the House where such bill or joint resolution shall be pending, otherwise order.

Article IV, Section 8, Paragraph 1, insert the following in lieu of the present oath:

No. 4.

Every member of the Legislature, before he enters on his duties, shall take and subscribe the following oath or affirmation:

“I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of this State, and will honestly discharge the duties of Senator (or Member of the House of Assembly) according to the best of my ability; and I do solemnly swear (or affirm) that I have not paid or contributed anything, or made any promise in the nature of a bribe, to corruptly influence, directly or indirectly, any vote at the election at which I was chosen a member of the Senate (or House of Assembly); and I do further solemnly swear (or affirm) that I have not accepted or received, and I will not accept or receive, directly or indirectly, any **[page 51]** money or other valuable thing from any corporation,

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

283

company or person for any vote or influence I may give or withhold on any bill, resolution or appropriation, or for any other act as a member of the Senate (or General Assembly) of this State.”

The foregoing oath or affirmation shall be administered by one of the Judges of the Supreme Court or a President Judge of the Court of Common Pleas, in the Hall of the House to which the member is elected, and the Secretary of State shall read and file the oath or affirmation subscribed by such member; any member who shall refuse to take such oath or affirmation shall forfeit his membership, and be disqualified thereafter from holding any office of profit or trust in this State.

Article IV, Section 7, substitute for Paragraph 10 the following:

No. 5.

No amendment to the charter of any municipal corporation shall be received by the Legislature after thirty days from the first day of the meeting thereof, and no such amendment shall be so received or considered, unless a notice expressing the substance of the amendment shall have been published for at least thirty days next before the first day of the meeting of the Legislature, in one or more of the newspapers having the largest circulation in the county in which the municipal corporation to be affected thereby shall be located.

Make present Paragraph 10, Paragraph 11.

[page 52]

The report was received and ordered to lie on the table.

Mr. Buckley offered the following:

“There may be elected under this Constitution, two Justices of the Peace in each of the townships of the several counties of this State; and in each of the wards in cities that may vote in wards, one Justice for every four thousand inhabitants which the ward may contain; and the Legislature shall provide by law the qualifications necessary for such Justices to possess, and the method of ascertaining the possession of such qualifications. And no person elected as aforesaid to the said office of Justice of the Peace shall

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

receive his commission until he shall have furnished satisfactory evidence to the Executive that he is fully qualified according to law.”

Which was referred to the Committee on the Judiciary.

Mr. Swayze offered the following:

“No person who shall receive, expect or offer to receive or pay, offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding of any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election; and upon challenge for such cause, the person so challenged before [page 53] the inspectors, or other officers authorized for that purpose, receive his vote, shall swear (or affirm) before such inspectors or other officers that he has not received or offered, does not expect to receive, has not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or valuable thing as a compensation or reward for the giving or withholding a vote at such election; and has not made any promise to influence the giving or withholding of any such vote, nor made or become directly or indirectly interested in any bet or wager, depending upon the result of such election.”

Which was referred to the Committee on the Right of Suffrage.

Mr. Dickinson offered the following:

“All elections of the citizens shall be by ballot, every ballot voted shall be numbered in the order in which it is received and the number recorded by the election officers opposite the name of the elector who presents the ballot, and any elector may write his name on the back of his ballot.”

Which was referred to the Committee on the Right of Suffrage.

Also,

“All laws regulating elections by the people or for the registry of elections shall be uniform throughout the State, but no elector shall be deprived of the right to vote by the reason of his name not being registered.”

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

285

Which was referred to the Committee on the Right of Suffrage.

[page 54]

Also,

“Whenever, within six months after the official publication of any act of the Legislature in the pamphlet laws, and not thereafter, it shall be alleged before the Attorney General by affidavit showing probable cause to believe that the passage or approval of such law was procured by bribery, fraud or other corrupt means, it shall be the duty of the Attorney General forthwith to apply to the Supreme Court, or one of the Judges thereof, for process in an appropriate proceeding, which shall be ordered if there appear to the said Court or to such Judge to be such probable cause; and in which the State, upon relation of the Attorney General, shall be plaintiff, and such party, as the Supreme Court or the Judge who shall grant such issue shall direct, shall be defendant, to try the validity of such act of the Legislature, whereupon the Court shall direct publication of the same. And any party in interest may appear, and upon petition be made a party, plaintiff or defendant thereto. The said issue shall be framed and tried before a jury, by one of the Judges of the Supreme Court, in whatever form and in such county as the Supreme Court may direct; and if it shall appear to the court and jury upon such trial that the passage and approval of the same was procured by bribery, fraud or other corrupt means, such act of the Legislature shall be adjudged null and void, **[page 55]** and such judgement shall be conclusive, and the Governor shall thereupon issue his proclamation declaring such judgement. Either party shall be entitled within three months, and not thereafter, to a writ of error as in other cases. No officer of the State nor any officer or member of the Legislature shall be exempt from testifying when required in such case; but the testimony of any such witness shall not be used against him in any criminal prosecution, except for perjury therein.”

Which was referred to the Committee on Judiciary.

Also,

“The Legislature shall not pass any local or special law creating corporations except banks; but the charters of all banks created by the Legislature shall embrace the provisions contained in the charters or

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

renewals granted in the year 1856.”

Which was referred to the Committee on General and Special Legislation.

Also,

“No law shall extend the term of any public officer, or increase or diminish his salary or emoluments after his election or appointment.”

Which was referred to the Committee on Appointing Power and Tenure of Office.

Also,

“The Legislature shall not [page 56] delegate to any commission the right to govern any city, town or borough in this State; and all commissions heretofore created shall be void hereafter, the ancient right of governing themselves being left to the people.”

Which was referred to the Committee on Bill of Rights.

Also,

“Every city, town or borough shall create a sinking fund, which shall be inviolably pledged for the payment of its funded debt.”

Which was referred to the Committee on the Legislature.

Also,

“No act of the Legislature shall authorize the investment of trust funds by executors, administrators, guardians or other trustees, in the bonds or stock of any private corporation, and existing laws so authorizing are annulled and avoided, saving such investments heretofore made in good faith.”

Which was referred to the Committee on the Legislature.

Also,

“No obligation or liability of any railroad or other corporation held or owned by the State shall ever be exchanged, transferred, remitted, postponed or in any way diminished by the Legislature; nor shall such liability or obligation be released, except by payment thereof unto the State Treasury.”

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

287

[page 57]

Which was referred to the Committee on the Executive, &c.

Also,

“A member of the Legislature who shall solicit, demand or receive, or consent to receive, directly or indirectly, for himself or for another, from any company, corporation or person, any money, office, appointment, employment, testimonial, reward, thing of value or enjoyment, or of personal advantage or promise thereof for his vote or official influence, or for withholding the same, or with an understanding expressed or implied, that his vote or official action shall be in any way influenced thereby; or who shall solicit or demand any such money or other advantage, matter or thing aforesaid for another as the consideration for his vote or official influence or for withholding the same, or shall give or withhold his vote or influence in consideration of the payment or promise of such money, advantage, matter or thing to another shall be held guilty of bribery within the meaning of this Constitution, and shall incur the disabilities provided thereby for said offence, and such additional punishment as is or shall be provided by law. Any person who shall, directly or indirectly, or by means of or through any artful or dishonest device, offer, give or promise any money, goods, thing of value, testimonial, privilege or personal advantage to any executive or judicial officer or member of the **[page 58]** Legislature of this State to influence him in the performance of any of his public or official duties, shall be guilty of bribery and punished in such manner as shall be provided by law. Any person who may have offered or promised a bribe, or solicited or received one may be compelled to testify in any judicial proceeding against any person who may have committed the offence of bribery, as defined in the foregoing sections, and the testimony of such witness shall not be used against him in any judicial proceeding, except in prosecutions for perjury committed in such testimony; and any person convicted of the offence of bribery as hereinbefore defined shall, as part of the punishment therefor, be disqualified from holding office or position of honor, trust or profit in this State.

A member who has a personal or private interest in any measure or bill proposed or pending before the Legislature shall disclose the fact to the

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

house of which he is a member, and shall not have the right to vote thereon.”

Which was referred to the Committee on the Legislature.

Also,

“No debt shall be created by or on behalf of the State except to supply casual deficiencies of revenue, or to repel invasion, suppress insurrection or defend the State in war, or to pay existing debt; and the debt created to [page 59] supply deficiencies in revenue shall never exceed in the aggregate at any one time, two hundred thousand dollars.”

Which was referred to the Committee on the Executive, &c.

Also,

“The Justices of the Supreme Court shall hold their offices for the term of twenty one years, if the[y] so long behave themselves well, but shall not be eligible again to the same office. The Judge whose commission will first expire shall be Chief Justice, and thereafter each Judge whose commission shall first expire shall in turn be Chief Justice.”

Which was referred to the Committee on the Judiciary.

Also,

“Amend subdivision III, Section II, Article VII by striking out the words “inspectors of.”

Which was referred to the Committee on Tenure of Office.

Also,

“No act of the Legislature shall limit the amount to be recovered for injuries resulting in death, or for injuries to person or property; and in case of death from such injuries, the right of action shall survive and the Legislature prescribe for whose benefit such actions shall be prosecuted; nor shall any act prescribe any limitation of time within which suits may be brought against corporations [page 60] for injuries to person or property, or for other causes different from that fixed by the general laws prescribing the time for the limitation of actions, and existing laws so limiting or prescribing are annulled and avoided.”

Which was referred to the Committee on General and Special

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

289

Legislation.

Mr. Swayze offered the following:

“No county shall be divided or have any part stricken therefrom without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county voting on the question shall vote for the same.”

Which was referred to the Committee on Limitation of Powers of Government.

Also,

“The State shall never pay, assume or become responsible for the debts or liabilities of, or in any manner give or extend its credit to or in aid of, any public or other corporation or association, or to individual[s]; nor shall the money of the State be given or loaned to or in aid of any association, corporation or private undertaking.”

Which was referred to the Committee on Limitation of Powers of Government.

Also,

“No private, special or civil law shall embrace more than one subject, and that shall be named in the title; **[page 61]** and any such law which shall embrace more than one subject shall be void. No law shall be revived or amended by reference to its title only, but the act revived or the section or sections amended shall be inserted at length in the new act. No general law shall embrace any provision of a private, special or local character. And no act of the General Assembly shall take effect until the first day of July next after its passage, unless in case of emergency (which emergency shall be expressed in the preamble or body of the act) the General Assembly shall by a vote of two-thirds of all the members elected to each house, otherwise direct.”

Which was referred to the Committee on Amendments.

Also,

“The General Assembly shall provide by law that the fuel, stationery

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

and printing paper furnished for the use of the State; the copying, printing, binding and distributing [of] the laws and journals and all other printing ordered by the General Assembly shall be let by contract to the lowest responsible bidder, but the General Assembly shall fix a maximum price, and no member thereof, or other officer of the State shall be interested, directly or indirectly, in such contract, but all such contracts shall be subject to the approval of the Governor, and if he disapprove the [page 62] same, there shall be a re-letting of the contract.”

Which was referred to the Committee on Amendments.

Mr. Gregory offered the following:

“All valuations on real estate with the improvements and buildings thereon shall be assessed for the annual taxes at fifty per cent. of the saleable value thereof. Equalization of values for an annual State tax shall be made once in five years by a board composed of the Comptroller, Treasurer and Secretary of the State.”

Which was referred to the Committee on Amendments.

Also,

“Licenses for inns and taverns and all places for the retail sale of liquors and beverages – each place for such business shall be included in the annual tax list for all taxes. They shall be assessed an annual sum or sums in addition to the other tax or taxes on the premises, which shall be from time to time levied by law. They shall be a lien on the premises, the owner of which shall be responsible therefore as for other taxes, as well as for all consequences and all costs of arrests, and trials and damages arising from the violations of the laws of the State in the sale of intoxicating liquors therein.”

Which was referred to the Committee on the Legislative Department, &c.

[page 63]

Mr. Ten Eyck offered the following:

Amend Art. IV. Section IV, Par. 6, in Line 20, after the word “times” insert “twice section by section” in full; and after the word “thereof” in Line 21, insert “and no two readings, section by section as aforesaid shall be on

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

291

the same day;" and at the end of this section insert the following: "No private, special or local bill shall be introduced after ten days from the commencement of the session."

Which was referred to Committee on General and Special Legislation.

Also,

Art. IV. Sec. IV, Par. 7, strike out the words "three dollars" where the[y] occur in Line 27, and insert "six dollars;" and strike out [the] words "one dollar and fifty cents" where they occur in Line 29, and insert the words "three dollars;" and after the word "route" in Line 33, insert "and they shall receive no other allowance or emolument whatever."

Which was referred to the Committee on the Legislative Department.

Also,

Art. V, Par. VI, in Line 23, after the word "Legislature" insert the words "or the Senate."

Which was referred to the Committee on the Executive, &c.

Mr. Buckley offered the following:

"Resolved, That when the **[page 64]** Commission adjourns today it be to meet on Tuesday the 14th inst. at 11 o'clock A.M."

Which was agreed to.

On motion of Mr. Gregory the Commission adjourned.

Tuesday Oct. 14th, 1873.

At 11 A.M. the Commission met and, there being no quorum present, a recess was taken; after which the roll was again called with the following result:

Present: Messrs. Carter, Cutler, Dickinson, Ferry, Green, Swayze, Ten Eyck, Thompson – 8.

Mr. Green moved that Algernon S. Hubbell, of Essex, [and] William Brinkerhoff, of Hudson, having been appointed members of this

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

Commission, they be assigned to places on the Committees in which vacancies exist.

Which was agreed to.

The Chair appointed Mr. Hubbell a member of the Committee on Bill of Rights, Right of Suffrage, Limitation on Powers of Government, General and Special Legislation; and Mr. Brinkerhoff a member of the Committee on the Legislative Department – Its Organization and Constitution.

Mr. Gregory presented a petition from Cornelia C. Hussey and others asking the Commission to recommend an amendment conferring the right of suffrage on women.

Mr. Cutler presented a petition of similar import.

Mr. Ferry offered the following:

“1st. The Legislative power shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives, both to be elected by the people.

“2nd. An election for members of the General Assembly shall be held on the Tuesday next after the first Monday in November in the Year of our Lord eighteen hundred and seventy-seven and every two years thereafter in each county, at such places therein as may be provided by law. When vacancies occur in either house, the Governor or person exercising the powers of Governor shall issue writs of election to fill such vacancies.

“3rd. The General Assembly shall apportion the State every ten years, beginning with the year one thousand eight hundred and seventy-six, by dividing the population of the State as ascertained by the last State census by the number twenty-three, and the quotient shall be the ratio of representation in the Senate. The State shall be divided into twenty-three Senatorial districts, each of which shall elect one Senator whose term of office shall be four years. The Senators elected in the year of our Lord one thousand eight hundred and [page 66] seventy-seven in districts bearing odd numbers shall vacate their offices at the end of two years, and those elected in districts bearing even numbers at the end of four years; and

vacancies occurring by the expiration of term shall be filled by the election of Senators for the full term. Senatorial districts shall be formed of contiguous and compact territory, bounded by county lines, and contain as nearly as practicable an equal number of inhabitants; but no district shall contain less than four-fifths of the Senatorial ratio. Counties containing not less than the ratio and three-quarters may be divided into separate districts, and shall be entitled to two Senators, and one additional Senator for each number of inhabitants equal to the ratio contained by such counties in excess of twice the number of said ratio.

“4th. The House of Representatives shall consist of three times the number of the members of the Senate, and the term of office shall be two years. Three representatives shall be elected in each Senatorial District at the General Election in the year of our Lord, one thousand eight hundred and seventy-seven, and every two years thereafter. In all elections of Representatives aforesaid, each qualified voter may cast as many votes for one candidate as there are representatives to be elected, or may distribute the same or equal parts thereof among the candidates, as he may see fit; and the candidates high- [page 67] est in votes shall be declared elected. The Senators who may be in office on the first day of January, one thousand eight hundred and seventy-six shall hold their offices until the first day of December following, and no longer.”

Which was referred to the Committee on the Legislative Department – Its Organization and Constitution.

Mr. Swayze offered the following:

“That all the printing press shall be free to every person who undertakes to examine the proceedings of the Legislature or any branch of the government; and no law shall ever be made to restrain the right thereof. The free communications of thoughts and opinions is one of the [inviolate] rights of man, and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty. No conviction shall be had in any prosecution for the publication of papers relating to the official conduct of officers or men in public capacity, or in any other matter proper for public investigation or information where the fact that such publication was not maliciously or negligently made shall be established to

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

the satisfaction of the jury. And in all indictments for libel, the jury shall have the right to determine the law and the facts under the direction of the court, as in other cases.”

Which was referred to the Committee on Bill of Rights.

[page 68]

Mr. Swayze offered the following as a new article of the Constitution:

**Article __
Corporations.**

Sec. 1. No corporation shall be created by special laws, or its charter extended, changed or amended except those for charitable, educational, penal, or reformatory purposes, which are to be and remain under the patronage and control of the State; but the General Assembly shall provide by general laws for the organization of all corporations hereafter to be created.

Sec. 2. All existing charters or grants of special or exclusive privileges under which organization shall not have taken place, or which shall not have been in operation within ten days from the time this Constitution takes effect, shall thereafter have no validity or effect whatever.

Sec. 3. The General Assembly shall provide by law that in all elections for directors or managers of incorporated companies, every stockholder shall have the right to vote in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected or to cumulate said shares and give one candidate as many votes as the number of directors multiplied by the number of shares of his stock shall equal, or to distribute them on the same prin- **[page 69]** ciple among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner.

Sec. 4. No law shall be passed by the General Assembly granting the right to construct and operate a street railroad in any city, town, or incorporated village without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied by such street railroad;

Banks.

Sec. 5. No State bank shall hereafter be created, nor shall the State own

or be liable for any stock in any corporation or joint stock company or association for banking purposes now created or to be hereafter created. No act of the General Assembly authorizing or creating corporations or associations with banking powers, whether of issue, deposit or discount, nor amendments thereto, shall go into effect or in any manner be enforced unless the same shall be submitted to a vote of the people at the general election next succeeding the passage of the same, and be approved by a majority of all the votes cast at such election for or against such law.

Sec. 6. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors over and above the amount of stock by him or her held, to an amount equal to his or her shares so held, for [page 70] all its liabilities accruing while he or she remain such stockholder.

Sec. 7. The suspension of specie payments by banking institutions on their circulation created by the laws of this State shall never be permitted or sanctioned. Every banking association, or any one which may hereafter be organized under the laws of this State, shall make and publish a full and accurate quarterly statement of its affairs (which shall be certified to, under oath by one or more of its officers) as may be provided by law.

Sec. 8. If a general banking law shall be enacted, it shall provide for the registry and countersigning, by all officers of the State, of all bills on paper credit designed to circulate as money, and require security to the full amount thereof to be deposited with the State Treasurer in United States or N.J. State stocks, to be rated at ten per cent. below their par value; and in case of the depreciation of said stocks to the amount of ten per cent. below par, the bank or banks owning said stock shall be required to make up said deficiency by depositing additional stock. And said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, the time of any transfer thereof and to whom such [page 71] transfer is made. All acts contrary to the provisions of this section at the time this Constitution takes effect shall thereafter have no validity or effect whatever.

Railroads.

Sec. 9. Every railroad corporation organized or doing business in this State, under the laws or authority thereof, shall have or maintain a public

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

office in this State for the transaction of its business, where transfers of stock shall be made, and in which shall be kept for public inspection books in which shall be recorded the amount of capital stock subscribed, and by whom, the names of the owners of its stock, and the amount owned by them respectively, the amount of stock paid in and by whom, the transfers of said stock, the amount of its assets and liabilities, and the names and places of residence of its officers. The directors of every railroad corporation shall annually make a report under oath to the General Assembly, or some officer to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads, as may be prescribed by law; and the General Assembly shall pass laws enforcing by suitable penalties the provision of this section.

Sec. 10. The rolling stock and all other movable property belonging to any railroad company or corporation **[page 72]** in this State shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals, and the General Assembly shall pass no law exempting any such property from execution and sale.

Sec. 11. No railroad corporation shall consolidate in stock, property or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given of at least ninety days to all stockholders, in such manner as may be provided by law. A majority of the directors of any railroad corporation now incorporated or hereinafter to be incorporated by the laws of this State shall be citizens and residents of this State.

Sec. 12. Railways heretofore constructed, or that may hereafter be constructed in this State, are hereby declared public highways and shall be free to all persons for the transportation of their persons or property thereon, under such regulations as may be prescribed by law. And the General Assembly shall from time to time pass laws establishing maximum rates of charges for the transportation of passengers and freight on the different railroads in this State.

Sec. 13. No railroad corporation shall issue any stock or bonds **[page 73]** except for money, labor or property actually received and applied to the purposes for which such corporation was created. And all stock dividends

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

297

and other fictitious increase of the capital stock on indebtedness of any such corporation shall be void. The capital stock of no railroad corporation shall be increased for any purpose except upon giving ninety days public notice in such manner as may be provided by law.

Sec. 14. No railroad corporation heretofore chartered or that may hereafter be chartered by the General Assembly of this State shall declare any dividends upon its capital stock, unless the money to pay such dividend shall be actually earned, over and above the cost of operating or carrying on the business and keeping in repair such railroad, during the term for which such dividend is declared; and the General Assembly shall pass laws with adequate penalties to enforce the provision contained in this section to the extent, if necessary for that purpose, of forfeiture of their property and franchises.

Sec. 15. The exercise of the power and the right of eminent domain shall never be so construed or abridged as to prevent the taking by the General Assembly of the property and franchises of incorporated companies already organized, and subjecting them **[page 74]** to the public necessity, the same as of individuals. The right of trial by jury shall be held inviolate in all trials of claims for compensation when, in the exercise of the said right of eminent domain, any incorporated company shall be interested either for or against the exercise of said right.

Sec. 16. The General Assembly shall pass laws to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads of this State, and enforce such laws by adequate penalties to the extent, if necessary for that purpose, of forfeiture of their property and franchises.

Mr. Swayze asked that the above be referred to a special committee of five, to be appointed by the Chair.

Mr. Gregory moved that it lie on the table, which motion was agreed to.

Mr. Ferry offered the following:

“To provide for future amendments to the Constitution.”

“Sec. 1. Whenever two-thirds of the members of each house of the General Assembly shall, by a vote entered upon the journals thereof, concur

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

that a convention is necessary to revise, alter or amend the Constitution, the question shall be submitted to the electors at the next general election; if a majority voting at the election **[page 75]** vote for a convention, the General Assembly shall, at its next session, provide for a convention to consist of double the number of members of the Senate, to be elected in the same manner, at the same places, and in the same districts. The General Assembly shall, in the act calling the convention, designate the day, hour and place of the meeting, fix the pay of its members and officers and provide for the payment of the same, together with the expenses necessarily incurred by the convention in the performance of its duties. Before proceeding, the member shall take an oath to support the Constitution of the United States, and of the State of New Jersey, and to faithfully discharge their duties as members of the convention. The qualification of members shall be the same as that of members of the Senate, and vacancies occurring shall be filled in the manner provided for filling vacancies in the General Assembly. Said convention shall meet within three months after such election and prepare such revision, alterations or amendments of the Constitution as shall be deemed necessary, which shall be submitted to the electors for their ratification or rejection at an election appointed by the convention for that purpose, not less than three nor more than six months after the **[page 76]** adjournment thereof; and unless so submitted and approved by a majority of the electors voting at the election, no such revision, alterations or amendment shall take effect.

“Sec. 2. Amendments to the Constitution may be proposed in either house of the General Assembly, and if the same shall be voted for by two-thirds of all the members elected to each of the two houses, such proposed amendments, together with the yeas and nays of each house there[in], shall be entered in full on their respective journals; and said amendments shall be submitted to the electors of this State for adoption or rejection at the next election of members of the General Assembly, in such manner as may be prescribed by law. The proposed amendments shall be published in full at least three months preceding the election in [one] or more papers in each county in the State, and if a majority of the electors voting at the election shall vote for the proposed amendments, they shall become a part of the Constitution; but the General Assembly shall have no power to propose

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

299

amendments to more than one article of this Constitution at the same session, nor to the same article oftener than once in four years.”

Which was referred to the Committee on Amendments.

[page 77]

Mr. Ferry offered the following resolution:

“Resolved, That all proposed amendments offered by the members of this Commission shall be printed as such, and shall be for information. All amendments reported from committees shall be printed separately as such, and shall show, when printed, both the part as amended and the original article or articles.”

Which was adopted.

Mr. Ferry offered the following resolution:

“Resolved, That a committee of three members of this Commission shall be appointed to supervise all printing authorized by this Commission.”

Which was adopted, and Messrs. Dickinson, Babcock, and Ferry were appointed such committee, Mr. Dickinson being designated as Chairman at the request of the mover of the resolution.

Mr. Carter offered the following resolution:

“Resolved, That the secretaries of this Commission are hereby requested to invite the clergymen of the city of Trenton to be present at the commencement of the first session of the Commission in each week to open it with prayer.”

Which was adopted.

[page 78]

Mr. Gregory moved to reconsider the vote by which the foregoing resolution was adopted.

Which was not agreed to.

Mr. Ferry offered the following:

“The question of Woman Suffrage shall be submitted to a separate vote at the time of the submission of the Constitution, in such manner as may be

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

provided in the schedule, and if upon the canvass of the votes cast on the question a majority thereof shall be found for Woman Suffrage, then the word 'male' shall be stricken out of Section I of the Article on Suffrage; otherwise not.

Which was referred to the Committee on Right of Suffrage.

Mr. Ferry offered the following:

“Sheriffs and coroners shall be chosen by the electors of the respective counties once in every three years, and as often as vacancies occur. Sheriffs shall hold no other office, and be ineligible for the next three years after the termination of the terms of their offices. They may be required by law to renew their security from time to time, and on default of giving such new security, their offices shall be deemed vacated, but the county shall never be made responsible for the act of a sheriff.”

Which was referred to the Committee on Executive and Judiciary Dept.

[page 79]

On motion of Mr. Buckley, the Commission resolved itself into a Committee of the Whole, and after a short time spent therein the Committee rose, reported progress, and asked leave to sit again.

Which was granted.*

On motion of Mr. Grey, the Commission adjourned to meet on Wednesday morning at ten o'clock.

Wednesday, Oct. 15th, 1873.

At 10 A.M. the Commission met.

Prayer was offered [by] Rev. D. Hall.

* [Ed. Note: For the minutes of the Committee of the Whole, see *infra* [pages 350-356].]

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

301

The roll was called and, no quorum being present, a recess was taken.

The roll being again called, the following gentlemen answered to their names: Messrs. Buckley, Carter, Cutler, Dickinson, Ferry, Gregory, Hubbell, Swayze, Ten Eyck, Thompson – 10.

Mr. Dickinson, from the Committee on the Legislative Department, presented the following report:

Mr. President:

Your committee upon the Legislative Department – Its Organization and Constitution, beg leave to report that they have considered Amendments Nos. 1, 2, 3, 4, and 5 referred to them. Your Committee ask to be discharged from the further consideration of Amendment No. **[page 80]** 2, upon which your Committee has already reported. Your committee [submit] the following amendment, and recommend its adoption:

Article IV, Section VII, add the following as Paragraph 12:

“No trust funds shall be invested in the bonds or stock of any private corporation, unless such investment be authorized or directed in the instrument, or by the person or persons creating the trust.”

Your Committee report progress upon Amendments Nos. 3, 4 and 5.

S. H. Grey, Chairman.

Dated Oct. 14, 1873.

Mr. Buckley offered the following:

Amend Article IV, Section II, so as to read as follows:

“1. The Senate shall be composed of twenty-one members, each elected for three years.

“2. The Legislature shall divide the State into seven territorial districts, composed of contiguous territory, and as nearly equal in population as may be. The legal voters of each district shall be entitled to elect a Senator yearly, to serve for three years.

“3. The Senators in office from the several counties at the time of the adoption of this amendment shall be entitled to hold their office for the full term for which they were elected, notwithstanding any senatorial district may have more or less than three members; but as soon as the terms of

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

office expire **[page 81]** of members from any district having more than three members, the Legislature shall provide for the distribution of the surplus to such district or districts as may have less than three Senators, until each district shall have at least three members; and no election for Senator shall be held in any district having more than three members until every other district shall have three members allotted thereto. When the foregoing provisions of this clause shall have been carried into effect, the Legislature shall provide for the classification of the members from each district so that the term of office of one member from each district shall expire annually.

“4. After the taking of the next United States census, the boundaries of the Senatorial districts shall not be changed oftener than once in ten years.

“5. Vacancies in the office of Senators shall be filled for the unexpired terms only.”

Which was referred to the Committee on the Legislative Department.

Mr. Buckley offered the following:

Amend Article VI, Sec. VII, to read thus:

“Section VII.

“1. There may be elected under this Constitution not more than two Justices of the Peace in each of the townships of the several counties of this State, and not more than one Justice of the Peace in each of the wards in cities that may vote in wards.

“2. The Legislature shall prescribe by law the qualifications of Justices **[page 82]** of the Peace, and provide for their examination of persons elected to said office to determine their qualifications before the commissions shall be issued. The Legislature shall also provide for the summary suspension of Justices of the Peace for misconduct in office, such suspension to continue until the end of the next succeeding session of the Legislature.”

Which was referred to the Committee on the Executive and Judiciary Departments, and Appointing Power and Tenure of Office.

Mr. Buckley offered the following:

Amend Article VI, Section VI, Clause 1, so as to read thus:

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

303

“Section VI.

“1. There shall be no more than two Judges of the Inferior Court of Common Pleas in each of the counties in this State, after the terms of the judges of said court now in office shall terminate. At least one of the judges of said court hereafter appointed shall be a counselor-at-law, and he shall be the president judge of said court. Vacancies shall be filled for the unexpired term only.”

In this connection, amend Art. VII, Sec. II, Clause 1, to read thus:

“Section II.

“1. Justices of the Supreme Court, Chancellor, Judges of the Court of Errors and Appeals, and Judges of the Inferior Court of Common Pleas shall be nominated by the Governor, and ap- **[page 83]** pointed by him, with the advice and consent of the Senate.

“2. The Justices of the Supreme Court and the Chancellor shall hold their offices for the term of seven years, and the Judges of the Inferior Court of Common Pleas for the term of five years; [they] shall, at stated times, receive for their services a compensation which shall not be diminished during the term of their appointments; and they shall hold no other office under the government of this State or of the United States.”

Number the above as Clause 2, and strike out Clause 2 in the present Constitution.

On motion, the Commission resolved itself into a Committee of the Whole, and after a time spent therein, the Committee rose, reported progress, and asked leave to sit again.

Which was granted.*

Mr. Green, from the Committee on Bill of Rights, Right of Suffrage, Limitation on Powers of Government, and General and Special Legislation reported:

* [Ed. Note: For the minutes of the Committee of the Whole, see *infra* [pages 350-356].]

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

With recommendations that the same be adopted, papers marked 3, 4, 13, 14, 20, 11.

Without recommendation, suggestions numbered 2, 5, 6, 15, 16, 18, 24, 25, and 27.

As unnecessary, being already provided, for suggestions numbered 8, 19, 26.

Provided for by amendments reported by the Committee on the Legislative Department, that numbered 22.

[page 84]

Provided for by another suggestion, that numbered 21.

With recommendation that they be not adopted, those numbers 7, 10, 12.

Petition as to female suffrage, with the request to be discharged from its further consideration.

Robt S. Green,
B. Buckley,
A. S. Hubbell.

The Committee also report, recommending its adoption, the following:

A State poll tax not to exceed in amount the sum of two dollars shall be levied on every male citizen of the age of twenty-one years and upwards, and the nonpayment of the said poll tax for the period of one year after the same shall have become due and demanded by the person authorized to collect the same shall be deemed and taken to be a refusal on the part of said citizen to pay the said tax, and such refusal on the part of any male citizen of the aforesaid age shall deprive him of the right of suffrage until the said poll tax is paid.

B. Buckley,
A. S. Hubbell.

Mr. Cutler offered the following:

“Private property shall ever be held inviolate, but subservient to the public welfare, and shall not be taken for public or private use without just

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

305

compensation, and the right of trial by jury shall be secured to every owner in order that the just compensation may be ascertained; and such compensation shall be assessed by a jury without deduction [page 85] for benefits to any property of the owner.”

Which were referred to the Committee on the Bill of Rights, &c.

Mr. Cutler offered the following:

“No property protected by law shall be exempted from tax, and property of every kind and description shall be taxed. Laws shall be passed taxing by a uniform rule all moneys, credits, investments in bonds, stocks, joint stock companies or otherwise, and also all real and personal property according to its true value in money; and the Legislature shall further provide by law for the taxing [of] money, property, dues and effects of all banks, savings banks and institutions, insurance companies and trust companies now existing or hereafter created, and of all bankers, so that all property employed in such institutions and business shall always bear a burden of taxation equal to that imposed on the property of individuals.”

Which was referred to the Committee on Bill of Rights, &c.

Mr. Cutler offered the following:

“The real and personal estate of every female acquired before marriage, and all property to which she may afterwards become entitled by gift, grant, inheritance or devise shall be and remain the estate and property of such female, and shall not be liable for the debts, obligations or engagements of her husband, and may be devised or bequeathed by her as if she were unmarried.”

[page 86]

Which was referred to the Committee on the Legislative Department.

Mr. Green offered the following:

“*Resolved*, That so much of the rules, as requires a reference of Reports of Committees to the Committee of the Whole, be rescinded.”

Which was laid over under the rules.

PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION

On motion, the Commission adjourned.

Thursday, Oct. 16th 1873.

At 10 A.M. the Commission [met] but, there being no quorum present, took a recess, at the expiration of which the roll was called and the following gentlemen answered to their names: Messrs. Carter, Dickinson, Ferry, Green, Gregory, Swayze, Ten Eyck, Thompson – 8.

The minutes were read and approved.

Mr. Carter, from the Committee on the Executive and Judiciary Departments, the Appointing Power and Tenure of Office, presented the following report:

Amend Article V, Paragraph 6, after the word “Legislature” the words “or the Senate alone.”

The Committee report that papers numbered 8, 16, 17 and 18 be not adopted.

D. S. Gregory,
Benj. F. Carter.

The report was accepted and the recommendations ordered printed.

The Commission took up the consideration **[page 87]** of the amendment to the Rules, offered yesterday by Mr. Green, as follows:

“*Resolved*, That so much of the Rules, as requires a reference of reports of Committees to the Committee of the Whole, be rescinded.”

The question being put, and the vote taken, the amendment was agreed to.

Mr. Swayze moved to take from the table the suggestion offered by him on the 14th inst. relative to corporations.

The motion was agreed to.

Mr. Swayze moved that it be referred to a special committee of five.

Mr. Carter moved that it be referred to the Committee on the Legislative

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

307

Department – Its Organization and Constitution.

Which was agreed to.

On motion of Mr. Green, the Commission went into Committee of the Whole, and after a short time spent therein, rose, reported progress, and were discharged.*

The Commission took up the Report of the Committee of the Whole, and proceeded to consider the report of the Committee *seriatim*.

The Report of the Committee on the Executive and Judiciary Departments, Appointing Power and Tenure of Office was first considered:

The report of the Committee to strike out the word “majority” in the 5th and 7th lines **[page 88]** in Paragraph 7, Article V, and substitute the word “two-thirds,” was not agreed to.

The recommendation to add at the close of Paragraph 7, the words “The Governor shall have power to veto separate items in the appropriation bill without defeating the whole, and the two houses shall only reconsider the item or items objected to,” was not agreed to.

Mr. Green moved to add at the end of Paragraph 7, Article V, the following:

“If any bill presented to the Governor contain several items of appropriation of money, he may object to one or more of such items, while approving of the other portions of the bill. In such case, he shall append to the bill, at the time of signing it, a statement of the items to which he objects; and the appropriation so objected to shall not take effect. If the Legislature be in session, he shall transmit to the House in which the bill originated, a copy of such statement, and the items objected to shall be separately reconsidered. If on reconsideration one or more of such items be approved by a majority of the members elected to each House, the same shall be part

* [Ed. Note: For the minutes of the Committee of the Whole, see *infra* [pages 350-356].]

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

of the law, notwithstanding the objections of the Governor; all the provisions of this section, in relation to bills not approved by the Governor, shall apply to cases in which he shall withhold his approval from any item or items contained in a bill appropriating **[page 89]** money.”

Which was agreed to.

The recommendation to add at the end of Paragraph 8, Article V, the following: “Nor shall he be elected by the Legislature to any office under the government of this State or of the United States during his term of office.”

Was not agreed to.

On motion of Mr. Green, the following was added at the end of Paragraph 8, Article V: “Nor shall he be elected by the Legislature to any office under the government of this State or of the United States, during the term for which he shall have been elected Governor.”

The recommendation to amend Article VII, Section I, Paragraph 5, by adding after the words “Major Generals,” the words “the Adjutant General and Quartermaster General,” was [agreed to].

The recommendation to amend Article VII, Section I, Paragraph 9, by striking out after the words “shall appoint,” in the first line, the words “the Adjutant General, the Quartermaster General, and,” and after the word “all” the word “other,” was adopted.

The recommendation to amend Article VII, Section II, Paragraph 7, so that it shall read: “7. Sheriffs and coroners shall be elected by the people of their respective counties at the elections for members of the General Assembly, and they shall hold their **[page 90]** offices for three years, after which three years must elapse before they can be again capable of serving,” was adopted.

Mr. Green moved to add to Paragraph 7, Section II, Article VII, the following:

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

309

“Sheriffs shall annually renew their bonds.”
Which was agreed to.

The further consideration of the Article was postponed for the present.

Mr. Carter offered the following:

“The members of the Commission shall not hereafter absent themselves without having leave of absence from the Commission.”
Which was ordered to lie on the table.

The Report of the Committee on the Legislative Department – Its Organization and Constitution was taken up for consideration:

The recommendation to amend Article IV, Section I, Paragraph 3, line 2, by striking out after the words “Every year on the” the words “second Tuesday of October” and inserting in place thereof the words “first Tuesday after the first Monday in November,” was agreed to.

The recommendation to amend Article IV, Section IV, Paragraph 6, so as to read: “All bills and joint resolutions shall be printed before they are received or considered, and shall be read throughout, section [page 91] by section, on three several days in each house, before the final passage thereof, but the reading of the title only of any bill or joint resolution shall never be taken as the reading thereof; provided, that in cases of actual invasion or insurrection the Legislature may, by a two-thirds vote of the House where such bill or joint resolution shall be pending, otherwise order. And no bill or joint resolution shall pass unless there be a majority of all the members of each body personally present and agreeing thereto; and the yeas and nays of the members voting on such final passage shall be entered on the journal,” was agreed to.

The recommendation to insert in the above paragraph after the words “otherwise order,” in the 7th line of the printed bill, the following: “and provided further, that all bills and joint resolutions, together with the amendments thereto, shall be printed and distributed among the members of each house at least one day before the vote shall be taken on the final

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

passage thereof,” was agreed to.

The recommendation to insert at the end of Paragraph 4, Section VII, Article IV, the following was agreed to:

“No law shall be revived or amended by reference to its title only, but the act revived, or the section or sections amended, shall be inserted at length. No general law shall embrace any provision **[page 92]** of a private, special or local character. No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of the act, or which shall enact that any existing law, or any part thereof, shall be applicable, except by inserting it in such act.”

Mr. Green moved to recommit to the Committee on the Legislative Department – Its Organization and Constitution, Paragraph 10, Section VII, Article IV.

Which was agreed to.

The recommendation to amend Paragraph 1, Section VIII, prescribing a new oath for members of the Legislature, was taken up.

The amendment, offered by Mr. Buckley, to strike out of the report as printed, from the word “affirmation” in the 17th line to the words “any member” in the 21st line; and to reinstate the words “and members elect of the Senate or General Assembly are hereby empowered to administer to each other the said oath or affirmation,” was agreed to.

The recommendation to strike out of said section all after the word “membership,” in the 22nd line, was agreed to.

Mr. Green moved to amend by adding at the end of the paragraph as amended the following:

“And any person convicted of having falsely taken said **[page 93]** oath, or of having broken the same shall be subject to the pains and penalties of wilful and corrupt perjury.”

Which was adopted.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

311

The vote by which Paragraph 10, Section VII, Article IV, was recommitted, was reconsidered and the paragraph was taken up.

The recommendation to strike out all after the word “newspaper,” in the 7th line, and to insert in the place thereof the following: “of the largest circulation, printed, published and circulated in the municipal corporation to be affected thereby; and if none is printed or published therein, then in the newspaper printed or published nearest thereto,” was agreed to.

The recommendation to strike from the end of the 5th and the beginning of the 6th lines the words “for at least thirty days” and to insert in the place thereof the words “once a week, for at least four weeks,” was agreed to.

The section as amended was then agreed to, and the report of the Committee ordered to lie over for further consideration.

The Report of the Committee on Bill of Rights, Right of Suffrage, Limitation on Powers of Government, and General and Special Legislation was taken up for consideration:

The recommendation of the Committee to strike out of Line 1, Paragraph 1, Article **[page 94]** II the word “white,” was agreed to.

The recommendation of the Committee of the Whole to strike from the Report of the Committee on Bill of Rights, &c. (No. 3) line 2, the words “a citizen for ten days and,” was adopted.

The recommendation to insert after the word “months,” in line 3, the words “and of the election district in which he may offer his vote, thirty days,” was agreed to.

The recommendation to add to the section after the word “elector,” in line 11, the words “provided that in time of war, no elector in the actual military service of the State or of the United States in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district, and the Legislature shall have power to provide the manner in which and

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election district in which they respectively reside,” was agreed to.

The further consideration of the Report of the Committee was postponed.

Mr. Gregory moved that when the Commission adjourn it be to meet on Tuesday next, at 10:30.

Which was agreed to.

Mr. Ferry moved that hereafter the hour of meeting be 10:30 A.M. instead [page 95] of at 10 o'clock.

Which was ordered to lie over, under the rules.

Mr. Green offered the following:

“*Resolved*, That the secretaries have the Rules, as at present in force, printed for the use of the members.”

Which was adopted.

Mr. Green offered the following:

“Conviction for crime shall vacate any public office held by the person convicted, and the record of conviction shall authorize the filling of said vacancy.”

Which was referred to the Committee on Bill of Rights, Right of Suffrage, &c.

On motion, the Commission adjourned.

Tuesday, Oct. 21st, 1873.

At 10:30 A.M. the Commission met. Present: Messrs. Brinkerhoff, Carter, Cutler, Ferry, Green, Gregory, Grey, Hubbell, Ten Eyck – 9.

The session was opened by the reading of the Lord’s Prayer by the

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

313

President.

The journal was read and approved.

The several Committees were called, but presented no reports.

Mr. Carter moved that final action on the clause regulating the veto power be postponed to and made the special order for Thursday next at 12 o'clock M.

Which was agreed to.

[page 96]

The Commission took up the recommendation of the Committee on the Legislative Department – Its Organization and Constitution (No. 4) to insert as Paragraph 12, Section VII, Article IV, the following:

“12. No trust funds shall be invested in the bonds or stock of any private corporation unless such investment be authorized or directed in the instrument, or by the person or persons creating the trust.”

Which was adopted.

The Commission then took up the recommendation of the Committee on the Executive and Judiciary Departments, and Appointing Power and Tenure of Office, to insert in Paragraph 6, Article V, Executive, after the word “Legislature” in the second line (No. 4) the words “or the Senate alone.”

Which was adopted.

The Commission took up the recommendation of the Committee on Bill of Rights, Right of Suffrage, Limitation on Powers of Government and General and Special Legislation, to insert in Article I, Rights and Privileges, new Paragraphs 19, 20, 21, 22, 23, 24 and 25.

Paragraph No. 19, providing that: “No county shall be divided or have any part stricken therefrom, without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

county voting on the question shall vote for the same.”

Was taken up, and on motion postponed for the present.

[page 97]

Paragraph No. 20, providing that “No county, city, township or village shall hereafter give any money or property, or loan its money or credit to, or in aid of, any individual, association or corporation, or become security or indirectly the owner of stock or bonds of any association; nor shall any city, township or village be allowed to incur any indebtedness except for county, city, township or village purposes,”

Was taken up.

Mr. Grey moved to insert after the word “security,” in the 3^d line, the words “for, or be directly,” and to insert after the words “owner of,” on line 3, the word “any.”

Which was agreed to.

Mr. Grey moved to substitute for the second clause of the twentieth paragraph the words “nor shall any county, city, township or village incur, or be authorized by the Legislature to incur, any indebtedness or to impose any tax, except for State, county, township, city or village purposes.”

Which was agreed to.

The paragraph as amended was then adopted.

Paragraph No. 21 as follows:

“No county or township shall be indebted by bonded debt above two per cent. of its taxable values, for the time being; no city more than ten per cent. excepting for its water supply.”

Was taken up.

[page 98]

Several motions to amend having been made and lost, the consideration of the paragraph was postponed.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

315

Paragraph No. 22, as follows:

“Not less than two mills on the dollar of taxable values each year shall be raised in each county, by tax, annually to be expended on public schools therein, and not elsewhere” was taken up.

Mr. Cutler moved to strike out the words “therein and not elsewhere.”

Which was lost by the following vote:

Yeas: Messrs. Carter, Cutler, Dickinson, Grey, Ten Eyck – 5.

Nays: Messrs. Brinkerhoff, Buckley, Ferry, Green, Gregory, Hubbell – 6.

The paragraph was then adopted.

Paragraph No. 23, as follows:

“No appropriation or payment of money shall be made by the State or any county, township, city or village to religious corporations.”

Was taken up.

Mr. Grey moved to strike out the words “county, township, city or village” and substitute therefor the words “municipal corporation.”

Which was agreed to.

Mr. Carter moved to strike out the words “or payment” and insert after the word “no” the words “donation of land or.”

Which was agreed to.

Mr. Grey moved to insert after the word “religious” the words “society or,” and before the word “religious” to insert the word “any.”

Which was agreed to.

[page 99]

The paragraph as amended was then agreed to.

Paragraph No. 24, as follows:

“The school fund shall be appropriated exclusively for the maintenance and support of the public schools in the State under its exclusive control.”

Was taken up.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

Mr. Carter moved that the paragraph be rejected.
Which was agreed to.

Paragraph No. 25, providing for the imposition of a State poll tax, was taken up and on the question being taken, the paragraph was rejected by the following vote:

Yeas: Messrs. Buckley, Dickinson, Gregory, Ten Eyck – 4.

Nays: Messrs. Brinkerhoff, Carter, Cutler, Ferry, Green, Grey, Hubbell – 7.

On motion of Mr. Buckley, Paragraph No. 21 was again taken up, and Mr. Buckley moved to substitute the following:

“No county shall be indebted by bonded debt, above two per cent. of its taxable values for the time being; nor any city containing more than [] thousand inhabitants, more than eight per cent.; nor any town, township or borough more than four per cent., excepting for the purpose of supplying the said city, town, township or borough with a sufficient supply of water.”

Which was rejected.

Mr. Green moved to reconsider the **[page 100]** vote by which Par. No. 22 was adopted.

The motion was agreed to and the paragraph taken up.

Mr. Green moved the following as a substitute:

“The amount raised in each county by tax for school purposes in each year shall be expended on public schools in the county in which it is raised and not elsewhere.”

Which was lost by the following vote:

Yeas: Messrs. Brinkerhoff, Ferry, Green, Hubbell – 4.

Nays: Messrs. Buckley, Carter, Cutler, Dickinson, Gregory, Grey, Ten Eyck – 7.

Mr. Grey moved that the consideration of the paragraph be postponed to Tuesday next, at 11 o'clock.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

317

Mr. Green moved the adoption of the paragraph as it stands.

Which was agreed to by the following vote:

Yeas: Messrs. Brinkerhoff, Buckley, Ferry, Green, Gregory, Hubbell – 6.

Nays: Messrs. Carter, Cutler, Dickinson, Grey, Ten Eyck – 5.

The motion of Mr. Ferry to make the hour of meeting 10:30 A.M. instead of 10 o'clock was taken up and agreed to.

The motion of Mr. Carter that members of the Commission shall not absent themselves without leave of the Commission was taken up.

Mr. Grey moved to substitute the following:

“Any member of the Commission who does not expect to be present at any stated meeting shall give notice **[page 101]** thereof.”

Which was agreed to.

Messrs. Grey and Green gave notice that they would be absent from the meeting of Wednesday, Oct. 22.

Mr. Gregory moved to adjourn until Thursday 23^d inst.

Which was lost.

The Commission then adjourned.

Wednesday, Oct. 22^d, 1873.

The Commission was called to order at 10:30 A.M. by E. J. Anderson, one of the secretaries.

The roll was called when the following gentlemen answered to their names: Messrs. Brinkerhoff, Buckley, Cutler, Dickinson, Ferry, Hubbell, Swayze, Thompson – 8.

On motion of Mr. Cutler, Mr. Buckley was chosen President pro tem.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

Mr. Hubbell, from the Committee on Bill of Rights, Right of Suffrage, Limitation on Powers of Government, and General and Special Legislation, presented the following report:

Amendment No. 12, on the question of Woman Suffrage, they report the same back without recommendation.

On the question of the taking of private property for public use, your Committee are of the opinion that the Constitution in its present form sufficiently protects the rights of property, and would therefore recommend that the amendment be not adopted.

[page 102]

Amendment No. 14, on the question of general taxation, your Committee are of the opinion that, to adopt this amendment as a part of the Constitution, that it would conflict with too many existing laws and therefore cause endless litigation without any corresponding benefit, and would therefore recommend that it be not adopted.

Amendment No. 36, on the right of publication and the matter of libel, your Committee believe that the Constitution in its present form is sufficient to protect the individual in the full enjoyment of the rights contemplated in the proposed amendment, and therefore deem its adoption unnecessary.

B. Buckley,
A. S. Hubbell.

Mr. Ferry, from the Committee on Amendments, General Provisions and Final Revision, report the following amendments and recommend that they be incorporated in the Constitution:

Strike out all of Article IX in present Constitution and insert Sections 1 and 2 herein reported to be Article IX, to provide for future amendments.

Geo. J. Ferry,
Joseph Thompson.

“To provide for future Amendments to the Constitution.

“Section 1. Whenever two-thirds of the members of each house of the General Assembly shall by a vote entered upon their journals thereof

concur that a convention is necessary to revise, alter, or amend the Constitution, the question **[page 103]** shall be submitted to the electors at the next general election; if a majority voting at the election vote for a convention, the General Assembly shall, at its next session, provide for a convention to consist of double the number of members of the Senate, to be elected in the same manner, at the same places, and in the same districts. The General Assembly shall, in the act calling the convention, designate the day, hour and place of its meeting, fix the pay of its members and officers, and provide for the payment of the same, together with the expenses necessarily incurred by the convention in the performance of its duties. Before proceeding, the members shall take an oath to support the Constitution of the United States, and of the State of New Jersey, and to faithfully discharge their duties as members of the convention. The qualification of members shall be the same as that of members of the Senate, and vacancies occurring shall be filled in the manner provided for filling vacancies in the General Assembly. Said convention shall meet within three months after such election, and prepare such revision, alterations or amendments of the Constitution as shall be deemed necessary, which shall be submitted to the electors for their ratification or rejection at an election appointed by the convention for that purpose, not less than three nor more than six months after the adjournment thereof; and unless so submitted and approved by a majority of the electors voting at the election, no such revision, alteration or amendment shall take effect.

“Section 2. Amendments to the Constitution may be proposed in either house of the General Assembly, and if the same **[page 104]** shall be voted for by two-thirds of all the members elected to each of the two houses, such proposed amendments, together with the yeas and nays of each house thereon, shall be entered in full on their respective journals, and said amendments shall be submitted to the electors of this State for adoption or rejection, at the next election of members of the General Assembly, in such manner as may be prescribed by law. The proposed amendments shall be published in full, at least three months preceding the election, in one or more papers in each county in the State; and if a majority of the electors voting at the election shall vote for the proposed amendments, they shall become a part of the Constitution; but the General Assembly shall have no

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

power to propose amendments to more than one article of the Constitution at the same session, nor to the same article oftener than once in four years.”

Which was accepted, and proposed amendments ordered printed.

On motion of Mr. Hubbell, the Commission took up the report of the Committee on Bill of Rights, Right of Suffrage, Limitation on Powers of Government, and General and Special Legislation, No. 6.

Mr. Hubbell moved to reconsider the vote by which Paragraph 21, of Article I, was yesterday adopted.

Which was agreed to.

Mr. Hubbell moved to reconsider the [page 105] vote by which Article I, Paragraph 22, was yesterday adopted.

Which was agreed to.

Mr. Hubbell moved to add to Paragraph 20 the following: “and no county or borough shall contract or incur any debt by bond or otherwise exceeding two per cent. of the valuation of its taxable property, and no town or township exceeding four per cent., and no city or municipal corporation exceeding eight per cent. on a like valuation excepting for its water supply.

Mr. Ferry moved to postpone the subject until tomorrow.

Which was agreed to.

Mr. Hubbell moved to insert, in place of No. 21, the following:

21. The several counties of this State shall each year raise by a tax, upon the valuation of their taxable property, a sum sufficient in addition to the sum to be derived from the School Fund to support the public schools of such county.

Mr. Hubbell also moved to strike out Paragraph 22.

Which motions were postponed for the present.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

321

The Commission took up the Report of the Committee on the Executive and Judiciary Departments, and Appointing Power and Tenure of Office (No. 2).

**Article VII.
Section II.
Civil Officers.**

The proposition of the Committee to so amend Paragraph 2, so as to read: "Judges of **[page 106]** the Courts of Common Pleas shall be nominated by the Governor, and appointed by him with the advice and consent of the Senate," was, on motion of Mr. Cutler, adopted by the following vote:

Ayes: Messrs. Brinkerhoff, Buckley, Cutler, Dickinson, Hubbell, Thompson – 6.

Nays: Messrs. Ferry and Swayze [– 2].

The proposition of the Committee to so amend Paragraph 3, [so] as to read: "The State Treasurer and Inspectors of the State Prison shall be appointed by the Senate and General Assembly in Joint Meeting," was taken up.

Mr. Cutler moved to strike out the words "and Inspectors of the State Prison."

Which was agreed to.

The proposition of the Committee to so amend Paragraph 4, [so] as to read:

"The Attorney General, Prosecutor of the Pleas, Clerk of the Supreme Court, Clerk of the Court of Chancery, Secretary of State, the Keeper of the State Prison and Surrogates of Counties shall be nominated by the Governor and appointed by him, with the advice and consent of the Senate," was taken up.

Mr. Ferry moved to strike out the words "and Surrogates of Counties."

Which was agreed to.

Mr. Cutler moved to insert after the word "Keeper," the words "and Inspectors."

Which was agreed to.

The paragraph as amended was then adopted.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

[page 107]

The second division of Paragraph 4, as follows: "They shall hold their offices for five years, except the Attorney General, who shall hold his office for three years," was adopted.

The recommendation of the Committee to amend Paragraph 6, so as to read: "6. Clerks of the counties shall be elected by the people of their respective counties at the annual election for members of the General Assembly," was taken up.

Mr. Cutler moved to insert after the word "Clerk," the words "and surrogates."

Which was agreed to.

The question was taken on the adoption of Paragraph 7, as amended at a previous session.

The motion to adopt was agreed to by the following vote:

Ayes: Buckley, Carter, Cutler, Ferry, Hubbell, Swayze, Thompson – 7.

Nays: Brinkerhoff, Dickinson, Ten Eyck – 3.

The Commission took up Report No. 1 of The Legislative Department – Its Organization and Constitution, Article IV, Section IV, Paragraph 7.

The motion of Mr. Ferry (made at a previous session) to substitute the words "five hundred" for the words "seven hundred and fifty" in Line 10, was adopted by the following vote:

Yeas: Messrs. Brinkerhoff, Buckley, Carter, Cutler, Ferry, Swayze, Ten Eyck, Thompson – 8.

Nays: Messrs. Dickinson and Hubbell – 2.

The paragraph as amended was then adopted, and the vote by **[page 108]** which it was adopted was subsequently reconsidered.

Mr. Carter moved to strike out the word "whatever" in line 12 and insert in place thereof the words "and this shall be in full of all incidental expenses and perquisites."

Mr. Swayze moved to amend by inserting after the word "whatever" the

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

323

words “either in perquisites, money or thing.”

This motion was lost by the following vote:

Yeas: Messrs. Dickinson, Swayze, Ten Eyck, Thompson – 4.

Nays: Messrs. Brinkerhoff, Carter, Cutler, Ferry, Hubbell – 5.

Mr. Ferry moved to amend by striking out after the word “office” in line 11 the words “but no other payment, compensation or allowance whatever” and inserting the words “and no other allowance or emolument directly or indirectly for any purpose whatever, except a sum not exceeding fifty dollars per session to each member, which shall be in full for postage, stationery, newspapers and all other incidental expenses and perquisites.”

Which was lost by the following vote:

Yeas: Messrs. Carter, Cutler, Dickinson, Ferry, Ten Eyck – 5.

Nays: Messrs. Brinkerhoff, Buckley, Hubbell, Swayze, Thompson – 5.

Mr. Hubbell moved to reconsider the vote by which the motion was lost.

Which was agreed to.

Mr. Hubbell then moved to amend by substituting the words “twenty-five dollars” for the words “fifty dollars.”

Which was **[page 109]** agreed to.

The amendment was then agreed to.

Mr. Ferry moved to strike out the word “newspapers.”

Which was agreed to.

The paragraph as amended was then adopted.

The Commission then took up the suggestions offered by Mr. Green to amend Article IV, Section VII, by adding:

“The Legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say:

“1. Laying out, opening, altering and working roads or highways.

“2. Vacating roads, town plots, streets, alleys and public grounds.

“3. Regulating the internal affairs of towns and counties; appointing

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

local officers or commissioners to regulate municipal affairs.

“4. Selecting, drawing, summoning or impaneling grand or petit jurors.

“5. Regulating the rate of interest on money.

“6. Creating, increasing or decreasing the per centage or allowances of public officers during the term for which said officers are elected or appointed.

“7. Changing the law of descent.

“8. Granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever.

“9. The Legislature shall pass general laws providing for the [page 110] cases enumerated in this section and for all other cases, which in its judgement may be provided for by general laws.”

Mr. Ferry moved to substitute the following:

“The General Assembly shall not pass local or special laws in any of the following enumerated cases, that is to say: for granting divorces; changing names of persons or places; laying out, opening, altering and working roads or highways; vacating roads, town plots, streets, alleys and public grounds; locating or changing county seats; regulating county and township affairs; regulating the practice of courts of justice, regulating the jurisdiction and duties of the Justices of the Peace, Police Magistrates, and Constables; providing for the election of members of the Board of Supervisors in townships, incorporated towns or cities; summoning and impaneling grand or petit jurors; providing for the management of common schools; regulating the rate of interest on money; the opening and conducting of any election, or designating the place of voting; the sale or mortgage of real estate belonging to minors or others under disability; the protection of game or fish; chartering or licensing ferries or toll bridges; remitting fines, penalties or forfeitures; creating, increasing or decreasing fees, per centages or allowances of public officers, during the term for which said officers are elected or appointed; changing the law” [the secretary left off here].

[page 111]

Which was not agreed to.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

325

Mr. Brinkerhoff moved to amend Clause 1 by adding after the word "highways," "except where a road or highway divides two municipalities."
Which was lost and the clause was adopted.

Clause 2. Was adopted.

Clause 3. Was adopted.

Clause 4. Was taken up, and Mr. Brinkerhoff moved that it be stricken out.
Which was not agreed to.
The clause was then adopted.

Clauses 5, 6, and 7 were then adopted.

Clause 8 was, on motion, passed over for the present.

Clause 9 was adopted.

Mr. Swayze offered as a new clause the following:
"Providing for the management of common schools."
Which was adopted.

Mr. Ferry moved to amend the ninth clause by adding the words "in all cases where a general law can be applicable, no special law shall be enacted."

Mr. Cutler moved to insert as a new clause the following:
"Granting to any corporation, association or individual the right to lay down railroad tracks."

Mr. Swayze moved to amend the amendment offered by Mr. Cutler by adding the words "or amending existing charters for that purpose."
Which was agreed to.

The vote by which the motion was agreed to was then reconsidered, and

being again taken, the motion was lost.

[page 112]

Mr. Swayze moved to amend by adding the words “or extending the privileges of existing corporations.”

Which was lost by the following vote:

Yeas: Messrs. Buckley, Ferry, Swayze, Ten Eyck, Thompson – 5.

Nays: Messrs. Brinkerhoff, Carter, Cutler, Dickinson, Hubbell – 5.

The amendment as offered by Mr. Cutler was then adopted.

Mr. Buckley moved to add to the ninth clause, after the words “general laws”, the following:

“but no general law shall be passed establishing banks or money corporations, unless by the vote of three-fifths of the members elected to each house.”

Which was lost.

The eighth clause was then taken up, and Mr. Thompson moved to amend by adding after the word “whatever” the words “except the chartering of banks or money corporations which shall remain as at present.”

Mr. Thompson, by permission, withdrew his motion and the clause was adopted.

Mr. Cutler gave notice that he would not be present at the next session.

The Commission then adjourned.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

327

[page 113]

Thursday, Oct. 23^d, 1873.

At 10:30 A.M. the Commission met.

Present: Messrs. Brinkerhoff, Buckley, Carter, Ferry, Gregory, Grey, Hubbell, Ten Eyck, Thompson – 9.

The Journal was read and approved.

Mr. Carter, from the Committee on the Executive and Judiciary Departments, and Appointing Power and Tenure of Office, presented the following report:

Your Committee report the following amendments which were referred to them and recommend that they be incorporated in the Constitution:

Justices of the Peace.

Amend Article VI, Sec. VII, to read as thus:

Section VII.

1. There may be elected under this Constitution, not more than two Justices of the Peace in each of the townships of the several counties of this State, and not more than one Justice of the Peace in each of the wards in cities that may vote in wards.

2. The Legislature may prescribe by law the qualifications of Justices of the Peace, and provide for the examination of persons elected to said office to determine their qualifications before their commissions shall be issued. The Legislature shall also provide for the summary suspension of Justices of the Peace for misconduct in office, such suspension to continue until the end of the next succeeding session of the Legislature.

The Report was received and ordered printed.

The Committee also reported, with the **[page 114]** recommendation that it be not adopted, the following:

No debt shall be created by or on behalf of the State, except to supply casual deficiencies of revenue, or to repel invasion, suppress insurrection

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

or defend the State in time of war, or to pay existing debts; and the debt created to supply deficiencies in revenue shall never exceed in the aggregate, at any one time, two hundred thousand dollars.

The Report was accepted and the *(sic)*.

Mr. Gregory moved that that portion of the Governor's Message to the Legislature, recommending certain subjects for amendment in the Constitution, be printed for the use of the Commission.

Which was agreed to.

Mr. Ferry, from the Committee on Amendments, General Provisions and Final Revision, presented the following report:

"Your Committee have considered the suggestion herein contained. They have considered the same, and find that the first part has been already provided for. They would recommend that the following be incorporated in the Constitution:

"And no act of the Legislature shall take effect until the first day of July next after its passage, unless in case of emergency (which emergency shall be expressed in the preamble or body of the act), the Legislature shall by a vote of two-thirds of all the members elected to each house otherwise direct."

[page 115]

The report was accepted, and the portion recommended ordered printed.

The Commission took up for consideration the suggestion offered by Mr. Green relative to general and special legislation.

Mr. Ferry moved to insert as a new clause the following:

"Providing for changes of venue in civil or criminal cases."

Which was adopted.

The suggestion as amended was then adopted.

The Commission resumed the consideration of the report of the Committee on Bill of Rights, No. 6. The amendments offered yesterday by Mr. Hubbell

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

329

to Par. 20, 21, and 22 were taken up.

Mr. Brinkerhoff moved to strike the words "or municipal corporation" from the amendment offered by Mr. Hubbell as an addition to Paragraph 20.

Which was agreed to.

Mr. Grey moved that the subject be postponed, and the report of the committee be reprinted.

Which was agreed to.

The Commission took up the report of the Committee on Amendments, General Provisions, &c., No 7.

Mr. Ferry moved to amend by striking out the words "General Assembly" from lines 1, 5, 8, and 16 of Section I, and Lines 2 and 11 of Section II, and to substitute therefor the word "Legislature."

[page 116]

Which was agreed to.

Mr. Swayze moved to strike from Line 1, Section 1, [the] words "two-thirds" and insert "a majority."

Which was lost by the following vote:

Yeas: Messrs. Brinkerhoff, Buckley, Swayze, Thompson – 4.

Nays: Messrs. Carter, Ferry, Gregory, Ten Eyck – 4.

On motion of Mr. Ferry, the further consideration of the report was postponed for the present.

Mr. Buckley moved to take up the suggestion offered by him as follows:

"There may be elected under this Constitution two Justices of the Peace, in each of the townships of the several counties of this State, and in each of the wards in cities that may vote in wards, one Justice of the Peace for every four thousand inhabitants which the ward may contain; and the Legislature shall provide by law the qualifications necessary for such justices to possess, and the method of ascertaining the possession of such qualifications, and no person elected as aforesaid to the said office of

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

Justice of the Peace shall receive his commission until he shall have furnished satisfactory evidence to the executive that he is fully qualified according to law.”

Mr. Swayze moved to insert after the word “Constitution” in the first line the words “not more than.”

[page 117]

Which was adopted.

Mr. Hubbell moved to insert after the word “wards” where it occurs the second time the words “not more than,” and to strike out the words “for every four thousand inhabitants which the ward may contain.”

Which was agreed to.

Mr. Gregory moved to amend by adding at the end of the suggestion the words “The Legislature shall also provide for the summary suspension of Justices of the Peace for misconduct in office, such suspension to continue until the end of the next succeeding session of the Legislature.”

Which was agreed to.

Mr. Grey moved to add after the words “Justice of the Peace” at the end of the first clause the words “who shall be committing magistrates only.”

Which was not agreed to.

Mr. Swayze moved to strike out the clause relative to the examination of Justices as to their qualifications for the office.

Pending the consideration of this motion the Commission took up the special order of the day, viz.:

The report of the Committee on the Executive Department, relative to the veto power.

Mr. Carter moved to strike out the words “a majority” and insert the words “two-thirds.”

Mr. Gregory moved to postpone the further consideration of the subject

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

331

until Tuesday next.

Which was disagreed to by the following **[page 118]** vote:

Yeas: Messrs. Dickinson, Ferry, Gregory, Swayze – 4.

Nays: Messrs. Brinkerhoff, Buckley, Carter, Grey, Hubbell, Swayze – 6.

Mr. Swayze moved to postpone to Wednesday next.

Which was disagreed to by the following vote:

Yeas: Messrs. Carter, Ferry, Gregory, Swayze – 4.

Nays: Messrs. Brinkerhoff, Buckley, Dickinson, Grey, Hubbell, Ten Eyck, Thompson – 7.

The question was then taken on the adoption of the recommendation of the Committee of the Whole to retain the words “a majority,” and it was agreed to by the following vote:

Yeas: Messrs. Brinkerhoff, Buckley, Grey, Hubbell, Ten Eyck, Thompson – 6.

Nays: Messrs. Carter, Dickinson, Ferry, Gregory, Swayze – 5.

Mr. Gregory moved to take up the following suggestion, offered by himself: “No real estate shall be exempted by law from its full share of all State, county, township, and city taxes and assessments, except that owned, occupied or used by the State, counties, townships or cities. No act shall be passed exempting any real estate from its full share of the State, county, township and city taxes, by the payment of any sum to the State, county, township or city.”

And on motion of Mr. Gregory the subject was postponed.

The Commission took up a suggestion offered by Mr. Cutler, which on motion of Mr. Grey was amended **[page 119]** so as to read as follows:

“The real and personal estate of every female acquired before marriage and all property which she may afterwards receive or become entitled to, shall be and remain the estate and property of such female and shall not be subject to the control nor liable for the debts, obligations or engagements of her husband, and may be disposed of by gift, grant, sale, devise or bequest, by her as if she were unmarried.”

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

The amendments proposed by Mr. Grey were agreed to, and the further consideration of the subject was then postponed.

Mr. Grey moved to take up a suggestion offered by himself at a previous session, as follows:

Add to Paragraph 10, Article I, Line 44, after the word "offence" the following:

"But in all criminal prosecutions the jury may return a verdict of 'not proven' instead of acquitting the prisoner, and such verdict shall not be a bar to a subsequent trial of the same person for the same offence."

Mr. Hubbell moved that the consideration of this suggestion be postponed for the present.

Which was not agreed to.

Mr. Grey moved to postpone until Tuesday next.

Which was agreed to.

On motion of Mr. Grey, the Commission took up a suggestion offered by Mr. Ferry to strike out **[page 120]** of the eighth line of Art. II of the Constitution the word "pauper."

The question being taken, the suggestion was not adopted.

Mr. Carter moved to take up the suggestion offered by Mr. Thompson to amend Art. I, Par. 7, by adding the words: "Three-fourths of the jurors rendering a verdict in any civil suit shall have the same force and effect as though agreed upon by the whole number empaneled on said jury."

The question being taken on the adoption of the suggestion, it was rejected by the following vote:

Yeas: Messrs. Brinkerhoff, Carter, Gregory, Thompson – 4.

Nays: Messrs. Dickinson, Ferry, Grey, Hubbell, Swayze, Ten Eyck – 6.

Mr. Dickinson moved to take up the suggestion offered by him[self] as follows:

"No act of the Legislature shall limit the amount to be recovered for injuries resulting in death, or for injuries to person or property, and in case

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

333

of death from such injuries the right of action shall survive, and the Legislature shall prescribe for whose benefit such action shall be prosecuted; nor shall any act prescribe any limitation of time within which suits may be brought against corporations for injuries to person or property, or for other causes different from that fixed by the general laws prescribing **[page 121]** the time for the limitation of action, and existing laws so limiting or prescribing are annulled and avoided.”

Mr. Swayze moved to strike from the second line the words “or for injuries to person or property.”

Which was agreed to.

Mr. Hubbell moved to insert after the words “limitation of time” the words “different from the general act of limitation.”

Which was not agreed to.

Mr. Grey moved to strike from the end of the section the words “and existing laws so limiting or prescribing are annulled and avoided.”

Which was agreed to.

Mr. Swayze moved to reconsider the vote by which the words “or for injuries to person or property” were stricken out.

Which was agreed to, and the words were reinstated.

The question was taken on the adoption of the section as amended, and it was adopted by the following vote:

Yeas: Messrs. Dickinson, Gregory, Grey, Swayze, Thompson – 5.

Nays: Messrs. Carter, Ferry, Hubbell, Ten Eyck – 4.

Mr. Brinkerhoff gave notice that he would not be present during the sessions of the coming week.

The Commission then adjourned until Tuesday morning next.

PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION

[page 122]

Tuesday, October [28th], 1873.

At 10:30 A.M. the Commission met.

The session was opened with prayer by Rev. John Hall, D.D.

The roll was called when the following gentlemen answered to their names: Messrs.: Carter, Cutler, Ferry, Gregory, Grey, Swayze, Ten Eyck, Thompson – 8.

The journal of Thursday was read and approved.

The Chair laid before the Commission a petition from Charles Stokes of Burlington, which was read and referred to the Committee on Bill of Rights, Right of Suffrage, &c.

Mr. Ten Eyck offered the following suggestion:

At end of Article VI, Sec. IV insert:

“To facilitate proceedings in the Court of Chancery, there shall be a Vice-Chancellor, who shall be appointed by the Chancellor, commissioned by the Governor, and hold his office for seven years; whose powers, duties and salary shall be provided for and fixed by law.”

Which was referred to the Committee on the Executive and Judiciary.

The Commission took up the Report of the Committee on Bill of Rights, as amended and reprinted (No. 6 Reprint). On motion, the word **[page 123]** “stricken” in the first line of the 19th paragraph was changed to “set-off.”

Mr. Grey moved to amend the 19th paragraph by inserting after [the] word “county” in the second line the words “or counties to be affected thereby,” and in the 3^d line after the word “county” to insert the words “or counties.”

The motion to amend was agreed to.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

335

The question being taken on the adoption of the paragraph as amended, it was lost by the following vote:

Ayes: Messrs. Buckley, Carter, Cutler, Hubbell, Swayze – 5.

Nays: Messrs. Dickinson, Ferry, Green, Gregory, Ten Eyck, Thompson – 6.

Mr. Swayze moved to amend the report of the Committee by inserting Paragraph No. 19 as it first stood.

Mr. Green moved to amend by inserting before the word “county” in the second and third lines, the words “proposed.”

Which was disagreed to by the following vote:

Ayes: Messrs. Dickinson, Ferry, Green, Gregory, Thompson – 5.

Nays: Messrs. Buckley, Carter, Cutler, Hubbell, Swayze, Ten Eyck – 6.

The question being taken on the adoption of the amendment as offered by Mr. Swayze, it was agreed to by the following vote:

Yeas: Messrs. Buckley, Carter, Cutler, Hubbell, Swayze, Ten Eyck [– 6].

Nays: Messrs. Dickinson **[page 124]** Ferry, Green, Gregory, Thompson – 6 (*sic*).

Paragraph No. 20 was taken up.

Mr. Ferry moved that the paragraph be divided, for consideration, into three parts.

The motion was agreed to.

The first part was taken up, and on motion of Mr. Carter the words “borough, town,” were inserted after the word “city” in the first line.

The part as amended was then adopted.

The second part was taken up, and on motion of Mr. Carter the words “borough, town,” were inserted after the word “city,” at the end of the 4th line.

The part as amended was then adopted.

The third part of the paragraph was taken up, when Mr. Carter moved as a

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

substitute the following:

“No county shall be indebted exceeding two per cent. of its taxable property. Cities of 6,000 or more inhabitants, not more than 8 per cent.; cities with less than 6,000 inhabitants, boroughs, towns and townships, not more than 4 per cent., by bonded debt or otherwise, except for the purpose of supplying the said cities, towns and boroughs with a sufficient supply of water.”

The motion to substitute was lost.

Mr. Ferry moved that the further consideration of the third part of Paragraph [page 125] 20 be postponed for the present.

Which was agreed to.

Mr. Green moved that the first and second parts of Paragraph 20, as amended, be considered as the paragraph.

Which was agreed to.

The paragraph was then adopted.

Paragraph 21 was taken up.

Mr. Hubbell moved to strike out the word “counties” in the first line and insert in lieu thereof the words: “cities, towns, township[s] and boroughs.”

Mr. Grey moved to add “wards and school districts.”

The motion of Mr. Grey was not agreed to.

The question being taken on the adoption of the amendment offered by Mr. Hubbell, it was lost by the following vote:

Yeas: Messrs. Ferry, Green, Gregory, Hubbell, Thompson – 5.

Nays: Messrs. Carter, Cutler, Dickinson, Grey, Swayze, Ten Eyck – 6.

Mr. Green moved to amend Paragraph 21, by substituting the following:

“The several counties of this State shall not be required in any year to raise by tax more than a sum sufficient, in addition to the sum to be derived from the School Fund, to support the public schools of such county.”

Which was disagreed to by the following vote:

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

337

Yeas: Messrs. Ferry, Green, Gregory, Hubbell – 4.

Nays: Messrs. Buckley, Carter, Cutler, Dickinson, Grey, Swayze, Ten Eyck, Thompson – 8.

[page 126]

The question was taken on the adoption of the paragraph, when it was lost by the following vote:

Yeas: Messrs. Gregory and Hubbell [– 2].

Nays: Messrs. Buckley, Carter, Cutler, Dickinson, Ferry, Green, Grey, Swayze, Ten Eyck, Thompson – 10.

Paragraph 22 was adopted, and its number changed to 21.

Mr. Ferry moved to take up the suggestion offered by himself relative to the constitution of the Legislature. After discussion, the further consideration of the subject was postponed for the present.

Mr. Green moved to take up a suggestion offered by him, as follows:

“Conviction for crime shall vacate any public office held by the person convicted, and the record of conviction shall authorize the filling of said vacancy.”

Which was agreed to.

Mr. Green moved as a substitute the following:

“Conviction of an infamous crime or of an offense of official delinquency, and final judgment thereon, shall of itself forfeit the office of the person so convicted, and a duly authenticated record of such conviction and judgment shall be conclusive evidence of such forfeiture, and shall authorize competent authority to fill the vacancy occasioned thereby.”

The motion to substitute was agreed to.

[page 127]

Mr. Grey moved to amend by inserting, in lieu of the amendment of Mr. Green, the following:

“Conviction of any felony or of any official delinquency under the laws of this State shall, after final judgment thereon, vacate any office under the

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

Constitution or laws of this State held by the person so convicted; and a duly authenticated record of such conviction and judgment shall be conclusive evidence of such forfeiture and shall authorize competent authority to fill the vacancy occasioned thereby.”

The motion to amend was agreed to.

Mr. Green moved to amend by adding after the word “felony,” the words “or otherwise infamous crime.”

Which was agreed to.

The amendment as amended, was adopted; and the proposition, as amended, agreed to.

Mr. Thompson moved to reconsider the vote by which the recommendation of the Committee of the Whole, to retain the word “majority,” instead of the word “two-thirds” as proposed in the veto clause, was agreed to.

The motion was agreed to by the following vote:

Yeas: Messrs. Carter, Cutler, Dickinson, Ferry, Green, Gregory, Swayze, Thompson – 8.

Nays: Messrs. Buckley, Hubbell, Ten Eyck – 3.

The question was then taken on adopting the recommendation of the Committee to retain the word “majority,” when it was lost by the following vote:

Yeas: Messrs. Buckley, Grey, Hubbell, Ten Eyck, Thompson [– 5].

Nays: Messrs. **[page 128]** Carter, Cutler, Dickinson, Ferry, Green, Gregory, Swayze – 7.

The question was then taken on the substitution of the words “two-thirds,” and it was agreed to by the following vote:

Yeas: Messrs. Carter, Cutler, Dickinson, Ferry, Green, Gregory, Swayze – 7.

Nays: Messrs. Buckley, Grey, Hubbell, Ten Eyck, Thompson – 5.

Mr. Carter offered the following:

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

339

Article VI, Section II, Subdivision 1: After the word "Chancellor" insert "Vice-Chancellor."

In Section IV, Subdivision 1, add "and a Vice-Chancellor, who shall have jurisdiction in all cases that may be assigned to him by the Chancellor."

In Article VII, Sec. II, Subdivision 1, insert after the word "Chancellor," in the first line, the word "Vice-Chancellor"; and strike out in the 4th line, after the words "Supreme Court," the word "and"; and insert, after the word "Chancellor," "and Vice-Chancellor."

Which was referred to the Committee on the Judiciary.

Mr. Cutler, from the Committee on the Executive and Judiciary Departments, presented the following report:

The Committee on the Executive and Judiciary Departments report the following amendment to the Constitution, which was referred to them, and recommend that it be in- **[page 129]** corporated in the Constitution:

Amend Article VI, Section VI, Clause 1, so as to read:

"Section VI

"1. There shall be no more than two Judges of the Inferior Court of Common Pleas in each of the counties in this State, after the terms of the judges of said court now in office shall terminate. At least one of the judges of said court hereafter appointed shall be a Counselor-at-Law, and he shall be the president judge of said court, in the absence of one of the Justices of the Supreme Court. Vacancies shall be filled for the unexpired term only."

In this connection, amend Article VII, Section II, Clause 1, to read thus:

"Section II

"1. Justices of the Supreme Court, Chancellor, Judges of the Court of Errors and Appeals, and Judges of the Inferior Court of Common Pleas shall be nominated by the Governor, and appointed by him, with the advice and consent of the Senate.

"2. The Justices of the Supreme Court and the Chancellor shall hold their offices for the term of seven years, and the Judges of the Inferior Court

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

of Common Pleas for the term of five years, shall at stated times receive for their services a compensation, which shall not be increased or diminished during the term of their appointments; and they shall hold no other office under the government of **[page 130]** this State or of the United States.”

(Number the above as Clause 2, and strike out Clause 2 in the present Constitution.)

Which was ordered to lie on the table and be printed.

Mr. Gregory gave notice that he would not be able to be present at the session tomorrow.

Adjourned.

Wednesday, Oct. 29, 1873.

At 10:30 A.M. the Commission met.

The roll was called and the following gentlemen answered to their names: Messrs. Buckley, Carter, Cutler, Ferry, Grey, Hubbell, Swayze, Ten Eyck, Thompson – 9.

The journal of Tuesday was read and approved.

Mr. Swayze offered an amendment to the Constitution relative to a public school system.

Which was [referred] to the Committee on the Legislative Department, &c.

Mr. Swayze offered an amendment to the Constitution as follows:

“1. The Legislature shall pass laws taxing, by a uniform rule, all moneys, credits, investments in bonds, stocks, joint stock companies or otherwise; and also all real and personal property according to its true value in money; and may also tax professions, franchises **[page 131]** and incomes, provided that no income shall be taxed when the property from

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

341

which the income is derived is taxed.

“2. Property belonging to the State or to municipal corporations, and all property used exclusively for common school purposes shall be exempt from taxation. No other property, real or personal, shall be exempt, except that the Legislature may exempt lots owned by individuals in cemeteries on which such owners have buried the dead or intend to bury thereon.”

Which was referred to Committee on the Legislative Department.

The Commission took up No. 9, being the Report of the Committee on the Executive and Judiciary Departments amending Article VI, Section VII, Paragraph 1, relative to Justices of the Peace (Paper No. 9).

Mr. Swayze moved to strike out of the 4th, 5th, 6th, 7th and 8th lines the clause requiring persons elected to be examined as to their qualifications for the office.

The motion was lost.

Mr. Grey moved to strike out of the 7th and 8th lines the words “he shall have furnished satisfactory evidence to the executive that.”

Which was agreed to.

Mr. Thompson moved to insert in the 5^h line after the word “Justices” the words “Surveyors of highways and chosen freeholders.”

Which was **[page 132]** not agreed to.

The paragraph as amended was then adopted.

The Commission took up No. 8, being a report of the Committee on Amendments, General Provisions and Final Revision, fixing the time when acts passed by the Legislature shall go into effect.

Mr. Grey moved to amend by striking out of the 2^d and 3^d lines the words “in case of emergency (which emergency shall be expressed in the preamble or body of the act).”

Which was agreed to.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

Mr. Green moved to strike out the word “first” in the first line and insert the word “fourth.”

Which was agreed to.

The paragraph as amended was then adopted.

Mr. Grey moved that the paragraph be inserted as a new Article in Section VII of the Constitution.

Which was agreed to.

Mr. Dickinson moved that the Commission take up the suggestion offered by him, relative to the trial of the validity of laws alleged to have been illegally or corruptly passed by the Legislature.

Which was agreed to.

Mr. Grey offered the following as a substitute:

“The Legislature shall **[page 133]** prescribe by law the time when, and the manner in which, any act of the Legislature may be impeached for fraud or corruption in its passage, and such law shall be irrepealable but may be from time to time amended; but such amendment shall not take away the right to impeach such act of the Legislature for the cause aforesaid.”

On motion, the suggestion and amendment offered by Mr. Grey were referred to the Committee on the Executive and Judiciary Departments.

On motion of Mr. Green, the Commission reconsidered the vote by which the clause prescribing the oath to be taken by members of the Legislature was adopted, (Paper No. 1) Art. IV, Sec. VIII, Par. 1.

Mr. Green moved to amend by striking out from the end of the paragraph the words: “to the pains and penalties of wilful and corrupt perjury,” and to insert the words “to the punishment provided for wilful and corrupt perjury.”

Which was agreed to.

The Commission took up for consideration the suggestions offered by Mr. Green, relative to General Legislation (Paper No. 10).

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

343

Mr. Carter moved to amend by inserting in the 14th line, after the word “management,” the words “and support.”

[page 134]

Which was agreed to.

The 17th line of the suggestion, as follows:

Providing for changes of venue in civil or criminal cases was taken up and adopted by the following vote:

Yeas: Messrs. Buckley, Carter, Cutler, Ferry, Green, Swayze, Ten Eyck, Thompson – 8.

Nays: Messrs. Grey and Hubbell – 2.

The final clause, being lines 18, 19 and 20, were taken up and adopted.

On motion, the vote by which lines 3, 4 and 7 were adopted was reconsidered and the subject matter considered.

Line 3 as follows:

“Laying out, opening, altering and working roads or highways” was read, when Mr. Grey moved that it be stricken out.

Which was not agreed to by the following vote:

Ayes: Buckley, Grey, Hubbell – 3.

Nays: Carter, Cutler, Ferry, Green, Swayze, Ten Eyck and Thompson – 7.

Mr. Grey moved to strike out line 4, as follows: “Vacating roads, town plots, streets, alleys and public grounds.”

Which was disagreed to by the following vote:

Yeas: Messrs. Dickinson and Swayze – 2.

Nays: Messrs. Buckley, Carter, Cutler, Ferry, Green, Grey, Hubbell, Ten Eyck, Thompson – 9.

Mr. Carter moved to amend Line 3, by striking out all after the word “roads.”

Which was not agreed to.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

Mr. Green moved to amend to make read "Vacating any road, town plot, street, alley **[page 135]** or public grounds."

Which was adopted.

The question was taken on the adoption of the clause (Line 3) as amended, and it was agreed to.

Line 7, as follows: "Selecting, drawing, summoning, or impaneling grand or petit jurors."

Was taken up and adopted.

The suggestion (No. 10) as amended was then adopted.

Mr. Swayze moved to take up a suggestion offered by him relative to bribery at elections.

Which was agreed to.

The proposition was taken up, considered and rejected by the following vote:

Yeas: Mr. Swayze – 1.

Nays: Messrs. Buckley, Carter, Cutler, Dickinson, Ferry, Green, Grey, Hubbell, Ten Eyck, Thompson – 10.

The Commission took up a suggestion offered by Mr. Cutler, and amended on motion of Mr. Grey, relative to the holding of property by married women.

The amendments offered by Mr. Grey at a previous session were agreed to.

Mr. Cutler moved to amend by inserting the words "excepting what she receives from her husband."

The motion was lost.

The question being taken on the proposition as amended, it was rejected by the following vote:

Yeas: Mr. Swayze [-1].

Nays: Messrs. Buckley, Carter, Cutler, **[page 136]** Dickinson, Ferry, Green,

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

345

Grey, Hubbell, Ten Eyck, Thompson – 10.

On motion of Mr. Buckley, the Commission took up the suggestion offered by Mr. Grey allowing juries to render verdicts of “not proven.”

After discussion, the proposition was rejected.

Mr. Swayze moved that the Commission take up a suggestion offered by him relative to the freedom of the press, and the law of libel.

Agreed to.

Mr. Swayze moved the adoption of the suggestion, and it was rejected by the following vote:

Yeas: Mr. Swayze [– 1].

Nays: Messrs. Buckley, Carter, Cutler, Dickinson, Ferry, Green, Grey, Hubbell, Ten Eyck, Thompson – 10.

Messrs. Buckley and Thompson gave notice that they would not be present at the next session of the Commission.

Mr. Ferry moved that when the Commission adjourns it be to meet on Tuesday, Nov. 11th at _____. Agreed to.

Mr. Dickinson moved that the Commission take up the suggestion offered by him, relative to the numbering of ballots, &c.

The motion was agreed to, the suggestion taken up and rejected.

The proposed amendment to Paragraph 7, Sec. II, Article VII, relative to the term of office of sheriffs, was taken up and adopted by the following vote:

[page 137]

Yeas: Messrs. Buckley, Carter, Cutler, Ferry, Green, Grey, Hubbell, Swayze – 8.

Nays: Messrs. Dickinson and Ten Eyck – 2.

Mr. Ferry moved that a Committee be appointed to consider the expediency

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

of creating a court to fix the value of lands condemned for public purposes.

Which was agreed to and the Chair appointed Messrs. Green, Grey and Hubbell.

Mr. Green from the Committee on Bill of Rights reported back the petition of Charles Stokes with a recommendation that it be read by the Secretary at the next meeting.

On motion, adjourned.

Tuesday, Nov. 11, 1873.

At 10:30 A.M. the roll was called, when the following gentlemen answered to their names: Messrs. Babcock, Carter, Hubbell, Swayze, Ten Eyck – 5.

A recess was taken and on the roll being again called, the following gentlemen were present and answered to their names: [Messrs.] Babcock, Brinkerhoff, Buckley, Carter, Cutler, Dickinson, Ferry, Green, Hubbell, Swayze, Ten Eyck – 11.

Mr. Swayze presented a suggestion relative to the election, term of office and compensation of Justices of the Supreme Court.

Which was referred to the Committee on the Judiciary.

[page 138]

Mr. Swayze offered a suggestion relative to the composition and powers of the Court of Pardons.

Which was, on motion, referred to the Committee on the Executive and Judiciary.

Mr. Brinkerhoff offered a suggestion relative to the past or future exemption of corporations from taxes.

Which was referred to the Committee on Bill of Rights.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

347

Mr. Dickinson moved to take up the proposition offered by himself as follows:

“All laws regulating elections by the people, or for the registry of elections, shall be uniform throughout the State, but no elector shall be deprived of the right to vote by reason of his name not being registered.”

Which was agreed to.

Mr. Green moved to add at the end of the paragraph: “if his right to vote is acquired between the time of registry and of the time of the election.”

Which was not agreed to.

Mr. Carter moved to strike out the words: “All laws regulating elections by the people, or for the registry of elections, shall be uniform throughout the State, but.”

Which was not agreed to.

Mr. Green moved to strike out the words “or for the registry of elections.”

Which was not agreed to.

The original proposition, as amended, was rejected.

The Commission took up the proposition offered by Mr. Gregory, providing for the **[page 139]** meeting of the Legislature once in two years.

And it was rejected.

The proposition offered by Mr. Grey providing that the Court of Pardons shall grant pardons “where the innocence of the person accused clearly appears,” was taken up, considered and rejected.

The proposition offered by Mr. Dickinson that Justices of the Supreme Court shall hold office for 21 years was taken up, considered and rejected.

The proposition offered by Mr. Dickinson that the Legislature shall not delegate to any commission the right to govern any city or municipality, &c., was taken up, considered and rejected.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

The proposition offered by Mr. Dickinson as follows: "No law shall extend the term of any public officer, or increase or diminish his salary or emoluments after his election or appointment."

Was adopted by the following vote:

Yeas: Messrs. Babcock, Brinkerhoff, Buckley, Carter, Cutler, Dickinson, Ferry, Green, Ten Eyck – 9.

Nays: Messrs. Hubbell and Swayze – 2.

The suggestion offered by Mr. Thompson as follows:

Amend Article I, Par. 16, by adding "And in all cases where lands are taken by any incorporated company, any land owner being aggrieved by the award of commissioners shall have the right of appeal, and have the damages reassessed by the verdict of a jury."

[page 140]

Was taken up, considered and adopted by the following vote:

Yeas: Messrs. Babcock, Brinkerhoff, Buckley, Cutler, Dickinson, Ferry – 6.

Nays: Messrs. Carter, Green, Hubbell, Swayze, Ten Eyck – 5.

The proposition offered by Mr. Buckley, as follows: "No member of the Legislature shall receive any civil appointment within this State, or to the Senate of the United States, from the Governor, the Governor and the Senate, or from the Legislature, or from any city government during the time for which he shall have been elected; and all such appointments, and all votes given for any such member for any such office or appointment shall be void."

Was taken up.

Mr. Ferry moved to strike out all after the words "or from the Legislature."

Which was agreed to.

The proposition as amended was then adopted.

The proposition of Mr. Ferry relative to Senatorial representation was made the special order for tomorrow morning.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

349

The suggestion offered by Mr. Ferry providing for future amendments to the Constitution was taken up.

Mr. Ferry moved to strike out the word "two-thirds" in the first line of Paragraph 1, and insert "majority."

Which was agreed to.

Mr. Green moved to amend by providing that the Convention to amend the Constitution shall consist of the number of members of the Senate and General Assembly.

Which was agreed to.

The paragraph as amended was then **[page 141]** adopted by the following vote:

Yeas: [Messrs.] Babcock, Brinkerhoff, Buckley, Dickinson, Ferry, Green, Hubbell – 7.

Nays: Messrs. Carter, Cutler, Swayze, Ten Eyck – 4.

Mr. Hubbell moved to amend paragraph second by inserting at the beginning of the paragraph the words "Any specific amendment or," and to strike out at the end of the paragraph the words "but the General Assembly shall have no power to propose amendments to more than one article of the Constitution at the same session, nor to the same article oftener than once in four years."

Which was not agreed to.

On motion of Mr. Green, the vote by which this amendment was lost was reconsidered and the amendment was then agreed to.

Mr. Carter moved to insert in Line 2 after the word "Legislature" the following:

"or suggested by a Commission to be authorized by them to be appointed by the Governor by consent of the Senate."

Which was not agreed to.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

Mr. Swayze moved to strike from line 2 the word “two-thirds” and substitute therefor the words “a majority.”

Which was not agreed to.

Mr. Carter moved to add to the section the following words:

“provided, that if more than one amendment be submitted, they shall be submitted in such manner and form that the people may vote for or against each amendment separately and distinctly.”

Which was agreed to.

[page 142]

Mr. Green moved to substitute the Section (2) as amended for Article IX of the present Constitution.

Which was disagreed to by the following vote:

Yeas: Messrs. Ferry and Hubbell – 2.

Nays: Messrs. Babcock, Carter, Cutler, Dickinson, Green, Swayze, Ten Eyck – 7.

The question was then taken on the adoption of Section II as amended, and it was rejected by the following vote:

Yeas: Messrs. Babcock, Buckley, Ferry, Green, Hubbell – 5.

Nays: Messrs. Brinkerhoff, Carter, Cutler, Dickinson, Swayze, Ten Eyck – 6.

Mr. Ferry moved that Section I of the proposition offered by him be made Section I of Article IX of the Constitution, and that the present sole section of Article IX be made Section II.

Which was agreed to.

Mr. Ferry moved to amend Article IX of the Constitution by striking therefrom the following words, after the word “thereon” in the 5th line:

“and referred to the Legislature then next to be chosen, and shall be published for three months previous to making such choice in at least one newspaper of each county, if any be published therein; and if in the Legislature next chosen, as aforesaid, such proposed amendment or

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

351

amendments, or any of them shall be agreed to by a majority of all the members elected to each house,” and also by striking from the 11th line the words “or such of them as may have been [page 143] agreed to as aforesaid by the two Legislatures.”

Which was not agreed to.

The Commission took up a suggestion offered by Mr. Ferry relative to “Woman Suffrage.”

Mr. Brinkerhoff moved its adoption, and it was rejected by the following vote:

Yeas: Messrs. Babcock, Dickinson, Ferry, Green, Swayze – 5.

Nays: Messrs. Brinkerhoff, Buckley, Carter, Cutler, Hubbell, Ten Eyck – 6.

The Commission took up the report (No. 12) of the Committee on the Executive and Judiciary Departments.

Which was, on motion of Mr. Swayze, postponed for the present.

The suggestion offered by Mr. Cutler relative to the taking of private property for public purposes was then taken up, as follows:

“Private property shall ever be held inviolate, but subservient to the public welfare, and shall not be taken for public or private use without just compensation, and the right of trial by jury shall be secured to every owner, in order that the just compensation may be ascertained; and such compensation shall be assessed by a jury without deduction for benefits to any property of the owner.”

Mr. Swayze moved to strike from Line 2 the words “or private.”

Which was agreed to.

Mr. Carter moved to strike from the end of the paragraph, all after the word “ascertained.”

Which was agreed to.

[page 144]

Mr. Cutler moved to add after the word “ascertained” the words “and whenever private property shall be taken by any incorporated company,

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

such compensation shall be assessed by a jury, without deduction for benefits to any property of the owner.”

Which was agreed to by the following vote:

Yeas: Messrs. Babcock, Brinkerhoff, Buckley, Cutler, Ferry, Hubbell, Swayze, Ten Eyck – 8.

Nays: Messrs. Carter and Green – 2.

The proposition as amended was then agreed to.

On motion of Mr. Green, the Commission then adjourned.

Wednesday, Nov. 12th, 1873.

At 10:30 A.M. the Commission met.

The roll was called, when the following gentlemen answered to their names: Messrs. Babcock, Buckley, Carter, Cutler, Dickinson, Ferry, Grey, Hubbell, Swayze, Ten Eyck – 10.

Mr. Buckley, from the Committee on Bill of Rights, reported back the suggestion offered by Mr. Brinkerhoff yesterday, relative to the past and future exemption of corporations from taxation, without recommendation.

The Commission took up the Report of the Committee on the Executive and **[page 145]** Judiciary Departments relative to the appointment of Judges of [the] Court of Common Pleas (Paper No. 12).

By leave, Mr. Cutler from the Committee on the Executive and Judiciary Departments reported adversely upon the suggestions offered by Mr. Swayze relative to the constitution, term of office and compensation of the Supreme Court and Court of Chancery, and the constitution of the Court of Pardons.

The Report of the Committee on the Executive and Judiciary Departments

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

353

(Paper No. 12) was again taken.

The recommendation of the Committee to strike out the word “five” in the first line, and to insert the word “two” was adopted.

Mr. Grey moved to strike out of the report of the Committee the words “At least one of the judges of said court hereafter appointed shall be a Counselor-at-Law, and he shall be the president judge of said court in the absence of the Justice of the Supreme Court,” and insert in place thereof the words “The Legislature may provide for the appointment of a Counselor-at-Law of not less than ten years standing at the bar of the Supreme Court, who shall be one of said Judges in such counties as the Legislature may determine and shall be president judge of said court in the absence of the Justice of the Supreme Court.”

Which was disagreed to by the follow- [page 146] ing vote:

Yeas: Messrs. Babcock, Buckley, Carter, Dickinson, Grey – 5.

Nays: Messrs. Cutler, Ferry, Green, Swayze, Ten Eyck – 5.

Mr. Green moved to amend by inserting after the words “There shall be,” in the first line, the words “besides the Justice of the Supreme Court, who may be *ex officio* the Judge of said court.”

Which was agreed to.

Mr. Carter moved to add to the end of the section after the word “term” the words “and no Judge of the Court of Common Pleas shall practice in any of the courts of this State.”

Which was not agreed to.

The proposition of the Committee to insert in the 3^d line the words “At least one of the Judges of said Court hereafter appointed shall be a Counselor-at-Law, and he shall be the President Judge of said Court in the absence of the Justice of the Supreme Court.”

Was rejected by the following vote:

Yeas: [Messrs.] Buckley, Dickinson, Ferry [– 3].

Nays: [Messrs.] Babcock, Carter, Cutler, Green, Swayze, Ten Eyck – 6.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

The proposition of the Committee to insert the words “vacancies shall be filled for the unexpired term,” was adopted.

The recommendation of the Committee to strike out the words enclosed in brackets in the 6th, 7th and 8th lines was adopted.

[Ed. Note: Presumably, this refers to words stricken from Article VI, Section VII, paragraph 2]

The recommendation to insert in the second line of Paragraph 1, Article VI [VII], **[page 147]** Section II, the words “and Judges of the Inferior Court of Common Pleas,” was adopted.

The recommendation of the Committee to insert after the word “years,” in the 5th line of Paragraph 1, the words “and the Judges of the Inferior Court of Common Pleas for the term of five years,” was adopted.

The recommendation of the Committee to insert in the 5th line before the word “diminished” the words “increased or,” was adopted.

Mr. Grey moved to amend, by adding at the end of the 10th line the words “Justices of the Supreme Court, Judges of the Court of Errors and Appeals, and Judges of the Common Pleas, when appointed to fill vacancies, shall hold [office] for the unexpired term only.”

Which was agreed to.

The Report of the Committee as amended was then agreed to.

Mr. Cutler, from the Committee on the Judiciary, presented a report recommending the addition at the end of Article VI, Sec. IV, the following:

“To facilitate proceedings in the Court of Chancery, there shall be a Vice-Chancellor, who shall be appointed by the Chancellor, commissioned by the Governor, and hold his office for seven years, whose salary shall be provided for and fixed by law, and shall have jurisdiction in all cases that may be assigned to him by the Chancellor.”

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

355

[page 148]

Which was received and ordered printed.

The Commission took up for consideration the suggestion offered by Mr. Ferry fixing a basis of representation in the Senate and General Assembly.

Mr. Brinkerhoff moved a division of the question.

Which was agreed to.

The 1st, 2^d and 3^d paragraphs were considered, when Mr. Green moved to amend by adding in the first line after the word “power” in the 1st line, the following: “shall be vested in a Senate and General Assembly,” and strike out all from the word “power” in the first line to the word “both” in the 3^d line.

Which was agreed to.

The vote was taken on the adoption of the first three paragraphs, as amended, and they were rejected by the following vote:

Yeas: Messrs. Brinkerhoff, Buckley, Ferry, Green – 4.

Nays: Messrs. Babcock, Carter, Cutler, Dickinson, Grey, Swayze, Ten Eyck – 7.

The question was taken on the adoption of the 4th Paragraph and it was rejected by the following vote:

Yeas: Messrs. Brinkerhoff and Green [– 2].

Nays: Messrs. Babcock, Buckley, Carter, Cutler, Dickinson, Ferry, Grey, Swayze, Ten Eyck – 9.

The Commission took up the suggestion offered by Mr. Cutler relative to the taxation of all property protected by law. Suggestions offered by Messrs. Brinkerhoff, Gregory, Carter and Swayze were taken up, and on motion the papers were postponed to, and made the special order for, tomorrow morning, and ordered printed.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

[page 149]

Mr. Green offered suggestions relative to the appointment of a Vice-Chancellor, the constitution of the Court of Errors [and Appeals], the passage by the Legislature of general laws, and the length of the session and pay of the members of the Legislature.

Which were ordered to lie on the table and be printed.

The Report of the Committee on the Bill of Rights (No. 6 Reprint) was taken up for consideration.

The last part of Paragraph 20, which had been postponed, was taken up.

Mr. Carter moved to amend by striking out the words “or borough” after the word “county” in the 7th line, and to insert the word “borough” in the 9th line after the word “town.”

Which was agreed to.

The question being taken on the adoption of the part of the paragraph as amended, it was adopted by the following vote:

Yeas: [Mssrs.] Babcock, Brinkerhoff, Buckley, Carter, Cutler, Swayze, Ten Eyck – 7.

Nays: Messrs. Dickinson and Green – 2.

Mr. Carter moved to take up a suggestion offered by him to amend Art. 2 of the Constitution by adding at the end of Paragraph 2 the words “or in legislation.”

Which was carried, and the amendment was adopted.

Mr. Green, from the Special Committee appointed to consider the expediency of creating a court with jurisdiction over cases of condemnation of lands **[page 150]** for public purposes, reported the following as an amendment to the Constitution:

“The Legislature may establish a court or courts with original jurisdiction over all cases of condemnation of lands and assessments for improvements.”

Which was laid on the table and ordered printed.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

357

Mr. Carter called up a suggestion offered by him[self] as follows:

“After 1885, the Legislature may pass laws to prevent persons on arriving at their majority from voting who cannot read the Constitution of the State in the English language.”

Which was rejected by the following vote:

Yeas: Messrs. Babcock, Carter, Dickinson – 3.

Nays: Messrs. Brinkerhoff, Buckley, Cutler, Ferry, Green, Grey, Swayze, Ten Eyck – 8.

Mr. Grey, from the Committee on the Legislative Department, reported an amendment prescribing a form of oath to be taken by officers of the Legislature.

Mr. Green moved to amend by striking out the word “keep” and substituting therefor the word “preserve,” and by adding after the word “office” in the last line the words “and make such disposition of the same as may be required [page 151] by law.”

Which was agreed to.

The proposition was then adopted.

On motion of Mr. Green, the Commission took up a proposition offered by Mr. Buckley relative to Senatorial representation.

A motion to make the subject the special order for tomorrow was lost by the following vote:

Yeas: Messrs. Cutler, Ferry, Green – 3.

Nays: Messrs. Babcock, Brinkerhoff, Buckley, Carter, Grey, Swayze, Ten Eyck – 7.

The question was taken on the adoption of the suggestion, and it was rejected by the following vote:

Yeas: Messrs. Brinkerhoff, Buckley, Ferry, Green – 4.

Nays: Messrs. Babcock, Carter, Cutler, Grey, Swayze, Ten Eyck – 6.

The Committee on the Legislative Department were relieved from the

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

further consideration of an amendment to the Constitution offered by Mr. Swayze on the subject of education.

On motion, the proposition was ordered printed.

The Commission then adjourned.

[page 152]

Thursday, November 13th, 1873.

At 10:30 A.M. the Commission met.

Present: Messrs. Carter, Cutler, Dickinson, Ferry, Gregory, Grey, Hubbell, Swayze, Ten Eyck – 9.

The Commission took up the Report of the Committee on the Executive and Judiciary Departments, relative to the office of Vice-Chancellor (Paper No. 13).

On motion of Mr. Ferry, the subject was postponed temporarily.

The Commission took up the Report of the Special Committee, providing as follows: “The Legislature may establish a court or courts with original jurisdiction over all cases of condemnation of laws (*sic*) and assessment for improvements.”

The Report of the Committee was adopted by the following vote:

Yeas: [Messrs.] Carter, Cutler, Ferry, Grey, Hubbell [– 5].

Nays: [Messrs.] Dickinson, Swayze, Ten Eyck – 3.

The Commission took up for consideration a proposition relative to education, offered by Mr. Swayze (Paper No. 17).

On motion of Mr. Ferry, the Commission voted on the proposition as a whole, when it was rejected by the following vote:

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

359

Yeas: Messrs. Cutler, Dickinson, Gregory, Swayze [– 4].

Nays: Messrs. Babcock and Carter [– 2].

[Ed. Note: At least 5 votes were required for passage, as 9 members were present at this time.]

Mr. Grey offered as a new proposition the following:

“A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the Legislature shall establish and maintain free public schools for the gratuitous instruction of all persons in this State between the ages of five and eighteen years.

“The term ‘free schools’ or ‘public schools’ used in this Constitution shall be construed to mean common schools that aim to give to all a rudimentary education only, and not to include schools [page 153] designed to fit or prepare pupils to enter college, or schools controlled by or under the influence of any creed, religious society or denomination whatever.”

[Ed. Note: Grey’s proposal was a *supplement* to the existing Art. IV, §VII, ¶6.]

The first paragraph [i.e. the existing Art. IV, §VII, ¶6] was taken up.

Mr. Carter moved to strike out the word “free” in the first line and insert “public.”

Which was not agreed to.

Mr. Carter moved to add after the word “free,” the word “public.”

Which was agreed to.

Mr. Gregory moved to strike out the word “free.”

Which was not agreed to.

Mr. Green moved to add at the end of the paragraph [i.e. the 1st supplemental sentence offered by Grey] the following:

“The amount raised by taxes for schools in each county in each year shall be expended therein and not else where.”

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

Which was disagreed to by the following vote:

Yeas: Messrs. Ferry, Green, Gregory, Hubbell – 4.

Nays: Messrs. Babcock, Carter, Cutler, Dickinson, Grey, Swayze, Ten Eyck – 7.

Mr. Carter moved to strike out the word “eighteen,” and insert “sixteen.”

Which was not agreed to.

The question was taken on the adoption of the first paragraph [i.e. the 1st supplemental sentence offered by Grey], and it was agreed to.

Yeas: [Messrs.] Babcock, Carter, Cutler, Dickinson, Grey, Swayze – 6.

Nays: [Messrs.] Ferry, Green, Gregory, Hubbell, Ten Eyck – 5.

The second paragraph [i.e. the 2nd supplemental sentence offered by Grey] was taken up when **[page 154]** Mr. Cutler moved to strike out the following words: “Schools designed to fit or prepare pupils to enter college, or.”

Which was disagreed to by the following vote:

Yeas: Messrs. Babcock, Carter, Cutler, Gregory, Hubbell – 5.

Nays: Messrs. Dickinson, Ferry, Green, Grey, Swayze, Ten Eyck – 6.

Mr. Hubbell moved to amend by striking out all after the word “only,” in the second line.

Which was disagreed to by the following vote:

Yeas: [Messrs.] Babcock, Cutler, Ferry, Gregory, Hubbell – 5.

Nays: [Messrs.] Dickinson, Green, Grey, Swayze, Ten Eyck – 5.

[Ed. Note: At least 6 votes were required for passage, as 11 members were present at this time.]

On motion, the paragraph was adopted by the following vote:

Yeas: Messrs. Babcock, Carter, Cutler, Dickinson, Gregory, Grey, Hubbell, Swayze – 8.

Nays: [Messrs.] Ferry, Green, Ten Eyck – 3.

Mr. Carter offered the following:

“The Legislature shall have power to require by law that every child of

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

361

sufficient mental and physical ability shall attend the free public schools during the period between the ages of six and fifteen years, for such term in each year as may be from time to time designated by law.”

Which was rejected by the following vote:

Yeas: Messrs. Babcock, Carter, Cutler, Gregory – 4.

Nays: Messrs. Dickinson, Ferry, Green, Grey, Hubbell, Swayze, Ten Eyck – 7.

Mr. Cutler moved the adoption of the following:

“The proceeds of all lands that may be hereafter granted by the United States to this State; also the proceeds of the sales of public lands that may hereafter be paid [page 155] over to this State by the United States, unless otherwise provided by Congress; also, the proceeds of the sales of land or other property now belonging to this State, shall be securely invested and sacredly preserved as a free school fund, the annual income of which fund shall be faithfully appropriated for establishing and maintaining free schools, and for no other uses or purposes whatever.”

Which was disagreed to by the following vote:

Yeas: Messrs. Babcock, Cutler, Dickinson, Gregory, Swayze – 5.

Nays: Messrs. Carter, Ferry, Green, Grey, Hubbell, Ten Eyck – 6.

Mr. Swayze offered as a suggestion the following:

Add to Article IV, Sec. VII, Paragraph 6, Line 18, after the word “public,” the word “free.”

Which was adopted.

The Commission took up the Report of the Committee on the Executive and Judiciary Departments, as follows:

“Article VI

“Section IV.

“Insert:

“5. To facilitate proceedings in the Court of Chancery, there shall be a Vice-Chancellor who shall be appointed by the Chancellor, commissioned by the Governor, and hold his office for seven years, whose salary shall be provided for and fixed by law, and who shall have jurisdiction in all cases

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

that may be assigned to him by the Chancellor.”

Mr. Green moved to strike out the word “shall” in the first line, and insert “may.”

Which was agreed to.

[page 156]

Mr. Grey moved to amend the report so that it should read as follows:

“To facilitate proceedings in the Court of Chancery, there may be a Vice-Chancellor who shall be appointed and commissioned by the Governor, by and with the advice and consent of the Senate, and hold his office for seven years, and shall have jurisdiction in all cases that may be assigned to him by the Chancellor.”

Which was disagreed to by the following vote:

Yeas: Messrs. Carter, Green, Grey – 3.

Nays: Messrs. Babcock, Cutler, Dickinson, Ferry, Gregory, Hubbell, Swayze, Ten Eyck – 8.

Mr. Cutler moved to strike out all after the word “law” in the 4th line.

Which was not agreed to.

Mr. Green moved to strike out the words “whose salary shall be provided for and fixed by law.”

Which was not agreed to.

The proposition was then rejected by the following vote:

Yeas: Messrs. Babcock, Carter, Ten Eyck – 3.

Nays: Messrs. Cutler, Dickinson, Ferry, Green, Gregory, Grey, Hubbell, Swayze – 8.

Mr. Carter moved to reconsider the vote by which the proposition, offered by Mr. Cutler, relative to the School Fund, was lost.

Which was disagreed to by the following vote:

Yeas: Messrs. Babcock, Carter, Cutler, Dickinson, Swayze – 5.

Nays: Messrs. Ferry, Green, Gregory, Grey, Hubbell, Ten Eyck – 6.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

363

[page 157]

Mr. _____ moved that when the Commission adjourn it be to meet on Tuesday morning.

Which was agreed to.

The Commission took up the consideration of the special order, being propositions relative to taxation, submitted by Messrs. Carter, Brinkerhoff, Swayze, Gregory and Cutler.

Mr. Grey moved to take up the proposition by Mr. Cutler.

Which was agreed to.

Mr. Grey moved to amend by striking out all after the word “taxed” in the second line.

Which was not agreed to.

Mr. Green moved to amend by substituting the following:

“No property of any kind owned by persons, natural or artificial, protected by law, except that owned by the United States, the State, counties, townships, towns or boroughs shall be exempt by law from its full share of all State, county, township and city taxes and assessments, except lots owned by individuals in cemeteries on which such owners have buried or intend to bury the dead.

“No law shall be enacted or contract entered into by which the power of taxation shall be impaired or impeded.

“The Legislature shall provide by law for taking away from any person or persons, natural or artificial, now possessing or entitled to the same, any right of exemption from taxation which cannot be revoked without compensation, and for paying to such person or persons, out of the Treasury of the State, a just compen- **[page 158]** sation for the right so taken away.”

On motion, the subject was postponed and the substitute offered by Mr. Green ordered printed.

The Chair laid before the Commission a report of the statements sent to the

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

secretaries, relative to the bonded debts of the various counties, townships, towns and cities of the State.

Mr. Swayze moved that the Committee on the Legislative Department be discharged from the further consideration of a suggestion offered by himself relative to "Corporations," and that the suggestion be printed.

Which was agreed to.

On motion, the Commission adjourned.

Tuesday, November 18th, 1873.

At 10:30 A.M. the Commission met.

The session was opened with prayer by Rev. Dr. Hanlon.

The roll was called, when the following gentlemen answered to their names: Messrs. Babcock, Buckley, Carter, Dickinson, Ferry, Green, Grey, Gregory, Hubbell, Swayze, Ten Eyck, Thompson – 12.

The President laid before the Commission the returns made by the several townships and cities relative to their bonded debts. Which were ordered to lie on the table.

The Commission took up the suggestion relative to taxation offered by Mr. Green at a previous session (Paper No. 20).

[page 159]

Mr. Green moved to amend by striking out of Line 1 the words "owned by persons, natural or artificial."

Which was agreed to.

Mr. Green moved to amend by striking out of Line 4 the word "except" and insert in place thereof the word "provided."

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

365

Which was agreed to.

Mr. Carter offered, as a substitute for the entire proposition, the following:

“All property of every kind protected by law, real and personal, owned by individuals or otherwise, shall be taxed according to its true value in money, under general laws, and by uniform rules; but the Legislature may by general laws exempt from taxation public property used for public purposes, places of burial not used or held for private or corporate profit; stocks and other personal estate owned by citizens or institutions in this State, situate and being out of the State upon which taxes are annually assessed and paid; also, actual places of religious and public worship, or places of purely public charity not exceeding in real value twenty-five thousand dollars.”

Which was not agreed to.

Mr. Hubbell moved to strike out all after the word “assessments” in the 4th line of the first paragraph, and to insert in the place thereof the words “except burying grounds and cemeteries not held by stock companies.”

Which was agreed to.

Mr. Green moved to strike out of the 12th line the words “out of the Treasury of this State.”

Which was agreed to.

[page 160]

Mr. Thompson moved to amend by striking out of the 9th line the word “shall,” and inserting in place thereof the word “may.”

Which was agreed to.

Mr. Green moved to amend by inserting before the word “impaired,” in the 8th line, the word “restricted.”

Which was agreed to.

Mr. Gregory moved to amend by adding the following as an additional paragraph:

“Equalization of valuations of real estate for taxation shall be made

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

once in five years by a board composed of the Comptroller, the Treasurer and Secretary of State.”

Which was not agreed to.

Mr. Green moved to amend by inserting as Paragraph 1 the following:

“Property shall be assessed for taxes under general laws, by uniform rules, according to its true value in money.”

Which was agreed to.

Mr. Swayze moved to substitute for the proposition the suggestion offered by him and printed on Paper No. 18.

Which was disagreed to by the following vote:

Yeas: Mr. Swayze [– 1].

Nays: Messrs. Babcock, Buckley, Carter, Ferry, Green, Grey, Hubbell, Ten Eyck, Thompson – 9.

The first paragraph was then adopted by the following vote:

Yeas: Messrs. Babcock, Buckley, Green, Hubbell, Swayze, Ten Eyck, Thompson – 7.

Nays: [Messrs.] Carter, Ferry, Gregory, Grey – 4.

[page 161]

The second paragraph was adopted by the following vote:

Yeas: Messrs. Babcock, Buckley, Green, Grey, Hubbell, Swayze, Ten Eyck, Thompson – 8.

Nays: None.

The third paragraph was adopted by the following vote:

Yeas: Messrs. Babcock, Buckley, Green, Gregory, Grey, Hubbell – 6.

Nays: [Messrs.] Carter, Ferry, Swayze, Ten Eyck, Thompson – 5.

Mr. Swayze offered proposed amendments

[Ed. Note: these included proposals regarding female suffrage and bribery at elections; see *Daily St. Gazette*, 11/19/1873] to the Constitution, which were ordered to lie on the table, the subject matter of all

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

367

having been considered already by the Commission.

Mr. Swayze offered a suggestion relative to the abolition of capital punishment, which was taken up and rejected by the following vote:

Yeas: Messrs. Buckley and Swayze – 2.

Nays: Messrs. Babcock, Carter, Ferry, Green, Grey, Hubbell, Ten Eyck, Thompson – 8.

Mr. Swayze offered a suggestion relative to the disposition of public lands and other property, which, on motion of Mr. Green, was indefinitely postponed by the following vote:

Yeas: Messrs. Babcock, Buckley, Ferry, Green, Grey, Hubbell, Ten Eyck, Thompson – 10 (*sic*).

Nays: Messrs. Carter and Swayze – 2.

On motion of Mr. Green, the Commission took up Paper No. 16.

The first proposition on said paper was adopted, as follows:

[page 162]

“The Legislature shall pass no special act conferring corporate powers, but they shall pass general laws under which corporations may be organized and corporate powers obtained, subject, nevertheless, to repeal or alteration at the will of the Legislature.”

Mr. Green moved that the foregoing be added to Paragraph [14], of Section [7], Article 4 of the Constitution.

Which was agreed to.

On motion, the remaining propositions in No. 16 were indefinitely postponed.

Mr. Carter moved to take up for final action the proposition offered by Mr. Ferry concerning the manner of amending the Constitution as adopted at a previous meeting.

Which motion was agreed to.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

The question was then taken on the final adoption of the proposition, and it was rejected by the following vote:

Yeas: Messrs. Ferry, Green, Hubbell – 3.

Nays: Messrs. Babcock, Carter, Dickinson, Gregory, Grey, Swayze, Ten Eyck, Thompson – 8.

Mr. Green moved that all propositions which have been acted upon and adopted by the Commission be deemed to have been finally adopted.

Which was agreed to.

Mr. Carter moved that the Committee on Revision be directed to send to each member of the Commission **[page 163]** a printed copy of the amendments adopted by the Commission.

Which was agreed to.

Mr. Gregory moved that the returns of the indebtedness received by the secretaries from the various counties and townships be printed.

Which was not agreed to.

Mr. Green moved that they be transmitted to the State Comptroller.

Which was agreed to.

Mr. Carter moved that when the Commission adjourn it be to meet on the fourth Tuesday of December.

Which was agreed to.

Mr. Swayze moved to take up paper No. 19.

Mr. Green moved that the subject be indefinitely postponed.

Which was agreed to by the following vote:

Yeas: Messrs. Babcock, Buckley, Carter, Ferry, Green, Gregory, Hubbell, Ten Eyck – 8.

Nays: Mr. Swayze – 1.

On motion of Mr. Hubbell the Commission then adjourned.

PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION

369

[page 164]

Tuesday, December [23^d], 1873.

At 10:30 A.M. the Commission met, the following members answering to their names: Messrs. Babcock, Carter, Cutler, Ferry, Green, Gregory, Grey, Hubbell, Swayze, Ten Eyck, Thompson [– 11].

Mr. Ferry, from [the] Committee on Revision, reported certain recommendations.

The first recommendation of the Committee was taken up.

Mr. Green moved to amend report by striking out the words “by a jury” where they occur in fourth line, Paragraph 4.

Mr. Grey moved to insert “appeal to a” in line 1, Par 4.

Amendment accepted by Mr. Green.

On motion, the question was then divided:

The present provision was taken up, and the motion to strike out was agreed to.

Second part:

To strike out from “In all cases” to “verdict of a jury” was lost.

Mr. Hubbell moved to strike out “and the right to trial by jury shall be secured to every owner in order that the just compensation may be ascertained.”

Mr. Green moved to transpose the sentences in the paragraph and amend as follows:

“Private property shall ever be held inviolate, but subservient to the public welfare, and shall not be taken for public use without just compensation; in all cases where lands are taken by any incorporated company, any land owner being aggrieved by the award of commissioners shall have the right of appeal, and have [page 165] the damages reassessed by the verdict of a jury, and such assessment shall be made without deduction for benefits.

Adopted.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

The second recommendation of the Committee was taken up.

Mr. Green moved to insert the word “private” before “society” in line four of the proposition.

Which was lost.

Mr. Carter moved to insert after the word “money” the words “except such as shall be given by the general government or an individual to the State for a specific purpose.”

Which was not agreed to.

The proposition was then amended by striking out the words “or for the use of,” before the word “any.”

And was adopted.

Yeas: Messrs. Carter, Cutler, Ferry, Ten Eyck, Thompson [– 5].

Nays: Messrs. Babcock, Dickinson, Green, Gregory, Hubbell, Swayze [– 6].

[Ed. Note: Although the proposition was adopted, the votes indicate the proposition was lost 6-5.]

Proposition No. 3 was taken up and rejected.

Proposition No. 4 was adopted.

Proposition No. 5 was adopted.

Proposition No. 6 was adopted.

Proposition No. 7 was adopted.

Proposition No. 8 was adopted.

Proposition No. 9, to strike out the last sentence of proposed Paragraph [14], Section VII, Art. IV, was lost.

The Committee called [the] attention of the Commission to [an] incongruity in the proposed amendments to Par. 7, Art. 5, one of which requires a two-thirds vote of the Legislature and on[e] a majority.

Mr. Green moved that the whole paragraph be made to conform to the first amendment, requiring a two-thirds vote.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

371

Which was adopted.

[page 166]

Mr. Ferry, from Committee on Revision, reported a proposition to strike out Par. 8, of Section VII, Art. IV.

Which was adopted.

On motion of Mr. Carter, the amendments adopted by the Commission were read in their order.

Mr. Carter moved to substitute the word "liberal" for "rudimentary" in Par. 6, Sec. VII, Art. IV.

Which was not agreed to.

Mr. Ferry moved to strike the word "common" from Par. 15, page 13, and insert the words "free public."

Which was adopted.

Mr. Gregory offered the following:

"Resolved, That the President, Mr. Dickinson and Mr. Babcock be a committee to audit all accounts not audited by the Committee on Printing for expenses connected with the Commission."

Which was adopted.

Mr. Cutler moved to insert the word "cities" in the clause respecting "Regulating internal affairs, &c."

Which was objected to.

Mr. Ferry moved that the Secretary be directed to deposit the journal in the office of the Secretary of State.

The Committee on Printing reported the expenses incurred by the Commission for printing, and request that the Legislature be recommended to authorize the payment thereof.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

Mr. Green moved that five hundred copies of the Constitution as amended **[Ed. Note: this is Report B; see Introduction, *supra*, at p.78-79]** be printed and distributed to the Governor, each member of the Legislature, the Chancellor, the Judges of the Supreme Court and the State officers.

Which was adopted.

Mr. Grey moved that the auditing committee be directed to request the Legislature to provide a compensation for the secretaries and other officers of the Commission.

[page 167]

Mr. Grey moved that the President appoint a committee of three to prepare a report of the work of the Commission **[Ed. Note: this is Report A; see Introduction, *supra*, at p.78-79]** to be sent to the Governor after being signed by the several members of the Commission, and that the secretaries be directed to prepare a detailed statement of the amendments suggested by the Commission, three copies of which shall be transmitted to the Governor, one copy for his own use and one for each house of the Legislature.

Which was adopted, and Messrs. Grey, Hubbell and Green appointed on such committee.

Mr. Carter said "I submit the following resolution, and ask that it be considered and agreed to [by] unanimous consent:

"Resolved, That the unanimous thanks of the Commission be, and the same are hereby tendered to the Hon. John C. Ten Eyck, for the able, dignified and impartial manner in which he has presided over the deliberations of this Commission."

Which was unanimously adopted.

Mr. Carter said "I would also submit the following and ask it be agreed to by unanimous consent:

"Resolved, That the unanimous thanks of the Commission are due and are hereby tendered to Messrs. Edward J. Anderson and Joseph L. Naar, Secretaries of the Commission, for the ability, promptness and courtesy

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

373

with which they have discharged their important duties.”

Which was unanimously adopted.

[page 168]

Mr. Carter offered the following:

“Resolved, That the thanks of the Commission are hereby tendered to the clergymen of the City of Trenton who in compliance with the request of the Commission have opened its sessions with prayer.”

Which was unanimously adopted.

The President, Mr. Ten Eyck, then addressed the Commission as follows:

“Gentlemen: I return my sincere thanks for the last and I fear undeserved act of your courtesy. I have received nothing but courtesy at your hands. I have presided solely through courtesy. I have been aided and assisted by courtesy, courtesy has been the law of our action. Among gentlemen it is the highest law. During our sitting, I am happy to say, this law has never once been violated.

“We submit our work to the Legislature and the people of the State with the hope that the proposed amendments to their excellent Constitution may prove valuable. They are such as, it is believed, time and experience have rendered desirable. These with one or two exceptions have been reached with considerable unanimity. There have been differences of opinion, it is true, but diversity of opinion produces harmony of action. Even in nature discordant forces evoke the music of the spheres. The tendency to fly off and the tendency to fall in keep huge bodies in their **[page 169]** orbits. Radicalism and conservatism bring about conciliation and compromise and secure the golden mean.

“All government is a compromise between rights absolute and rights restricted. What we have done we commend to the Legislature and people of the State for their favorable consideration.

“Gentlemen, we are now about to separate. Permit me to say that I part with each one of you with the liveliest feelings of respect and esteem. I trust that we may often meet again as individuals, and that you may all long live to see the efforts we have made prove beneficial to the State we all of us so much love. I am sure they were designed solely with that view and for no

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

other purpose. Gentlemen, in bidding you farewell, you have my best wishes for your welfare and happiness.”

The Commission then adjourned *sine die*.

Jn. C. Ten Eyck, President

E. J. Anderson

Jos. L. Naar Secretaries.

[page 350]

*Minutes of the
Committee of the Whole of the
Constitutional Commission of the
State of New Jersey.*

Trenton, Oct. 8, 1873.

The committee was organized with Mr. Gregory as chairman.

The report of the Committee on the Executive &c. was taken up. The recommendation to insert the word "two-thirds" in place of the words "a majority" wherever they occur in Section 7, Article V, was adopted.

Mr. Green moved to amend the clause authorizing the Governor to veto separate items in the appropriation bill by substituting the following:

"In any bill passed by the Legislature authorizing the expenditure of money from the Treasury, the Governor may exercise the veto power as to any separate item or items of expenditure without defeating the whole, and the Legislature shall only reconsider the item or items objected to."

Which was laid on the table.

Mr. Grey moved to amend the clause proposed by the Committee to be added to [Paragraph] 8, by substituting the words "nor shall he be elected by the Legislature to any office under the government of this State or of the United States during the term for which he shall have been elected Governor."

Which was laid on the table.

[page 351]

On motion, the further consideration of the report was postponed, and the committee rose.

PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION

Trenton, Oct. 14, 1873.

The Committee was organized with Mr. Thompson in the chair.

The Committee took up the Report of the Committee on Bill of Rights, Right of Suffrage, Limitation on Powers of Government, and General and Special Legislation. (No. 3).

Mr. Green moved to concur in the report by retaining the amendment in Line 1 of the printed report, striking out the word "white."

Which was agreed to.

Mr. Green moved that the proposition of the Committee to insert the words, "a citizen for ten days and" in line 2 of the printed report be rejected.

Which was agreed to by the following vote:

In the affirmative, Messrs. Buckley, Carter, Cutler, Dickinson, Ferry, Green, Grey, Hubbell, Swayze – 9.

In the negative, Messrs. Babcock, Gregory, Ten Eyck, Thompson – 4.

Mr. Green moved that the proposition of the Committee to insert the words "and of the election district in which he may offer his vote, thirty days" be agreed to.

Which was agreed to by a vote of 13 to 0.

Mr. Green moved the adoption of the report of the Committee providing for the voting of soldiers and sailors during the war.

Which was agreed to by a vote of 13 to 0.

Mr. Green moved that the further consideration of the Report of the Committee on Bill of Rights be postponed for the **[page 352]** present.

Which was agreed to.

Mr. Green moved to reconsider the vote by which was adopted the recommendation of the Committee to require a "two-third[s]," instead of a "majority" vote to overcome a veto.

Which was agreed to, and the report ordered to lie on the table.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

377

Mr. Buckley moved to take up the Report on the Legislative Department.
Which was agreed to.

The recommendation of the Committee to provide for the election of members of the Legislature on the "first Tuesday after the first Monday in November," was agreed to, 13 to 0.

The recommendation to insert after the words "shall be" in Line 1, Par. 6., Sec. IV, the words "printed before they are received or considered and shall be read throughout, section by section, on three several days, in each House, before the final passage thereof, but the reading of the title of any bill or joint resolution shall never be taken as the reading thereof, provided that in cases of actual invasion or insurrection, the Legislature may, by a two-thirds vote of the House where such bill or joint resolution shall be presiding, otherwise order."

Mr. Dickinson moved to strike out the words "received or."

Mr. Buckley moved to strike out "re- [page 353] considered," and insert "read or referred."

Mr. Dickinson withdrew his motion.

Mr. Buckley withdrew his motion, when it was renewed by Mr. Green.

The vote being taken, the motion was lost by the following vote:

Ayes: [Messrs.] Buckley, Dickinson, Ferry, Green – 4.

Nays: [Messrs.] Carter, Cutler, Gregory, Grey, Hubbell, Swayze, Ten Eyck, Thompson – 8.

Mr. Ferry moved to strike out the words "received or."

Which was lost by a vote of 3 to 9.

The Report of the Committee was then adopted.

Mr. Grey moved to insert in the printed report, Line 7, Paragraph 6, after the word "order" the words "and provided further that all bills and joint resolutions, together with the amendments thereto, shall be printed and distributed among the members of each house at least one day before the vote shall be taken on the final passage thereof."

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

Which was adopted.

The Report of the Committee amending Paragraph 7, Section IV, providing for pay of the Legislature, was taken up.

Mr. Ferry moved to amend the Report by substituting the word "\$500" for "\$750," as reported by the Committee.

After discussion, the Committee rose and reported progress.

[page 354]

Tuesday, Oct. 15, 1873.

The Committee met.

Mr. Carter moved to suspend the rules so as to allow the President of the Commission to be Chairman of the Committee.

Which was agreed to.

The Committee took up the recommendation of the Committee on the Legislative Department to amend Sec. VII, Par. 10, of the Constitution, providing for the publication of notice to amend municipal charters.

Mr. Ferry moved to amend the recommendation by requiring the notice to be published "ten," instead of "thirty" days before the meeting of the Legislature (Line 6, printed bill).

The motion was lost by a vote of 3 to 8.

Mr. Buckley moved to amend the printed report by striking out the word "county," in line 7, and insert[ing] the word "city."

Mr. Hubbell moved to strike out "in one or more newspapers having the largest circulation," in lines 6 and 7, and insert "in all newspapers in the."

Mr. Green moved to strike out all after the word "newspapers," in the 7th line, and insert "printed, published and circulated in the municipal

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

379

corporation to be affected thereby, and if none is printed or published therein, then in the newspaper printed or published nearest thereto.”

Which was agreed to.

Mr. Carter moved to amend the sixth line of the printed bill by striking out **[page 355]** the words “for at least thirty days,” and insert[ing] “once a week for at least four weeks.”

Agreed to.

The further consideration of this section was postponed for the present.

The Committee took up the consideration of Section VIII.

The word “Judges” in the 18th line was changed to “Justices.”

Mr. Ferry moved to strike out all after the word “membership” in the 22^d line.

Which was agreed to by a vote of 9 to 3.

Mr. Buckley moved to amend the report of the Committee by striking out of the printed report Section VIII, Paragraph 1, from the word “affirmation,” in Line 17, to the words “any member,” in the 21st line; and to reinstate the words, in the 16th line, “and members-elect of the Senate or General Assembly are hereby empowered to administer to each other the said oath or affirmation.”

Which was agreed to.

Section VIII, as amended, was then adopted.

Mr. Green moved as an amendment to the report of the Committee to insert at the end of Paragraph 4, Section VII, Article IV, the following:

“No law shall be revived or amended by reference to its title only; but the act revived, or the section or sections amended, shall be inserted at length. No general law shall embrace any provision of a private, special or local character.

**PROCEEDINGS OF THE
1873 CONSTITUTIONAL COMMISSION**

[page 356]

“ No act shall be passed which shall provide that any existing law or any part thereof shall be made or deemed a part of this act, or which shall enact that any existing law or any part thereof shall be applicable except by inserting it in such act.”

Which was adopted.

The further consideration of the report of the Committee was postponed for the present.

The Commission took up the Report of the Committee on the Executive and Judiciary Departments, and Appointing Power and Tenure of Office.

The amendment proposed by the Committee to Paragraph 7, Article V, Executive, to strike out the word “majority” and insert the word “two-thirds” in lines 5 and 8 of the printed report, was taken up.

After discussion, the question was taken on adopting the suggestion of the Committee, when it was lost by the following vote:

Ayes: Messrs. Carter, Cutler, Dickinson, Green, Gregory, Swayze – 6.

Nays: [Messrs.] Babcock, Buckley, Ferry, Hubbell, Ten Eyck, Thompson – 6.

On motion, the subject was postponed for the present, and the Committee rose.

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

381

MAY 8, 1873

[Daily State Gazette]

CONSTITUTIONAL COMMISSION.—Pursuant to the proclamation of the Governor, the Commissioners appointed by the Governor, by and with the consent of the Senate and in obedience to a concurrent resolution of the Legislature, met yesterday in the Senate Chamber at 12 o'clock, noon.

A little after 12 o'clock, Senator Taylor, the President of the Senate, came forward and said: "It being suggested that it would be proper for the President of the Senate to call the Commission to order, the gentlemen comprising the Commission will now come to order, and name some one of their number for temporary Chairman."

Attorney General Gilchrist nominated for temporary Chairman, ex-Chancellor Zabriskie, of Hudson County.

The nomination was unanimously agreed to.

Mr. Zabriskie took the chair, and called upon the Commission to name a temporary Secretary.

Attorney General Gilchrist nominated John F. Babcock, of Middlesex.

[Carried.]

The roll was then called as named in the Governor's proclamation, as follows:

Abraham O. Zabriskie, Robert Gilchrist, Theodore Runyon, John W. Taylor, Augustus W. Cutler, Benjamin Buckley, Martin Ryerson, Jacob L. Swayze, Robert S. Green, John F. Babcock, Mercer Beasley, John C. Ten Eyck, Samuel H. Grey, and Benjamin F. Carter.

All answered to their names except Theodore Runyon and Mercer Beasley.

Mr. Gilchrist said that he had been requested by the Governor to say that Chancellor Runyon and Chief Justice Beasley, in consequence of their pressing engagements, had declined the position, and that the Governor would nominate others.

Resignation From The Constitutional Commission.— Governor Parker has received the following letters from Chief Justice Beasley and Chancellor Runyon, declining to serve on the Constitutional Commission. The Governor will fill the vacancies at his leisure:

TRENTON, May 5, 1873

To His Excellency Joel Parker, Governor, &c.:

SIR: Although entirely sensible of the honor conferred upon me by my nomination and confirmation as a member of the Commission to suggest improvements to the State Constitution, I find myself unable to undertake the

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

MAY 8, 1873

labor of the office. My judicial engagements tax my time and strength to the utmost, and as these engagements will not admit of being slighted or put aside, I am compelled to decline the additional responsibilities of the new and arduous position.

Very respectfully,
Your obedient servant,
M^[ERCER]. BEASLEY.

To His Excellency Governor Parker,

DEAR SIR: The demands of the business committed to my hands in the discharge of my official duties are such as to render it almost, if not quite, impracticable for me, with due regard to public interest, to serve on the Commission to suggest amendments to the Constitution. I therefore very respectfully decline the appointment.

Yours, very truly,
THEODORE RUNYON.

May 8, 1873

[Daily True American]

Hon. A. O. Zabriskie—I presume it will be in order to have the proclamation of the Governor read convening the Commission.

The temporary secretary read the proclamation, and also the resolution of the last Legislature, by the authority of which the Commission is appointed.

[Daily State Gazette]

Mr. Taylor moved that the rules of the Senate be adopted for the government of the Commission, until otherwise ordered.

[Carried.]

[Daily True American]

The Chairman said the Commission was ready to receive suggestions from any of the members.

Hon. Mr. Grey—I suppose that it will be proper to appoint a committee to prepare for the organization and to nominate officers, and I move that a committee

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

383

MAY 8, 1873

of five be appointed by the Chair.

The resolution having been seconded and adopted, the Chairman named Messrs. Grey, Cutler, Green, Taylor and Buckley.

Hon. Mr. Taylor—I move, when this Commission adjourns, it does so to meet this afternoon at three o'clock.

Carried.

Hon. Mr. Cutler moved that the temporary secretary read that portion of the Governor's message which relates to the amendments to the Constitution.

The motion having been adopted, the secretary read as requested.

Hon. Mr. Gilchrist—I move that the Committee report tomorrow morning.

Carried.

Hon. Mr. Grey—It seems to be, in view of the fact that we are to meet tomorrow morning, to hear the report of the Committee, that it would be proper to rescind the resolution that calls us together this afternoon. It seems to me to be useless to come here until the Committee have reported.

Hon. Mr. Taylor moved the reconsideration of the vote whereby the Committee were instructed to report in the morning.

Hon. Mr. Buckley thought that there was some mistake.

Hon. Mr. Taylor said, the object is to change the reporting of the Committee until this afternoon. We cannot do anything until we are organized.

The Chairman put the question to the Commission.

Hon. Mr. Gilchrist said, we all ought to have a free and full talk on the subject that has called us together, and we cannot have that so well in public as in private. If we cannot do anything for the remaining portion of the day, we can come to an understanding how to begin. I think we should all remain in the city this evening and not go home, so that we may confer together.

Hon. Mr. Taylor—I do not think there will be any difficulty in making an organization at three o'clock. The Committee can report the officers, and then we shall be ready to commence the incipient work of the Commission.

The motion to reconsider was adopted.

Hon. Wm. Taylor then moved that the Commission meet at three o'clock that afternoon.

Carried.

Hon. Mr. Ryerson moved to adjourn, which was carried.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

MAY 8, 1873

AFTERNOON.

The Commission met at three o'clock.

Mr. Grey, from the Committee appointed in the morning, reported for permanent President, Hon. A. O. Zabriskie, and for Secretaries, Mr. Edward [J.] Anderson and Mr. Joseph L. Naar; and also that the janitor of the building act as doorkeeper during the sittings of the Commission.

The report was adopted, on motion of Attorney General Gilchrist.

Hon. A. O. Zabriskie said:

I thank you for the important position to which you have elected me, to preside over this Commission. It is a Commission called by the Legislature, on the suggestion of the Governor, to revise the Constitution of the State, the great contract between the people and those who are to govern. In a free State, in a Republic of any kind, a Constitution is necessary as the contract of how much of the powers of the people are surrendered to the government. There are many things that have to be surrendered for the benefit of the State, in order that the government may be carried on. There are also many things that the people should retain. There are many things that must be given. The power of taking life at will, which is most vicious and dangerous, is never allowed in any civilized State. That is one feature, but there are many other things, minor ones; the protection of persons and property, the rights and privileges of citizens, which are necessary; and it is to save the citizens of New Jersey from encroachments on their rights that are the purposes of this Commission. Gentlemen, our work is important, and I hope our deliberations will be approved by the Legislature of the State, and that the people may accept and adopt such alterations as we may, after due deliberation, recommend.

The Hon. Mr. Gilchrist moved the following:

Resolved, That the President appoint a committee of six, who shall report the manner of conducting the business of the Commission, and some general outline of the subjects proposed to be considered by the Commission.

Carried.

The President appointed Messrs. Gilchrist, Buckley, Taylor, Ten Eyck, Ryerson and Carter.

Hon. Mr. Cutler moved:

Resolved, The secretaries be instructed to furnish each member of the Commission with a copy of Hough's Constitution and a copy of the rules of the Senate.

Adopted.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

385

MAY 8, 1873

Hon. Mr. Taylor said, that Hough's Constitution contained the constitutions of every State in the Union, and also the Constitution of the United States. The work was classified, and its index alphabetically arranged, and it would be a most important aid in the work on which they had entered.

[Daily State Gazette]

{[Mr. Taylor] said it was a very complete work, a new edition of which had recently gone to press. It contains the constitution of every State, and copious notes. There are two volumes, and it is published in Albany.}

[Daily True American]

Hon. Mr. Ten Eyck— In order to expedite business, I move this Commission do adjourn for one month from this day, so as to give time to the committee appointed to look into and discuss such subjects as they may think it proper to bring before us.

Hon. Mr. Taylor requested permission to move the following:

Resolved, That the State Comptroller be requested to furnish such stationery, books and other articles as the secretaries may be directed to procure.

Carried.

The motion of Mr. Ten Eyck was then considered.

Mr. Ryerson suggested that the adjournment should be until the first Tuesday in June.

Mr. Taylor desired to amend. He understood that the presiding officer intends to go away, and be absent until about the first of July. They could not do much business in the mean time, and he requested the adjournment be until the 8th of July.

The motion, as amended, was adopted.

Mr. Grey moved to adjourn.

Carried.

Mr. Ryerson asked if it would not be as well for the committee to remain a short time.

The Chairman said they could remain there or meet in some other place they might agree upon.

The Commission then adjourned until Tuesday, July the 8th.

Newspaper Sources for May 8, 1873:

"Constitutional Commission," *Daily State Gazette*, May 9, 1873.

"Constitutional Commission," *Daily True American*, May 9, 1873.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

MAY 27, 1873

**Newspaper Accounts of the Proceedings
of the Organizational Committee**

[Daily State Gazette]

The Special Committee of Six, appointed by the Constitutional Commission to prepare a plan of business, and report a schedule of subjects for consideration by the Commission, were to have held their first meeting in Newark yesterday. A portion of the committee assembled at the office of Senator Taylor, but upon receipt of information that the Attorney General, who is chairman of the committee, would be unable to attend, the meeting was postponed until June 3, and the place of meeting changed to this city [Trenton]. The cause of the Attorney General's absence was the serious illness of a member of his family.

Newspaper Source for May 27, 1873:

[Untitled entry under "Local Items"], Daily State Gazette, May 28, 1873.

JUNE 3, 1873

**Newspaper Accounts of the Proceedings
of the Organizational Committee**

[Daily State Gazette]

The Committee of the Constitutional Commission appointed to mark out a line of business met, yesterday afternoon, in the Executive Chamber. Present—Gilchrist, Taylor, Ten Eyck, Ryerson and Carter. Mr. Buckley was absent. There was a lengthy discussion as to the line of business. The Committee then adjourned to meet on the first day of July. The Commission meets on the 8th.

[Daily True American]

{ CONSTITUTIONAL COMMISSION.—The committee appointed by the Constitutional Commission, to prepare a general plan of business for the Commission, held a meeting at the State House yesterday. All the members except Mr. Buckley, of Passaic, were present, and after a full discussion of the subject and the general arrangement of topics to be considered, the committee adjourned to meet on July 1st. }

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

387

JUNE 3, 1873

Newspaper Sources for June 3, 1873:

[Untitled entry under "Local Items"], Daily State Gazette, June 4, 1873.

"Constitutional Commission," Trenton True American, June 4, 1873.

JULY 1, 1873

**Newspaper Accounts of the Proceedings
of the Organizational Committee**

[Daily State Gazette]

The Sub-Committee of the Constitutional Commission met at the State House yesterday. There were present Messrs. Buckley, Taylor, Gilchrist, Ten Eyck, Carter.

The preparation of a plan of business was discussed for two hours.

It was agreed that the subjects embraced in the Constitution, as follows: rights and privileges, right of suffrage, legislative, judiciary, appointing power and tenure of office, future amendments, general provisions and final revision, should be collated under five general heads. They recommend that five committees be appointed to whom shall be referred these subjects.

The Sub-Committee agreed to meet at 11 o'clock on the 8th of July, and prepare their report, which will be submitted to the Commission which will assemble in the Senate Chamber, at 12 o'clock on the same day.

The Sub-Committee then passed a resolution, that the Hon. Robt. Gilchrist be requested to announce the death of the Hon. A. O. Zabriskie, on the meeting of the Commission on the 8th of July, which was adopted.

They also recommended that when the Commission shall meet to consider the business before them, that they meet at 10 A.M. and adjourn at 3 P.M.

Hon. Martin Ryerson has tendered his resignation as a member of the Commission, in consequence of ill health.

There are now four vacancies, created by the resignation of Chancellor Runyon, Chief Justice Beasley and Martin Ryerson, and by the death of ex-Chancellor Zabriskie.

Newspaper Source for July 1, 1873:

[Untitled entry under "Local Items"], Daily State Gazette, July 2, 1873.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

JULY 8, 1873

[Daily True American]

CONSTITUTIONAL COMMISSION.—The Committee appointed at the previous meeting met yesterday at 11 o'clock, to agree on their report, and the Commission assembled at noon in the Senate Chamber. The following gentlemen answered to their names: Cutler, Carter, Babcock, Buckley, Gilchrist, Taylor, Ten Eyck, Swayze, Gregory, Thompson, Green, Grey, Ferry. Absent, Dickinson.

[Daily State Gazette]

Mr. E. J. Anderson, the Secretary, called the meeting to order, and reported that he had received from the Governor the names of the following persons whom he had appointed to fill the vacancies now existing in the Commission:

[Daily True American]

The new appointments are:

Second District – Philemon Dickinson, vice Mercer Beasley, Chief Justice, declined. Mr Dickinson is well known, highly respected and an efficient business man. He has been President of the Trenton Banking Company for 30 years. He is a gentleman who has the confidence of the entire community and is well known as one who is liberally educated.

Fourth District – Joseph Thompson, vice Martin Ryerson, resigned, is a leading farmer, residing in Somerset County. He has been Judge of the Court of Common Pleas of Hunterdon County, and is now a Judge of Somerset County. He is a practically strong-minded man, and one to whom his neighbors invariably look for advice.

Sixth District – George J. Ferry, vice Theodore Runyon, declined, is a leading manufacturer, residing at Orange. He is a man of liberal education and great energy.

Seventh District – Dudley S. Gregory, vice Abraham O. Zabriskie, deceased, was a member of Congress and a candidate for U.S. Senator. He is a thorough business man.

Attorney General Gilchrist—I have great pleasure in moving that Senator Ten Eyck be the presiding officer of this Convention.

The choice was unanimous, and Mr. Carter and Mr. Buckley were appointed to conduct him to the chair, by Secretary Anderson.

[Daily State Gazette]

Upon taking the Chair Mr. Ten Eyck addressed the Commission.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

389

July 8, 1873

Gentlemen: I desire to tender my profound thanks for this mark of your favor. I am sure I shall always remember it, with the liveliest emotions of pleasure. I shall regard it as a sweet flower that has blossomed by my pathway of life.

Allow me a word, and but a word, with regard to this Commission. Constitutional government, as we all know, is most conducive to the welfare and happiness of the people. Other and more arbitrary forms may be more brilliant and vigorous, and may enhance the state and grandeur of a few, but our Republican form secures – better secures the rights and privileges of the many.

In passing a new Constitution, or in proposing amendments to one already formed, permit me, for myself, to say that while I would avoid all theoretical and experimental projects, I would favor such measures as a vastly growing business; the pursuits of industry and labor; a pure elective franchise; a wise and efficient administration of law; [eradication of] evils in existing forms and methods of legislation, and such as the interests of education – free and common to all, good morals, a higher civilization and true progress – may require. But a few words more.

How strangely are the ways of Providence sometimes repeated: in 1844 an eminent gentleman, a great lawyer and a learned Chancellor, was unanimously called to preside over the convention that framed the present constitution of the State, and yet about the time that body ceased its labors, he was called to his everlasting rest – another presided in his stead and revised that excellent and well digested instrument.

Eight weeks ago, in this very spot, chosen by the united voices of us all, stood the manly form of our late distinguished President. We heard his few well chosen words. We separated; we to our business and our homes; he for a long and extended journey.

Hurrying back from the Pacific coast to resume this very post of duty – death, like an Indian arrow, struck him on the way, and he fell amidst the native grandeurs of the distant West. The cars rushed onwards, bearing his body through the mountain passes, but his immortal spirit soared aloft, high above their topmost summits – to live, I humbly trust, in joys perpetual!

What can I say? He has done his duty nobly and is justly mourned and honored. He has raised a monument to himself, enduring as brass, which will last when marble tablets shall have crumbled into dust; but I will leave it to you gentlemen, who are better able to speak of him.

What can we do? We can, at least, try to imitate his virtues and examples, and in all our acts, here as elsewhere, strive to do our duty to the State and Nation.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

JULY 8, 1873

Begging your assistance and indulgence, and returning my warmest thanks for your kind consideration, you will please proceed with the business of the Commission.

The minutes of the last meeting were then read.

[Daily True American]

Mr. Gilchrist said, on behalf of the Committee [to Prepare a Plan of Business], he handed in the report, but that he did so without assenting to all the particulars.

Mr. Anderson read the following report:

The Committee appointed by the Constitutional Commission to Prepare a Plan of Business and to present a list of subjects proper to be considered by the Commission, present the following report:

Since the organization of the committee a vacancy has occurred through the resignation of Hon. Martin Ryerson, by which means their number has been reduced to five.

The Committee recommend the adoption of the following plan of business:

I. That the subjects now embraced in the Constitution requiring the consideration of the Commission be classified under the five following general heads:

1. Legislative Department – Bill of Rights and Right of Suffrage.
2. Executive.
3. Judiciary.
4. Appointing Power and Tenure of Office.
5. Future Amendments, General Provisions and Final Revision.

II. That there be five committees appointed by the President of the Commission and that each general head and the subjects included therein be referred to a separate Committee, with instruction, if any changes are found desirable, to report them in the form of amendments to be embodied in the recommendations of the Commission to the Legislature.

III. That the Committee to which shall be referred the subject included under the first general head, viz: Legislative Department, Bill of Rights and Right of Suffrage, shall consist of five members, and that the other committees consist of three members.

IV. That the hour of meeting of the Commission be ten o'clock A.M., and the hour of adjournment be three o'clock P.M., unless otherwise ordered.

Mr. Buckley moved to adopt the report.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

391

JULY 8, 1873

Mr. Gilchrist said he should like to have the resolution read by which the committee was appointed. That being done, he, Mr. Gilchrist, said that the committee were instructed to report on some general order of business to be undertaken by the committee. With all deference to them, it seemed to him that they had not fulfilled the task, but had merely presented a list of subjects from the present Constitution, and it did appear to him that the report did not present any general range of subjects or indicate any plan for business. After going over the range of subjects in their order, he said there is a desire that special legislation shall cease, and that we shall have corporation franchises granted under a general law, so as to relieve the Legislature of nine-tenths of their business, which, legitimately, should be the making of laws and not the granting of franchises. The subject of general legislation is one on which public attention is excited, and the popular will is to draw a limit between general and special legislation. He then pointed out how he thought the considerations for the Commission should be arranged, and said that the questions were great, comprising the constitution of the Legislature and representation. He then indicated in what order he thought the business should come, and then said he was a little at a loss how to shape the motion, but to take the sense of the convention he would move to exclude from the Legislative Department head the organization and construction of that body.

Mr. Swayze objected to the adoption of the report on different grounds. It seemed to him that the Commission does not represent any great body of people in the State, and when they were about to amend a Constitution that might last some 20, 30, 40 or 100 years, they should be careful, and it would be far better to make their report in conformity with the idea contained in the Governor's message. They would have reports in the press of the State, and they could gather the opinions of the people how they should proceed.

[Daily State Gazette]

{Mr. Swayze's objections arose from a different ground. This Commission may be said to be extra constitutional. We hardly know whether they held an office or not. We were to present thought for the next Legislature. This Commission did not represent the body of the people— only a select few. Now, in making a Constitution, had we not better go back to first principles [and do all the work of the Commission in open session]. He thought it would be better not to adopt this report, but to proceed here at once, and discuss the general principles. The press will circulate our views, and in this way we shall learn what the people desire us to do.}

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

JULY 8, 1873

[Daily True American]

Mr. Taylor defended the report. He thought that the committee that has charge of the Legislative Department ought, at least, to have charge of the fundamentals. He objected to the views of the Attorney General.

[Daily State Gazette]

The resolution of Mr. Gilchrist to change the mode of grouping together the subjects, was lost.

Mr. Buckley favored the adoption of the report of the committee. He thought the division of the subjects was material and very convenient.

[Daily True American]

Mr. Grey said, before the vote on the motion was taken he should like to ask a question, in relation to the report itself – how is [it] that there are five in the Committee on the Legislative Department and only three on the other committees?

Mr. Gilchrist replied that it was considered the Legislative Committee would encounter the greatest amount of work.

Mr. Buckley remarked that he favored the adoption of the report simply because it presented the different subjects they would have to consider, and because he thought the committees there mentioned could take up all the amendments necessary, and he could not conceive how they would not be able to meet all questions that would come before them. He cared not how they divided the questions in the Legislative Department, they would all come under that head. Whatever views the committees might take, they would all come before the general body for discussion.

Mr. Swayze said there was another serious objection; unless a member of the Commission might move an amendment to the recommendation of a particular committee, the proposed amendment would only be the ideas of two or three. Supposing there should be an opinion amongst the people that the Judiciary should be elective, as has been adopted by many of the States, were those who were in favor of it to be shut out from expressing their views? It is a settled axiom that all the sovereignty resides in the people, and we ought not to adopt this report if it is intended to shut up discussion and take only the views of two or three men. They ought not to adopt that report if such was its object. There might be a desire to abolish the Court of Chancery, to make the offices of Secretary of State and State Treasurer elective, and those believing such changes necessary should not

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

393

JULY 8, 1873

be shut out from expression of their views by the action of committees.

Mr. Buckley—When the reports of committees are presented they will be subject to amendments. He took it for granted that no member would be debarred from suggesting any amendments he saw fit. The object of the report was to get matters in that state so that they could begin to work. He could not see how Mr. Swayze could form such ideas. As for himself, when the reports of the committees were presented, he should claim the right to make what amendments he pleased.

[Daily State Gazette]

The Chair said it was the right undoubtedly of any member to propose amendments at any time, and the Chair should so rule.

Mr. Gilchrist said there was no doubt of the correctness of the ruling of the Chair.

[Daily True American]

Mr. Taylor moved to amend, that the consideration of subjects for committees be as follows – 1st, Bill of Rights; 2, Right of Suffrage; 3, Limitations Upon Powers of Government; 4, General Legislation; 5, Legislative Department; 6, Executive Department; 7, Judiciary Department; 8, Appointing Power and Tenure of Office; 9, Future Amendments; 10, General Provisions and Final Revision. The object of thus dividing up the work, he said, was to have each one considered by itself and thus lessen the work by a division of labor; another reason was, to reduce the subjects to methodical classification. He then went over the various parts into which he advocated the division of the subject, and coming to that of General Legislation said that reform is needed, as special legislation takes up a great part of the time of the Legislature and is exceedingly expensive. After many salient points he said the committees, ten in number, could digest the various subjects and see where there are any deficiencies.

Mr. Carter said if [the Commission] was a legal body and they were to form a new Constitution, he could agree with very much the last speaker had advanced; but they were not there to make a new Constitution but to amend that which is a good one. If they meddled with and amended in all the subjects proposed, he thought they should be doing more than the people wanted, and for that reason he was opposed to so many committees. The people would fear they were to have too much constitution as they had too much law. They were to avoid travelling in extensive fields, for they were but a commission to suggest a few amendments to a really good Constitution.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

JULY 8, 1873

Mr. Gilchrist asked for the reading of the introductory part of the resolution again. The remainder seemed only to him a classification of subjects.

That being done, Mr. Gilchrist said he was, so far, for the amendments, which did not necessarily mean all those committees. The report of each committee would consider the special subject to which they addressed themselves, and then they would be able to know what they were about.

Mr. Taylor said he saw there was a misapprehension in the mind of the member from the First District [i.e. Mr. Carter]. It was not that the committees should make a new Constitution, not with the expectancy that they would make amendments on every subject; but the object was that they should digest carefully the questions embraced under the general heads.

Mr. Swayze spoke in favor of the amendments of Senator Taylor.

The President put the question [on Mr. Taylor's substitute]. The ayes and nays were called, with the following result:

Yeas – Babcock, Cutler, Ferry, Gilchrist, Green, Swayze, Taylor, Thompson, Grey – 9.

Nays – Buckley, Carter, Gregory, Ten Eyck – 4.

Mr. Gilchrist proposed that there be four committees; 1st, Bill of Rights and Suffrage; 2d, Legislative Department; 3d, Executive, Judiciary, Appointing Power and Tenure of Office; 4th, Future Amendments and Final Revision.

The President asked if the Commission was ready for the question.

Mr. Gregory said he was opposed. He did not suppose they were sent there to tear the Constitution all to pieces, but for a particular purpose. It seemed to him the best plan was to think about what amendments they wanted and not rush on without thought.

Mr. Grey did not understand the action of the Commission. He was opposed to the appointment of committees, and thought they should confine themselves to the making of suggestions.

Mr. Gilchrist said he proposed four committees instead of ten.

Mr. Swayze moved to amend by striking out all that relates to committees.

Mr. Gilchrist said he partly agreed with what had been said by all the gentlemen. After they had agreed on what they should discuss, they could take up the Constitution and read the preamble and other matters and get the thoughts of those present on the matter.

Mr. Taylor said he was opposed to doing away with committees. They must suggest before they could prepare. Their purposes had to be put into distinct shape before they could proceed. He was not strenuous for ten committees, but

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

395

JULY 8, 1873

committees they must have.

Mr. Grey wanted to know if the Commission is so enormously large that they could not get along together? He did not think it was. They were only a committee in number; a committee of 14 from a population of 1,000,000, and he thought that they could do their business while together. If they wanted a committee at all, it was not until after they had a conference. If they were not careful the work they had set themselves would take the rest of the year. Let them not be like the New York Commission, that sat for months and accomplished nothing. Let them act like sensible men, coming from the people, and not take upon themselves all the functions of a great parliament.

Mr. Taylor said the Commission had not met for wrangling or for measuring swords, but must act in a deliberate manner and appoint their committees, who would bring before them specific subjects. They would never arrive at any conclusion unless they had some plan of order, and committees were just as necessary to a body of 14 as to 1,400.

[Daily State Gazette]

[Mr. Taylor said that the purpose of committees] was to save debate and enable the Commission in committee of the whole to arrive at a conclusion much quicker.

[Daily True American]

Mr. Swayze said, all they desired was to simplify. It was not intended or contemplated by the Governor that this body should elect a small body of their number to shape their own ideas, and then come to the Commission with prestige; but it was contemplated that the work should be done in open session. What opportunity will there be given to discuss if you shut up three or four men in a private room [to] propose their own amendments? What we want to do, is to deal openly and fairly with the sovereignty we represent. Why should not the whole body be a committee? The people are very jealous of this Commission. They look upon it with distrust. I don't say their complaints are right or wrong, but I deal with men as I find them.

Mr. Green said there appeared to be a great deal of unnecessary uneasiness. He said the plans proposed were simply [for] the purpose of defining the subjects to be brought before them.

Mr. Buckley said the gentleman from Union [i.e. Mr. Green] had covered the whole ground. He said he had never known a deliberate body called together that

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

JULY 8, 1873

did not delegate their work to a committee, so that they might have it in some distinct form for action. Mr. Swayze had an idea that the committees would be composed of men who would go into secret chambers to take away the rights of the people. There was no such thing in the book.

Mr. Ferry remarked that the present Constitution emanated from master minds, and they should approach the work with care. He spoke in favor of committees to report to the Commission.

Mr. Grey said it did not seem so much a question of committees as when they are to be appointed. He did not mean to say that there would be no necessity for a committee at any time. There might not, for it was possible they might agree, and possible they might disagree. He did not think that committees should be appointed and adjourn over without knowing their reports.

Article IX of the Constitution was read by Mr. Anderson, at the request of Mr. Gregory, who then said, you see the perplexities of our position, and then he pointed out the course their propositions had run before they became law, all of which showed the great jealousies there are of the Constitution, and all of which showed that their powers were very limited. Had they not better consider the subjects before they sent them to the committees. They heard talk of the wish for an elective Judiciary of the people and of the right of suffrage. What did it mean, that young men of 19 or 21 years of age were the people and that women were excluded? They had to approach these matters carefully. They knew there were some things that ought to be amended. They should be trying to make the best government and to keep it permanent.

Mr. Green pointed out that it was merely a question of committees – 4 instead of 10; and without committees they had a fair sample in the discussion of what would take place.

Mr. Gilchrist found himself in a difficult position. He agreed with much that he heard from both sides. These resolutions were not for appointing committees, but making rules for their government. He would start to business and soon as the preamble to the Constitution is read, if any member has any amendments to make let him make them then, and let the matter be referred to a committee to report. It seemed to him that they must have committees, and then would come the question when they are to be appointed?

After some further discussion the President said [that] the question is to dispense with all committees on motion of the member from [Sussex, i.e. Mr. Swayze].

The amendment was lost.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

397

JULY 8, 1873

Now, said the President, comes the proposition of the Attorney General [i.e. Mr. Gilchrist], that there be four committees, with the subjects stated to be referred to them.

That was put to the vote and adopted.

Mr. Green moved that all reports of committees, before final action, shall be reported to a Committee of the Whole.

Carried.

Mr. Green also proposed that the Commission will lay before the Legislature any specific amendment that may be agreed upon by any four members.

Mr. Taylor objected.

Mr. Swayze moved that it be laid on the table.

The motion was lost.

Mr. Taylor moved the minority amendments be presented by themselves.

Mr. Grey said that it was only right that the minority of the Commission should have liberty to report on the amendments proposed.

Mr. Swayze said it seemed wrong to him that four members should control the Commission.

Mr. Green said that it was offered for the very reason to give the member from Sussex [i.e. Mr. Swayze] the very thing he appeared to have been seeking for, the opportunity to lay his views before the Legislature. It did seem only just; that where four members disagreed they should have the opportunity to make a minority report.

Mr. Taylor did not see any objection to [dissenters] laying their views before the Legislature.

[Daily State Gazette]

Mr. Carter offered a substitute, that the Commission will present the majority as well as the minority views upon any question to the Legislature.

Mr. Buckley opposed this. It would virtually destroy the objects of the Commission.

Mr. Carter withdrew his substitute.

[Daily True American]

The President said there were, then, three distinct propositions.

They were all passed over to make way for Mr. Green's motion, which was lost.

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

JULY 8, 1873

[Daily State Gazette]

Mr. Gilchrist moved that before the committees be appointed that each member shall have the privilege of submitting specific amendments to the Constitution.

Opposed by Mr. Taylor and Mr. Ferry.

Mr. Gilchrist advocated his amendment at length.

After some suggestions it was withdrawn.

[Daily True American]

Then the Commission came to the report of the Committee as amended.

Mr. Gilchrist—If we adopt the report, without any action as to the time the committees shall be appointed, we shall go wrong. They can be appointed at once.

Mr. Grey thought there was no necessity for specification of time.

Mr. Gilchrist—I move that the committees shall not be appointed until after the members have had opportunities to present suggestions as to amendments to any part of the Constitution.

Mr. Buckley said it did not involve any necessity.

Mr. Taylor said nothing could be done until committees were appointed.

After some discussion the report, as amended, was adopted.

On motion of Mr. Taylor, 100 copies of the Constitution, printed in bill form, were ordered to be procured by the Secretaries.

A motion to read the Constitution and consider it section by section, by Mr. Grey, was lost, 9 to 4.

Mr. Carter moved a recess of half an hour for the appointment of committees.

Mr. Grey objected. The Chair could not, he said, obtain sufficient knowledge of the Commission in that time to appoint committees.

[Daily State Gazette]

Mr. Gregory offered a resolution that when the Commission adjourn it be to meet on the 22d day of July, at which time each member of the Commission may submit amendments, and at which time the Chair shall name the committees.

On motion of Mr. Taylor that part relating to amendments was stricken out.

After some debate the 22d day of July was selected as the day for the next meeting, at 10 o'clock A.M.

A motion to insert the second Tuesday in October, and the first Tuesday in October, were both lost.

Mr. Swayze offered new rules:

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

399

JULY 8, 1873

Twelve members to constitute a quorum for deciding any question.

All questions shall be decided by a majority of all the members present, except on a final vote on any amendment, and there shall be a vote of two-thirds necessary to carry it.

Every determination of a question shall, after being fully debated, lie over for three days.

Laid over under the rules.

* * *

[Daily True American]

DEATH OF THE LATE PRESIDENT

The Attorney General [i.e. Mr. Gilchrist] said, the Commission is already aware, and their action in electing a new President has been passed upon it, of the death of the late President. When so great a man falls, the body over whom he presided should take some notice of the fact, and indicate, in some manner, that they cherish and revere his memory. Chancellor Zabriskie was born in the State of New York, at Greenwood, in 1807, and his family removed to New Jersey in 1811. He completed his education at Princeton in the year 1828, and entered on the profession of the law in 1831, and after a career of most extraordinary success, he filled the office of Chancellor.

He spoke in eloquent terms of his life, spoke of him as a man who did that which was just and right, and who had left behind him an example worthy of imitation. (Want of space prevents us from reporting the speech in full.)

Mr. Gregory spoke feelingly on the death of the Chancellor.

On motion of Mr. Green a committee of three were appointed to draft resolutions.

The President named Messrs. Green, Gregory and Carter.

We regret that a want of space and an inability to procure the "copy," compel us to postpone the publication of the resolutions reported by the Committee, until tomorrow.

After a resolution that they be adopted, which was carried, and that they be engrossed and presented to the family, which was also carried, the Commission adjourned to meet again on the 22d of this month, having been in session four hours and a quarter.

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**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

JULY 8, 1873

[Newark Daily Advertiser]

[Ryerson's Letter of Resignation]

Judge Ryerson in his letter of resignation says:

When I accepted the appointment I felt confident, judging from past experience, that with the return of warm weather my health and strength would be so far restored as to enable me to faithfully discharge its duties. But I have been greatly disappointed, and, for the last four weeks, not nearly so well as during April and May. In order to regain any considerable degree of health I must for some months abstain from mental labor, and from everything involving anxiety and responsibility.

Under these circumstances I could not discharge my duties as a member of the Commission with satisfaction to the public or myself, and am reluctantly compelled to tender you my resignation. I regret it very much; our Constitution imperatively needs many important amendments; for many years past I have given much consideration to the subject, and hoped that as a member of the Commission I might be able to accomplish something for the good of our State.

Newspaper Sources for July 8, 1873:

"Constitutional Commission," *Daily State Gazette*, July 9, 1873.

"Constitutional Commission," *Daily True American*, July 9, 1873.

"The Constitutional Commission," *Newark Daily Advertiser*, July 9, 1873.

JULY 22, 1873

[Daily True American]

CONSTITUTIONAL COMMISSION.—The Commission met yesterday morning at ten o'clock, when the following answered to their names: Ten Eyck, Carter, Thompson, Babcock, Green, Grey.

The President said, there not being a quorum present, the Commission would take a recess until a quarter after 11 o'clock. At that time, the following answered: Ten Eyck (President), Gregory, Babcock, Carter, Grey, Green, Dickinson, Thompson, Swayze and Cutler.

Absent, Buckley, Gilchrist, Taylor and Ferry.

[Newark Daily Journal]

The copies of the old Constitution, adopted in 1844, which had been ordered

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

401

JULY 22, 1873

printed for the use of members and others, and copies, together with petitions for the adoption of a section providing for “local option,” lay on the table of each member.

[Daily True American]

The Secretary read the minutes of the previous meeting.

Mr. Gregory called attention to a statement in a resolution that there should be 12 members present or no business should be transacted, and inquired if that number was present that day.

The Secretary said the resolution named was read and laid over for future consideration.

The minutes were adopted.

COMMITTEES.

The President announced the following committees:

Bill of Rights, Right of Suffrage, Limitation of Power of Government and General and Special Legislation— J. W. Taylor, Essex; Robert S. Green, Union; Benjamin Buckley, Passaic.

Legislative Department – Its Organization and Constitution— Robert Gilchrist, Hudson; Samuel H. Grey, Camden; Philemon Dickinson, Mercer; John F. Babcock, Middlesex; Jacob L. Swayze, Sussex.

Executive, Judiciary and Appointing Power and Tenure of Office— Augustus W. Cutler, Morris; Dudley S. Gregory, Hudson; Benjamin F. Carter, Gloucester.

Amendments, General Provisions and Final Business— Samuel H. Gray, Camden; George J. Ferry, Essex; Joseph Thompson, Somerset.

The President said that the first thing in order was unfinished business.

[Ed. note: As the accounts of the Commission’s discussion of rules are significantly different in several newspapers and none exactly conform with the official minutes, all variant newspaper coverages of rules are provided here.]

RULES.

[Daily State Gazette]

The rules introduced by Mr. Swayze at the last meeting were then taken up.

The rule to require 12 members to be present to transact business, and that all questions shall be decided by a majority of those present, except on the final vote of any amendment, and then it shall require a majority of the whole number [was

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

JULY 22, 1873

then taken up].

On motion of Mr. Green, the question on the rule was divided.

Mr. Carter moved to amend so as to require a majority to do business, instead of 12 members. Adopted.

Mr. Green moved to strike out the rule, as it was already provided for in the rules of the Senate already adopted for the government of the Commission. Adopted.

The rule in regard to the adjournments of the Commission from day to day was also withdrawn.

The rule requiring that the determination of any question shall be postponed for three days before a final vote, and then to be taken by ayes and nays, was amended by Mr. Carter striking out the word "shall," and inserting "may," and adopted.

The rule was then lost 5 to 5.

The rule providing that any member of the Commission may at any time during the session offer amendments to the Constitution, and call for their consideration, was read.

Mr. Grey moved to amend by adding "except when some other amendment is under consideration," which was accepted by the mover. The rule was then adopted.

[Daily True American]

{Mr. Swayze called for the reading of the first rule he introduced, which was to the effect that the Commission should not proceed to business until 12 members were present. On that rule he enlarged and moved its adoption.

Mr. Green dissented.

Mr. Carter moved that 12 be struck out and ten substituted.

Mr. Green moved to strike the whole of the rule out, as its provisions were already provided for in the rules of the Senate.

Mr. Carter asked that the rules of the Senate be read in relation to that matter.

After some further discussion, Mr. Swayze spoke on the fourth rule, that before the final adoption of any question the Commission should be adjourned for three days, on motion of any member of the Commission.

Mr. Gregory thought they could get on without that rule.

Mr. Green asked if it was not possible to have a day on which to adjourn to without the rule.

The motion of Mr. Swayze was lost, 5 to 5.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

403

JULY 22, 1873

For the motion: Carter, Cutler, Dickinson, Grey, Swayze.

Against: Babcock, Gregory, Green, Ten Eyck, Thompson.

Mr. Swayze moved that any member may, at any time, during the session of the Commission, propose any amendment to the Constitution for their consideration.

Mr. Grey said that he did not see the use of that rule. He moved that the words be added, "except when some other amendment is under discussion." His object was, he said, to prevent the discussion of two resolutions at the same time.

Mr. Swayze accepted the amendment.

Mr. Green pointed out that the resolution, as amended, means that a man may do a thing at any time unless when he cannot do it. He moved the rule to be stricken out.

The motion of Mr. Swayze was lost.}

[Newark Daily Advertiser]

{A resolution was adopted that a majority of the Commission should be necessary to the adoption of any amendment. Mr. Swayze favored two-thirds and claimed that no amendment, unless supported by at least the majority, could ever hope to pass two successive Legislatures and the people. It was also resolved that any member may offer amendments, and may call for their consideration when no other amendment is under discussion.}

[Newark Daily Journal]

{Mr. Swayze then moved a number of rules of government offered at the last meeting, the most important being that twelve members should constitute a quorum and that a two-third vote be necessary to the adoption of an amendment. The former first rule it was found had been provided for in the act organizing the Convention, and Mr. Swayze then supported his motion for a two-third vote in an address of some length, claiming that no amendment unless supported by at least that majority could ever hope to pass two successive legislatures and the people. Mr. Carter, however, amended to make a majority vote alone necessary, and after some debate the amendment was adopted. Mr. Carter moved that any member might at any time offer amendments and call for their consideration when no other amendment is under discussion. On motion of Mr. Gray the words "at any time" were stricken out, and the resolution as amended was then adopted.}

[Daily State Gazette]

Mr. Grey offered a resolution requiring the Secretaries to furnish to each

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

JULY 22, 1873

member a copy of the names of the committees, with the post office address of each. Adopted.

[Ed. note: An extant copy of the Committee members' names and addresses is affixed to the inside cover of the original manuscript of the Commission proceedings. See page 245 of this volume.]

[Daily True American]

Mr. Swayze moved that the President appoint a committee of three to draw up a circular inviting citizens to send suggestions as to proposed amendments to the Constitution.

Mr. Gregory said that he and Mr. Taylor had talked that matter over. Senator Taylor was taken sick and could not be present that day. It seemed to him, the speaker, that they should ask for information on the proposed amendments, and from that course he thought they might obtain instruction, as the amendments to be proposed were merely suggestive. He would second the proposition of Mr. Swayze.

Mr. Swayze said the resolution contemplated gaining information from citizens as to what amendments were required and he was anxious to gain all the knowledge he could on the matter.

[Daily State Gazette]

He then read a statement of his views, which occupied some thirty minutes. He first spoke of the important position the members of the Commission were called upon to fill. [He] objected to the manner in which the committees were selected, although he acquiesced, still he thought it would have been better to have selected them by ballot.

[Daily True American]

The present Constitution was prepared by those who were guided by that conservatism which had small faith in the people and hence denied the very rights it, by singular inconsistency, declared inherent in the people. He favored generally the recommendations of the last Gubernatorial message.

[Daily State Gazette]

He laid down what he would suggest as amendments:

[Ed. note: The following proposed amendments offered by Swayze are omitted from the official proceedings as he was effectively ruled out of

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

405

JULY 22, 1873

order.]

1st. Greater impartiality in levying and collecting taxes—no person whatever to escape taxation. No exemption of taxes to schools established by ecclesiastical bodies or horticultural or agricultural societies, railroads, savings banks, churches or institutions of any kind except they were for the general benefit of all the people.

2d. Uniformity in the rate of interest.

3d. Abolition of capital punishment, and substituting imprisonment for life, with no pardoning power in any case.

4th. No change in the representation in the Senate.

5th. Reorganizing of the Judiciary.

6th. He would adhere to the veto power.

7th. Members of the Legislature to receive \$750 annually, and \$50 for stationery and incidentals.

8th. No loan by any city, town or township; or subscription to any railroad company.

9th. A member of the Legislature to be ineligible who receives a free ticket or any other consideration from a railroad company.

10th. A member of the Legislature or any other officer of the State to be ineligible if he received his nomination by influencing any caucus by the use of money or any other means.

[Ed. note: Each of the newspapers consulted by the editors had omitted Swayze's 11th proposed amendment.]

12th. No judge of any court to ride free on any railroad, and to be ineligible if they hold any stock.

13th. To elect Secretary of State, Attorney General, Treasurer, and Clerk of the Supreme Court by the people, and every county to elect a Prosecutor of the Pleas.

14th. Abolish the Court of Chancery. (A bill of complaints was mentioned against this court; one was, that more than one-half of the decisions would be reversed if submitted to a court of law.)

15th. He would have seven judges of the Supreme Court—which should also be the court of last resort; seven Circuit judges, who should also have equity powers. He would elect them for 9, 7 and 6 years.

16th. He was favorable to the election of the judges by the people, and he thought the time would come when every gentleman on the Commission would agree with him.

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

JULY 22, 1873

He then spoke of the monopolies of the State—especially railroad monopolies, and said they controlled the Legislature and the Judiciary, and made the declaration that no judge could be confirmed by the Senate who was not in the interest of the railroad monopolies. He knew and referred to some cases.

[Daily True American]

Mr. Dickinson, before Mr. Swayze had concluded, rose to a point of order. He said that the discussion which had been precipitated upon them was not germane to the question, and he asked for the reading of the resolution. He was not in favor of the resolution, but called for its reading again as the general discussion was entirely out of order.

The President said, according to the rules of the Senate, a point of order raised is not debatable.

Mr. Swayze.— I am nearly through now.

Mr. Dickinson.— If he is brief and nearly through I will withdraw my point of order.

The point of order withdrawn, Mr. Swayze concluded his speech.

[Daily State Gazette]

Mr Swayze proceeded and said this corrupting power ought to be dethroned, and that the people were the safer depositories of power.

Mr. Dickinson hoped the resolution [to draw up a circular inviting suggestions] would not be adopted. The people of the State who desire to make suggestions have the right to do so. By taking this course we shall have a perfect avalanche of suggestions.

[Daily True American]

Mr. Green said he would like to hear some of the ideas that Mr. Gregory and Mr. Taylor had talked over.

Mr. Gregory read from his manuscript, and suggested the issuing of circulars with fly leaves, and inviting suggestions from those interested in [the Commission's] work.

[Daily State Gazette]

Mr. Gregory presented the form of a circular letter, which he suggested, and which had been approved by Mr. Taylor, to be sent to different persons asking their views and suggestions in regard to amendments to the Constitution.

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

407

JULY 22, 1873

Mr. Carter was opposed to the resolution. It would flood us with letters which would take our time to read them. He had consulted his constituents, and so might every member, and that he thought would be the proper way.

Mr. Swayze withdrew his resolution.

Mr. Green moved that any suggestions which may be sent into the Secretaries be transmitted by them to the appropriate committees.

Mr. Swayze hoped this resolution would not be adopted. He thought everything should be open, and not confined to committees.

[Daily True American]

[H]e wanted all members of the Commission to know what is going on in the business.

Mr. Green—It seems to me I am unfortunate in being misunderstood by my friend. I do not suppose that the committees shall keep the suggestions to themselves.

The motion of Mr. Green was adopted.

Mr. Grey—I move that the Secretary read the Constitution of New Jersey, in order that we may know what we are doing.

Mr. Anderson read the Constitution.

On motion of Mr. Dickinson the joint resolution of the last Legislature was read.

On motion of Mr. Gregory, that part of Governor Parker's message was read, which calls attention to the necessity for amendment to the Constitution.

Mr. Cutler moved:

Resolved, That the President of this Commission shall be *ex officio* president of all committees.

The President said that matter [had] been considered and decided in the negative.

Mr. Grey said, as the committees were to prepare business, he saw no reason why they should not avail themselves of the wisdom of their presiding officer on all committees.

The President said, as that proposition implied a change of rules, it must lay over until the next meeting.

Mr. Carter said, by way of facilitating business, and to give some work for the committees, he would hand in the following proposed amendments to the Constitution:...

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

JULY 22, 1873

[Daily State Gazette]

Mr. Carter offered an amendment to Article II of the Constitution, under the title "Right of Suffrage," to strike out "white," so that it may conform to the Constitution of the United States.

Add to 2d Article the following: (Among the persons to be deprived of suffrage) "Any person who shall be a defaulter to the general or State government."

Change the residence in a county in which a person claims a vote to "sixty days," instead of "five months."

Add to Article 2d as follows: "After the year 1883 the Legislature may also pass laws to prevent persons, on coming to their majority, from voting, who cannot read the Constitution of the State in the English language."

These suggestions were referred to the Committee on the Right of Suffrage.

[Daily True American]

Mr. Carter also offered the following suggestion:

To amend the seventh part of Section IV of Article IV of the Constitution by substituting the following:

Members of the Senate and General Assembly shall receive a compensation for their services of \$550 per annum, excepting the President of the Senate and Speaker of the Assembly, who shall each receive \$600 per annum, to be paid out of the Treasury of the State; and, in addition, each member shall receive five cents for each mile necessarily travelled in going to the seat of government at the commencement of the session of the Legislature, and returning at its close. And there shall not be any other allowance or emolument directly or indirectly, but this shall be in full for postage, stationery and all other incidental expenses and perquisites.

[Daily State Gazette]

This suggestion was referred to the Committee on Legislative Powers, etc.

[Daily True American]

Mr. Grey moved when the Commission adjourned it did so to meet on the second Tuesday in September at 12 o'clock.

Mr. Green moved it be 11 instead of 12 o'clock. Carried.

Mr. Green moved to reconsider, and that it be the second Tuesday in October.

Mr. Babcock moved it be the second Tuesday in September.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

409

JULY 22, 1873

After motions and counter motions, Tuesday, October the 7th, was agreed upon. Time, 11 o'clock.

Mr. Carter suggested that the committees should be called together in the early part of September.

The President—That must be left to the committees.

The names of the committees were then called and they gave their post office addresses, after which the Commission adjourned.

Newspaper Sources for July 22, 1873:

"Constitutional Commission," *Daily State Gazette*, July 23, 1873.

"Constitutional Commission," *Daily True American*, July 23, 1873.

"The Constitutional Commission," *Newark Daily Advertiser*, July 23, 1873.

"The Constitutional Commission," *Newark Daily Journal*, July 23, 1873.

SEPTEMBER 17, 1873

[Daily State Gazette]

The Constitutional [Committee] on Legislative Department, Its – Organization and Construction, had a conference at the State House on Saturday. It was strictly private.

Newspaper Sources for September 27, 1873:

[Untitled entry under "Local Items"], *Daily State Gazette*, September 29, 1873.

OCTOBER 7, 1873

[Daily State Gazette]

THE CONSTITUTIONAL CONVENTION (*sic*).—The Commission to prepare and suggest amendments to the Constitution met in the Senate Chamber yesterday at 11:30 A.M., when only five members being present they adjourned to 12 [P.]M. At that hour the following members were present: Messrs. Ten Eyck (President), Buckley, Green, Carter, Cutler, Ferry, Gregory, Swayze, Thompson, Dickinson – 10.

The Chair laid before the Commission the following letter:

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 7, 1873

Hon. John Ten Eyck, President of Constitutional Commission:

DEAR SIR:

Permit me for myself and the other members of our family, to express through you to the New Jersey Constitutional Commission our heartfelt thanks for the very kind and complimentary sentiments contained in the resolutions of that body adopted on the occasion of my late father's death.

With great respect, I remain,

Yours truly,
L[ansing]. Zabriskie

Jersey City, July 21, 1873

On motion of Mr. Carter it was resolved and ordered to be recorded on the minutes.

The Chair also laid before the Commission the following communication from Mr. S. H. Grey:

Camden, Sept. 14, 1873

Hon. John C. Ten Eyck, Chairman of Commission to Revise State Constitution:

DEAR SIR:

I am in receipt of your note advising me of the resignation of Hon. Robert Gilchrist, as a member of the Commission to revise the Constitution, and requesting me to act as chairman of the Committee for the Legislative Department and Its Organization.

I thank you for the honor conferred, and while accepting the position, beg leave to tender to you my resignation of the chairmanship of the Committee on Revision and Future Amendments, which I now hold.

Very respectfully, your obedient servant,

S. H. GRAY.

The Chair begged the indulgence of the Commission to remark that the Commission had been peculiarly unfortunate in the resignation of its members. This was liable to create an unfavorable impression throughout the State, and to lead to the belief that it was not animated by an earnest purpose for the discharge of its duties. For himself he was resolved to devote himself to the work in hand. Having put his hand to the plow nothing should compel him to look back but disability or death.

Reports of committees were called for. Members of various committees said

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

411

OCTOBER 7, 1873

they were not prepared to make any report, as their work was not completed.

Mr. Cutler said if it was thought advisable he could make a partial report. The committee had been in session, and had agreed upon some amendments, but not upon all they contemplated submitting.

Mr. Dickinson said in regard to the Committee on the Legislative Department, &c., that they had held several meetings, and had agreed on some points, but had not perfected their work, and he would rather wait until the amendments were agreed upon by all before reporting.

Unfinished Business was then resumed.

A resolution was adopted that the President of the Commission be *ex officio* a member of each Committee.

Mr. Carter suggested that it would give business for the Commission to begin upon if some partial reports were made.

Mr. Dickinson then submitted the following, which, he said, was similar to an amendment proposed by the Pennsylvania Constitutional Convention. He submitted it not as a report of the Committee, but as an individual suggestion:

Be it enacted, &c., That every member of the Legislature, before he enters on his duties, shall take the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of this Commonwealth, and will honestly discharge the duties of Senator or member of the House of Assembly according to the best of my ability; and I do solemnly swear (or affirm) that I have not paid or contributed anything or made any promise in the nature of a bribe to corruptly influence, directly or indirectly, any vote at the election at which I was chosen a member of the Senate or House of Assembly; and I do further solemnly swear (or affirm) that I have not accepted or received, and I will not accept or receive, directly or indirectly, any money or other valuable thing from any corporation, company or person for any vote or influence I may give or withhold, on any bill, resolution or appropriation, or for any other act as a member of the Senate or General Assembly of this State.

Be it enacted, &c., That the foregoing oath or affirmation shall be administered by one of the Judges of the Supreme Court, or a President Judge of the Court of Common Pleas in the hall of the House to which the member is elected, and the Secretary of State shall read and file the oath or affirmation subscribed by such member; any member who shall refuse to take such oath or affirmation, shall forfeit his membership and be disqualified thereafter from holding any office of profit or trust in this State.

Mr. Gregory moved that, inasmuch as many such would come before the

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

OCTOBER 7, 1873

Commission for consideration, it lay upon the table for future action. This was lost, and it was referred, on motion of Mr. Carter, to the Committee on Legislative Department.

Mr. Dickinson said no progress could be made until the committees get to work, and have prepared work for the Commission. He therefore moved that the Commission adjourn for two weeks, to afford them time to prepare reports.

Mr. Buckley was opposed to any further adjournment beyond one day. They had met several times already for no other purpose apparently than to adjourn. He questioned whether they would be any more ready for work two weeks hence than now. If the committees would meet together while here in Trenton, and make at least partial reports from day to day, the Commission could get to work considering the amendments, then work would fairly begin. The people would then see that they meant business. If they kept on adjourning, people will justly consider that they mean nothing, and the sooner they adjourn *sine die* the better. It was a great inconvenience to members to be running to and from Trenton. They should either go to work or resign.

Mr. Gregory thought it well to see if they could not bring something before the Commission that should be subject for thought. They should try a few days and see what could be done.

Mr. Dickinson said he was anxious for the Commission to get to work, and therefore would withdraw his motion.

Mr. Swayze, for the purpose, he said, of testing the sense of the Commission, offered the following:

Resolved. That the further consideration of the preparation of amendments to the Constitution of the State to be submitted to the next Legislature be indefinitely postponed; and that instead thereof we would respectfully recommend the Legislature at its next session to pass an act calling a Constitutional Convention to revise the Constitution, the said Convention to consist of two members from each county as representatives of Senatorial districts, and two members from each Assembly district, and the said delegates to be chosen in equal numbers from the ranks of the two great political parties.

Mr. Swayze referred to the numerous resignations from the Commission, and said nearly five months had elapsed since the Commission was first called together, and nothing had been done. They now met again and nothing was ready. The people would be convinced that nothing was to be expected from them.

The Chair said he thought this resolution was out of order because it proposed to destroy the existence of the body. But he would submit it to a vote.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

413

OCTOBER 7, 1873

Mr. Gregory said this resolution would disgrace some of them if not the entire Commission. This was a proposition to destroy the method adopted by the State of amending the Constitution. The State of New York had adopted a similar plan and only 28 men had prepared amendments for the Constitution of that great State.

Mr. Carter regretted very much that such a resolution had been offered. They were appointed for the purpose of suggesting amendments to the Constitution. This resolution would be disrespectful to the power that appointed them.

Mr. Swayze argued that the work of the Commission would never be acceptable to the people of the State, and that a popular Convention was the proper body to amend the Constitution.

Mr. Buckley said the Constitution only needed amendment in a few particulars, and when these were made it would be as good a Constitution as the people could want to live under. He thought that if the members would go actively to work, they could soon get in shape the few amendments necessary. If the Commission meant to abandon its work, it had better adjourn *sine die* and say nothing more about it.

The resolution was lost, 9 to 0. Mr. Cutler, from the Committee on the Judiciary, said he would make a partial report, in accordance with the suggestion of gentlemen. He submitted the following:

The Committee upon the Executive, Judiciary, &c., would respectfully report the following amendments to Article V of the Constitution, entitled

EXECUTIVE.

Amend Section VII by erasing the words "a majority" wheresoever it occurs, and insert the words "two-thirds" in place thereof, and adding to [the] end of Section VII the following: The Governor shall have power to veto separate items on the appropriation bill without repealing the whole, and the Houses shall only reconsider the item or items objected to.

Add to Section VIII: Nor shall he be elected to any office under the United States, or the State, during his term of office.

AUG. W. CUTLER,
D. S. GREGORY,
BENJ. F. CARTER

They were received, and laid on the table.

[Daily True American, Newark Daily Journal]

NEWSPAPER ACCOUNTS OF COMMISSION PROCEEDINGS

OCTOBER 7, 1873

Mr. Cutler, from the same Committee, submitted an amendment providing that the Adjutant General and Quartermaster General shall be nominated by the Governor and appointed by him with the advice and consent of the Senate.

The report was accepted and ordered to lie on the table.

The Commission then adjourned until ten o'clock this morning.

Newspaper Sources for October 7, 1873:

"The Constitutional Convention (sic)," *Daily State Gazette*, October 8, 1873.

"Constitutional Commission," *Daily True American*, October 8, 1873.

"The Constitutional Commission," *Newark Daily Journal*, October 8, 1873.

OCTOBER 8, 1873

[Daily State Gazette]

CONSTITUTIONAL COMMISSION.—*Wednesday, Oct. 8 —Second Day.*

[Newark Daily Advertiser]

When the Commission reassembled at ten o'clock this morning, the hour to which they had adjourned, less than half a dozen members were present, and it was not until nearly noon that enough came in to form a quorum. They finally mustered ten members and went to work.

[Daily State Gazette]

Present — Messrs. Dickinson, Swayze, Green, Carter, Ferry, Buckley, Thompson, Gregory, Grey.

The President being absent, Mr. P. Dickinson was called to the chair temporarily.

The minutes of the last session were read and approved.

Mr. Green, from the Committee on Bill of Rights, reported that they had no suggestions to make under this head.

The following suggestions were offered by Mr. Carter to amend Article [II], Section I of Constitution:

1. Strike out the word "white" so as to conform to the Constitution of the U.S.
2. Insert after words "five months" the words "and of the township, ward or election district in which he resides, sixty days."
3. To Section II add: "or in legislation, or who has been found to be a defaulter

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

415

OCTOBER 8, 1873

to the general or State government; after the year 1885, the Legislature may also pass laws to prevent persons on arriving at their majority from voting who cannot read the Constitution of the State in the English language.”

Referred to Committee on Bill of Right and Suffrage.

Under the head of the “Right of Suffrage,” Mr. Green reported the following:

The Committee on Right of Suffrage, to whom was referred the suggestions of Mr. Carter, report amendments to Art. II of the Constitution, in which are substantially embodied the first two suggestions of Mr. Carter, and report the third of said suggestions back to the Commission with the recommendation that the same be not adopted.

ROB'T S. GREEN,
B. BUCKLEY.

Oct. 8, 1873.

Mr. Green offered the following amendments:

ARTICLE II.

Right of Suffrage.

Line 1. Strike out word “white.”

Line 2. After word “been” insert “a citizen for ten days and”

Line 3. After word “months” insert “and of the election district in which he may offer his vote thirty days.”

So as to read:

Every male citizen of the United States of the age of twenty-one years, who shall have been a citizen for ten days, and a resident of this State one year, and of the county in which he claims his vote five months, and of the election district in which he may offer his vote thirty days next before the election, shall be entitled, &c.

Add to the end of section: “provided that, in time of war, no elector in the actual military service of the State, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the Legislature shall have power to provide the manner in which and the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election district in which they respectively reside.”

Referred to Right of Suffrage Committee.

Mr. Buckley presented a petition from a number of citizens male and female,

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 8, 1873

asking that the right of voting shall be conferred upon women as well as men.

Referred to Committee on the Right of Suffrage.

Mr. Grey from the Committee on the Legislature – Its Organization and Constitution, reported progress.

Mr. Carter offered a series of amendments which in brief make the following alterations in the Constitution:

Judges of Common Pleas to be appointed by Governor by advice and consent of the Senate.

The Keeper of the State Prison to be appointed for 5 years by the Governor by advice and consent of the Senate.

Attorney General to be appointed for 3 years.

Surrogates to be appointed for 5 years by Governor with advice and consent of Senate.

Sheriffs and Coroners to be elected for 3 years.

Mr. Buckley offered the following:

No county, city, township, or village shall hereafter give any money or property, or loan its money on credit to or in aid of any individual, association, or corporation to become security, or indirectly the owner of stocks or bonds of any association or corporation; nor shall any city, township or village, be allowed to incur any indebtedness, except for county, city, township or village purposes.

Referred to Legislative Committee.

No member of the Legislature shall receive any civil appointment within this State or to the Senate of the United States from the Governor, the Governor and Senate, or from the Legislature, or from any city government during the time for which he shall have been elected; and all such appointments, and all votes given for any such member for any such office or appointment shall be void.

Referred to Legislative Committee.

A State poll tax not to exceed in amount the sum of three dollars, shall be levied on every male citizen of the age of twenty-one years and upwards, and the nonpayment of the said poll tax for the period of one year, after the same shall have become due, and demanded by the person authorized to collect the same, shall be deemed and taken to be a refusal on the part of said citizen to pay the said tax, and such refusal on the part of any male citizen of the aforesaid age shall deprive him of the right of suffrage until the said poll tax is paid.

Referred to Right of Suffrage Committee.

Mr. Gregory suggested that \$3 poll tax would be a very heavy assessment.

Mr. Thompson offered the following amendment to Article I, paragraph 7:

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

417

OCTOBER 8, 1873

“Three-fourths of the jurors rendering a verdict in a civil suit shall have the same force and effect as though agreed upon by the whole number empanelled on said jury.”

Article I, paragraph 16:

“And in all cases where lands are taken by any incorporated company, any land owner being aggrieved by award of commissioners, he shall have the right of appeal, and have the damages re-assessed by the verdict of a jury.”

These amendments were referred to the Committee on Bill of Rights.

Mr. Gregory offered the following amendments:

The Legislature shall meet once in two years, unless on the requirement of the Governor of the State for special objects, and on extraordinary occasions he may assemble it at other times.

Referred to Legislative Committee.

Notice of the substance of applications for proposed amendments to municipal and county governments shall be published in the city or county concerned for thirty days in one or more newspapers published therein having the largest circulation, before application is made to the Legislature. Such application shall not be reconsidered or considered thirty days after the meeting of the Legislature.

Referred to the Legislative Committee.

The cities and townships at the expiration of each five years after the adoption of this amendment, shall vote a ballot marked “License” or “No license” for the sale of intoxicating liquor. In case the majority be “No license,” none shall be granted in such counties for the ensuing five years. The Legislature shall pass a general law of penalties against the sale therein, to be enforced during such time if the majority vote of the county be “No license.”

Referred to the Legislative Committee.

No real estate shall be exempted by law from its full share of all State, county and township taxes and assessments.

Referred to Committee on General and Special Legislation.

No act shall be passed exempting any real estate from its full share of the State, county, township, and city taxes, by the payment of any sum to the State, county, township or city.

Referred to the same Committee.

No appropriation or payment of money shall be made by the State or any county, township, city or village, to religious corporations.

Referred to the same Committee.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 8, 1873

The School Fund shall be appropriated exclusively for the maintenance and support of the public schools in the State, under its exclusive control.

Referred to Committee on Legislation.

Not less than two mills on the dollar of taxable value each year shall be raised in each county by tax annually, to be expended on public schools therein, and not elsewhere.

Referred to the same Committee.

Laws shall be passed by the Legislature to compel the attendance of able bodied children at the public schools, or such schools as their parents or guardians shall prefer, of all children in the State, between the ages of __ years, for at least __ months in each year.

Mr. Grey offered the following, referring to the granting of pardons.

ARTICLE X.

Paragraph 10. Add the words "where the innocence of the person accused clearly appears."

Referred to the Committee on Bill of Rights.

Mr. Gregory offered the following:

"No county or township shall be indebted by bonded debt above ten per cent. of its taxable values for the time being; no city more than ten per cent. except for its water supply."

Referred to Legislative Committee.

Mr. Grey offered the following, referring to trials for offences to come in Article I, paragraph 10, after the word "offence:"

"But in all criminal prosecutions the jury may return a verdict of 'not proven,' instead of acquitting the prisoner, and such verdict shall not be a bar to a subsequent trial of the same person for the same offence."

Mr. Green offered the following amendments:

Amend Article IV, Section VII, by adding,

The Legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say, laying out, opening, altering and working roads or highways.

Vacating roads, town plots, streets, alleys and public grounds.

Regulating the internal affairs of towns and counties; appointing local officers or commissioners to regulate municipal affairs.

Selecting, drawing, summoning or empanelling grand or petit jurors.

Regulating the rate of interest on money.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

419

OCTOBER 8, 1873

Creating, increasing or decreasing the per centage or allowances of public officers during the term for which said officers are elected or appointed.

Changing the law of descent.

Granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever.

The Legislature shall pass general laws providing for the cases enumerated in this section for all other cases which, in its judgement, may be provided for by general laws.

Referred to Legislative Committee.

Mr. Gregory offered the following:

Resolved, That the Secretaries send a circular to the Mayors of each of the cities, to the clerks of the Boards of Chosen Freeholders of the several counties, and to the clerk of each township of the State, requesting a statement of the amount of the present indebtedness of the respective cities, counties and townships, the time when and the purpose for which the same was created and the time when payable, and also the amount of the present assessment rolls of the said cities, counties and townships.

After considerable debate the resolution was adopted.

On motion, all the amendments offered were directed to be printed, and for that purpose were laid on the table.

Mr. Grey moved to go into Committee of the Whole on the report of the Executive and Judiciary Department, and the Appointing Power and Tenure of Office.

Mr. Gregory was called to the chair.

The amendment requiring a vote of "two-thirds" to carry a bill over the Governor's veto, instead of a majority, was first taken up and adopted.

The amendment that the Governor shall have power to veto separate items in the appropriation bill, and that the two Houses shall only consider the item or items objected to, was next taken up.

Mr. Buckley addressed the Committee [of the Whole] in favor of this amendment, and gave his reasons.

Mr. Green moved to amend by changing the phraseology, "shall have power," to "may veto," and instead of "appropriation bills," to "any bill appropriating money out of the public Treasury."

Mr. Ten Eyck did not feel himself able to vote directly on these amendments. He thought they should be first printed. The amendments, he thought, were very important. In the Convention of 1844, the "two-thirds" rule was only lost by the

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 8, 1873

casting vote of the presiding officer. He did not see the necessity of the increase of the Executive power, when we propose in a great extent to limit the power of the Legislature to pass special laws. But he wanted time to consider all these matters, and hoped the Committee [of the Whole] would now rise.

Mr. Carter suggested that as Mr. Cutler, the chairman of this branch of the subject, was absent he hoped the Committee [of the Whole] would rise.

Mr. Green offered a modification of the amendment, making it more distinct, but the same in substance.

Mr. Grey offered the following in reference to the Executive, "nor shall he be elected by the Legislature to any office under the government of this State, or of the United States during the term for which he shall be elected as Governor."

The Committee [of the Whole] then rose and asked leave to sit again [as the Commission].

Mr. Grey moved that all amendments to the Constitution proposed by any committee be printed for the use of the members, and when a proposed amendment changes the phraseology of any section, the Secretary be directed to have printed the section of the Constitution as it now stands and as it will read should no proposed amendment be adopted. Adopted.

Mr. Green offered the following amendments to the Legislative provision:

No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of said act, or which shall enact that any existing law, or any part thereof, shall be applicable, except by inserting it in such act.

No law shall be revised or amended by reference to its title only, but the act revised, or the section or sections amended, shall be inserted at length; no general law shall embrace any provision of a private, special or local character.

Referred.

Mr. Ferry, to strike out the word "pauper," in the article on the Right of Suffrage, in effect allowing paupers to vote.

Referred to Committee on Right of Suffrage.

The Convention (*sic*) then adjourned to meet today at 10 o'clock.

Newspaper Sources for October 8, 1873:

"Constitutional Commission," *Daily State Gazette*, October 9, 1873.

"The Constitutional Commission," *Newark Daily Advertiser*, October 9, 1873.

[Daily State Gazette]

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

421

OCTOBER 9, 1873

THE CONSTITUTIONAL CONVENTION (*sic*).—*Third Day, Oct. 9, 1873.*

[Daily True American]

The Commission met at ten o'clock yesterday. Present – Messrs. Buckley, Carter, Dickinson, Green, Gregory, Ferry, Swayze, and Ten Eyck.

The minutes were read and approved.

The Committee on Legislative Department – Its Organization and Constitution reported as follows:

To the New Jersey Constitutional Commission:

MR. PRESIDENT: Your Committee upon “The Legislative Department – Its Organization and Constitution,” respectfully report the amendments to Article IV of the Constitution, numbers 1, 2, 3, 4 and 5, accompanying this report, and recommend their adoption.

Your Committee report back amendments Nos. 6, 7, 8, 9, 10, and desire to be relieved from the further consideration thereof. Amendments Nos. 6 and 9 are in substance adopted by the Committee in amendments Nos. 2 and 5.

S. H. GREY, CHAIRMAN.
Oct. 8, 1873.

Amendment No. 1 provides for the election of all members of the Legislature yearly, and every year on the first Tuesday after the first Monday in November; and the two Houses shall meet on the second Tuesday in January after said day of election. The time of holding such election may be altered by the Legislature.

No. 2 provides that all members of the Legislature shall receive a salary of \$750 each for the time they are elected. The President of the Senate and Speaker of the House to receive an additional compensation equal to one-third their allowance as members.

No. 3 provides that all bills shall be read on their several days in each House before final passage, the reading of the title not to be taken as the reading of the bill, except in cases of invasion or insurrection, when a two-thirds vote may otherwise order.

No. 4 is the amendment introduced by Mr. Dickinson in respect to the oath to be taken by members of the Legislature, and already published.

No. 5 provides that no amendment to the charter of any municipal corporation shall be received by the Legislature after thirty days from the first day of the meeting thereof. No such amendment to be received unless published for at least

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 9, 1873

thirty days next before the first day of meeting of the Legislature in the newspapers having the largest circulation in the municipal corporation affected thereby.

Mr. Buckley – Article II, Sec. VII – There may be elected under this Constitution two Justices of the Peace in each township of the several counties of this State, and in each of the wards of the cities that may vote in wards, one justice for every four thousand inhabitants which the ward may contain. And the Legislature shall provide by law the qualification necessary for such justices to possess, and the method of ascertaining the possession of such qualification. And no person elected as aforesaid to the said office of Justice of the Peace shall receive his commission until he shall have furnished satisfactory evidence to the Executive that he is fully qualified according to law.

Referred to Judiciary Committee.

Mr. Swayze offered the following amendments:

No person who shall receive, expect or offer to receive, or pay, offer or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or other valuable thing, as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding of any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election. And upon the challenge for such cause, the person so challenged before the inspectors or other officers authorized for that purpose to receive his vote, shall swear or affirm before such inspectors or other officers, that he has not received or offered, does not expect to receive, has not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at such election, and has not made any promise of any such vote, nor made or become directly or indirectly interested in any bet or wager depending upon the result of such election.

Referred to the Committee on the Right of Suffrage.

Mr. Dickinson offered the following:

ELECTIONS.

All elections of the citizens shall be by ballot. Every ballot voted shall be numbered in the order in which it is received, and the number recorded by the election officers opposite the name of the elector who presents the ballot, and any other elector may write his name on the back of his ballot.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

423

OCTOBER 9, 1873

All laws regulating elections by the people or for the registry of electors shall be uniform throughout the State, but no elector shall be deprived of the right to vote by reason of the name not being registered.

Referred to Committee on Bill of Rights.

REVISION OF LAWS.

Whenever, within six months after the official publication of any act of the Legislature in the pamphlet laws, and not thereafter, it shall be alleged before the Attorney General by affidavit, showing probable cause to believe that the passage or approval of such law was procured by bribery, fraud or other corrupt means, it shall be the duty of the Attorney General forthwith to apply to the Supreme Court or any of the judges thereof for process in an appropriate proceeding, which shall be ordered, if there appear to the said court or to such judges to be such probable cause, and in which the State, upon relation of the Attorney General, shall be plaintiff; and such party as the Supreme Court or the judge who shall grant such issue shall direct, shall be defendant to try the validity of such act of the Legislature, whereupon the court shall direct publications of the same, and any party in interest may appear and upon petition be made a party plaintiff or defendant thereto; the said issue shall be framed and tried before a jury by one of the Judges of the Supreme Court in whatever form and in such county as the Supreme Court may direct; and if it shall appear to the court and jury, upon such trial that the passage or approval of the same was procured by bribery, fraud or other corrupt means, such act of the Legislature shall be adjudged null and void, and such judgment shall be conclusive, and the Governor shall thereafter issue his proclamation declaring such judgment; either party shall be entitled within three months, and not thereafter, to a writ of error as in other cases; no officer of the State, nor any officer or member of the Legislature shall be exempt from testifying when required in such case, but the testimony of any such witness shall not be used against him in any criminal prosecution except for perjury therein.

Referred to Committee on Executive.

The Legislature shall not pass any local or special law creating corporations, except banks; but the charters of all banks created by the Legislature shall embrace the provisions contained in those chartered or renewed in the charter of 185[0].

[Ed. note: Dickinson, is most likely referring to “An Act to Authorize the Business of Banking,” see Laws of New Jersey, 1850, at pages 140-154.]

Referred to Committee on General and Special Legislation.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 9, 1873

No law shall extend the term of any public officer, or increase or diminish his salary or emoluments after his election or appointment.

Referred to Committee on General and Special Legislation.

The Legislature shall not delegate to any commission the right to govern any city, town or borough in this state, and all commissions hereafter created shall be void, the ancient right of governing themselves being left to the people.

Referred to the Committee on Bill of Rights.

Every city, town or borough shall create a sinking fund, which shall be inviolably pledged for the payment of its funded debt.

Referred to the Legislative Committee.

No obligation or liability of any railroad or other corporation, held or owned by the State, shall ever be exchanged, transferred, remitted, postponed, or in any way diminished by the Legislature, nor shall such liability or obligation be released, except by payment thereof into the State Treasury.

Referred to Executive Committee.

No act of the Legislature shall limit the amount to be recovered for injuries resulting in death, or for injuries to persons or property; and in case of death from such injuries, the right of action shall survive, and the Legislature shall prescribe for whose benefit such action shall be prosecuted. Nor shall any act prescribe any limitation of time within which suits may be brought against corporations for injuries to person or property, or for other causes different from that fixed by the general laws prescribing the time for the limitation of actions, and existing laws so limiting or prescribing are annulled and avoided.

Referred to Executive Committee.

No act of the Legislature shall authorize the investment of trust funds by executors, administrators, guardians or other trustees, in the bonds or stock of any private corporation, and existing laws so authorizing are annulled and avoided, saving such instruments heretofore made in good faith.

Referred to Legislative Committee.

No debt shall be created by or on behalf of the State, except to supply casual deficiencies of revenue, or to repel invasion, suppress insurrection, or defend the State in war; or to pay existing debt, and the debt created to supply deficiencies in revenue shall never exceed in the aggregate at any one time two hundred thousand dollars.

Referred to Executive Committee.

The Judges of the Supreme Court shall hold their offices for the term of twenty-one years, if they so long behave themselves well, but shall not be eligible

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

425

OCTOBER 9, 1873

to the same office; the judge whose commission will first expire shall be Chief Justice, and thereafter each judge whose commission shall first expire shall in turn be Chief Justice.

[Ed. note: Presumably, this proposal was referred to the Executive and Judicial Committees.]

Amend subdivision 3, Section II, Article VII, by striking out the words “and inspectors of,” which means in effect that the State Treasurer and Prison Keeper shall not be Inspectors of the State Prison.

Referred to Executive Committee.

Mr. Swayze offered the following amendments:

The State shall never pay, assume or become responsible for the debts or liabilities of, or in any manner give, loan or extend the credit to, or in aid of any public or other corporation, association or individual. Nor shall the money of the State be given or loaned to or in aid of any association, corporation or private undertaking.

No county shall be divided or have any part stricken therefrom without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county voting on the question shall vote for the same.

[Ed. note: Presumably, this proposal was referred to the Committee on Amendment.]

No private, special or civil law shall embrace more than one subject, and that shall be named in the title; and any such law which shall embrace more than one subject shall be void. No law shall be revived or amended by reference to its title only; but, the act revived, or the section or sections amended, shall be inserted at length in the new act. No general law shall embrace any provision of a private, special or local character. And no act of the General Assembly shall take effect until the first day of July after its passage, unless in the case of emergency, (which emergency shall be expressed in the preamble or body of the act), the General Assembly shall, by a vote of two-thirds of all the members elected to each house, otherwise direct.

Referred to Committee on Amendments.

The General Assembly shall provide by law that the fine stationary and printing paper furnished for the use of the State, the copying, printing, binding and distributing the laws and journals, and all other printing ordered by the General Assembly shall be let by contract to the lowest responsible bidder; but the General Assembly shall fix a maximum price, and no members thereof or other officer of the State shall be interested, directly or indirectly, in such contracts; but all such

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 9, 1873

contracts shall be subject to the approval of the Governor, and if he disapprove the same, there shall be a re-letting of the contract.

Referred to same Committee.

Mr. Gregory offered the following amendments:

All valuations of real estate, with the improvements and buildings thereon, shall be assessed for the annual taxes at fifty per cent. of the saleable value thereof. Equalization of values for an annual State tax shall be made once in five years by the Commissioners of the Sinking Fund.

Referred to the Committee on Amendments.

Add to the clause "No real estate shall be exempted by law from its full share of all State, county, township, and city taxes," the words, "except that owned, occupied, or used by the State, counties, townships or cities."

Licenses for inns and taverns and all places for the retail sale of liquors and beverages, each place for such business shall be included in the annual tax list for all taxes. There shall be assessed an annual sum or sums in addition to the other tax or taxes on the premises, as shall be by law from time to time levied. They shall be a lien on the premises, the owner of which shall be responsible therefor as for other taxes, and for all consequences and all costs of arrests and trials and damages arising from the violations of the laws of the State in the sale of intoxicating liquor therein.

Referred to Committee on Legislative Department.

(NOTE.—The limit of the amount to which any county or township shall be indebted by bond, was two per cent. of its taxable values, instead of ten, in the amendment offered by Mr. Gregory, yesterday.)

Mr. Ten Eyck, the President, offered the following amendments:

ARTICLE IV, SEC. 4, P. 7.

In this section strike out the words "three dollars," where they occur in line 27, and insert "six dollars;" and strike out words "one dollar and fifty cents," where they occur in line 29, and insert "three dollars;" and after the word "route," in line 33, insert, "and they shall receive no other allowances or emolument whatever."

Referred to Legislative Committee.

Same Article, Sections IV, V, VI, in line 20, after word "times," insert "twice section by section – in full;" and at the end of the word "thereof," in line 21, insert "and no two readings, section by section, as aforesaid, shall be on the same day." And at the end of this section insert the following: "No private, special or local bill shall be introduced after ten days from the commencement of the session."

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

427

OCTOBER 9, 1873

Referred to Committee on General and Special Legislation.

ARTICLE V, P. 6.

Insert in line 24, after the word "Legislature," the words "or the Senate [alone]," which means that the Governor shall have power to convene the Senate as well as the Legislature.

Referred to Committee on Executive.

Mr. Buckley offered a resolution, that when this Commission adjourn it be to meet again on Tuesday next at 10 o'clock.

Carried.

Mr. Gregory said that the amendments proposed had all been referred; that they had done a good day's work, and he therefore moved that the Commission now adjourn.

Carried.

Newspaper Sources for October 9, 1873:

"The Constitutional Convention (sic)," *Daily State Gazette*, October 10, 1873.

"Constitutional Commission," *Daily True American*, October 10, 1873.

OCTOBER 14, 1873

[Daily State Gazette]

THE CONSTITUTIONAL CONVENTION (sic).—*Fourth Day, Oct. 14, 1873.*

[Daily True American]

The Commission met, yesterday morning [at eleven o'clock], in the Senate Chamber. Present – Ten Eyck (President), Carter, Cutler, Swayze, Thompson, Ferry, Green, Dickinson, Hubbell, Buckley, Babcock, Gregory and Grey.

Two new members have been appointed by Governor Parker. Algernon S. Hubbell (Rep.), of Newark, who was formerly a member of the Legislature. He is a man of experience, sagacity and high respectability. He takes the place of Senator Taylor. William Brinkerhoff, of Jersey City, an able young lawyer and a member of the Legislature a few years since, takes the place of Attorney General Gilchrist.

[Daily State Gazette]

Mr. Green...moved that the President assign those gentlemen to committees.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 14, 1873

Agreed to.

Mr. Hubbell was then placed on the committees on which Mr. Taylor had been previously placed, and Mr. Brinkerhoff was put on the committees filled by Mr. Gilchrist.

[Daily True American]

The minutes of the previous meeting were read and approved.

On motion of Mr. Green, Mr. Hubbell was called to his seat.

PETITIONS AND MEMORIALS.

Mr. Gregory presented [a] memorial from ladies of East and West Orange, setting forth the rights of suffrage in women. Mr. Cutler presented a similar memorial from other ladies. Both memorials were received and referred to the Committee on Bill of Rights and Right of Suffrage.

The Commission then proceeded to receive amendments.

[Daily State Gazette]

Mr. Ferry offered the following amendments:

1. The Legislative power shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives, both to be elected by the people.

2. An election for members of the General Assembly shall be held on the Tuesday next after the first Monday in November, in the year of our Lord eighteen hundred and seventy-seven, and every two years thereafter, in each county, at such places therein as may be provided by law. When vacancies occur, the Governor, or person exercising the powers of Governor, shall issue writs of election to fill such vacancies.

3. The General Assembly shall apportion the State every ten years, beginning with the year one thousand eight hundred and seventy-six, as ascertained by the last State census, by the number twenty-three, and the quotient shall be [the] ratio of representation in the Senate. The State shall be divided into twenty-three senatorial districts, each of which shall elect one Senator, whose term of office shall be four years. The Senators elected in the year of our Lord one thousand eight hundred and seventy-seven, in districts bearing odd numbers, shall vacate their offices at the end of two years, and those elected in districts bearing even numbers, at the end of four years; and vacancies occurring by the expiration of term shall be filled by the election of Senators for the full term.

Senatorial districts shall be formed by contiguous and compact territories,

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

429

OCTOBER 14, 1873

bounded by county lines, and contain, as nearly as practicable, an equal number of inhabitants; but no district shall contain less than four-fifths of the Senatorial ratio. Counties containing not less than the ratio and three-quarters may be divided into separate districts, and shall be entitled to two Senators, and to one additional Senator for each number of inhabitants equal to the ratio contained by such counties in excess of twice the number of said ratio.

4. The House of Representatives shall consist of three times the number of the members of the Senate, and the term of office shall be two years. Three representatives shall be elected in each Senatorial district at the general election in the year 1877, and every two years thereafter. In all elections of Representatives aforesaid, each qualified voter may cast as many votes for one candidate as there are Representatives to be elected, or may distribute the same, or equal parts thereof among the candidates as he may see fit, and the candidates highest in votes shall be declared elected. The Senators who may be in office on January 1st, 1876, shall hold their offices until December 1st following, and no longer.

Referred to Committee on Legislative Department, &c.

Mr. Swayze offered the following:

That the press shall be free to every person who shall undertake to examine the proceedings of the Legislature, or any branch of the government, and no law shall be made to restrain the rights thereof. The free communication of thoughts and opinions is one of the inviolable rights of man, and every citizen may freely speak, write, and print on any subject. No conviction shall be had in any prosecution for the publication of papers in relation to [any] person in office, when the publication was not made with malicious intent, and in indictments for libel the jury shall determine the law and facts under the direction of the court.

Referred to Committee on Bill of Rights.

Mr. Swayze offered the following, and moved its reference to a special committee of five:

[1.] No corporation shall be created by special law nor have its charter extended by special enactment; except for charitable, educational or reformatory purposes, penal and reformatory purposes, to be under the control of the State. General laws to be passed for the government of all corporations to be hereafter created.

2. All corporations which have not organized within ten days after the passage of this Constitution shall be void.

3. In the election of directors or managers the General Assembly shall provide that every stockholder shall have the right to vote for the number of shares held by

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 14, 1873

them for all or only one candidate.

4. No law to be passed to give any corporation the right to construct a street railroad in any city without the consent of the local authorities.

5. No State banks to be created, nor shall the State be liable for any stock of any corporation now created – and no act shall go into effect creating corporations with banking powers, nor any amendment, until it shall be submitted to a vote of the people at the next election after its passage, to be approved of by a majority of all votes cast.

6. All stockholders to be individually responsible to the creditors over and above the amount of stock held by him, to an amount equal to his or her shares while they were stockholders.

7. Suspension of specie payments on the circulation of State banks not to be permitted; statement of the financial condition of all banks to be made quarterly, under oath.

8. If a general banking law shall be enacted, all bills and paper credit shall be issued by a State officer – and security to the full amount to be deposited with the State Treasurer in United States or New Jersey State stocks, to be rated at ten per cent. below their par value. The banks owning said stock to make up the deficiency with other stocks to be deposited with the State Treasurer.

The names of all stockholders, with the amount of their stock, to be recorded.

9. All railroads to have a public office in this State for transacting business, where the record of transfer of stock, &c., shall be open for public inspection; also, the books containing the statement of the capital stock, with the names of the holders and the amounts of assets. Reports to be made yearly to the General Assembly or some designated officer as to the expenditures, &c., of the road.

10. The rolling stock and all movable property to be considered personal property, and shall be liable to execution and sale as all other personal property, and shall not be exempt therefrom.

11. No consolidation between railroad corporations to take place where the corporations own parallel or competing lines, until public notice for 90 days shall be given to all stockholders; said stockholders to be citizens and residents of the State.

12. Railroads are to be declared public highways, free for the transportation of all persons and property under regulations to be prescribed by laws, to be passed by the General Assembly from time to time as it may see fit.

13. No railroad company to issue stock or bonds except for money, labor or property actually received. Capital stock not to be increased until 90 days' notice

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

431

OCTOBER 14, 1873

shall be given according to law.

14. No dividends to be made by any railroad corporation unless the money shall have been actually earned and received over and above the expenses of the corporation, under penalties to be prescribed by law.

15. The Legislature shall have power to take the franchises of incorporated companies, and subject them to public necessity. The right to trial by jury to be held inviolable in trial of claims for compensation in the right of eminent domain.

16. The General Assembly shall have power to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs, and enforce laws by adequate penalties, to the extent if necessary for that purpose, of forfeiture of their property and franchises.

Mr. Gregory moved to lay the amendments on the table. Carried.

Mr. Ferry offered the following amendment:

1st: That whenever two-thirds of both Houses of the General Assembly shall concur that a revision of the Constitution is necessary, the question of calling a convention for that purpose shall be submitted to the vote of the people. If the people shall vote for a convention, the General Assembly shall provide for a convention to consist of double the number of members of the Senate, to be elected in the same manner and at the same places; the General Assembly to designate the day of meetings and fix the pay of the members and officers, &c.; the members to take an oath to support the Constitution of the United States and the State of New Jersey, and for the faithful performance of their duties. The revisions, alterations or amendments prepared by them shall be submitted to the electors of the State for their ratification or rejection at an election to be held not less than three nor more than six months after the adjournment of the Convention. Unless the amendments, revision, &c., are approved by a majority vote of the electors they are not to go into effect.

2. Amendments may be proposed in either house, and if passed by a two-thirds vote shall be submitted to the votes of the electors. The amendments are to be published in full at least three months preceding the election, in one or more paper in each county, and if the majority of electors are in favor of the amendments they shall become part of the Constitution. The Legislature shall not have power to propose more than one amendment of the Constitution at the same session, nor to the same article oftener than once in four years.

Referred to Committee on Amendments and Final Revision.

Mr. Ferry offered the following resolution:

Resolved, That all proposed amendments offered by the members of this

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 14, 1873

Commission shall be printed as such, and shall be for information. All amendments reported from committees shall be printed separately as such, and shall show, when printed, both the part as amended and the original article or articles.

Mr. Ferry advocated this resolution showing the importance of having these amendments before us – those adopted as well as those reported against.

The resolution was carried.

Mr. Ferry offered the following:

A committee of three members of this Commission shall be appointed to supervise all printing authorized by this Commission, [Mr. Dickinson as chairman.

Carried]

Mr. Carter offered a resolution as follows:

Resolved, That the Secretaries of this Commission are hereby requested to invite the clergymen of the city of Trenton to be present at the commencement of the first session of the Commission in each week to open it with prayer.

Adopted.

Mr. Gregory moved a reconsideration of the vote. He said we were a small body. He was present at a large meeting on Sunday night where the services were closed with the Lord's prayer. It was an august assemblage, and had a solemn effect. He proposed that instead of inviting the clergy to officiate that the deliberations be opened by a reading of the Lord's prayer by the President.

The motion to reconsider was lost.

The Chair announced the following gentlemen as the Committee on Printing: Messrs. Dickinson, Babcock and Ferry.

[Daily True American]

The Committee on invitation of clergymen – Carter, Swayze, Hubbell.

It was said that the resolution as to invitation to clergymen left the matter to the Secretaries, and the Committee was, therefore, unnecessary.

[Daily State Gazette]

Mr. Ferry offered the following suggestions:

The question of Woman Suffrage shall be submitted to a separate vote at the time of the submission to the Constitution in such manner as may be provided in the schedule, and if upon canvass of the votes cast on the question a majority thereof shall be found "For Woman Suffrage," then the word male shall be

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

433

OCTOBER 14, 1873

stricken out of section one of the suffrage article, otherwise not.

Laid on the table.

[Daily True American]

{Carried.

Referred to Committee on Bill of Rights and Suffrage.}

[Daily State Gazette]

Mr. Ferry offered the following amendments.

Sheriffs and Coroners shall be chosen by the electors of the respective counties once in every three years, or as often as vacancies occur. Sheriffs shall hold no other office, and be ineligible for the next three years after the termination of their offices. They may be required by law to renew their security from time to time, and in default of giving such new security their offices shall be deemed vacant. But the county shall never be made responsible for the acts of the sheriff.

Referred to Committee on Tenure of Office.

On motion of Mr. Buckley the Commission then resolved itself into a Committee of the Whole for the purpose of considering the amendments already reported.

[Carried.]

Mr. Thompson, of Somerset, in the Chair.

The report of the Committee on Bill of Rights and Right of Suffrage, &c., was taken up.

Article II, Right of Suffrage, as amended by the Committee, was read. The term of citizenship in this amendment had been changed to ten days, and of the election district in which he may offer his vote thirty days; the striking out of the word "white," and that no elector in time of war shall be deprived of his right to vote by reason of his absence, and authorizing the Legislature to pass such laws as may be necessary to enable him to vote.

Mr. Green expressed some doubts as to whether the term of citizenship to ten days should be altered. It would be better to leave this matter to the courts.

Mr. Buckley also had doubts. If there could be some correction of abuses, such as courts sitting the day before the election and granting naturalization papers in great numbers, it would meet the object, and yet he would not like to deprive a young man of his vote who should come of age five days before the election. If the grievance of making voters in the manner indicated could be remedied, it would be a very desirable thing. The courts should not grant

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

OCTOBER 14, 1873

naturalization papers until some time to be fixed before the election.

Mr. Grey spoke of the difficulty, and suggested that the object to be obtained might be gained by an amendment, that no naturalized citizen should be entitled to vote until the expiration of ten days after naturalization.

[Daily True American]

Mr. Buckley then moved that they proceed to the consideration of No. 3, Article I, Right of Suffrage.

Agreed to.

Mr. Green moved the word "white" be stricken out.

Carried.

The question then was taken up, in the second line of Article I, "a citizen for ten days."

Mr. Green said that the proposition there was that a citizen shall be such a certain length of time before he votes. He did not agree with the suggestion, for it seemed to him that when a person becomes a citizen he becomes so with the rights and privileges of all other citizens, and the words in the article, *a citizen for ten days*, seemed to make distinction as of a class. The naturalized citizen becomes as much so as any other, and his right to vote has no more right to be questioned; and he saw no reason why a citizen of that kind should be curtailed in his liberty any more than a person who happens to come of age on election day. It was for these reasons that he had doubted whether the proposition should be adopted, which was to prevent the courts being kept open for the naturalization of citizens up to the day of election, a matter which he thought could be left in this State to the judges. It was a matter, he knew, that had given rise to great complaints in large cities, but here it could, safely, be left to the courts.

Mr. Buckley had some doubts as to retaining the words, and he spoke against keeping the courts open and grinding out voters until within a few minutes of the close of the polls. He pointed out the injustice of the words in regard to a young man whose case he supposed. A young man born here, living in the same State all his life, never having been away from the State, put under this provision, if he should become 21 years of age five days before the election, he would be deprived of his vote.

Mr. Grey said it was intended to meet a certain class of cases. He thought the difficulty raised by Mr. Buckley might be met by striking out the words objected to and adding at the close, "provided, that no naturalized citizen shall vote at any election within ten days after he has been naturalized."

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

435

OCTOBER 14, 1873

[Daily State Gazette]

Mr. Gregory spoke of the difficulties of citizens going from one State to another. It sometimes worked very considerable hardship. It was particularly so in the eastern counties where there has been an increase of 34 per cent. in the population. He thought the "ten days" amendment would help materially.

Mr. Green thought the suggestion of the gentleman from Passaic [i.e. Buckley] would be the better way to meet the difficulty. He moved to strike out the amendment.

Mr. Carter spoke against the amendment.

Mr. Green moved to strike out "a citizen for ten days and" which was carried 9 to 4.

Mr. Green said the work of colonization should be stopped, and therefore moved that the words "and of the election district in which he may offer his vote thirty days" be adopted.

Carried unanimously.

Mr. Green said there may be other suggestions in regard to the right of suffrage, some of which were in the hands of the committee and others may yet be proposed, and he therefore suggested a postponement.

Mr. Dickinson moved to add that no elector should be deprived of his vote by reason of his name not having been registered.

It was suggested that this amendment should first go to the committee.

Mr. Green said the committee have the matter now under consideration, and moved that the further consideration of this section be postponed for the present.

Adopted.

Mr. Green said at the last meeting a vote was taken on the Executive powers and in reference to the veto power, and the suggestion of the Committee was adopted, and as new members had been added, he moved a reconsideration of the vote by which the amendment requiring "two-thirds" to pass a bill over the veto be reconsidered.

Agreed to.

Mr. Carter moved to take this subject up.

It was suggested by Mr. Grey and Mr. Cutler that this matter be postponed for the present. Nothing would be lost by consideration.

Mr. Carter withdrew his motion.

Mr. Buckley moved to take up the report of the Committee on Legislative Department. Agreed to.

The first amendment was as to the time of the election, making the time the

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

OCTOBER 14, 1873

“first Tuesday after the first Monday in November.” This will prevent the Legislature from naming any other day. The amendment was adopted without opposition.

The amendments in regard to the reading of bills, requiring them to be read section by section, on three several days, and forbidding the reading of the title only of any bill or joint resolution for any of the readings except in cases of actual invasion, was, on motion of Mr. Grey, taken up, after some preliminary remarks. The clause requiring the printing of a bill before it shall be received was objected to by Mr. Green as rather hard.

Mr. Grey explained. He thought there was nothing in the objections. Bills should certainly be printed as early as possible, so that every member may see and understand what the private citizen wants the Legislature to do for him.

Mr. Green said the practice of legislation had been very much changed. Formerly the subject matter was introduced by petition. He moved to strike out the words “received or,” so that bills shall be printed before they are considered.

Mr. Swayze opposed the motion.

Mr. Buckley wanted to know in what part of the proceedings a bill may be regarded as “considered.” He thought the hardship of printing was a point now well taken. Private bills are generally paid for. The money consideration was, therefore, not an important one.

Mr. Cutler was opposed to striking out. The object was to prevent hasty legislation. If the bills are to be read section by section on three several days, it would be difficult for the clerks to do so, if not printed. It was difficult also for committees to wade through manuscript bills. He thought the practical [effect] good, and hoped the words would not be stricken out.

Mr. Green moved to amend by requiring that bills shall be read before they are printed. He thought the doors of legislation ought to be opened to everybody who comes here in a respectful manner. By requiring a person to have the bill first printed was imposing a burthen (*sic*).

Mr. Grey thought there was very little difference in requiring a man to have his bill printed or written. If it was important to have the bill before the Legislature, at the earliest possible period, why not have it in a shape in which it can be properly considered?

Mr. Dickinson thought there would be some difficulty in getting public bills printed, or getting them before a committee, as nobody is particularly interested in them.

Mr. Ferry suggested that it would be well to apply the printing to private bills.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

437

OCTOBER 14, 1873

Mr. Buckley moved to amend by requiring all bills to be printed before they are read or referred. He proceeded to show the propriety of this amendment, and said it would relieve the matter of its objections.

Mr. Gregory spoke of the hasty manner in which bills are read, section after section skipped, and said the object was to check unwise and hasty legislation, and so far as this is concerned this amendment was a good one.

Mr. Grey entered into further explanation as to the practice of legislation, and insisted that the very first important step was to print a bill, and that nothing whatever should be done with it until it is printed. He thought that bills could be numbered after, as well as before, printing.

Mr. Dickinson withdrew his amendment, and Mr. Buckley also withdrew his amendment.

Mr. Green renewed the amendment just withdrawn by Mr. Buckley, to have the bills printed before they are read or referred. Lost, 4 to 8.

Mr. Ferry moved to strike out the words "received or" so as to require the printing before the bills are "considered." Lost 3 to 9.

The amendment of the Committee requiring all bills to be printed before they are received or considered was then agreed to, 10 to 2.

The other suggestions as to the several readings of bills were then agreed to.

Mr. Grey introduced an amendment providing that all bills and joint resolutions shall be printed and laid on the tables of the members of the Legislature, at least one day before final action. Adopted.

The 7th section of the report of the Committee in regard to the pay of members (\$750 per session) was taken up. Mr. Grey spoke in favor of the amendment, and gave his reasons.

Mr. Ten Eyck said, if the amendment of the Committee was not agreed to he should simply move an amendment to double the present compensation. He was opposed to the proposition of the Committee.

Mr. Ten Eyck then proceeded at some length to show the enormous increase of the expenditures of the Legislature by adopting the report of the committee, increasing the annual expenditures some \$45,000. He proposed to pay the members \$6 a day for four working days, and limiting the session to six weeks, which would be long enough for all the public business. He showed that the pay proposed by the committee for four days in the week amounts to about \$30 a day.

[Daily True American]

{The pay of members caused a long discussion. The proposition of the

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 14, 1873

Committee is \$750 per year for members, including everything, which Mr. Grey said was sufficient to remunerate them and keep them from temptation.

Mr. Ten Eyck, having left the chair, opposed the amendment. He was in favor of \$6 per day. The legislative expenses of the past years had been, 1870, \$56,980.18; 1871, \$42,238.21; 1872, \$58,302.65. Average for the three years past, \$52,507.01. Pay of Senators and Assemblymen 1870, \$13,169.60; 1871, \$15,636.10; 1872, \$16,337.10. Average for three years, \$15,047.93. Allowing members \$500 each, the pay of members will amount to \$40,000, and add to this other expenses as before, the cost would be \$77,459.08, an increase of \$24,952.07. Allowing members \$750 each, the cost would amount to \$97,459.08, an increase of \$44,952.07. In these times of empty coffers it was not right thus to increase expenses. He proposed \$6 per day, or \$42 per week, which allowing a session of six weeks will give each member \$252. He alluded to the fact that the people are in favor of general laws and against special legislation. He said four-fifths of the time members worked in the three months were devoted to special legislation; that members at \$3 per day for 40 days, and \$1.50 per day for the balance of the session averaged \$225 for the 90 days. They did not sit more than four days per week, and his proposition would give them \$10 per day, while the \$750 proposition would give them \$30 a day.}

[West Jersey Press, Bordentown Register]

{Mr. Ten Eyck says: "In Provincial times, members of the Assembly were allowed one shilling per day, to be paid by the proprietary or division electing them; that they might thereby be known to be the servants of the people. Times have changed since; but it is better to regard their example for economy and probity, than to follow the practice of modern Congressmen with respect to pay, either forward or back."}

[Daily State Gazette]

Mr. Gregory thought we would do better by making the pay a stipulated sum instead of paying by the day.

Mr. Ferry proposed \$500 for the session.

Mr. Swayze was in favor of making the pay all that may be necessary to make a member independent in every respect. He regretted to say that the members from his county were generally on the side of gigantic corporations. He wanted the pay to make the members independent of all interests [...and was in favor of the \$750].

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

439

OCTOBER 14, 1873

Mr. Grey said it was simply desirable to secure a member from pecuniary loss. When a man receives a stipulated sum, he generally works better than if he is tempted to prolong the job by working by the day. This was a fair compensation. This sum excludes every other allowance for stationery and everything else. The revenues of the state may be increased to meet the increased pay.

[Daily True American]

{Mr. Grey defended the proposition for \$750, and remarked that Pennsylvania paid a salary of \$1,000.}

[Daily State Gazette]

Mr. Ferry thought if the session of the Legislature was shortened by doing away with special legislation, it would not do to increase the pay. He was opposed to having the pay so small as to prevent poor men from accepting the position, nor yet so large as to make the sum one to be desired simply because of the money. He wanted no man in the Legislature who accepted the position merely for the sake of the money, nor did he think it proper to make it so small as to drive men to the necessity of making up their expenses in another way.

[Daily True American]

Mr. Dickinson observed that the matter of money was but slight, in comparison with having members attentive to their duties, with no other means of making money.

[Daily State Gazette]

Mr. Buckley favored \$500. He did this because the session would be shortened, and this would make the compensation ample. He thought if we adopt this and other measures to cut off special legislation, the session would not be longer than from six to eight weeks. He thought that the matter of mileage should be done away with. Members don't pay any fare on railroads. He was therefore in favor of \$500.

Mr. Hubbell wanted to know how the incidental expenses are provided for? If members are to be allowed indirectly incidentals in this way, we shall not remedy the evil we are seeking to check.

[Daily True American]

{Mr. Hubbell spoke on the dangers of the Incidental Bill, and wanted to know

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 14, 1873

how they were going to prevent members from voting themselves extra pay.}

[Daily State Gazette]

Mr. Grey said the amendment was reported in order to prevent any other compensation whatever. The intention of the Committee was to cut off everything else.

[Daily True American]

Mr. Ferry moved that the consideration of the proposition be postponed and that the Committee report progress.

The Chairman of the Committee [i.e. Mr. Grey] reported progress and asked leave to sit again.

[Daily State Gazette]

At this point the further consideration was postponed, and the Committee rose, and the Commission adjourned until ten o'clock this (Wednesday) morning.

Newspaper Sources for October 14, 1873:

"The Constitutional Convention (sic)," *Daily State Gazette*, October 15, 1873.

"Constitutional Commission," *Daily True American*, October 15, 1873.

"Pay of Members of the Legislature," *West Jersey Press*, November 5, 1873.

"Pay of Members of the Legislature," *Bordentown Register*, November 7, 1873.

OCTOBER 15, 1873

[Daily State Gazette]

THE CONSTITUTIONAL CONVENTION (sic).—*Fifth Day*—Oct. 15, 1873.

The session was opened with prayer by Rev. Dr. Hall.

Present – Messrs. Buckley, Babcock, Carter, Cutler, Dickinson, Green, Gregory, Hubbell, Swayze, Ten Eyck (President).

[Daily True American]

Mr. Carter stated that Mr. Grey would be unable to be present that day, in consequence of a business engagement.

The minutes of the previous session were read and approved.

Mr. Dickinson said that the Chairman of the Legislative Department [i.e.

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

441

OCTOBER 15, 1873

Grey] was absent, but had requested him to present a report.

[Daily State Gazette]

Mr. Dickinson, on the Legislative Department, reported as follows:

To the New Jersey Constitutional Commission:

MR. PRESIDENT—Your Committee upon the Legislative Department, its Organization and Constitution, beg leave to report that they have considered Amendments No. 1, 2, 3, 4 and 5 referred to them. **[Ed. note: These proposed amendment numbers do not correspond to those in Part VII of this volume.]** Your Committee ask to be discharged from the further consideration of Amendment No. 2, upon which your Committee has already reported. Your Committee report the following in lieu of Amendment No. 1, and recommend its adoption.

Your Committee report progress upon Amendments No. 3, 4 and 5.

S.H. GREY, CHM.

Art. IV, Sec. VII, add the following as paragraph 12:

“No trust funds shall be invested in the bonds or stock of any private corporation unless such investment be authorized or directed in the instrument or by the person or persons creating the trust.”

No. 1. Amendment mentioned in the report related to the pay of members of the Legislature, substituting three dollars per day instead of one dollar and fifty cents, as already published, and offered by Mr. Ten Eyck.

No. 3. Relates to penalties of members of the Legislature for taking rewards, already published, and introduced by Mr. Dickinson.

No. 4. Relates to Sinking Fund, already published.

No. 5. Relates to licenses for inns and taverns, already published, and introduced by Mr. Gregory.

Mr. Buckley introduced an amendment in reference to the representation in the Legislature **[Ed. Note: The *Daily True American* states “Senate” instead of “Legislature”]**, a matter already before the Commission, but in different words.

Mr. Buckley also introduced an amendment in regard to Justices of the Peace, not differing materially from that already introduced, but providing for a summary manner of suspension of justices charged with offences until they can be tried.

Mr. Buckley also presented the following new amendment in Section VI, Article VII.

I. There shall be no more than [two judges] of the Inferior Court of Common

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 15, 1873

Pleas in each of the counties in the State, after the term of said court now in office shall terminate. At least one of the judges of said court hereafter appointed shall be counselor-at-law, and he shall be President Judge of said court. Vacancies shall be filled for the unexpired term only.

In this connection amend Article 7, Section II, Clause 1, to read thus:

1. Justices of the Supreme Court, Chancellor, Judges of the Court of Errors and Appeals, and Judges of the Inferior Court of Common Pleas, shall be nominated by the Governor, and appointed by him with the advice and consent of the [State] Senate.

2. The Justices of the Supreme Court and the Chancellor shall hold their office for the term of seven years, and the Judges of the Inferior Court of Common Pleas for the term of five years, shall at stated times receive for their services a compensation which shall not be diminished during the term of their appointments; and they shall hold no other office under the government of this State, or [of] the United States.

[Daily True American]

The amendments were read and referred.

Mr. Buckley asked for information as to rules governing the [Commission], as he was not present when the rules were adopted.

The President said that the rules governing the Senate governed the Commission.

[Daily State Gazette]

A debate took place in regard to the rules. It was proposed to do away with the necessity of going into Committee of the Whole. Mr. Green gave notice that he would introduce a rule to repeal the rule requiring the consideration of all amendments in Committee of the Whole.

Mr. Ferry moved to go into the Committee of the Whole.

Agreed to.

The question arose as to whether the presiding officer of the body shall preside in the Committee of the Whole – no one being willing to take the Chair.

On motion of Mr. Carter, the rules were suspended in order to enable the President to preside.

The question of the pay of members was then taken up.

Mr. Cutler asked that before a final vote be taken on the \$500 proposition, the matter should be postponed until we settled the question as to whether we

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

443

OCTOBER 15, 1873

recommend the doing away [with] special laws by the introduction of a system of general laws. If general laws are recommended and adopted, the session of the Legislature need not be protracted beyond 30 or 40 days, and this would influence his action as to the amount of compensation.

After suggestions by Mr. Gregory and Mr. Swayze the subject was postponed for the present.

[Daily True American]

Section VII of Article IV, referring to notice to be given of proposed amendments to city charters, was then read:

[Daily State Gazette]

No amendment to the charter of any municipal corporation shall be received by the Legislature after thirty days from the first day of the meeting thereof, and no such amendment shall be so received or considered unless a notice expressing the substance of such amendment shall have been published for at least thirty days next before the first day of the meeting of the Legislature, in one or more of the newspapers having the largest circulation in the county in which the municipal corporation to be affected thereby shall be located.

[Daily True American]

Mr. Dickinson said that a section of that kind ought to be incorporated in the Constitution. It was necessary that citizens should have notice of alterations proposed in their charters, so that they might oppose them if objectionable.

Mr. Hubbell said it was an important matter and instanced Newark, in the charter of which sixty or seventy alterations had been made without any knowledge on the part of citizens. People were outraged in their rights by these amendments, proposed and carried through by interested parties. He was in favor of an amendment of the kind.

[Daily State Gazette]

Mr. Ferry moved to strike out "thirty" and insert "ten," as the time that applications shall be published in newspapers before the meeting of the Legislature.

[Newark Daily Advertiser]

Mr. Gregory referred in earnest language to the outrages that had been

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 15, 1873

committed on the rights and interests of the people of Jersey City, in making vast ostensible improvements at enormous cost about which the people had never been consulted and had no knowledge. This evil had grown to such proportions that the taxpayers of Hudson had come to look forward to the meeting of the Legislature with dread, and to its adjournment with almost painful longing.

[Daily State Gazette]

{Mr. Gregory spoke of the outrages that had been committed on the rights of the people of Jersey City, to the amount of many thousands of dollars, in making roads and other improvements in which the people had no more interest than the people of Passaic. The people are really, on this account, glad when the Legislature adjourns. While it is in session they are in a state of nervous excitement. He was glad to find there was a disposition here to stop this growing evil.}

[Daily True American]

{Mr. Gregory, of Jersey City, commented on the schemes of men who thought they could carry matters through the Legislature without the consent of those who are taxed. They were now in a lawsuit in Jersey City, through the appointment of Commissioners in their city, the result of a kind of legislation which had to be condemned. So with their charter, they had gone from bad to worse, until they were in a bad financial condition. The amendment would be good for the people and Legislature, and be wholesome in its operation.}

[American Standard]

{The special legislation which has caused so much evil in Jersey City came in for its share of rebuke; and Mr. Gregory, in a desponding speech, said that they know not, at present, where the evil there will cease. The class of men that seek election to the Legislature were spoken of as reprehensible, and the old men of the Commission sighed for a return of the party of the days of their fathers.}

[Daily State Gazette]

Mr. Dickinson said if such gigantic schemes of robbery are enacted, it would be better to increase [the 30-day requirement] ten times instead of limiting it. Ten days was too short a time to get the information through the county.

[Daily True American]

{Mr. Dickinson thought thirty days was not too long to make the people of

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

445

OCTOBER 15, 1873

localities acquainted with what is intended to be brought before the Legislature concerning their local government.}

[Daily State Gazette]

Mr. Ferry advocated his amendment, for the reason that some sudden want of a financial character may arise after 30 days, which must go over for another year. A long period may incur hardships and expense.

Mr. Hubbell suggested that the objection might be met by increasing the publication, and requiring the proposed amendment to be published in all the papers [in the county]. Ten days' publication every day in all the papers would certainly give all the necessary information.

[Daily True American]

{[Mr. Hubbell said that] The publication for 30 days would make it so common, that the people would forget all about it.}

[Daily State Gazette]

Mr. Gregory suggested thirty days before the amendments are introduced in the Legislature.

[Daily True American]

Mr. Swayze did not see any necessity for change in the amendment.

[Daily State Gazette]

Mr. Swayze said the object of these amendments was to prevent hasty legislation in changing the charters of cities.

Mr. Carter was in favor of the amendment of the Committee.

The question was taken on the amendment of Mr. Ferry, and it was lost, 3 to 8.

[Daily True American]

The recommendation of the Committee for 30 days was then passed.

[Daily State Gazette]

Mr. Ferry suggested a defect in that clause in reference to the publication of the amendment in the newspaper having the largest circulation in the county.

Mr. Buckley moved to amend by making the publication in the paper having the largest circulation in the city.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 15, 1873

Mr. Green suggested that in many cities, New York papers had a larger circulation than the local papers in the city.

Mr. Ferry suggested that in some municipal governments there are no newspapers published.

Mr. Carter said that in some counties the papers are published once a week. The thirty days' publication would therefore be impracticable.

Mr. Hubbell moved that the amendments be published in all the papers published in the county where the municipal government proposed to be affected thereby is located.

The discussion was continued.

Mr. Green offered an amendment to the effect that the publication shall be made in one or more newspapers published in the [municipal] corporation effected thereby, and if none is published therein, then a newspaper published nearestthereto.

Mr. Green's amendment was adopted.

[Daily True American]

The section, as amended, was then read.

Mr. Carter said that in some places the papers are only published once a week. He moved to substitute, "[at least] once a week, for at least four weeks." Amendment adopted.

[Daily State Gazette]

The further consideration of the subject was then postponed on motion of Mr. Ferry.

[Daily True American]

Mr. Green offered an amendment [to Article 4, Section VII] to cure an improper kind of legislation from which great evil had resulted, legislation by inference, setting forth that old powers of corporations shall be revived, and without setting forth the special things required.

[Daily State Gazette]

[Mr. Green's amendment states:] No law shall be received or amended by reference to its title only; but the act revised, or the section or sections amended, shall be inserted at length. No general law shall embrace any provision of a private, special or local character.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

447

OCTOBER 15, 1873

No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of this act, or which shall enact that any existing law, or any part thereof, shall be applicable, except by inserting it in such act.

Laid on the table for the present.

The following amendment was then taken up:

[Article IV,] Section VIII. – Every member of the Legislature, before he enters on his duties, shall take and subscribe the following oath or affirmation: “I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the State of New Jersey, and that I will honestly discharge the duties of Senator (or member of the General Assembly, as the case may be) according to the best of my ability; and I do solemnly swear (or affirm) that I have not paid or contributed anything or made any promise, in the nature of a bribe, to corruptly influence, directly or indirectly, any vote at the election at which I was chosen a member of the Senate (or House of Assembly); and I do further solemnly swear (or affirm) that I have not accepted or received, and I will not accept or receive, directly or indirectly, any money or other valuable thing from any corporation, company or person, for any vote or influence I may give or withhold in any bill, resolution or appropriation, or for any other act as a member of the Senate (or General Assembly) of this State.” The foregoing oath or affirmation shall be administered by one of the Judges of the Supreme Court or a President Judge of the Court of Common Pleas, in the hall of the house to which the member is elected; and the Secretary of State shall read and file the oath or affirmation subscribed by such member; any member who shall refuse to take such oath or affirmation shall forfeit his membership and be disqualified thereafter from holding any office of profit or trust in this State.

[Daily True American]

Mr. Green required a verbal correction, instead of “Judges,” by one of the “Justices” of the Supreme Court, who shall administer the oath.

Mr. Dickinson said the committee concurred in the oath recommended, and thought that no man who could not take the oath was fit to sit in a Legislative Assembly.

Mr. Hubbell did not see any provision for a penalty for violation.

Mr. Dickinson – The general laws of the State meet that; a man may be punished for perjury, and the amendment provides that his office shall be forfeited.

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

OCTOBER 15, 1873

Mr. Ferry moved to strike out all after the line 21 [i.e. starting with, “any member who shall refuse...”], which provides for the disqualification of those who will not take the oath.

Mr. Buckley objected, saying it was conclusive evidence to his mind, if a member refused to take such oath, that he had been guilty of something he should not have done. He moved only the words after “membership” should be stricken out.

This amendment removes the disqualification thereafter from holding any office of trust or profit in the State.

The amendment was carried, 9 to 3.

Mr. Buckley – If the amendment stood as it now reads, it would require a [Justice] of the Supreme Court and the Secretary of State shall be present at the opening of the Legislature. He did not see the necessity for this.

Mr. Swayze said the Committee put that in to impress those who took the solemn obligation.

Mr. Ferry thought there would be difficulty in both houses meeting at the same time.

Mr. Dickinson said the oath was taken from the proceedings of the [constitutional] convention in Pennsylvania. He did not wish to compare New Jersey with the sister state, but if some things said of legislation in this state are true, it would be well to copy. The committee wanted this a solemn obligation – not a custom house oath; not in the shuffling manner in which oaths were administered by one member to another, but a solemn binding obligation, clothed with power of law and the sanctity of law, so that a man should know that he could not transgress with impunity.

Mr. Buckley moved to strike out all after the word “affirmation,” saying that all he wanted was to get rid of the formality.

Mr. Ferry moved to retain the words that the oath may be administered by any member of the Senate or General Assembly.

Mr. Gregory opposed striking out.

The amendment of Mr. Buckley was adopted, which removes the necessity for the presence of a [justice] and the Secretary of State to administer the oath.

[Daily State Gazette]

Mr. Green moved to take up the amendment [i.e. Article IV, Section VII] proposed by him in regard to acts of the Legislature, noticed above.

The amendments were agreed to.

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

449

OCTOBER 15, 1873

[Daily True American]

Mr. Carter moved to take up Article V, "the veto power," and it was brought before the body.

The chair called Mr. Babcock to preside.

The question was that of majority or two-third vote of the Legislature to pass a bill over the Governor's veto.

[Daily State Gazette]

Mr. Ten Eyck spoke on the subject.

[Ed. note: The following speech of Mr. Ten Eyck was printed on the first page of the October 17, 1873 issue of the *Daily State Gazette*.]

Remarks of Mr. Ten Eyck on the Governor's Veto.

Mr. Chairman:

I desire to make a few remarks upon this amendment. I do not design to provoke general discussion—I hope I may not.

This veto power, or, as it is sometimes called, this "one man power," I am utterly opposed to. I believe the people of this State are so also, and I fear that the incorporation of this feature will jeopardize the work of this Commission.

The veto power as proposed is a stranger to our government in New Jersey. We have had for some thirty years what is denominated a *qualified* veto.

Allow me to recall to your recollection, concisely, the history of this power in this State. It was entirely unknown under the *Proprietary* government.

The "grants and concessions" of the Lords Proprietors, in Cartaret's time (1684) required the Governor to aid in the passage of laws for the Proprietary. He was then a part of the Legislative body, but he had no veto or negative. This was the first constitution of New Jersey.

In 1680, the Proprietors of West Jersey in their "grants and concessions," framed by Penn and others, one of the most liberal forms of government ever devised, not only required that the Governor should aid in the passage of laws, but required that he should sign all laws passed by the Legislature, without delay. Here was a popular government, full of the spirit of liberty! There is no veto or negative to be found here.

This continued until 1703—until the surrender by the Proprietors of the power of government to the crown—in Queen Anne's time, a period of some forty years.

In the Commission's instructions to Lord Cornbury, the first Royal Governor of the Colony, he was ordered to aid with his council, in the passage of laws, and

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

OCTOBER 15, 1873

send them by the first ship sailing to England for their rejection or approval by the Home Government. No veto power or negative here! This Royal Governor never attempted to exercise it. It is true, this Governor often arbitrarily dissolved the Colonial Legislature when they opposed his measures, and this and other misconduct on his part, on the application of the colonists, led to his dismissal and recall in disgrace, by the Queen, although a near relation of hers.

The Home Government, however, did sometimes refuse to sanction colonial laws as passed in the colony, and, in time, it became so general and obnoxious to the colonies that it became one of the grievances complained of against the King, in the Declaration of Independence, that "he had refused his assent to laws the most wholesome and necessary for the public good."

There was no veto or negative in the history of this colony for seventy years—from 1703 to July 1776. On July 2d, 1776, two days before the Declaration of Independence, the Colonial Legislature of N.J., in the midst of preparations for war, formed a new constitution for their government. This only conferred upon the Governor the right to sit in the Legislative Councils, and aid in the passage of laws, and give the casting vote. Our Governors presided in this council until 1844, some seventy-three years. There was no veto power here.

It was not until June, 1844, that the people of this State became acquainted with this power, and for the first time.

In the Convention held in 1844, to form a new constitution, it was first advanced.

The Committee on the Judiciary in that body, of which Gov. [Peter D.] Vroom was chairman, reported the Vth Article of the present Constitution in the manner in which it now stands, viz.: that a majority of the Legislature might re-pass a bill after it has been returned by the Governor with his reasons against it.

[Ed. note: Errors in the previous paragraph were noted in the October 18, 1873 issue of the *Daily State Gazette* as follows:]

In the publication of Mr. Ten Eyck's remarks on the veto power, yesterday, an error occurred. The introduction of Article X in the Convention of 1844, was by Chief Justice [Joseph C.] Hornblower, Chairman of Committee on the Executive Department, and not by Governor Vroom, Chairman on the Judiciary. Governor Vroom was Chairman of the Committee on Legislative Department.

When the report of that committee came to be acted on in Committee of the Whole, a member from Monmouth [i.e. Bernard Connolly] moved to amend the article in the same way as now proposed—requiring a two-thirds vote to overcome

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

451

OCTOBER 15, 1873

the Governor's veto. This was like a fire brand thrown in the Convention. It led to a fiery debate, involving personalities and charges of party designs. A member from Sussex [i.e. Martin Ryerson], also a member of the Judiciary Committee of that body and for a time a member of this [Commission] also, moved, by way of compromise, to substitute the number two-fifths in place of two-thirds, as required to overcome the veto. This proposition was very ably and eloquently discussed for two days in the committee by Gov. Vroom, the late Judge [Robert S.] Field, Dr. [Ferdinand S.] Schenck (who, though opposed to the veto, advocated the two-fifths amendment as a compromise), and others, in favor of it, and by Chief Justice Hornblower, Chief Justice [Henry W.] Green, Peter I. Clark (the silvery-toned orator), Wm. R. Allen and others, against it. Alas! how many of these great and good men have passed away! I only remember two of them, now living, Gov. Vroom and Chief Justice Green, who still happily live, to challenge our admiration by their integrity, dignity, pure lives, and lofty, high-toned characters. I will venture to say that this debate has rarely been excelled for ability and power, in any deliberative body, and when the vote came to be taken on the amendment there were found to be 27 votes for and 26 against it, and the late Chas. C. Stratton, the first Governor under the present Constitution, gave the casting vote against it. And so that section of this present Constitution remained in this particular, as it now stands. Several members, who had spoken and voted in favor of the amendment in Committee of the Whole, declaring themselves ready to vote against it in convention if the ayes and noes were called, and so the section finally passed, as it now stands, without the ayes and noes being called.

Now, nothing, I submit, has occurred since that time, requiring the adoption of this veto in our legislation, unless it may have been some few bills of a party, special or local character.

The recurrence of this evil we propose to prevent by an amendment prohibiting the passage of such bills and providing for them under general laws. These special bills designed to promote some party or pecuniary interest may have given rise to corrupt practices, and improper influences, but under this proposed amendment, in this respect, (which it is believed this Commission and the people at large are in favor of) such evils in legislation cannot be practiced in [the] future.

Nothing now can be said but this last mentioned fact. No new argument can be advanced on either side, upon this question. Able as this body may be, it can hardly expect to present any argument more able, strong and powerful than was passed in 1844, and I shall not attempt to reiterate or elaborate them here. I will merely say, that the veto as proposed is an arbitrary power. It is a branch of the

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 15, 1873

Royal Prerogative. Its last exercise, in England, with other arbitrary acts, cost a king not only his crown, but brought his head to the block. It has never been used there since a period of over 200 years. I am aware that this provision exists in the Federal Constitution. There are more reasons for its existence there than in a State Constitution, but I am free to say, if I had the power, I would strike it from the Federal Constitution with a blow. No mere party considerations would influence me for a moment! In framing this organic law of a State, party interests are not to be regarded for a moment. Compared with the existence of a State, they are evanescent and vanish like exhalations of the morning. Where are the two great parties that existed in 1844? Gone to the tomb of the Capulets. This veto power is contrary to the spirit of our institutions. It is neither Democratic nor Republican. This is a government of the people, and for the people. This power is not needed, as is claimed, strange to say, by some. "Protect the people from themselves."

All that can be needed is a qualified veto or negative to prevent hasty and inconsiderate legislation. The Governor can now state his reasons against signing a bill, and return it to the House in which it originated, thus calling attention to the objectionable character of the bill; this furnishes information, this gives time for reflection and opportunity for enlightenment, and will answer every purpose, where there can be no interest, either pecuniary or party to influence the judgment or debauch the members.

And why should the Legislature be any more corrupt than the Governor? It is true that under the present Constitution we have been very fortunate in our Executives. They have been men of uprightness and character, and if we could always have as good and upright a Governor as the present Executive, I for one, would be entirely satisfied; but what assurance have we, that we shall always be blessed with such?

A bad or corrupt man in the Executive chair would very seriously influence legislation. He could with the veto power as proposed, and with a minority in the Legislature, just sufficiently large to prevent the passage by a two-third vote over his head, prevent legislation, and thus the will of the majority might be stifled.

Again, it will disturb the harmony and true balance of our system of government, which is divided into the three several branches, the Legislative, the Executive and Judicial, and intended to be separate and distinct. It will clothe the Executive with legislative powers, and destroy the distinctive functions these three departments were intended to perform, each independently of the other.

Sirs, the descendants of the founders of our free and liberal form of

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

453

OCTOBER 15, 1873

government were opposed to this measure. It is at war with their habits, thoughts, and feelings; and, I trust, in conclusion, I may be allowed to say that I am not only opposed to this measure, but also to most of the legion of other amendments that have been presented to this body. This is not a convention to frame a new Constitution, but a commission to suggest such amendments to the present one as time and experience have rendered necessary. Without meaning any disrespect to the gentlemen who have offered these amendments, I beg leave to say that I expect to vote for very few of them, under existing circumstances. I am not much in favor of novelties or experiments.

A historical reference will serve to illustrate: I remember to have read, when a schoolboy, of a people in ancient Greece—I think they were called the Locrians. The facts, as near as I can remember them now, were these: They were a pure democracy. They passed their laws in popular assembly, and they had a law that when a citizen came into the assemblies of the people to propose a new law, he should come with a halter about his neck, so that if his measure was rejected he might be taken and instantly hanged! It is to be supposed that under these circumstances very few new laws were proposed. Now, although I would not advocate such a law as this and go to such extremes, still the story may serve to point a moral, if not adorn a tale.

[Ed. note: This marks the end of Mr. Ten Eyck's speech.]

Mr. Cutler followed in some remarks. Times have changed. The world moves and the present circumstances are different. If the "two-thirds" principle was only lost in 1844 by the casting vote of the presiding officer, were not the necessities of the present day more likely to favor the principle. No one would wish to change this principle in the Constitution of the United States, where the same principle is acknowledged. He gave a history of other states, showing that the two-thirds principle prevailed. He thought the great weight of authority was in favor of this principle, and that we might safely trust to the experience and practice of others.

[Daily True American]

Mr. Carter said that the responsibility of the Governor of the State is greater to the people than that of other officials, and in the hands of such men who occupy that position, the two-third vote was a good precedent. He hoped that the amendment, as suggested, would be adopted.

[Daily State Gazette]

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

OCTOBER 15, 1873

{Mr. Carter advocated the principle on the general ground that two-thirds of the states had adopted the two-thirds principle.}

Mr. Buckley was opposed to the two-thirds principle. It has been thought unwise to require the Executive, who is required to execute the law, to place his signature thereto. If he thinks there has been anything hasty and unwise, he may return the law with his objections. He then proceeded at some length to discuss the principle now recognized by the Constitution, and asked the question why should the opinion of the Executive, who is but an individual, weigh against the two bodies who have already passed it? That he should give his objections would seem to be reasonable; but it was unreasonable, after he has urged his objections with all the force he can, to require more than a majority to pass a bill, notwithstanding the objections of the Governor. Has anything occurred in the State of New Jersey, since 1844, to require such a change? He could not conceive of anything. He illustrated how a corrupt governor and a minority might embarrass legislation and do great injustice to the people of the State. For these and other considerations he had concluded not to support the amendment reported by the committee.

Mr. Hubbell said the exercise of the veto power was already objectionable. He contended that nothing had occurred to require this change. He thought such an amendment would not be sanctioned by the people of the State. He gave several other reasons why the power should not be increased. It was no argument that other states had adopted the two-thirds principle. Their circumstances might be very different from those of New Jersey.

[Daily True American]

Mr. Swayze did not think that legislation on general laws would obviate the necessity for increasing the veto power. He read a paper on the matter written by Alexander Hamilton, in favor of the veto power, nearly 100 years ago. **[Ed. note: See Federalist No. 73, "The Provision for the Support of the Executive and the Veto Power."]** He, Mr. Swayze, said the Governor's veto would be a powerful barrier against the passing of bad laws.

Mr. Green said the discussion was an important one, but as some were away he would move that the Committee rise and report progress.

The motion was lost, [5 to 7].

Mr. Ferry said there had been no action on the part of the Executive the last 30 years that called for a change in the fundamental law of the State in this matter. The return of a bill by the Governor had always been respected. The Constitution

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

455

OCTOBER 15, 1873

of the State has not been found defective in this point, and there has not been a demand, on the part of the people, for a change.

Mr. Cutler said that he could safely say of every bill which had been vetoed by the Executive, had the reasons been acted on by the Legislature it would have been productive of great good to the people of the State. Had the views of Governor Randolph been adopted by the Legislature of New Jersey, many of the vexed questions that now perplex the people of Somerset would have been avoided. Had the reasons given for returning the bill as to Jersey City been respected [i.e. Randolph's veto of the Jersey City reorganization law; see Introduction to this Volume, pages 107-110], how much trouble would have been saved to the people there. The same machinery that was used to pass the objectionable bills was used to overcome the Governor's veto. The bitter experience they had had in the past had made him a convert to the doctrine, that where an Executive gives his reasons in detail it should require a two-third vote to overcome it.

Mr. Hubbell took it for granted that this Commission intended, by suggestions, entirely to obviate such a possibility as the wrong that was done to Jersey City, and with that guarded power he saw no reason for change.

Mr. Ten Eyck said the fact of the United States government having the veto power did not strike him as a fit comparison.

Mr. Gregory thought the veto power ought to be encouraged, because of the character of the men who came to make the laws and their poor pay and the combinations to secure legislation.

[Daily State Gazette]

{Mr. Gregory spoke in favor of the two-thirds principle. He gave a number of instances where combinations often carry through unwise legislation. He saw no objection to increasing the power of the Governor.}

[Daily True American]

Mr. Buckley explained, and said that if the Legislature passed a law over the Governor's veto they became responsible, and the cure for it was with the people when the men came before them for re-election.

Mr. Green said it was a question that had engrossed the attention of men of great minds. The paper of Alexander Hamilton, read by Mr. Swayze, established the necessity for a negative in the Executive. The people were not ignorant of the power. It came to them from the old Colonies. In New Jersey they had not an Executive officer, up to the Constitution of 1844, for he was part of the

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 15, 1873

Legislature. On the question whether there should be a negative, it had been accepted by nearly all the States. The right of negative was admitted. Now the question is, shall it be made effective. In condemning it, they should be guided by the experience of the past. One powerful argument used is that the Governor represents the whole of the people of the State and is not supposed to be governed by sectional feelings, and has to take care of those parts of the State that are not able to do so themselves. It was painful to revert to some of the past legislation. When a bill had been passed by intemperate legislation, was there ever a case in which the veto has been sustained?

[Daily State Gazette]

{Mr. Green said he could see nothing that was new. He was in favor of the two-third principle, and gave his reasons by showing the divisions of government. The Governor represents the whole people, and is not supposed to be affected by sections, and is able, therefore, to look at the question in an unbiased manner. He alluded to the fact that in intemperate legislation there had been no veto sustained. The history of the past was not pleasant to refer to. It had not been of such character as to sustain the idea that the power of the Governor in this respect might be increased with entire safety.}

[Daily True American]

Mr. Ferry wished to hear others on the question, and moved the Committee rise and report progress.

Mr. Carter was in favor of taking a vote that day, in order to facilitate business.

Mr. Swayze said that Mr. Grey desired to be heard on the subject.

Mr. Dickinson spoke against postponement.

The motion [to postpone] was lost.

The question [to strike out "majority," and insert "two-thirds"] was then put [to a vote] and resulted in a tie vote, six to six.

The Chairman said the amendment was not agreed to.

For two-thirds vote to pass a bill over the Governor's veto, Carter, Cutler, Dickinson, Green, Gregory, Swayze. Nays—Babcock, Buckley, Hubbell, Ten Eyck, Thompson, Ferry.

[Daily State Gazette]

The Committee then rose, and reported to the whole Commission.

Mr. Green made a report against female suffrage, and in reference to [the] poll

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

457

OCTOBER 15, 1873

tax, and other matters which will be printed.

Mr. Cutler opposed the additional amendments respecting the protection of private property when taken for public uses or by corporations on providing additional security.

Also for the protection of property of females from being taken for the debts of their husbands.

No property protected by law is to be exempted from tax. All personal property to be taxed as the money value, and Legislature may provide laws for the taxing of money. Referred.

The Commission then adjourned.

Newspaper Sources for October 15, 1873:

“The Constitutional Convention (sic),” *Daily State Gazette*, October 16, 1873.

“Constitutional Commission,” *American Standard*, October 16, 1873.

“Constitutional Commission,” *Daily True American*, October 16, 1873.

“The Constitutional Commission,” *Newark Daily Advertiser*, October 16, 1873.

“Remarks of Mr. Ten Eyck on the Governor’s Veto,” *Daily State Gazette*, October 17, 1873.

[Untitled entry under “Local Items”], *Daily State Gazette*, October 18, 1873.

OCTOBER 16, 1873

[Daily State Gazette]

THE CONSTITUTIONAL CONVENTION (*sic*).—*Sixth Day—Oct. 16, 1873.*

Present, Messrs. Babcock, Carter, Dickinson, Ferry, Green, Gregory, Swayze, Ten Eyck (President), Thompson.

The minutes were read and approved.

Mr. Carter, from the Executive and Judicial Department, reported:

The Committee on the Executive, &c., would report the following amendments, which were referred to them, and recommend that they be incorporated in the Constitution. That Amendment 28 be adopted by inserting the words “or the Senate alone,” in Article V, p.6, line 24, after word “Legislature,” which means in effect that the Governor shall have the power of convening the Senate alone in session. Amendments 8, 16, 17 and 18 are not adopted.

D. S. GREGORY,

B.F. CARTER.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 16, 1873

Amendment No. 8 refers to revision of laws, already published and introduced by Mr. Dickinson, and which gave authority to the Attorney General to institute proceedings before the Supreme Court against any act of the Legislature which may have been alleged as having been approved and passed by fraud, bribery, or other corrupt means.

No. 16 relates to the pardoning power, and provides that pardons may be granted after conviction "where the innocence of the person accused clearly appears," as offered by Mr. Grey.

No. 17 is the amendment introduced by Mr. Dickinson, providing that the Judges of the Supreme Court shall hold office for twenty-one years, &c.

No. 18 is the amendment offered by Mr. Dickinson, setting forth that the State Treasurer and Prison Keeper shall not be Inspectors of the State Prison.

The rule offered by Mr. Green, repealing the rule compelling all matters first to go to the Committee of the Whole, was read and adopted.

The amendments in reference to corporations, introduced the other day by Mr. Swayze and laid on the table, was then taken up.

Mr. Swayze had moved a reference to a special committee [of five].

Amended so as to refer to the Committee on Special Legislation.

[Daily True American]

{Mr. Carter amended by moving it be referred to the Committee on Legislative Department.

Carried.}

[Daily State Gazette]

The Commission resolved itself into Committee of the Whole.

Mr. Green moved that all matters now in [the] hands of the Committee of the Whole be reported to the Commission. Mr. Ferry in the chair.

The Committee then rose and reported accordingly.

The Commission then took up the amendment, giving the power to the Governor to veto separate items in the appropriation bill without defeating the whole, &c.

Mr. Green offered a substitute:

Substitute, "If any bill presented to the Governor contain several items of appropriation of money, he may object to one or more of such items, while approving of the other portion of the bill. In such cases, he shall append to the bill, at the time of signing it, a statement of the items to which he objects; and the

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

459

OCTOBER 16, 1873

appropriation so objected to shall not take effect. If the Legislature be in session, he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If, on reconsideration, one or more of such items be approved by a majority of the members elected to each house, the same shall be part of the law, notwithstanding the objections of the Governor. All the provisions of this section, in relation to bills not approved by the Governor, shall apply to cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.”

Adopted.

The amendment (paragraph 8) was adopted as follows:

“No member of Congress or person holding an office under the United States or this State shall exercise the office of Governor; and in case the Governor, or person administering the government, shall accept any office under the United States or this State, his office of Governor shall thereupon be vacated; nor shall he be elected by the Legislature to any office under the government of this State or the United States during the term for which he shall be elected Governor.”

Article VII, Section I – “Militia Officers” – was taken up and adopted as follows:

5. Major-Generals, the Adjutant General and Quartermaster-General shall be nominated by the Governor, and appointed [by] him with the advice and consent of the Senate.

9. The Governor shall appoint all militia officers whose appointment is not otherwise provided for in this Constitution.

[Daily True American]

The next was that Judges of the Court of Common Pleas shall be appointed by the Governor and approved by the Senate.

[Daily State Gazette]

The amendments to Section II, “Civil Officers,” was postponed for the present, except paragraph 7, which [on motion of Mr. Ferry] was adopted as follows:

“Sheriffs and Coroners shall be elected by the people of their respective counties, at the election for members of the General Assembly, and they shall hold their offices for three years, after which, three years must elapse before they can be again capable of serving.”

Mr. Green added a clause requiring the sheriffs to renew their bonds annually.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 16, 1873

Some debate followed, and the amendment was adopted, and the further consideration of Section II was postponed for the present.

[Daily True American]

{[Mr.] Green's amendment, after discussion, was laid over for the present.}

[Daily State Gazette]

Mr. Carter offered a resolution requiring that the members of the Commission shall not hereafter absent themselves without leave.

Laid over until the next meeting.

[Daily True American]

Mr. Green moved to take up the question of pay to the members of the Legislature.

Mr. Carter remarked that he understood the question was to be laid over until the Commission had decided on whether they should recommend general legislation. Laid over.

[Daily State Gazette]

The report of the Committee on "Legislative Department – Its Organization and Constitution," was then taken up.

On motion of Mr. Green, the amendments made in Committee of the Whole, to the report of the Committee, were agreed upon as follows:

1. As to the time of the meeting of the Legislature – first Tuesday after the first Monday in November.

2. Requiring bills to be read three times on three several days, &c.; also, requiring bills to be printed and laid on the members' tables at least one day before the final passage thereof.

3. Requiring amendments or new sections proposed to be added by supplements, to be expressed or inserted in the bills before acted upon, and not merely referred to by titles.

The clause requiring all amendments to charters to be published four [weeks] before the meeting of the Legislature, was referred back to the Committee.

4. Authorizing any member-elect to swear or affirm the other members.

5. To strike out the clause disqualifying members who refuse to take the oath, was also adopted.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

461

OCTOBER 16, 1873

[Daily True American]

Mr. Green again called attention to the form of oath for members of the Legislature, as the oath now stands whether they could be subject to pains and penalties.

[Daily State Gazette]

{Mr. Green said that if the oath should be violated there was no penalty provided.

In this opinion the Chair concurred – a penalty must be expressed.}

[Daily True American]

Mr. Gregory thought it punishment enough to deprive a man of his seat, as, for instance, he might not discriminate what were corrupt means to get people to vote for him.

[Daily State Gazette]

Mr. Swayze thought it was punishment enough to be deprived of his seat.

Mr. Thompson said the difficulty was that there was no penalty provided where a man takes the oath and violates it. Mr. Green offered an additional amendment to meet this case:

“And any person convicted of having falsely taken said oath, or having broken the same, shall be subject to the pains and penalties of willful perjury.”

Which was adopted.

The vote referring back the clause in regard to the publication of all applications for municipal corporations, at least four weeks before the meeting of Legislature, was reconsidered, and the matter was taken up.

Mr. Green offered an amendment requiring the publication to be inserted in one or more newspapers having the largest circulation in the municipal corporations affected by such charter or amendment, and if none is published therein, then in a newspaper published nearest thereto.

Which was adopted.

The amendments to Article I, “Right of Suffrage,” agreed upon in Committee of the Whole, were agreed to (as heretofore published).

The further consideration was laid over in consequence of members being absent who had proposed other amendments, and to await the action of the committee on amendments yet in their hands.

Mr. Gregory moved that when this Commission adjourn it be to meet on

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 16, 1873

Tuesday morning at half-past ten o'clock.

Adopted.

Mr. Ferry offered a resolution to make the hour of meeting hereafter at half-past ten o'clock.

Laid over under the rule.

After a discussion, Mr. Green offered a resolution directing the rules now in force to be printed for the use of the body.

Adopted.

Mr. Green offered the following suggestion:

"Conviction for crime shall vacate any public office held by the person convicted, and the record of conviction shall authorize the filling of said vacancy."

Referred to Committee on Bill of Rights.

The Convention (*sic*) then adjourned.

Newspaper Sources for October 16, 1873:

"The Constitutional Convention (*sic*)," *Daily State Gazette*, October 17, 1873.

"Constitutional Commission," *Daily True American*, October 17, 1873.

OCTOBER 21, 1873

[Daily State Gazette]

THE CONSTITUTIONAL COMMISSION.—*Oct. 21—Seventh Day.*

The Commission met at 10 ½ o'clock A.M.

Present – Messrs. Brinkerhoff, Buckley, Carter, Cutler, Dickinson, Ferry, Grey, Gregory, Green, Hubbell, Ten Eyck (President).

The session was opened by the President repeating the Lord's Prayer.

The minutes were read and approved.

The resolution to fix the hour of meeting hereafter at 10:30 A.M. was taken up, and postponed until a larger number of members was present.

Mr. Carter moved that the question of the veto power be made the special order for Thursday next, at 12 o'clock.

Adopted.

The report of the Committee of Legislative Department recommended that the following be inserted in the Constitution:

"No trust funds shall be invested in the bonds or stock of any private corporation, unless such investment be authorized or directed in the instrument, or

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

463

OCTOBER 21, 1873

by the person creating the trust.”

Mr. Grey explained the object of the committee in reporting this amendment, and it was adopted.

The following Article as amended in committee was taken up, considered and adopted:

ARTICLE V – Executive.

6. He (the Governor) shall be the commander-in-chief of all the military and naval forces of the State; he shall have power to convene the Legislature, or the Senate alone, whenever in his opinion public necessity requires it; he shall communicate by message to the Legislature at the opening of each session, and at such other times as he may deem necessary, the condition of the State, and recommend such measures as he may deem expedient; he shall take care that the laws be faithfully executed, and grant, under the great seal of the State, commissions to all such officers as shall be required to be commissioned.

The following amendments were proposed by the Committee on Bill of Rights, Right of Suffrage, &c.:

ARTICLE I – Rights and Privileges.

19. No county shall be divided, or have any part set off therefrom, without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county voting on the question shall vote for the same.

20. No county, city, township or village shall hereafter give any money or property, or loan its money or credit to or in aid of any individual, association, or corporation, or become security for or directly or indirectly the owner of any stock or bonds of any association or corporation; nor shall any city, township or village incur or be authorized by the Legislature to incur any indebtedness, or to impose any tax except for State, county, city, township or village purposes.

21. No county shall be indebted more than 2 per cent., or town, borough or township more than 4 per cent., by bonded debt above its taxable values for the time being; no city more than 8 per cent., excepting for its water supply.

22. Not less than two mills on the dollar of taxable values each year shall be raised in each county by tax, annually to be expended on public schools therein, and not elsewhere.

23. No donation of land, or appropriation of or payment of money shall be made by the State, or by any municipal corporation, to any religious society or corporation.

24. The school fund shall be appropriated exclusively for the maintenance and support of the public schools in the State, under its exclusive control.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 21, 1873

25. A State poll tax, not to exceed in amount the sum of two dollars, shall be levied on every male citizen of the age of twenty-one years and upwards. And the non-payment of the said poll tax for the period of one year after the same shall have become due, and demanded by the person authorized to collect the same, shall be deemed and taken to be a refusal on the part of said citizen to pay the said tax; and such refusal on the part of any male citizen of the aforesaid age shall deprive him of the right of suffrage until the said poll tax is paid.

Mr. Gregory suggested some difficulties.

Mr. Green moved that paragraph 19 be postponed for the present, Mr. Swayze who introduced it being absent. Agreed to.

The 20th paragraph was adopted as printed above after sundry amendments by Mr. Grey, Mr. Cutler, Mr. Green, and others.

The 21st paragraph was debated at some length on the limit of the amount of taxation. Mr. Hubbell proposed 6 per cent., which was adopted.

Mr. Ferry moved to increase the limitation of the bonded debt [for counties] in the 21st paragraph to four per cent. instead of two. Mr. Gregory suggested that it be left at two per cent. on counties and four per cent. on townships. This was accepted by Mr. Ferry. Mr. Hubbell thought it would be better to leave it as it is. The amendment of Mr. Ferry was adopted.

Mr. Cutler offered a substitute which limited boroughs and cities to two per cent., except cities of 10,000 inhabitants, and they to eight per cent., except for their water supply, which was lost.

A motion was made to recommit the paragraph, which was lost.

Mr. Ferry moved to indefinitely postpone, which was also lost.

The paragraph as amended was postponed for the present.

The paragraph No. 22 was taken up. Mr. Cutler moved to strike out the words "therein and not elsewhere," requiring moneys raised by counties for schools to be expended in those counties.

Mr. Green opposed the motion to strike out, and showed by the Comptroller's report that several counties were compelled to contribute to the support of schools in other counties. He thought the money raised by the two mill tax ought to be expended in the county where it was raised.

Mr. Hubbell advocated the report of the committee, and opposed the amendment. The idea of compelling one county to support schools in other portions of the State was not considered just or right.

Mr. Grey thought it was the duty of the State to see that the youth of the State are trained up in good citizenship; then it would appear right that the State should

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

465

OCTOBER 21, 1873

insist upon those portions of the State most able to aid the weaker portions. The principle is that men are protected by the State in the measure of their wealth, and the wealthy are just as much interested in the proper education of the people in Cape May as they are in the counties in which they reside.

Mr. Green dissented from this principle. This money is raised for the education of children. Now, instead of paying this money in to the State Treasury, where it is distributed on another principle, he showed that seven counties had by this principle paid \$106,000 towards other counties.

Mr. Cutler took the opposite view. One county could not say to another, "We have no need of thee; we were one grand State, and the children of the State are the property of all." The wealthy portions should consider what they have gained by legislation. Some counties have more property than others. He referred to the reports of the Comptroller for 1871 and 1872, characterizing them as able, and their arguments on this question as unanswerable, in favor of the present system. The difficulty was more in consequence of an imperfect system of taxation than any inequality. He was a convert to the doctrine that the children of the State ought to be educated by the State.

Mr. Gregory thought the principle was clearly wrong, and producing unjust taxation, and presented a number of arguments to support his proposition. They were subjected to errors in the enumeration of children, and from a variety of other causes. People were willing to have the children educated, but we should compel the counties to do their duty, and the object of educating the children of the State would be answered.

Mr. Grey said it was only because the tax was for State purposes that it is justified. It was the misfortune of cities that they did not have as many children as other portions in proportion to their wealth. It is because it is a state duty to educate the children that this tax is justified. It was part of the government, and the principle was justified on the ground of rearing good citizens. It cannot be sustained on any other principle.

Mr. Gregory still advocated his views against the principle. The valuations are not equal. If they were there would not be so much to complain of.

Mr. Hubbell said it was not the duty of the State to educate the children without some effort on the part of the people. The Eastern States entertain no such idea. The principle of instruction is based upon the exertions of the people, and in that proportion they should be helped by the State. There is no sound reason why the State should educate the children, except in the proportion to the exertions of the people of the several counties to that end.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 21, 1873

Mr. Ferry gave instances of the injustice of the principle as it operated on the town of Orange. The proposition he regarded as unjust and unequal, and he hoped it would not pass.

Mr. Grey further advocated his proposition, and referred to the present Constitution of the State, to show that for more than thirty years it has been considered the duty of the State to educate the children of the State.

The question was then taken, and the motion to strike out was lost, 5 to 6.

The paragraph (22) was then adopted as reported by the Committee.

Paragraph 23 was then considered, amended, and adopted as printed above.

Paragraph 24 was taken up and stricken out.

Paragraph 25 was then taken up.

Mr. Buckley advocated this proposition, insisting that a man who enjoys the rights of a citizen should be required to pay a poll tax.

Mr. Green opposed the amendment on the ground that it was going back to a practice that has been tried and abandoned, and opposed to the enlightened spirit of the age. He would make the suffrage as free as possible.

Mr. Buckley thought the law amounted to nothing without a penalty, and this was the mildest penalty that could be imposed. It was better than imprisonment, which is the penalty now.

Mr. Ferry opposed the amendment. The paying of the poll tax would fall in a great measure upon others. He did not think it would meet the object aimed at.

The amendment was lost, 4 to 7.

Paragraph 21, which was postponed for the time being, was then taken up.

Mr. Buckley offered a substitute, which was withdrawn.

The paragraph was lost.

Mr. Green moved to reconsider the vote by which paragraph 22 was adopted. Agreed to.

Mr. Green then moved to amend so as to leave the amount to be raised for schools to the people and the Legislature, and to be expended where it was raised and not elsewhere.

The amendment was lost, 4 to 7.

Mr. Grey moved to postpone the further consideration of this matter to Tuesday next, at 11 o'clock.

Lost

Mr. Dickinson moved to strike out the whole paragraph. He thought we were descending into the business of legislation.

Mr. Green then moved to adopt paragraph 22.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

467

OCTOBER 21, 1873

Mr. Grey raised the question whether under this clause the people of a particular locality may not spend the money for any kind of school purposes. Do we not enable religious societies to use this money in any manner they please? The schools may be public, but still under a particular locality or society.

The Chair decided Mr. Dickinson's motion out of order. The proper question was to adopt.

The question was then taken on Mr. Green's motion to adopt, and it was adopted – 6 to 5.

The resolution to change the hour of meeting to 10:30 was taken up and adopted.

The resolution of Mr. Carter, that members shall not absent themselves from the Commission without its consent, was then taken up and adopted.

Mr. Gregory moved that when this Commission adjourn, it be to Thursday morning.

Lost, 1 to 6.

Adjourned.

Newspaper Source for October 21, 1873:

"The Constitutional Commission," *Daily State Gazette*, October 22, 1873.

OCTOBER 22, 1873

[Daily State Gazette]

THE CONSTITUTIONAL COMMISSION.—*Oct. 22d—Eighth day.*

Present, Messrs. Brinkerhoff, Buckley, Carter, Cutler, Dickinson, Ferry, Hubbell, Thompson and Swayze – 9.

There being a quorum, and the President being absent, Mr. Buckley was chosen as President *pro tem*.

The minutes were read and approved.

Mr. Hubbell, from the Committee on Bill of Rights, reported the following: They recommend no action in relation to women's suffrage.

On the question of taking of private property for public use, the Committee thinks the Constitution in its present form sufficiently protects the rights of property.

On the question of general taxation, the Committee are of [the] opinion that the recommendations should not be adopted, as they would conflict with the laws

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 22, 1873

now in existence.

On the question of libel, the Committee are of opinion that the Constitution in its present form is sufficient to protect the individual in the full enjoyment of his rights.

The report was adopted.

The Legislative Committee reported favorably to amendments proposed by Mr. Ferry in regard to future amendments to the Constitution, which were ordered to be printed.

Mr. Hubbell moved to take up the paragraphs 20 and 23, of Article I, "Rights and Privileges," (published yesterday) and referring to the school tax and the indebtedness of counties, townships, boroughs and cities.

A number of amendments were proposed, and the several paragraphs were further postponed.

The amendment proposed by the Committee, for Judges of the Court of Common Pleas to be nominated by the Governor with the advice and consent of the Senate, was adopted, 6 to 2.

The amendment, "The State Treasurer and Inspectors of the State Prison shall be appointed by the Senate and General Assembly in joint meeting," was taken up.

Mr. Cutler moved the adoption of the amendment.

Mr. Ferry opposed it.

Mr. Cutler moved to amend by striking out the "Inspectors of the State Prison."

Agreed to.

The paragraph was then adopted as amended.

On motion of Mr. Ferry, the proposition for surrogates of counties to be nominated by the Governor, &c., was stricken out.

Mr. Cutler moved to amend the 4th paragraph by inserting "Inspectors of the State Prison to be nominated by the Governor and appointed by him, with the advice and consent of the Senate."

Adopted.

Mr. Cutler moved to amend so as to enable the Inspectors of the State Prison to hold office for three years.

Mr. Dickinson and Mr. Buckley wanted the time extended to five years.

This amendment was withdrawn, leaving the inspectors to hold their offices for five years.

A further amendment was made leaving the election of surrogates as now provided for.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

469

OCTOBER 22, 1873

The amendment in regard to the term of the sheriffs of counties was taken up.
Mr. Buckley advocated the proposition to make the term of office for three years.

The Chair [i.e. Mr. Green] suggested that there might be danger of getting an improper man in office.

Mr. Hubbell advocated the amendment.

Mr. Dickinson preferred the present plan.

The amendment was adopted, and the section was adopted as amended.

The amendment in regard to the pay of members was taken up.

The proposition to double the present pay was withdrawn by the Chair [i.e. Mr. Green], and the question was taken on allowing \$500 per annum, and it was carried, 8 to 2.

Mr. Buckley inquired what was to be allowed for extra sessions?

It was agreed that nothing was provided for extra sessions. The pay was \$500 annually and no more.

The paragraph as amended was adopted.

Mr. Hubbell moved a reconsideration so as to make the section stronger in cutting off all other allowances, and moved to insert the words "perquisites in the incidental bill or otherwise."

Withdrawn.

Mr. Carter moved the following: "and this shall be in full of all incidental expenses or perquisites."

Mr. Swayze proposed to add "either in money, perquisite or thing."

Mr. Ferry proposed to change the phraseology in adding \$50 in full for postage, stationery, incidental and perquisites.

The question was taken on Mr. Swayze's amendment, and it was lost, 4 to 5.

The question was then taken on the amendment of Mr. Ferry, and it was lost, 3 to 6.

Mr. Ferry then offered an amendment, slightly altered from his former amendment, allowing \$50 for postage, &c.

Lost, 5 to 5.

Mr. Hubbell moved to amend the motion of Mr. Carter by adding \$25 in full for postage, stationery, newspapers, incidental, or perquisites, which was accepted by Mr. Carter and adopted.

On motion of Mr. Ferry, the word "newspapers" was stricken out.

The paragraph as amendment was adopted.

Mr. Ferry moved to take up the amendments proposed to Article IV, Section

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 22, 1873

VII:

The Legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say:

1. Laying out, opening, altering and working roads or highways.
2. Vacating roads, town plots, streets, alleys and public grounds.
3. Regulating the internal affairs of towns and counties; appointing local officers or commissioners to regulate municipal affairs.
4. Selecting, drawing, summoning or empanelling grand or petit jurors.
5. Regulating the interest on money.
6. Creating, increasing or decreasing the per centage or allowances of public officers during the term for which said officers are elected or appointed.
7. Changing the law of descent.
8. Granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever.
9. The Legislature shall pass general laws providing for the cases enumerated in this section, and for all other cases which, in its judgment, can be provided for by general laws.

Mr. Ferry offered as a substitute the interdictions in the Constitution of Illinois against special laws. [See Hough, Vol. II, p. __, for the list of prohibitions on special legislation regarding the Illinois Const.]

Mr. Hubbell said many of them were not applicable. He hoped such would be added to the above report as were applicable.

The substitute was lost.

Paragraph 1 was then taken up. Mr. Brinkerhoff proposed to amend by adding, "except where a road or highway divides two municipalities."

Lost.

The paragraph was adopted.

Paragraphs 2 and 3 were adopted.

Mr. Buckley thought these paragraphs were too rapidly considered. He would like to hear some reasons why they should be adopted.

The Chair [i.e. Mr. Green] addressed the Commission on the importance of having general laws on all these subjects.

The paragraph relating to the drawing and selecting of jurors [paragraph 4] was debated. Mr. Brinkerhoff gave a number of reasons why a commission to select jurors was advantageous in Hudson County, and this clause might interfere with it.

Mr. Buckley suggested that this section would not stand in the way of the

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

471

OCTOBER 22, 1873

Legislature passing a general law similar to that in Hudson County.

Mr. Swayze expressed similar views.

Mr. Hubbell said it had become a serious question as to whether the selection of jurors ought to be committed to the sheriffs of counties.

Mr. Brinkerhoff moved to strike out paragraph 4, which was lost.

Mr. Thompson said the same difficulties in the selection of juries existed in Somerset County and other agricultural counties.

The paragraph was then adopted.

Paragraph 5 was taken up.

Mr. Buckley said this was an important question, and proceeded to speak of the legislation heretofore had on the subject. One rate of interest prevailed in one section [of the State] and another rate in another.

Mr. Hubbell said it was doubtful whether this ought to be adopted. He thought the Legislature ought to have the power to regulate this matter. He proceeded to show that the question of interest was affected by the legislation of other states. It becomes sometimes a matter of self-defense, and this was sometimes found in different parts of the State, owing to their peculiar location.

Mr. Thompson spoke of the difficulties felt in Somerset County through the operations of the five-county act. The moneys of that county are generally lent to the eastern part of the State. They wanted very much a general and uniform rate of interest.

Mr. Ferry spoke in favor of a general uniform law.

The paragraph was adopted.

Paragraphs 6 and 7 were adopted without opposition.

In paragraph 8, the Chair [i.e. Mr. Green] suggested that an amendment should be inserted to save that clause in Article IV, Section VIII, of the Constitution. The paragraph was laid over.

Paragraph 9 was adopted.

Mr. Swayze submitted a new paragraph as follows:

“Providing for the management of Common Schools,” which was adopted.

Mr. Ferry offered the following:

“In all cases where a general law can be applicable, no special law shall be enacted.”

Lost.

Mr. Cutler offered the following:

“Granting to any corporation or association, or individual, the right to lay down railroad tracks.”

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 22, 1873

Mr. Swayze offered the following: "or amending existing charters for such purpose."

Adopted.

This vote was afterwards reconsidered.

Mr. Brinkerhoff said this amendment would prevent local city roads from being extended.

The amendment of Mr. Swayze was lost.

Mr. Swayze then offered the following as an amendment to Mr. Cutler's amendment, "or extending the privilege of existing corporations."

Mr. Buckley spoke of the objects of the Commission. Its main purpose was to suggest amendments which shall do away with special legislation, and to do that we must specify the matters upon which there should be general laws.

Mr. Swayze's amendment was lost, 5 to 5.

Mr. Cutler's amendment was then adopted.

Paragraph No. 8 was then taken up. Mr. Buckley moved an amendment, which reiterates the present provision in the Constitution in relation to banks.

Mr. Dickinson made some remarks in reference to banks, showing that they occupied a different footing from that of railroads or other corporations. He thought therefore that the Legislature ought to be left free on the subject of banks. A general banking law was found to be impracticable. Each individual application should be compelled to come before the Legislature, where the circulation can be secured by stringent enactments, as had been done by the Legislature of New Jersey since 1855.

Mr. Thompson offered the following:

"Except the chartering of banks or money corporations, which shall remain as at present."

Mr. Buckley said that the Legislature could as well have a general as a special law. He did not believe in putting the monopoly of banking into the hands of a few persons. Why should privileges be granted to a bank which are denied to a manufacturing establishment?

Mr. Dickinson simply wished to say that the State was bound to throw around the circulation of currency every protection which shall go to protect the people from loss.

Mr. Swayze addressed the Commission in favor of guarding against any special legislation whatever.

Mr. Hubbell was opposed to a general banking law. It was true that it was a failure, not only in New Jersey, but in other states. The question of manufacturing

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

473

OCTOBER 23, 1873

establishments and banking institutions were relatively discussed. The test of experience was a good criterion as to a general law as applied to banking institutions.

Mr. Swayze said a general banking law had been a success in New York.

Mr. Buckley said the general banking law had never had a fair trial in New Jersey, owing to the combined efforts of the special banks, which came to Trenton in 1855, and secured the extension of their charters for 20 years, with additional privileges. The whole system of special banks was unsafe and unwise, and some provision ought to be made to protect the public. Mr. Buckley discussed the general subject, showing that the present system was one of injustice.

Mr. Dickinson said the general law was passed in 1850.

Mr. Thompson withdrew his amendment.

The question was taken on Mr. Buckley's amendment, and it was lost.

The paragraph 8 was adopted.

The Commission then adjourned.

Newspaper Source for October 22, 1873:

"Constitutional Commission," *Daily State Gazette*, October 23, 1873.

OCTOBER 23, 1873

[Daily State Gazette]

THE CONSTITUTIONAL COMMISSION—Oct. 23—Ninth day.

Present, Messrs. Brinkerhoff, Buckley, Carter, Dickinson, Ferry, Grey, Gregory, Hubbell, Swayze, Ten Eyck (President), and Thompson.

The minutes were read and approved.

Mr. Carter, from the Committee on the Executive and Judiciary, reported in favor of the following amendment to Article VI, Section VII, and recommended its adoption:

1. There may be elected, under this Constitution, not more than two Justices of the Peace in each of the townships of the several counties of this State, and not more than one Justice of the Peace in each of the wards in cities that may vote in wards.
2. The Legislature shall prescribe by law the qualifications of Justices of the Peace, and provide for the examination of persons elected to said office, to determine their qualifications before their commissions shall be issued. The

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 23, 1873

Legislature shall also provide for the summary suspension of Justices of the Peace for misconduct in office; such suspension to continue until the end of the next succeeding session of the Legislature.

They reported against the proposed amendment prohibiting the creation of debts except for deficiencies, &c.

The report was adopted and laid on the table.

On motion of Mr. Gregory, that part of the Governor's Message referring to amendments to the Constitution was ordered to be printed.

Mr. Ferry, from the Committee on Amendments, &c, reported the following:

"And no act of the Legislature shall take effect until the first day of July next after passage, unless in case of emergency (which emergency shall be expressed in the preamble or body of the act) the Legislature shall, by a vote of two-thirds of all the members elected to each house, otherwise direct."

The report was ordered to be printed.

Mr. Ferry moved to add to the several clauses containing the subjects on which the Legislature shall not pass special acts, the following:

"The Legislature shall not pass special laws for the change of the venue in civil or criminal cases."

Adopted.

The subjects of taxation and the amount to be raised for schools, and the debts of counties, townships, cities, &c, were postponed until printed, in order that the various amendments could be understood.

Mr. Ferry moved to take up the amendments relating to the future calling of a Constitution Convention, which in effect set forth the following: "whenever two-thirds of the members of both Houses of the Legislature concur that a convention is necessary to revise the Constitution, the question shall be submitted to the electors at the next general election. If the electors decide that a convention is necessary, then the General Assembly shall provide for such body to consist of twice the number of the members in the Senate to be elected in the same manner, and in the same districts. The General Assembly shall fix the pay of the members and designate the day and place of meeting. The convention shall meet within three months after election and prepare such amendments as are deemed necessary, which shall be submitted to the electors for their ratification or rejection at an election appoint[ed] by the convention for that purpose, not less than three, nor more than six months after the adjournment thereof. Amendments may be adopted by the Legislature by a two-third vote of each house, which shall afterwards be submitted to the electors of the State. No article in the Constitution

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

475

OCTOBER 23, 1873

shall be amended more than once in every four years.”

Postponed for the present.

On motion of Mr. Buckley, the amendment reported this morning in regard to the election of Justices of the Peace was taken up.

A debate sprung up in regard to the term “qualification,” and as to how it should be ascertained.

Mr. Buckley moved to substitute the original proposition, which provides that a certificate of such qualification shall be furnished to the Governor before a commission is granted; it also provides for the election of two justices for each township, and in the wards one justice for every four thousand inhabitants.

This was afterwards amended so as to read “not more than two for each township,” and Mr. Hubbell moved not more than one for each ward in cities.

Mr. Grey thought we ought to so amend as to strip Justices of the Peace of all civil functions. He therefore proposed as an amendment, “that they shall be committing magistrates only.”

Mr. Buckley asked whether the gentleman intended that no civil cases shall be tried by them.

Mr. Grey said that was his idea of the matter.

Mr. Buckley gave his reasons for the amendment. The manner in which Justices of the Peace conducted their affairs in Passaic County had been the subject of frequent complaint; doing a questionable business.

Mr. Thompson said he would be sorry to strip Justices of the Peace of all civil jurisdiction. The idea of driving every small suit to the higher courts would be a great evil, and subject the people to a heavy amount of costs.

Mr. Swayze was opposed to the amendment of the gentleman from Camden [i.e. Mr. Grey].

Mr. Grey’s amendment received but one vote and was lost.

The clause in regard to the summary suspension of justices was next considered, and while under consideration the hour arrived for the consideration of the veto power.

The question was to striking out “two-thirds” as the vote necessary to overcome a veto, and to insert “a majority,” thus leaving the matter as it now stands.

Mr. Carter addressed the Commission at some length.

[Camden Democrat, Woodbury Constitution]

MR. PRESIDENT: My object in asking that the consideration of the

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 23, 1873

suggestion to change the veto power from a majority, as we now have it in our Constitution, to two-thirds, should be made a special order for today, was to secure a full attendance of the members of the Commission on taking our final action upon it. One important reason for appointing this Commission was to adopt measures to prevent unwise, improper legislation in the State. We propose to do this, in part, by doing away, to a great extent, with special legislation, and by regulating the manner of introducing and considering bills. There is yet another way recognized by nearly all the states. That is, by giving the Governor an effective veto power. As the State has increased in population and wealth, legislation has greatly increased. From the small pamphlet of enactments, not thicker than your hand, which was made at the time of the present Constitution in 1844, they have increased to so large a volume annually that the people, who are expected to know and obey the laws, cannot read it. The Legislature has not the time now for the deliberation it had at that time. Soon after it assembles, bills are crowded in, confidence is placed in those who seek the legislation, and without an opportunity for due consideration the measure becomes a law. If corrupt means have been resorted to to secure the passage of the bill, the present veto power of the governor amounts to nothing, as the same vote that passed the bill will do it again. But I do not think that the difficulty in legislation, at the present time, consists so much in corrupt motives as from a want of due reflection and proper consideration, although we must reluctantly admit that this is a growing evil. If not, why adopt such an oath, or affirmation, as we have been considering, to be taken by persons elected to the Legislature, which is suggestive of so much corruption that a sensitive, honorable man must blush to take it, while a corrupt one might do so with entire indifference. This power of the veto has been, in my humble judgement, miscalled "the one man power." I look upon it as just the opposite. It was originated, as you are aware, sir, in ancient Rome, by the people and for their benefit. They had an officer whom they called the Tribune, chosen by the people, clothed by them with this veto power "to protect them from the oppression of the nobles, and to defend their liberties against any attempt that might be made upon them by the Senate or Consuls." Under our government the only direct representative of all the people of the State is the Governor. The members of [the] Assembly represent their respective districts, and the Senate as a body, the counties and State. When deliberating upon the different acts passed by the Legislature, and submitted to him, the Governor is not governed by districts, or counties, or any sectional lines, but the important question with him is—what is best for all the people of the State? The faithful Executive, such as we

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

477

OCTOBER 23, 1873

generally have had, and now have, is jealous of the liberties of all the people, and ever watches to see that they are not oppressed. He has more time to consider, to examine, than the legislative department, and feels his greater responsibility. If he disapproves, he vetoes, sends back with his objections to the House in which the measure originated; and with an increased veto-power, two-thirds instead of a mere majority, as at present, it would take so many additional votes to pass the bill; if they could not be had, the measure for the time would be defeated. The people could then consider the objections; if they did not approve, they could elect at the ensuing election such representatives as would again introduce and sustain the measure. And if a majority was elected upon such an issue being made, the Executive would doubtless submit to the expressed will of the people. I have been informed, by good authority, that in nearly every instance where bills have been passed over the veto of the Governor and those acts have been tried in the courts, the Governor has been sustained in his objections.

Mr. President, I am quite sure that the people of our State are ready to increase the veto power as an additional safeguard against hasty and improper legislation. Permit me to submit a condensed statement taken from Hough's *American Constitutions*, of the veto power, with its limitations, in the different states. All, except five, Delaware, North Carolina, Ohio, Rhode Island and West Virginia, have it to some extent. In one state, Connecticut, the vote required to overcome the veto is the same as on the first passage. In nine states, it requires a majority, as follows: In California, majority of members present; in Vermont, of each House; in Alabama and New Jersey, of whole number; in Arkansas, Indiana, Kentucky, Missouri and Tennessee, of all elected; in one state, Maryland, it requires three-fifths of all elected. In twenty-one states it requires two-thirds, as follows: In Florida, Delaware (*sic*), Nevada, New York, Oregon, Texas, Virginia and Wisconsin, of those present; in South Carolina, Georgia, Iowa, Maine, Massachusetts, Minnesota, Mississippi, New Hampshire and Pennsylvania, of the House; in Illinois, Kansas and Michigan, of those elected. So we have the precedent and experience of the United States government, in which is required a two-third vote to overcome the veto of the President, and of nearly two-thirds of all the states, including many of the older ones.

[Ed. note: According to Hough's *American Constitutions*, 22 states required two-thirds vote to override a governor's veto. Carter omitted Louisiana (of those present) and Nevada (of those elected). Delaware did not have the veto power. See Hough, Vol. II, pages 657-658. See also the Introduction to this volume at page 70.]

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

OCTOBER 23, 1873

[Daily State Gazette]

The Chair stated the question.

The proposition to strike out the word "two-thirds and insert a majority, as made in Committee of the Whole.

Mr. Gregory moved to postpone for the present.

Lost, 4 to 6.

The question was, shall we not sustain the action of the Committee of the Whole, which refused to substitute "two-thirds" for a "majority."

Mr. Swayze moved to postpone to Wednesday next at 12 o'clock.

Lost, 4 to 7.

The Commission voted to sustain the actions of the Committee of the Whole, 6 to 5.

The Chair [i.e. Mr. Ten Eyck] decided that this was a final vote, and that a member may record his vote on this question, providing such record does not change the result.

Mr. Gregory called up the following amendments proposed by him:

"No real estate shall be exempted by law from its full share of all State, county, township and city taxes and assessments, except that owned, occupied or used by the State, counties, townships or cities."

"No act shall be passed exempting any real estate from its full share of the State, county, township and city taxes, by the payment of any sum to the State, county, township or city."

Mr. Carter and Mr. Hubbell thought these propositions were too sweeping. They would make all churches and burying grounds liable to taxation. There should be some limit. Mr. Hubbell thought the matter should be referred to a committee, in order to ascertain how far it would be proper to interfere.

A proposition by Mr. Gregory, to refer this matter to the Committee on Bill of Rights, &c, was withdrawn.

Mr. Swayze addressed the Commission in favor of the propositions of Mr. Gregory. There was no reason why Princeton College, owning between one and two millions of property, should be exempted from taxes. It was supported and owned by rich men, who are abundantly able to pay taxes. So with academies and other institutions. He spoke of the instances of unequal taxation among individuals, and thought there was some legislation necessary.

Mr. Dickinson spoke of the liability of impairing the obligation of contracts by taxing property which had already been exempted.

He moved that further consideration be postponed. Agreed to.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

479

OCTOBER 23, 1873

Mr. Grey moved to amend the proposition introduced by Mr. Cutler in regard to the property of married women, so that it would read as follows:

“The real and personal estate of every female acquired before marriage, and all property which she may afterwards acquire, shall be and remain the estate and property of that female, and shall not be subject to the control or be liable for the debts, obligations or engagements of her husband, and may be disposed of by will, gift, grant, sale, devise or bequest.”

The amendments were agreed to, and the further consideration postponed for the present.

Mr. Carter said he believed that God had intended that man and wife should be one. The Legislature had been trying to make them two, and these amendments were steps in that direction.

Mr. Grey called up the following proposition submitted by him:

“But in all criminal prosecutions, the jury may return a verdict of ‘not proven’ instead of acquitting the prisoner, and such verdict shall not be a bar to a subsequent trial of the same person for the same offence.”

Mr. Grey addressed the Commission in favor of the proposition.

Mr. Hubbell thought this would be a violation of the Constitution of the United States, which provides that no man shall be placed in jeopardy a second time of life or limb, and argued the matter at some length.

Mr. Grey did not desire to urge final action at this time, but simply to invite discussion, and proceeded at some length to discuss the propriety of the proposition, by referring to a number of instances.

A motion to postpone was lost.

Further remarks were made on the subject by Mr. Hubbell, Mr. Swayze, Mr. Dickinson, and Mr. Grey. The latter gentleman moved the postponement of the subject until Tuesday next.

Agreed to.

The amendment of Mr. Ferry to Article II, “to strike out the word pauper,” in effect to remove the barrier now set up between a pauper and the elective franchise, was taken up.

Mr. Ferry advocated the striking out of this proposition.

Mr. Grey and Mr. Gregory opposed the proposition to allow a pauper to vote. A pauper was a man who was supported by the public. He had no independence of character, and was not a bit more fit to vote than a criminal or idiot.

Mr. Ferry said we were the only State that had this clause in its constitution.

Mr. Dickinson said a man who was a pauper was not less entitled to vote than

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 23, 1873

he who sold his vote for a glass of rum.

Mr. Ten Eyck vacated the chair and spoke against the proposed change, because the pauper would be controlled by a political keeper of a poor house. He gave instances to show the bad operations of the proposed change.

The proposition was lost.

The proposition of Mr. Thompson to amend Article II, paragraph 7, of the Constitution by adding "Three-fourths of the jurors, rendering a verdict in any civil suit, shall have the same force and effect as though agreed upon by the whole number empanelled on said jury."

Mr. Thompson advocated the amendment, and it was lost, 4 to 6.

Mr. Brinkerhoff gave notice that he would not be here the coming week.

Mr. Dickinson moved to take up the following proposition introduced by him. Agreed to.

No act of the Legislature shall limit the amount to be recovered for injuries resulting in death, or for injuries to person or property; and, in case of death from such injuries, the right of action shall survive and the Legislature shall prescribe for whose benefit such actions shall be prosecuted; nor shall any act prescribe any limitation of time within which suits may be brought against corporations for injuries to person or property, or for other causes different from that fixed by the general laws prescribing the time for the limitation of actions; and existing laws, so limiting or prescribing, are annulled and voided.

A question arose as to whether this proposition was within the range of the duties of the Commission. Mr. Carter contended it was not, Mr. Grey that it was.

Mr. Hubbell moved to amend so that the Legislature shall pass no act in reference to this matter differing from the general law, which was lost.

Mr. Grey moved to strike out the words in regard to existing laws.

Adopted.

The proposition as amended was then adopted, 5 to 4.

Mr. Ferry moved that when this Commission adjourn it be to Tuesday next at 10½ o'clock.

Adopted.

Newspaper Sources for October 23, 1873:

"The Constitutional Commission," *Daily State Gazette*, October 24, 1873.

"The Veto Power: Remarks of Benjamin F. Carter, Esq., Before the Constitutional Commission," *Woodbury Constitution*, November 5, 1873.

"The Veto Power," *Camden Democrat*, November 8, 1873.

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

481

OCTOBER 28, 1783

[Daily State Gazette]

THE CONSTITUTIONAL COMMISSION.—Oct. 28—Tenth Day.

The Commission met at ten o'clock. Present – Messrs. Buckley, Carter, Cutler, Dickinson, Ferry, Grey, Gregory, Green, Hubbell, Swayze, Ten Eyck (President), and Thompson.

Prayer was offered by Rev. Dr. Hall.

The minutes were read [and] approved.

The President presented a petition from the venerable Charles Stokes, of Burlington County, who is now in his 83d year, and who was also a member of the Constitutional Convention of 1844. This paper makes a number of valuable suggestions, in brief as follows:

In as brief a manner as is possible, I wish to communicate to your very responsible body some views which have been impressed upon my mind:

First. That nothing be proposed calculated to jeopardize the rights of minorities as intended to be secured under the present Bill of Rights.

Second. That will give a few densely populated districts (small in area) the entire control of the legislation of the State, regardless of the agricultural and more rural interests.

Third. That will, under the plea of public instruction, impose a penalty, by way of taxation or otherwise, upon such citizens who believe [in] the right of the entire control of the education of their children, sacred and inalienable, and not to be usurped by such a government as ours.

Fourth. That will give any religious sect, or combination of sects, the power, in the slightest way, to infringe the rights and liberties of others who may conscientiously differ from them.

The Chair submitted a proposition providing for the appointment of a Vice Chancellor, who shall hold his office for seven years.

Mr. Hubbell moved to take up the amendments proposed by him to Article I, Rights and Privileges.

The first provides that no county lines shall be changed without submitting the question to a vote of the people, and unless a majority of all the legal voters of the county shall vote for the same. Amended by Mr. Grey so as to apply to "counties."

Mr. Green was opposed to this proposition. It was virtually saying that there shall be no more new counties. The same proposition was before the Convention of 1844, and rejected by a large vote.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 28, 1873

The proposition was then lost, 5 to 6.

The proposition was again submitted in the shape it was before the amendment of Mr. Grey making it necessary to take the vote of counties.

Mr. Gregory thought it better to leave this whole matter to the Legislature.

Mr. Ferry thought it would be impossible to make any change whatever in the county lines under this proposition.

Mr. Gregory alluded to the difficulties of getting the county of Hudson set off from the county of Bergen, and yet its necessity was very apparent. It would be better to leave the Legislature free to act in this matter.

Mr. Swayze advocated the proposition as a safeguard to prevent combinations to control the legislation of the State.

Mr. Hubbell thought, on looking over the State, he could not see where a new county would be wanted for a long time to come. He was in favor of the proposition. He was in favor of restricting the Legislature against listening to local influences to have Senatorial control, which might be sought by particular combinations.

Mr. Buckley said this proposition did not prevent the making [of] a new county. It was certainly well that the counties affected thereby should be consulted.

Mr. Green said the practical difficulty was to get the interests affected to harmonize, and yet in some cases it might actually be much to the convenience of the people to have a new county.

Mr. Green moved to amend so as to apply to the "territory affected thereby," so that the people in the new county only shall be required to vote.

Lost, 5 to 6.

The proposition was then adopted, 6 to 5, as it was originally presented.

The next proposition interdicts counties, cities, boroughs, towns, townships or villages from loaning its money or credit to any association or individual, or become security, directly or indirectly; nor shall they incur any indebtedness or impose any tax except for State, county, city, township or village purposes.

These were adopted.

As to the amount to which any county or borough may contract a bonded debt, the limitation was considered, and propositions made to amend as to the amount of such limitation, and then postponed for further consideration.

The next proposition had reference to the amount of money to be raised for public schools. The paragraph known as 21 proposes that the several counties of this State shall, each year, raise by tax upon the valuation of their taxable property,

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

483

OCTOBER 28, 1873

a sum sufficient, in addition to the sum to be derived from the school fund, to support the public schools of such county.

Mr. Ferry and Mr. Grey opposed the propositions.

Mr. Hubbell moved to amend so as to apply to cities, boroughs and townships.

Mr. Grey suggested wards and school districts.

Mr. Green advocated this amendment.

The subject was further discussed by Mr. Ferry and Mr. Swayze. The latter gentleman suggested that the Legislature should be directed to provide a thorough system of education of all the children in the State.

Mr. Grey's amendment was lost, and the amendment of Mr. Hubbell was also lost – 5 to 6.

Mr. Green proposed to amend so that no county shall be taxed to raise money for other localities, nor a sum more than sufficient to support public schools in their own county.

Lost.

The paragraph 21 was then lost.

The paragraph 22, which provides that no donation of land or appropriation of money shall be made by the State or by any municipal corporation to any religious society or corporation, was adopted.

The propositions of Mr. Ferry in regard to the legislative power of the General Assembly [was taken up]. [T]hey propose:

That at the election in 1877, and every two years thereafter, in each county, an election shall be held for members of the General Assembly.

The State to be apportioned every ten years, beginning in 1876, by dividing the population of the State as ascertained by the last State census **[Ed. note: From 1855-1915, the State of New Jersey conducted decennial censuses in each year ending in 5.]** by the number twenty-three, and the quotient shall be the ratio of representation in the Senate. The State to be divided into 23 Senatorial Districts, each to elect one Senator to hold office for four years. The Senators elected in the year 1877 in districts bearing odd numbers shall vacate their offices at the end of two years; those elected in districts bearing even numbers shall vacate at the end of four years. Senatorial Districts shall be formed of contiguous and compact territory, bounded by county lines, and contain as nearly as practicable an equal number of inhabitants, but no district shall contain less than four-fifths of the Senatorial ratio. Counties containing not less than the ratio and three-quarters may be divided into separate districts, and shall be entitled to two Senators and to one additional Senator for each number of inhabitants equal to the

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 28, 1873

ratio contained by such counties in excess of twice the number of said ratio.

The House of Representatives shall consist of three times the number of members of the Senate, and the term of office shall be two years. Three Representatives shall be elected in each Senatorial district, at the general election in the year of our Lord one thousand eight hundred and seventy-seven, and every two years thereafter. In all elections of Representatives aforesaid, each qualified voter may cast as many votes for one candidate as there are Representatives to be elected, or may distribute the same, or equal parts thereof, among the candidates as he may see fit, and the candidates highest in votes shall be declared elected. The Senators who may be in office on January 1st, 1876, shall hold their offices until December 1st following, and no longer.

Mr. Ferry advocated these propositions at length, showing by valuable statistical information that the present basis of representation was unjust, and would continue to grow more so every year. It was wrong as to population, and it was equally so when compared on the basis of property. He thought that the proposition of giving to the minority of every county a representation in the Assembly, a very important one.

Mr. Grey did not believe that the population of the State as such should be entitled to representation. We should aim not to make both Houses popular. If the idea is to make an entirely popular representation, then we don't want the Senate, but he was not willing to give up the idea so long entertained as the proper mode to check the hasty legislation of a popular democracy. Mr. Grey proceeded at considerable length to show that by the experience of the past, the present system was greatly preferred. He denied the proposition that 10,000 people had any more rights than 15 persons. Although the present systems were arbitrary, he preferred that which had stood the test of time than to venture upon mere experiments. He contended that the present system protected the agricultural districts from popular aggressions which would naturally come from the densely populated portions of the State.

Mr. Green followed in quite a lengthy discussion of the question. There were but two principles of representation, one was founded on population, and the other on the taxable property. He thought the proposition of Mr. Ferry was the proper one, more in consonance with our notions of equality.

Mr. Hubbell thought the propositions of Mr. Ferry had not been answered. The argument of the gentleman from Camden [i.e. Mr. Grey] was very ingenious, but it was no answer to the argument of Mr. Ferry. He then proceeded to discuss the question at some length. The opposition to this system was not a question of

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

485

OCTOBER 28, 1873

principle, but one of power. He alluded to Massachusetts, where the principle contained in the proposition of Mr. Ferry was adopted.

Mr. Swayze advocated the present system of representation, and showed that, with the exception of two or three counties, the counties of this State could not be more equally divided. It would be unfair, then, to change the present mode of representation.

Mr. Green wanted an answer to the query why Cape May, with 8,000 population, should have an equal representation in the Senate as the county of Essex, with 150,000? What is there in the location that makes this disparity?

The question was further discussed by Mr. Ferry.

Mr. Buckley said there would be no more important question than the present mode of representation, and proceeded to give some reasons in favor of making the Senate represent Senatorial Districts.

Mr. Ferry thought as there were other gentlemen who would probably desire to speak on this question, he would move that the subject be postponed for the present.

Adopted.

Mr. Green moved to amend his proposition making the conviction for crime [by] a public officer a vacation of his office, by requiring the crime to be an "infamous one," and also to insert the words "or official delinquency" as another cause for the vacation of the office. A record of the final judgment to authorize the filling of the vacancy.

Mr. Grey offered an amendment to insert the words "or, of any felony, or any official delinquency indictable by the laws of this State," shall vacate any office upon the production of the record of final judgment. Adopted.

Mr. Green moved to insert the words "or other infamous crime," which was adopted.

The original proposition was then adopted.

Mr. Thompson moved a reconsideration of the vote by which the veto question was settled. Adopted, 8 to 3.

Mr. Carter moved to postpone.

Mr. Grey hoped there would be a veto power put upon this matter. We had disposed of it two or three times before, and there ought to be some place to stop.

The question was then taken, and the Commission refused to agree to the report of the Committee of the Whole which recommended "two-thirds" instead of "a majority."

The question again came up on adopting the article as it now stands in the

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 28, 1873

Constitution.

After remarks by Mr. Hubbell and Mr. Grey, the question was decided – 5 to 7.

[Daily True American]

{The motion to insert “two-thirds” in place of “a majority,” was agreed to – 7 to 5.}

[Newark Daily Advertiser]

{...the proposition to substitute “two-thirds” for “a majority” lost for the third time. It will now probably stay lost.}

[Daily State Gazette]

Mr. Carter offered an amendment, to insert “Vice Chancellor” after the word Chancellor wherever it occurs in the Constitution.

Mr. Cutler, from the Committee on Executive, reported in favor of the proposition for each county to have two Judges of the Common Pleas, one of whom shall be a lay judge, to be nominated to the Senate by the Governor, which was ordered to be printed.

Adjourned to Wednesday morning at 10:30.

Newspaper Sources for October 28, 1873:

“The Constitutional Commission,” *Daily State Gazette*, October 29, 1873.

“Constitutional Commission,” *Daly True American*, October 29, 1873.

“The Constitutional Commission,” *Newark Daily Advertiser*, October 29, 1873.

OCTOBER 29, 1873

[Daily State Gazette]

THE CONSTITUTIONAL COMMISSION.—*Eleventh [Day]*.

Mr. Swayze offered as amendment on the school question, for the establishment of free schools: the fund to be sacred, not to be borrowed, by the Legislature; fund to be sacredly reserved for this one special object. No money to be paid to any creed, religion, church, or sectarian association, nor to any academy, or private school, or school belonging to any denomination or association. The word “free” is introduced instead of “public” schools. No school

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

487

OCTOBER 29, 1873

district to have any of the State fund unless a school is kept open for the term of at least three months.

Mr. Swayze proceeded to speak at some length on the amendment proposed. The amendment was referred to the Legislative Department.

[Newark Daily Advertiser]

{Mr. Swayze offered an amendment for the establishment of free schools, the fund to be sacred from use by the Legislature by borrowing, and to be reserved inviolate for this one special object. No money to be paid to any creed, religion, church, or sectarian association, nor to any academy or private school belonging to any denomination or association. The word "free" is introduced instead of "public" schools. No school district to have any of the State fund unless a school is kept open for a term of at least three months.

After an argument in favor of the amendment by Mr. Swayze, it was referred.}

[Daily State Gazette]

Mr. Swayze also offered an amendment in regard to taxation—all property to be taxed without exemption in any case, except ground used for burial purposes, not including cemeteries owned by associations. Mr. Swayze enforced these amendments with some remarks.

These amendments were referred.

Mr. Buckley called up the amendment to Article VI, Judiciary, Sec. VII, in reference to Justices of the Peace. The question was on the motion to strike out the clause requiring a certificate of qualification before being commissioned by the Governor.

The Chair was in favor of retaining this clause.

The motion to strike out was lost.

Mr. Green thought that the whole matter should not be left to the Governor.

Mr. Buckley, Mr. Dickinson and Mr. Hubbell thought that the amendment left the Legislature to prescribe the qualifications, and that the Governor was required simply to examine the certificate.

Mr. Grey still thought the clause clothed the Governor with judicial functions in this matter, leaving it entirely optional with him whether he shall commission or not. It was clothing the Governor with too much authority. He suggested an amendment by striking out the reference of the matter to the Governor.

Mr. Thompson thought the people were competent to select two men in each of the townships, and he was opposed to giving the power to anyone to defeat the

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 29, 1873

will of the people.

Further remarks were made by Mr. Dickinson and Mr. Green. The words "satisfactory to the Executive," were objectionable, in the opinion of Mr. Green and Mr. Hubbell.

Mr. Cutler recommended the same rule as exists in the case of attorneys at law.

The amendment of Mr. Grey was adopted.

Mr. Thompson moved to insert: "Surveyors of Highways and Chosen Freeholders." Which was lost.

Mr. Ferry moved to amend by requiring two justices in wards instead of one.

Mr. Green thought the difficulty in regard to getting incompetent men arises from the fact that there are too many elected.

Mr. Grey took the same view, and said by reducing the number we elevated the dignity of the office, and gave a history of the manner in which the number was reduced in the Convention of 1844.

Mr. Ferry withdrew his amendment, the amendment was finally adopted as follows:

1. There may be elected under this Constitution not more than two Justices of the Peace in each of the townships of the several counties of this State; and in each of the wards, in cities that may vote in wards, not more than one Justice of the Peace; and the Legislature shall provide by law the qualifications necessary for such justices to possess, and the method of ascertaining the possession of each qualifications, and no person elected as aforesaid to the said office of Justice of the Peace shall receive his commission until he is fully qualified according to law. The Legislature shall also provide for the summary suspension of Justices of the Peace for misconduct in office, such suspension to continue until the end of the next succeeding session of the Legislature.

The amendment to Article IV, Legislative, Section VII, as follows:

"And no act of the Legislature shall take effect until the fourth day of July next after its passage, unless in case of emergency, which emergency shall be expressed in the preamble or body of the act, the Legislature, by a vote of two-thirds of all the members elected to each House, otherwise direct.

This was adopted after striking out the words "which emergency shall be expressed in the preamble or body of the act" on motion of Mr. Grey.

Mr. Dickinson moved to take up the amendment proposed by him, in regard to acts which may have been passed by bribery, fraud, or other corrupt means. This amendment provides the mode by which such act shall be proved to have been

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

489

OCTOBER 29, 1873

thus passed, and how it may be declared null and void.

Mr. Dickinson advocated the proposition.

Mr. Green suggested that all that was required was an amendatory clause directing the Legislature to provide the steps to reach the end designed.

Mr. Hubbell moved to refer back to the Committee, which, with an amendment of Mr. Grey on the same subject, were so referred.

Mr. Green moved to add to the oath of members of the Legislature, the following: "Shall be subject to the punishment as prescribed for willful and corrupt perjury," which he proposed to insert as a penalty. This was agreed to by general consent.

The interdictions in regard to the passage by the Legislature of private laws was taken up.

The following were added:

To pass no private laws providing for the support and management of public schools.

Mr. Grey moved a reconsideration of the whole series of interdictions.

A discussion followed on the clause to prevent the Legislature from passing special laws to change the venue in criminal or civil cases. Mr. Grey was opposed to the clause and Mr. Ten Eyck was in favor. Mr. Grey thought that cases might arise when it would become necessary to change the venue.

The clause was adopted—8 to 2.

On motion, by unanimous consent, the following clauses were reconsidered:

3. Laying out, opening, altering and working roads or highways—that is, no special or local acts shall be passed on the subject.

4. Vacating roads, town plots, streets, alleys and public grounds.

7. Selecting, drawing, summoning or impanelling grand or petit jurors.

Mr. Grey moved to strike out No. 3.

After some debate between Mr. Grey and Mr. Swayze, the motion was lost 3 to 7.

No. 4 was then taken up.

Mr. Grey wanted to know how, if this is adopted, can you vacate any streets, roads, &c? He moved to strike it out.

Mr. Hubbell thought that if this clause is adopted the Legislature cannot authorize municipal governments to vacate roads, &c.

Mr. Carter moved to strike out "streets and alleys," because they were highways of cities.

Mr. Buckley spoke of the rapid manner in which these matters had been

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

OCTOBER 29, 1873

hurried through when before the Commission the other day.

Mr. Ten Eyck gave his views in favor of the clause No. 4.

Mr. Grey replied that the clause contemplated more than the Chair desired. It was virtually preventing the people from controlling their affairs in their own way.

Mr. Green moved to amend by making it read "vacating any road, town plot, street, alley, or public grounds," and it was adopted, and the clause as amended was adopted.

Clause No. 7 was also adopted.

Mr. Swayze called up his amendment in regard to bribery at elections—preventing a person from voting who shall contribute or offer any money or valuable thing, or promise to do so, for the giving or withholding of a vote, or who shall make any bet on any election.

Mr. Buckley and Mr. Green thought the matter already provided for.

Mr. Green moved to strike out the clause in regard to betting.

Mr. Swayze advocated the importance of having an honest ballot.

Mr. Green's motion to strike out "betting" was lost.

The proposition of Mr. Swayze was then lost, 2 to 9.

The amendment proposed by Mr. Cutler, in regard to the property of married women, was taken up.

Mr. Green thought the laws were ample on this subject.

The amendments offered when the subject was up before were adopted.

Mr. Cutler moved to amend by inserting the words, "excepting what she may receive from her husband," shall be and remain the property and estate of such female.

The amendment of Mr. Cutler was lost.

Mr. Swayze advocated the amendment as originally proposed, and it was lost, 1 to 10.

The amendment offered by Mr. Grey in regard to verdicts of juries, making a new verdict "not proven," was taken up and lost.

Mr. Swayze called up his proposition to amend the Constitution in regard to libel.

Mr. Grey wanted to know what the difference is between his amendment and the present Constitution?

Mr. Swayze explained.

Mr. Hubbell, Mr. Dickinson and Mr. Grey thought that the present Constitution was amply well guarded on this subject.

The proposition of Mr. Swayze was lost, 1 to 10.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

491

OCTOBER 29, 1873

Mr. Thompson and Mr. Buckley obtained leave of absence for the week.

Mr. Ferry moved that when the Commission adjourn, it be to Tuesday, November 11.

Adopted.

The proposition of Mr. Ferry, in reference to Future Amendments to the Constitution, was called up, but afterwards postponed.

On motion, the following proposition of Mr. Dickinson was taken up:

“All elections of the citizens shall be by ballot. Every ballot voted shall be numbered in the order in which it is received, and the number recorded by the election officers, opposite the name of the elector who presented the ballot, and any elector may write his name on the back of his ballot.”

Mr. Green and Mr. Buckley opposed the proposition, because it was a blow at the secret ballot. Both of these gentlemen thought the ballot ought to be kept as secret as possible.

Mr. Dickinson explained that the object of the amendment was to facilitate the discovery of frauds.

Mr. Grey thought it was very evident that this proposition was a direct frustration of the secret ballot, and it ought not to be adopted.

Mr. Dickinson contended that the great object was to prevent the stuffing of ballot boxes, and he did not fear the danger intimated by others.

The proposition was lost.

Mr. Ferry suggested that a committee should be appointed to consider the proposition of the Governor, in regard to the condemnation of land and the constituting of a court for that purpose.

Referred to Messrs. Green, Grey and Hubbell.

[Newark Daily Advertiser]

The Commission then adjourned until November 11, in order to give members an opportunity to attend to election duties and other matters. It is the general belief among members that one more week's work will suffice to finish the labors of the Commission.

Newspaper Sources for October 29, 1873:

“Constitutional Commission,” *Daily State Gazette*, October 30, 1873.

“The Constitutional Commission,” *Newark Daily Advertiser*, October 30, 1873.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

NOVEMBER 11, 1873

[Daily State Gazette]

CONSTITUTIONAL COMMISSION.—*Nov. 11, 1873.*

The Commission met. Present – Messrs. Babcock, Brinkerhoff, Buckley, Carter, Cutler, Dickinson, Ferry, Green, Hubbell, Swayze, Ten Eyck.

Prayer was offered up by Rev. Mr. Keyser.

The minutes were read and approved.

Mr. Swayze presented new propositions in reference to the Judiciary. These amendments propose an elective Judiciary. They provide that the Supreme Court shall consist of four judges, one of whom shall be Chief Justice, each to be a citizen of the State for five years, and to be 30 years of age. Election for these judges to take place in the year 1879. Chief Justice to receive \$10,000 and the others \$8,000 per annum. The Chief Justice to hold his office for 9 years and the others for 7 years. It also divides the State into seven circuits, and provides for election of a judge for each circuit in 1878. Compensation to be \$6,000 per annum. One county judge is also to be elected for each county, who shall be a counsellor-at-law, to hold his office for five years, but the Legislature may create districts of two or more contiguous counties in each of which shall be elected one judge, who shall exercise the power and jurisdiction of county judges in such districts. First election to take effect in 1879. Compensation \$8,000 per annum. This will do away with the county judges. State attorneys to be elected one for each county, to hold office for five years.

These propositions contain several other matters. The Court of Chancery is abolished. The Supreme Court also to be the Court of Errors and Appeals, and other matters in regard to their organization are provided for. Referred to Judiciary.

Mr. Brinkerhoff offered an amendment providing that no law shall be enacted or contract entered into by which the power of taxation shall be impaired. The Legislature shall provide by law for taking away from any person or persons, corporation or corporations, now possessing or entitled to the same, any right or exemption from taxation which cannot be revoked without compensation, and for paying to each person or persons, corporation or corporations, out of the Treasury of the State, a just compensation for right so taken away. Referred to the Bill of Rights.

Mr. Swayze offered a proposition making the Governor and the four Judges of the Supreme Court (provided in Mr. S.'s first amendment) a Court of Pardons. Referred to Judiciary.

The proposition of Mr. Dickinson that all laws regulating elections by the

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

493

NOVEMBER 11, 1873

people or for the registry of electors shall be uniform throughout the State, and that no voter shall be deprived of the right to vote by reason of his name not being registered, was taken up.

Mr. Green moved to add "if his right to be acquired between the time of registry and the time of election."

Agreed to.

The proposition was opposed by Mr. Buckley and Mr. Hubbell, and lost.

The proposition to make the sessions of the Legislature once in two years, unless for special objects, was lost.

The proposition of Mr. Grey in regard to verdicts of juries, was lost.

The proposition of Mr. Dickinson in regard to the terms of Justices of the Supreme Court, continuing them in office during good behavior, was lost.

The proposition that the Legislature shall not delegate to any Commission the right to govern any city, &c., having been previously provided for, was lost.

The propositions submitted by Mr. Gregory, in consequence of his absence, were postponed.

The proposition of Mr. Thompson in regard to the taking of lands by any incorporated company, giving the right to appeal and have the damages re-assessed, was adopted.

The proposition of Mr. Buckley prohibiting a member of the Legislature from receiving any civil appointment within this State or to the United States from the Governor, or from the Governor and the Senate, or from the Legislature, was adopted. The clause including "an office in a city government," was, on motion of Mr. Ferry, stricken out.

The proposition of Mr. Ferry in regard to the Legislature and its constitution was taken up.

Mr. Carter suggested that a day should be set apart for the discussion of this subject.

The subject was made the special order for Wednesday morning.

Mr. Ferry's proposition to provide for future amendments to the Constitution was taken up.

Mr. Ferry moved to strike out the words "two-thirds," and insert "a majority," as the vote by which the Legislature may concur in the calling of a convention and submitting the question to the people as to the necessity.

Mr. Carter opposed the proposition to amend.

Mr. Ferry advocated it, and showed the difficulty that now existed to make any amendment to the Constitution.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

NOVEMBER 11, 1873

Mr. Green took the ground that these amendments would make it still more difficult to make amendments. The Legislature have the right now to call a convention.

The amendment of Mr. Ferry was agreed to, as was also the first section of the proposition.

The subject was discussed by Messrs. Hubbell, Ferry, Green, Carter, and others.

The proposition as adopted to be Section I of Article IX, of the Constitution, is as follows:

Section 1. Whenever a majority of the members of each house of the Legislature shall, by a vote entered upon the journals thereof, concur that a convention is necessary to revise, alter or amend the Constitution, the question shall be submitted to the electors at the next general election; if a majority voting at the election vote for a convention, the Legislature shall, at its next session, provide for a convention to consist of the number of members of the Senate to be elected in the same manner, at the same place, and in the same districts. The Legislature shall, in the act calling the convention, designate the day, hour and place of its meeting, fix the pay of its members and officers, and provide for the payment of the same, together with the expenses necessarily incurred by the convention in the performance of its duties. Before proceeding, the members shall take an oath to support the Constitution of the United States and of the State of New Jersey, and to faithfully discharge their duties as members of the convention. The qualification of members shall be the same as that of members of the Senate, and vacancies occurring shall be filled in the manner provided for filling vacancies in the Legislature. Said convention shall meet within three months after such election, and prepare such revision, alterations, or amendments of the Constitution as shall be deemed necessary, which shall be submitted to the electors for their ratification or rejection at an election appointed by the convention for that purpose, not less than three nor more than six months after the adjournment thereof; and unless so submitted and approved by a majority of the electors voting at the election, no such revision, alteration or amendment shall take effect.

The present Section I of the IX Article of the Constitution to be considered as Section II.

The proposition in regard to women's suffrage was supported by Mr. Buckley, and lost, 5 to 6.

The amendments in regard to judges of the several courts were postponed on

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

495

NOVEMBER 11, 1873

motion of Mr. Swayze until his propositions for an elective judiciary should be reported.

Mr. Cutler's proposition in regard to taking private property for public or private use without just compensation, in which it is provided that such compensation shall be assessed by a jury, without deduction for benefits to any property of the owner.

On motion of Mr. Swayze the word "private" was stricken out.

Mr. Carter moved to strike out the latter clause requiring damages to be assessed without deducting for benefits.

Carried.

Mr. Swayze and Mr. Cutler both regretted this action.

Mr. Cutler said that it was the custom of railroad companies to pay these commissioners \$100 a day, and it was not likely that they would long be employed at this rate unless it was to their interests.

Mr. Green said the provision covered everything, and does not exclusively apply to railroad charters.

Mr. Hubbell said it would be odious as applied to cities in many cases.

Mr. Cutler altered his proposition by adding "and whenever private property shall be taken by any incorporated company, such compensation shall be assessed by a jury without deduction for benefits to any property of the owner."

This was adopted and the Commission adjourned.

Newspaper Source for November 11, 1873:

"Constitutional Commission," *Daily State Gazette*, November 12, 1873.

NOVEMBER 12, 1873

[Daily State Gazette]

CONSTITUTIONAL COMMISSION.—*Thirteenth Day—Nov. 12th.*

Present – Babcock, Brinkerhoff, Buckley, Carter, Cutler, Dickinson, Ferry, Grey, Green, Hubbell, Swayze and Ten Eyck (President).

The minutes were read and approved.

Mr. Buckley, from the Committee on Bill of Rights, reported the propositions of Mr. Brinkerhoff without recommendation.

The amendment to Article VI, and Section VII, in reference to the number of Judges of the Inferior Court of Common Pleas, was taken up. The amendment

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

NOVEMBER 12, 1873

proposes that there shall be no more than two judges, one of whom shall be counsellor-at-law.

Mr. Carter was opposed to the principle of appointing a law judge on the Common Pleas Bench. He spoke in favor of the lay element in the Common Pleas. The lay judge was much more likely to decide a question on the principle of right. We had a law judge now in the Circuit Judge, which in his opinion was sufficient.

Mr. Buckley thought that two judges were all that were necessary. It was an expense from which the counties ought to be relieved. He thought two judges could as well consult with the Circuit Judge as five. The appointment is generally made on mere political grounds. Besides, it was a serious matter of expense. He thought the number of judges ought to be fixed in the fundamental law.

Mr. Carter said the lay judges had as much power as the law judges, and were of considerable importance.

Mr. Buckley said it was an item of very considerable expense.

Mr. Swayze thought this proposition ought to lie over until the amendments he submitted could be considered.

Mr. Grey favored the amendment. He offered an amendment, which gives the Legislature authority to appoint a law judge in such counties as the Legislature may determine, so that such counties that did not want a law judge need not be burthened (*sic*) with one. Such judge to be a counsellor of ten years' standing.

The Chair remarked that the needs of the several counties are different.

Mr. Cutler, from the Judiciary Committee, by common consent, made a report in reference to Mr. Swayze's propositions, in regard to an elective judiciary. As the propositions propose radical changes, which they do not think the people are prepared for, they report adversely to both propositions for an elective judiciary and abolishing the Court of Chancery, and the reorganization of the courts. The report was agreed to.

Mr. Green then spoke against the amendment proposed. The present Constitution requires five and, by law, one of these may be a law judge in such counties as may desire it. He thought it would be well to let it alone.

Mr. Grey further defended his proposition. The Constitution does not prescribe the qualification of a Judge of the Supreme Court. The people of the State ought to have some guarantee against the appointment of inferior persons.

Mr. Green said he knew of counsellors of ten years standing who did not know as much as an attorney of two years practice. This matter he thought had better be left to the appointing power.

The amendment of the Committee limiting the number of judges was agreed

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

497

NOVEMBER 12, 1873

to.

The amendment of Mr. Grey was lost, 5 to 5.

Mr. Green moved to add "in addition to the presiding judge, who shall be *ex officio* judge of said court," which was adopted.

Mr. Carter offered an amendment that no Judge of the Court of Common Pleas shall practice in any of the courts of this State.

Lost.

The section was then adopted as follows:

Sec. VI. There shall be, in addition to the presiding judge, who shall be *ex officio* judge of said court, no more than two Judges of the Inferior Court of Common Pleas in each of the counties in this State, after the terms of the judges of said court now in office shall terminate. At least one of the judges of said court hereafter appointed, shall be a counsellor at law, and he shall be the president judge of said court in the absence of the Justice of the Supreme Court.

The following was also adopted as part of Article VI:

SECTION II

Civil Officers.

Justices of the Supreme Court, Chancellor, Judges of the Court of Errors and Appeals, and Judges of the Inferior Court of Common Pleas, shall be nominated by the Governor and appointed by him, with the advice and consent of the Senate. The Justices of the Supreme Court and Chancellor shall hold their offices for the term of seven years, and the Judges of the Inferior Court of Common Pleas for the term of five years; shall, at stated times, receive for their services a compensation which shall not be increased or diminished during the term of their appointments; and they shall hold no other office under the government of this State or of the United States.

Some debate occurred in the addition of the words, "increased or," in reference to the compensation.

Mr. Grey offered an amendment providing that when Justices of the Supreme Court and Judges of the Inferior Courts are appointed to fill vacancies, they shall hold [their offices] for the unexpired term only.

Mr. Cutler, from the Judiciary [Committee], reported the proposition for the appointment of a Vice Chancellor.

On motion, the Commission then took up the order of the day – the organization of the Legislature on a new basis of representation, proposed by Mr. Ferry.

This proposition organizes the Legislature on an entirely new basis of

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

NOVEMBER 12, 1873

representation, and has already been referred to.

The proposition was lost, 2 to 9.

The question of taxation generally and the school tax, matters introduced by Mr. Gregory, were postponed for the present.

Mr. Buckley said he did not think we ought to postpone these matters. It was about the time this Commission brought its matters to a close. He thought the Commission should close this week. As for himself, if the Commission intends to sit over for another week, he must ask to be excused.

Mr. Green called for the reading of all the propositions in regard to taxation. Agreed to.

The propositions were all read.

Mr. Ferry said these propositions ought all be printed. He was afraid of hasty action. We are certainly not prepared to act upon so important a question as that of taxation.

Mr. Swayze offered an amendment to refer all these propositions to a committee.

Mr. Cutler moved that the subject be made the special order for tomorrow, and that the several propositions be printed.

Agreed to.

Mr. Green introduced propositions in reference to Vice Chancellor, [and] the Court of Appeals.

Also in reference to special legislation.

Also in reference to compensation of members of the Legislature. Laid on the table, and ordered to be printed.

The amendments in regard to the limitation of debts of counties and boroughs were called up.

Mr. Green offered the following substitute:

“And no county or borough shall contract or incur any debt, by bond or otherwise, exceeding four per cent. of the valuation of its taxable property; and no town or township exceeding six per cent.; and no city exceeding eight per cent. on a like valuation, excepting for its water supply.”

Mr. Ferry opposed the substitute.

Mr. Green withdrew his substitute.

The proposition of the committee to limit counties and boroughs to two per cent., and towns or townships to four per cent., and cities to eight per cent., except for water supply, was adopted.

Mr. Carter moved to insert in the clause concerning bribery the words “[in]

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

499

NOVEMBER 12, 1873

legislation," so that persons may be deprived of the right of suffrage who shall be convicted of bribery in elections or in legislation.

The amendment was adopted.

Mr. Green reported a proposition to appoint a court for the condemnation of property. Ordered to be printed.

Mr. Carter called up his proposition "that after the year 1885 the Legislature may also pass laws to prevent persons on arriving at their majority from voting who cannot read the Constitution of the State in the English language," and advocated it.

The proposition was lost, 3 to 8.

Mr. Grey, from the Committee on the Legislature, reported an oath to be taken by officers of the Legislature, "faithfully, impartially and justly" to discharge all the duties and carefully keep all papers, &c.

Mr. Green offered an amendment, that "such officers shall carefully preserve all papers," &c.

Adopted.

And further, "to make such disposition of the same (the papers) as may be required by law."

Adopted.

The proposition of Mr. Buckley to divide the State into seven Senatorial Districts, composed of contiguous districts, and for the election of a Senator every year, to serve for three years, was taken up.

[Newark Daily Advertiser]

{There was an animated debate. Messrs. Ferry, Buckley and Green favored the proposition [regarding Senatorial Districts], and Messrs. Swayze and Grey opposed it.}

[Daily State Gazette]

Mr. Ferry called the attention of the Commission to the present unequal representation, and gave a number of statistics showing the injustice of the present mode of representation. If this Commission adjourn without making some proposition to relieve the people, it will have failed to accomplish its greatest duty.

[Newark Daily Advertiser]

{Mr. Ferry called the attention of the Commission to the present unequal representation, and gave statistics illustrating this point. He said the Commission would neglect the most important reform demanded by the people if it adjourned

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

NOVEMBER 12, 1873

without remedying this crying evil.}

[Daily State Gazette]

Mr. Buckley believed the time had come when we ought to have a different basis of representation. New Jersey ought not to be an exception to all the other States.

Mr. Green moved that this question be made the special order for tomorrow. Lost, 3 to 7.

The discussion was resumed. Messrs. Ferry, Buckley, Swayze, Green, and Grey took part in the discussion; all except Mr. Swayze and Mr. Grey were in favor of changing the representation in the Senate.

Mr. Grey contended that the government was not a pure democracy, but a representative republic. The idea of the representation in the Senate was to provide a check on the popular branch, and for us this system seems to have been better adapted. It was not a question of right, but one of expediency. (The present system imposed no hardships upon any section of the State, and had been found to operate beneficently.) The new system was an untried one, and we had better adhere to the old one.

Mr. Ferry said instead of being an untried matter, it had been adopted by all the States except three.

The proposition was lost, 4 to 6.

Mr. Swayze, from the Legislative Committee, reported the proposition in reference to the remodelling of the system of education, and moved that the same be printed.

The committee did not recommend the propositions.

Adjourned.

Newspaper Sources for November 12, 1873:

"Constitutional Commission," *Daily State Gazette*, November 13, 1873.

"The Constitutional Commission," *Newark Daily Advertiser*, November 13, 1873.

NOVEMBER 13, 1873

[Daily State Gazette]

CONSTITUTIONAL COMMISSION.—*Fourteenth Day—Nov. 12. (sic)*

The Commission met. Present—Messrs. Babcock, Carter, Cutler, Dickinson, Ferry, Green, Gregory, Grey, Hubbell, Swayze, Ten Eyck (President).

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

501

NOVEMBER 13, 1873

The minutes were read and approved.

The proposition as to the amendment of Article VI, Section 4, to facilitate proceedings in the Court of Chancery, there may be a Vice Chancellor, who shall be appointed by the Chancellor, commissioned by the Governor, and hold his office for seven years, and whose salary shall be provided for and fixed by law, and who shall have jurisdiction in all cases that may be assigned to him by the Chancellor.

The President suggested that the matter was a proposition of Mr. Green's, and that it made the Vice Chancellor a member of the Court of Errors and Appeals.

Mr. Cutler stated that the proposition of the gentleman from Union [i.e. Mr. Green] was to make the Vice Chancellor a member of that court.

Mr. Ferry moved that the proposition be postponed for the present.

Carried.

The proposition that "the Legislature may establish a court or courts with original jurisdiction over all cases of condemnation of lands and assessments for improvements" was taken up.

Mr. Swayze inquired whether the proposition referred to the condemnation of lands taken for public improvements.

Mr. Grey said that he was not chairman of the Committee, but in the absence of the chairman would say that the proposition extended to all cases of lands where property was taken without the consent of the owners; taken as is known by lawyers by the right of eminent domain.

Mr. Hubbell moved that a court be established for the assessment of damages.

Mr. Swayze said that the convention had adopted an amendment that damages should be awarded by a verdict of a jury, and did not see the necessity of changing it.

The proposition was adopted by a vote of 5 to 3.

The question of education was then taken up, and read by the Secretary.

Mr. Swayze moved the adoption of the first section, stating that the only change was the introduction of the word "free" instead of "public." He referred to the disposition of members of Congress to vote away about \$90,000,000 of public lands for school purposes, and each member wants to get as much land for his own district as he can. He also referred to the disposition to appropriate money to educate young men for entrance into colleges, and claimed that the State should not go further than to give a common school education. He also spoke upon Section V, which provides that no school money shall be appropriated for the use of any school, academy, seminary, college, university, or other institution of

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

NOVEMBER 13, 1873

learning by the State, or any township, borough or city, when the said institution is controlled by any creed, sect or religious society.

There was quite a discussion upon the age at which children should be permitted to attend and leave school. The proposition was made that they should be admitted when five years old, and quit when 18 years of age.

Mr. Gregory said that the poor people in Jersey City were enabled to send children who were under five years of age. The parents were laborers, and they could send their children there while they were out at work. This, he said, makes the schools popular, and he did not see why we should limit the age, as children there quit school when they are about twelve years of age. After some further remarks upon the same subject, Mr. Gregory moved to strike out the words "five years."

Mr. Swayze suggested that the section should read, "persons under the age of eighteen years."

Mr. Hubbell did not believe in the system in the sense of the proposition, as it had been tried in other states and found to be defective. It is the opinion in Connecticut, where it has been tried, that it was injurious. He made a statement of conversation he had with a member of the trustees of the public schools of that state, who said the schools had not worked well under the system, and is injurious to the education of the people. He said there was no responsibility resting upon the parents, and thought that they should pay at least part of the cost of their children's education. In his own district the system did not work well, for when the State found the pupils' books and other material, they were destroyed. He concluded by reiterating the fact that he did not believe in the proposition.

Mr. Swayze said that until a few years past he was opposed to free schools, but of late he had become a convert, and is now convinced that the free school system is the best. He did not send his children to school, but was willing to pay his share of tax and believed in levelling up, and not levelling down.

Mr. Ferry stated that he believed the present Constitution contained all that was necessary, and would like to have a number of points expunged from the propositions, and said we do not need to make amendments to the Constitution in this matter.

Mr. Cutler objected to striking out the words "five years," for to do so in cities would be to make the schools, instead of being as they are schools for education, if the amendment was adopted, they would be turned into nurseries and would be made places to take care of children under three years old. As the president of the Board of Education of Morris County, he is continually importuned to admit

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

503

NOVEMBER 13, 1873

children of that age. He doubted if a child should be allowed to go to school before seven or eight years of age, and would be very sorry to send a child to school before it was four years old.

Mr. Swayze withdrew his amendment.

Mr. Gregory said schools have been established in all parts of the State, and there may possibly be annoyance by admitting children of such tender years. He referred to the establishment of public schools some 50 or 60 years ago, and did not see any danger in the proposition to strike out the words "five years."

Mr. Hubbell said he was in favor of public schools, and it was a mere question as to how they were to be maintained.

Mr. Dickinson made a number of remarks upon the intention of the public schools, saying that they were intended for poor children. The State did not intend to make them professional men, but to furnish them with education with which they may pursue the particular art they may feel inclined to follow.

The proposition to strike out the words "five years" was lost by a vote of 4 to 5.

After a very long discussion, the name by which the public schools are to be known was decided to be "Free Public Schools."

Mr. Green moved an amendment after the word "eighteen," at the end of the first section of Mr. Swayze's proposition, as follows:

"The amount raised by tax for schools in each county in each year shall be expended therein and not elsewhere."

Mr. Green spoke of the inequality of tax in certain portions of the State, and claimed that the money raised by a county should not be spent for the support of other counties.

Mr. Swayze opposed the amendment of Mr. Green, claiming that it was the duty of the State to support the schools.

Mr. Gregory advocated a pro rata division, and presented a letter from the Hon. John Van Brunt in relation to the mode of assessments.

Remarks were made by Messrs. Gregory, Dickinson and Green, and the amendment was lost by a vote of 5 to 6.

The following was adopted by a vote of 8 to 3:

Sec. IV. The term "free schools" or "public schools" used in this Constitution shall be construed to mean common schools that aim to give all a rudimentary education only, and not to include schools designed to fit and prepare pupils to enter college, or schools controlled by or under the influence of any creed or religious society, or denomination whatever.

Mr. Carter moved the following amendment, which was lost by a vote of 4 to 7:

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

NOVEMBER 13, 1873

The Legislature shall have power to require by law that every child of sufficient physical and mental ability shall attend the free public schools during the period between the ages of six and eighteen years, for such term in each year, or may be from time to time designated by law.

The following was lost by a vote of 5 to 6.

The proceeds of all lands that may hereafter be granted by the United States to this State; also, the proceeds of the sales of public lands that may hereafter be paid over to this State by the United States; also, the proceeds of the sales of land or other property now belonging to this State, shall be securely invested and sacredly preserved as a free school fund, the annual income of which fund shall be faithfully appropriated for establishing and maintaining free schools, and for no other uses or purposes whatever.

The amendment in relation to the appointment of a Vice Chancellor was taken up, and after a long debate, and several amendments which were lost, was adopted as follows:

To facilitate proceedings in the Court of Chancery there may be a Vice Chancellor, who shall be appointed by the Chancellor, commissioned by the Governor, and hold his office for seven years, whose salary shall be provided for and fixed by law, and shall have jurisdiction in all cases that may be assigned to him by the Chancellor.

The special order of the day in relation to taxation was then taken up, but on account of the lateness of the hour was not concluded but was laid over until Tuesday next. The substance of the debate was in regard to the taxation of all kinds of property, and the unjustness of the exemption from tax of religious and other societies.

Mr. Green offered the following amendment, which was laid over:

No property of any kind, owned by persons, natural or artificial, protected by law, except that owned by the United States, the State, counties, townships, cities, towns or boroughs, shall be exempt by law from its full share of all State, county, township and city taxes and assessments, except that the Legislature may exempt lots owned by individuals in cemeteries, on which such owners have buried or intend to bury the dead.

No law shall be enacted or contract entered into by which the power of taxation shall be impaired or impeded.

The Legislature shall provide by law for taking away from any person or persons, natural or artificial, now possessing or entitled to the same, any right of exemption from taxation which cannot be revoked without compensation, and for

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

505

NOVEMBER 13, 1873

paying to such person or persons, corporation or corporations, out of the treasury of the State, a just compensation for the right so taken away.

The copy of a circular sent to various officials in the State as regarded taxation was read, and the Secretary stated that about 100 replies had been received.

The Committee on the Legislative [Department] made a report, which was ordered to be printed.

Adjourned.

Newspaper Source for November 13, 1873:

“Constitutional Commission,” *Daily State Gazette*, November 14, 1873.

[Ed. note: The Nov. 14, 1873 issue of the *Daily State Gazette* is incorrectly dated Nov. 13, 1873 on the top of pages 2 and 3 of the newspaper. The byline in the cited article is incorrectly dated Nov. 12 instead of Nov. 13.]

NOVEMBER 18, 1873

[Daily State Gazette]

CONSTITUTIONAL COMMISSION.—*Fifteenth Day—Nov. 18th.*

The Commission met. Present – Babcock, Buckley, Carter, Dickinson, Ferry, Green, Gregory, Grey, Hubbell, Swayze, Ten Eyck (President), Thompson.

Prayer by Rev. Dr. Hanlon.

The Chair laid before the Commission the replies to the inquiries made upon municipal governments for the amount of their indebtedness. Laid on the table.

The proposition relative to taxation, offered by Mr. Green as a substitute for all the propositions, was taken up.

Mr. Carter offered an amendment, which exempts from taxation burial grounds and church property to the value of twenty-five thousand dollars.

He contended that the churches of the State are a protection to the State.

Mr. Green said that as to propositions to exempt churches from taxation he had doubts. The amount of taxation would be very small, and after it has been placed in the law, we will hear nothing further about it. It would be hard, perhaps, for a few churches, but still, as a general thing, they were abundantly able to pay taxes.

Mr. Hubbell was not prepared to agree to this idea of giving the Legislature power to exempt from taxation.

The proposition of Mr. Carter was lost.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

NOVEMBER 18, 1873

Mr. Hubbell moved the following: "Except burying grounds and cemeteries not held by stock companies." He thought we ought not to allow the Legislature to be importuned on this subject.

The proposition was adopted as follows:

"No property of any kind, protected by law, except that owned by the United States, the State, counties, townships, cities, towns or boroughs, shall be exempt by law from its full share of all State, county, township and city taxes and assessments, except burying grounds and cemeteries not held by stock companies."

The following propositions, also offered by Mr. Green, were then considered:

No law shall be enacted or contract entered into by which the exercise of the power of taxation shall be restricted, impaired or impeded.

Adopted, 8 to 0.

The Legislature may provide by law for taking away from any person or persons, natural or artificial, not possessing or entitled to the same, any right of exemption from taxation which cannot be revoked without compensation, and for paying to such person or persons a just compensation for the right so taken away.

Adopted, 6 to 5.

Mr. Gregory offered the following, as an addition:

Equalization of valuations of real estate for taxation shall be made once in five years by a board composed of the Comptroller, Treasurer and Secretary of State.

Lost, 3 to 4.

Mr. Green offered the following as an addition:

"Property shall be assessed for taxes under general laws and by uniform rules, according to its true value in money."

Adopted, 7 to 4.

Mr. Carter again moved to exempt the property used for religious and public worship, of purely public charity, not exceeding in real value twenty-five thousand dollars.

Lost, 3 to 7.

Mr. Swayze called up his proposition as follows, as a substitute:

1. The Legislature shall pass laws taxing, by a uniform rule, all moneys, credits, investments in bonds, stocks, joint stock companies or otherwise; and also all real and personal property, according to its true value in money; and may also tax professions, franchises and incomes; *provided*, that no income shall be taxed when the property from which the income is derived is taxed.

2. Property belonging to the State or to municipal corporations, and all

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

507

NOVEMBER 18, 1873

property used exclusively for common school purposes, shall be exempt from taxation. No other property, real or personal, shall be exempt, except that the Legislature may exempt lots owned by individuals in cemeteries, on which such owners have buried the dead, or intend to bury thereon.

Mr. Swayze addressed the Commission at length, and quoted the opinions of the Supreme Court, denying the right of a Legislature to deprive the State of the powers of taxation. If it can exempt one piece of land it can exempt all the land. He called attention to the fact that large corporations are occupying the places of power and holding fast to the idea set forth in the Dartmouth College case, and while that is so, it will be difficult to change the matter.

Mr. Swayze also spoke against the exemption of church property because it was a violation of that clause of the Constitution which forbids the favoring of one religious sect in preference to another. On this subject Mr. Swayze read a prepared speech in which he combated the policy already adopted by the State in exempting the property of religious societies. He saw no equity or justice in exempting large corporations because they are religious or educational. Why should the people of Sussex be called upon to pay their proportion of the taxes of large corporations?

The question was taken on adopting Mr. Swayze's substitute, and it was lost, 1 to 9.

Mr. Ferry was opposed to the propositions as they now stand, for the reason that he did not think it was right to tax educational and religious institutions. The State can afford to exempt churches, because she gets a better class of citizens by reason of the churches. He declined, however, to offer any amendment.

Further remarks were made by Mr. Green and Mr. Buckley.

Mr. Swayze offered additional amendments in regard to the right of suffrage, striking out the word "male," and also in reference to the offering of money for voting, &c. Also in reference to public lands; capital punishment abolishing the same. All these propositions were laid on the [table], except the last.

On motion of Mr. Hubbell, the proposition of abolishing capital punishment was taken up and lost, 2 to 8, without debate.

The proposition in regard to the distribution of public lands to schools, offered by Mr. Swayze, was on motion of Mr. Green indefinitely postponed, 10 to 2, the subject having been previously considered.

Mr. Green called up the following proposition offered by him, which was adopted:

The Legislature shall pass no special act conferring corporate powers, but they shall pass general laws under which corporations may be organized and

NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS

NOVEMBER 18, 1873

corporate powers of every nature obtained, subject, nevertheless, to repeal or alteration at the will of the Legislature.

Several propositions which appear to have been previously acted upon were postponed.

Mr. Swayze's proposition in reference to the right of [female] suffrage, was lost, the Commission refusing to entertain it.

The amendments in regard to future amendments was taken up.

Mr. Grey addressed the Commission, and thought the present amendments in the Constitution sufficient.

The amendment was lost, 3 to 8.

On motion of Mr. Green, all the propositions adopted were referred to the Committee on Final Revision.

Mr. Swayze moved that the hour of adjournment be extended so as to finish up today.

Agreed.

Mr. Gregory moved to have printed all replies in regard to the debts of municipal governments.

Mr. Green moved to refer to the Comptroller.

Mr. Grey opposed the motion to print because we had no authority.

Mr. Green's motion was agreed to.

[Ed Note: It appears that the result of Carter's motion to print the "actions and labors of the Commission" was in the form of a preliminary report made after the December 9 meeting of the Committee on Revision of the Constitution. This preliminary report was presented to the Commission at its December 23 meeting.]

Mr. Carter moved that the actions and the labors of the Commission be printed and forwarded to the members.

Mr. Grey opposed the motion on the ground that it appeared to be unnecessary.

Mr. Carter said that it appeared to be a real necessity.

The motion of Mr. Carter was agreed to.

Mr. Carter moved that when the Commission adjourn it be to the 4th Tuesday in December.

Agreed to.

The propositions of Mr. Swayze on Corporations and Banks were indefinitely postponed, 8 to 1.

Adjourned.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

509

NOVEMBER 18, 1873

Newspaper Source for November 18, 1873:

“Constitutional Commission,” *Daily State Gazette*, November 19, 1873.

DECEMBER 9, 1873

[Daily State Gazette]

[COMMITTEE PROCEEDINGS]

The Committee on Revision of the Constitution, consisting of Messrs. Ferry, Grey, Thompson and Ten Eyck, met yesterday to revise and arrange the work of the Commission. A few suggestions were made, when the Constitution was directed to be printed and forwarded to the members of the Commission, preparatory to their final meeting, on the 23d inst.

Newspaper Sources for December 9, 1873:

[Untitled entry under “Local Items”], *Daily State Gazette*, December 10, 1873.

DECEMBER 23, 1873

[Daily State Gazette]

CONSTITUTIONAL COMMISSION.—The Commission met at 11 o’clock. Present – Babcock, Carter, Cutler, Dickinson, Ferry, Grey, Green, Gregory, Hubbell, Swayze, Ten Eyck (President), Thompson.

The minutes were read and approved.

Mr. Carter offered the following:

Resolved, That any suggestion that has been made and not finally acted upon may be, by unanimous consent, amended so that the substance of the suggestion is not changed thereby.

Mr. Ferry supposed that when the Commission adjourned it was thought that it had completed its labors, and all that was to be done now was to see whether all the propositions agreed upon had been properly harmonized.

Mr. Hubbell objected to this mode of opening again the whole matter.

Mr. Carter withdrew the resolution.

The Commission then took up the report of the Committee on Final Revision, and the suggestions made were considered and adopted.

In regard to the clause relative to the gift by Legislature of any land or money,

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

DECEMBER 23, 1873

to any society or corporation, Mr. Cutler said, suppose Congress should make a donation of lands to New Jersey, how could we appropriate lands thus given by the general government?

Several motions were made and lost by way of amendment, and the following was adopted as suggested by the committee in session:

For the amendment as proposed as paragraph 21 of Article I, substitute the following: "No donation of land or appropriation of money shall be made by the State or any municipal corporation to or for the use of any society, association or corporation whatever."

In the clause respecting schools, the committee suggested the rejection of the word "free" after the word "public."

Lost, 4 to 5.

The proposition to reinstate the word "faithfully" and the words "honestly and faithfully," in the oath of members of the Legislature, was adopted.

The committee recommended the striking out of the clause in reference to special charters, on the ground that it was otherwise provided for.

Mr. Carter said that old corporations should be made to come under general laws as well as new ones.

Mr. Hubbell said, how shall we apply a general law to existing corporations?

Mr. Green saw no discrepancies and the clause was permitted to stand.

The suggestions as made by the [Committee on Revision of the Constitution] during their sittings were then read.

Mr. Carter suggested the word "liberal" instead of "rudimentary" in the clause to provide the means to educate the children of the State.

Objected to.

Mr. Cutler suggested that under the peculiar clause – exempting all the property of the State from taxation – some say that this includes all the moneys loaned out by the Sinking Fund and the School Fund. This amount exceeds \$4,000,000. He suggested that the word "State" be stricken out.

Mr. Grey did not think the clause bore the construction given it by the gentleman from Morris [i.e. Mr. Cutler], and objected, and the proposition was withdrawn.

After the reading was finished, Mr. Grey moved that the Commission recommend the adoption by the Legislature of the amendments suggested.

Agreed to.

On motion of Mr. Grey the secretaries were instructed to prepare a correct copy and have the same printed and sent to the Governor.

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

511

DECEMBER 23, 1873

The Chair suggested that engrossed copies should be deposited in the office of the Secretary of State, as well as sent to the Houses of the Legislature.

Mr. Grey thought it was not necessary to report to anybody except the Governor – it is from him that we received our authority to act.

Mr. Hubbell thought we ought to send a report to the Legislature.

Mr. Grey moved the appointment of a committee of three to prepare a report and get the members to sign it.

The Chair thought the Legislature was the proper body to whom the report should be sent. That body passed a concurrent resolution asking the Governor to appoint the Commission.

Mr. Hubbell moved that a copy be sent to each branch of the Legislature, and also to the Governor.

Agreed to.

Mr. Grey's motion was incorporated in the above, and Messrs. Grey, Hubbell and Green were appointed.

Mr. Carter offered a resolution of thanks to Hon. John C. Ten Eyck, for the courteous, dignified and impartial manner in which he has presided over the deliberations of the body.

Adopted.

Mr. Carter offered a resolution of thanks to the Secretaries, Mr. E. J. Anderson and Mr. J. L. Naar.

Adopted.

Mr. Ferry offered a resolution of thanks to the clergymen who have opened the sessions with prayer.

Adopted.

Mr. Gregory offered a resolution that the President, Mr. Cutler and Mr. Dickinson be appointed to audit all bills not audited by the printing committee.

Adopted.

Mr. Cutler wished to be excused.

The name of Mr. Babcock was substituted.

Mr. Ferry moved that the Secretary be requested to deposit the journal of this Commission in the office of the Secretary of State.

Adopted.

Mr. Grey, from the committee, reported a form by which the report shall be headed, when presented to the Legislature, which was adopted.

The Commission then signed the report.

Mr. Ferry, from the printing committee, reported that they had secured the

**NEWSPAPER ACCOUNTS
OF COMMISSION PROCEEDINGS**

DECEMBER 23, 1873

printer's bill, and that it amounts to the sum of \$530.10; of this amount, about \$300 was for copies of Hough's Constitution. The bill was recommended to be paid.

A resolution was adopted directing that copies of the work of the Commission for the Legislature be sent through the Governor.

A resolution was adopted requesting the Secretaries to have copies of the work of this Commission printed and sent to members of the Legislature, members of the court, and public officers in the State.

A motion was made to adjourn, and before the question was put the Chair addressed the Commission, as follows:

GENTLEMEN: I return my sincere thanks for this last and I fear undeserved act of your courtesy. I have received nothing but courtesy at your hands. I have presided solely through courtesy. I have been aided and assisted by courtesy. Courtesy has been the law of our action and government. Amongst gentlemen it is the highest law! During our sittings, this law, I am happy to say, *has never once been violated*.

We submit our work to the Legislature and the people of the State, with the hope that the proposed amendments to our excellent Constitution may prove valuable. They are such as, it is believed, time and experience have rendered desirable. These, with one or two exceptions, have been reached with considerable unanimity. There have been differences of opinion, it is true, but diversity of opinion produces harmony in action. In nature, even discordant forces make the music of the spheres. The tendency to fly off, and the tendency to fall in, keep large bodies in their orbits; radicalism and conservatism bring about conciliation and compromise, and secure the golden mean. All government is a compromise between rights absolute and rights restrictive. What we have done we commend to the Legislature and the people for their consideration.

Gentlemen, we are now about to separate. Permit me to say that I part with each one of you with the liveliest feelings of respect and esteem. I trust that we may often meet again as individuals, and that we may all long live to see the efforts we have here made prove beneficial to the State we so much love. I am sure they were designed solely with that view, and for no other [purposes].

Gentlemen, in bidding you farewell, you have my best wishes for your welfare and happiness.

The Commission then adjourned *sine die*.

Newspaper Source for December 23, 1873:

"Constitutional Commission," *Daily State Gazette*, December 24, 1873.

**REPORT [A]
OF THE
CONSTITUTIONAL COMMISSION
OF
NEW JERSEY.**

DECEMBER 23, 1873.

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

To the Honorable, the Senate and General Assembly of the State of New Jersey:

The undersigned, Commissioners appointed by his Excellency the Governor, under and in pursuance of a joint resolution of the Legislature, passed on the fourth day of April, eighteen hundred and seventy-three, respectfully suggest the following as amendments to the Constitution of this State, and submit the same to the consideration of your honorable bodies:

Trenton, New Jersey, December twenty-three, eighteen hundred and seventy-three.

[Signed,]

JOHN C. TENEYCK,
President of Commission.

First District—S. H. Grey, Benjamin F. Carter.

Second District—Philemon Dickinson.

Third District—Robert S. Green, John F. Babcock.

Fourth District—J. L. Swayze, Joseph Thompson.

Fifth District—Augustus W. Cutler.

Sixth District—A. S. Hubbell, George J. Ferry.

Seventh District—D. S. Gregory.

Secretaries—E. J. Anderson, Joseph L. Naar.

Resolution adopted by the Constitutional Commission of New Jersey, December twenty-three, eighteen hundred and seventy-three:

“*Resolved*, That the Commission recommend to the Legislature the adoption of the amendments suggested by this Commission, in the form in which they have been adopted.”

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

515

PROPOSED AMENDMENTS.

ARTICLE I.

RIGHTS AND PRIVILEGES.

Strike out paragraph 16, as follows:

“Private property shall not be taken for public use without just compensation; but land may be taken for public highways as heretofore, until the legislature shall direct compensation to be made.”

And insert, in lieu thereof, the following:

“Private property shall ever be held inviolate, but subservient to the public welfare, and shall not be taken for public use without just compensation. In all cases where lands are taken by any incorporated company, any land owner being aggrieved by the award of commissioners, shall have the right of appeal, and have the damages re-assessed by the verdict of a jury; and such assessment shall be made without deduction for benefits.”

Insert, as paragraph 19, a new paragraph, as follows:

“19. No county shall be divided, or have any part set off therefrom, without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county voting on the question shall vote for the same.”

Insert, as paragraph 20, a new paragraph, as follows:

“20. No county, city, borough, town, township or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual association or corporation, or become security for or be directly or indirectly the owner of any stock or bonds of any association or corporation; nor shall any county, city, borough, town, township or village incur or be authorized by the legislature to incur, any indebtedness or to impose any tax except for state, county, city, township or village purposes. And no county shall contract or incur any debt, by bond or otherwise, exceeding two per cent. of the valuation of its taxable property; and no town, borough or township exceeding four per cent.; and no city exceeding eight per cent. on a like valuation, excepting for its water supply.”

Insert, as paragraph 21, a new paragraph, as follows:

“21. No donation of land or appropriation of money, shall be made by the state or any municipal corporation to, or for the use of, any society, association or corporation whatever.”

Change the number of present paragraph 19, to Number 22.

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

ARTICLE II.

RIGHT OF SUFFRAGE.

Paragraph 1. From the first line strike out the word "*white*."

Paragraph 1. After the words "*five months*" insert the following:

"and of the election district in which he may offer his vote, thirty days."

Paragraph 1. Add to the paragraph the following:

"*provided*, that in time of war, no elector in the actual military service of the state, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the legislature shall have power to provide the manner in which, and the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside."

Paragraph 2. Add to the paragraph the following words:

"or in legislation."

ARTICLE IV.

LEGISLATIVE.

Section I.

Paragraph 3. Strike out the words "*second Tuesday of October*," and insert, in lieu thereof, the following words: "first Tuesday after the first Monday in November."

Section IV.

Paragraph 6. Strike out the words "*read three times*," and insert, in lieu thereof, the following words:

"printed before they are received or considered, and shall be read throughout, section by section, on three several days."

Also, after the word "*thereof*," insert the following words:

"but the reading of the title only of any bill or joint resolution shall never be taken as the reading thereof; *provided*, that in cases of actual invasion or insurrection the legislature may, by a two-thirds vote of the house where such bill or joint resolution shall be pending, otherwise order; *and provided further*, that all bills and joint resolutions, together with the amendments thereto, shall be printed and distributed among the members of each house at least one day before the vote shall be taken on the final passage thereof."

Paragraph 7. Strike out the following words:

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

517

“a compensation for their services to be ascertained by law, and paid out of the treasury of the state; which compensation shall not exceed the sum of three dollars per day for the period of forty days from the commencement of the session, and shall not exceed the sum of one dollar and fifty cents per day for the remainder of the session. When convened in extra session by the governor, they shall receive such sum as shall be fixed for the first forty days of the ordinary session. They shall also receive the sum of one dollar for every ten miles they shall travel in going to and returning from their place of meeting on the most usual route.”

And insert, in lieu thereof, the following words:

“annually the sum of five hundred dollars during the time for which they shall have been elected, and while they shall hold their office, and no other allowance or emolument, directly or indirectly, for any purpose whatever, except a sum not exceeding twenty-five dollars per session to each member, which shall be in full for postage, stationery, and all other incidental expenses and perquisites.”

Paragraph 7. Strike out the words “*per diem*.”

Section V.

Strike out paragraphs 1 and 2, as follows:

“1. No member of the senate or general assembly shall, during the time for which he was elected, be nominated or appointed by the governor, or by the legislature in joint meeting, to any civil office under the authority of this state, which shall have been created, or the emoluments whereof shall have been increased during such time.”

“2. If any member of the senate or general assembly shall be elected to represent this state in the senate or house of representatives of the United States, and shall accept thereof, or shall accept of any office or appointment under the government of the United States, his seat in the legislature of this state shall thereby be vacated.”

And insert, in lieu thereof, the following:

“1. No member of the legislature shall receive any civil appointment within this state, or to the senate of the United States, from the governor, the governor and the senate, or from the legislature.”

Change the number of present paragraph 3 to number 2.

Section VII.

Paragraph 4. Add to the paragraph the following words:

“No law shall be revived or amended by reference to its title only, but the act revived, or the section or sections amended, shall be inserted at length. No general

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

law shall embrace any provision of a private, special or local character. No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of the act, or which shall enact that any existing law, or any part thereof, shall be applicable, except by inserting it in such act.”

Paragraph 6. Insert the word “*free*” after the word “public.”

Paragraph 6. Add to the paragraph the following words:

“A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the legislature shall establish and maintain public schools for the gratuitous instruction of all persons in this state, between the ages of five and eighteen years. The term ‘free schools’ used in this constitution, shall be construed to mean schools that aim to give to all a rudimentary education, and not to include schools designed to fit or prepare pupils to enter college, or schools controlled by or under the influence of any creed, religious society or denomination whatever.”

Strike out paragraph 8, as follows:

“8. The assent of three-fifths of the members elected to each house shall be requisite to the passage of every law for granting, continuing, altering, amending or renewing charters for banks or money corporations; and all such charters shall be limited to a term not exceeding twenty years.”

Change the number of present paragraph 9 to number 8.

Insert, as paragraph 9, a new paragraph, as follows:

“9. No amendment to the charter of any municipal corporation shall be received by the legislature after thirty days from the first day of the meeting thereof, and no such amendment shall be so received or considered unless a notice, expressing the substance of such amendment, shall have been published once a week, for at least four weeks next before the first day of the meeting of the legislature, in one or more of the newspapers of the largest circulation, printed and published and circulated in the municipal corporation to be affected thereby, and if none is printed or published therein, then in the newspaper printed or published nearestthereto.”

Insert, as paragraph 11, a new paragraph, as follows:

“11. No trust funds shall be invested in the bonds or stock of any private corporation, unless such investment be authorized or directed in the instrument or by the person creating the trust.”

Insert, as paragraph 12, a new paragraph, as follows:

“12. No act of legislature shall limit the amount to be recovered for injuries resulting in death, or for injuries to person or property; and in case of death from such injuries, the right of action shall survive, and the legislature shall prescribe

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

519

for whose benefit such action shall be prosecuted. Nor shall any act prescribe any limitation of time within which suits may be brought against corporations for injuries to person or property or for other causes, different from that fixed by the general laws prescribing the time for the limitation of action.”

Insert, as paragraph 13, a new paragraph, as follows:

“13. No act of the legislature shall take effect until the fourth day of July next after its passage, unless the legislature shall, by a vote of two-thirds of all the members elected to each house, otherwise direct.”

Insert, as paragraph 14, a new paragraph as follows:

“14. The legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say:

“Laying out, opening, altering and working roads or highways.”

“Vacating any road, town-plot, street, alley or public grounds.”

“Regulating the internal affairs of towns and counties; appointing local offices or commissions to regulate municipal affairs.”

“Selecting, drawing, summoning or empaneling grand or petit jurors.”

“Regulating the rate of interest on money.”

“Creating, increasing, or decreasing the per centage or allowance of public officers during the time for which said officers were elected or appointed.”

“Changing the law of descent.”

“Granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever.”

“Granting to any corporation, association or individual the right to lay down railroad tracks.”

“Providing for changes of venue in civil or criminal cases.”

“Providing for the management and support of free public schools.”

“The legislature shall pass general laws providing for the cases enumerated in this paragraph, and for all other cases which in its judgment may be provided for by general laws. The legislature shall pass no special act conferring corporate powers, but they shall pass general laws under which corporations may be organized, and corporate powers of every nature obtained, subject, nevertheless to repeal or alteration at the will of the legislature.”

Insert, as paragraph 15, a new paragraph, as follows:

“15. The legislature may establish a court or courts, with original jurisdiction over all cases of condemnation of lands and assessments for improvements.”

Insert, as paragraph 16, a new paragraph, as follows:

“16. Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value in money. No property of any kind, protected by

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

law, except that owned by the United States, the state, counties, townships, cities, towns or boroughs, shall be exempt by law from its full share of all state, county, township and city taxes and assessments, except burying grounds and cemeteries not held by stock companies. No law shall be enacted or contract entered into by which the exercise of the power of taxation shall be restricted, impaired or impeded. The legislature may provide by law for taking away from any person or persons, natural or artificial, now possessing or entitled to the same, any right of exemption from taxation which cannot be revoked without compensation, and for paying to such person or persons a just compensation for the right so taken away."

Section VIII.

Strike from the beginning of the section the following words:

"Members of the legislature shall, before they enter on the duties of their respective offices."

And insert in lieu thereof the following:

"Every member of the legislature, before he enters on his duties shall."

Insert, before the word "faithfully" the words:

"honestly and."

Insert after the word "ability" the following words:

"And I do solemnly swear (or affirm) that I have not paid or contributed anything, or made any promise in the nature of a bribe, to corruptly influence, directly or indirectly, any vote at the election at which I was chosen a member of the senate (or house of assembly); and I do further solemnly swear (or affirm) that I have not accepted or received, and I will not accept or receive, directly or indirectly, any money or other valuable thing from any corporation, company or person, for any vote or influence I may give or withhold on any bill, resolution, or appropriation, or for any other act as a member of the senate (or general assembly) of this state."

Add to the section the following words:

"Any member who shall refuse to take such oath, or affirmation, shall forfeit his membership; and any person convicted of having falsely taken said oath or affirmation, or of having broken the same, shall be subject to the punishment provided for wilful and corrupt perjury."

Add to the section, as paragraph 2, a new paragraph as follows:

"2. Every officer of the legislature shall, before he enters upon his duties, take and subscribe the following oath or affirmation: I do solemnly promise and swear (or affirm) that I will faithfully, impartially, and justly perform all the duties of the office of _____ to the best of my ability and understanding; that I will

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

521

carefully preserve all records, papers, writings or property entrusted to me for safe keeping by virtue of my office, and make such disposition of the same as may be required by law.”

ARTICLE V.

EXECUTIVE.

Paragraph 6. Insert after the word “legislature” where it occurs first in the paragraph, the following words:

“or the senate alone.”

Paragraph 7. Strike out the words “a majority” where they occur (in two places) in the paragraph, and insert, in lieu thereof, in each place, the words:

“two-thirds.”

Paragraph 7. Add to the paragraph the following:

“If any bill presented to the governor contain several items of appropriations of money, he may object to one or more of such items while approving of the other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the appropriations so objected to shall not take effect. If the legislature be in session, he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If, on reconsideration, one or more of such items be approved by two-thirds of the members elected to each house, the same shall be a part of the law, notwithstanding the objections of the governor. All the provisions of this section in relation to bills not approved by the governor, shall apply to cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.”

Paragraph 8. Add to the paragraph the following words:

“Nor shall he be elected by the legislature to any office under the government of this state, or of the United States, during the term for which he shall have been elected governor.”

Insert as paragraph 15, a new paragraph, as follows:

“15. Conviction of any felony, or otherwise infamous crime, or of any official delinquency under the laws of this state, shall, after final judgment thereon, vacate any office under the constitution or laws of this state held by the person so convicted; and a duly authenticated record of such conviction and judgment shall be conclusive evidence of such forfeiture, and shall authorize competent authority to fill the vacancy occasioned thereby.”

ARTICLE VI.

**REPORT OF
THE CONSTITUTIONAL COMMISSION
JUDICIARY.**

Section VI.

Paragraph 1. Strike from the paragraph the word “five” and insert, in lieu thereof, the word “two.”

Also strike from the paragraph the following words: “One judge for each county shall be appointed every year, and no more, except to fill vacancies, which shall be for the unexpired term only.”

Insert, after the words “there shall be,” the following:

“Beside the justice of the supreme court, who may be ex-officio the judge of said court.”

Paragraph 2. Strike from the paragraph the word “first,” in the first line, and also the following words: “next; and all subsequent commissions for judges of said court shall bear date and take effect on the first day of April, in every successive year.”

Section VII.

Strike out paragraph 1, as follows:

“1. There may be elected, under this constitution, two and not more than five justices of the peace in each of the townships of the several counties of this state, and in each of the wards in cities that may vote in wards. When a township or ward contains two thousand inhabitants or less, it may have two justices; when it contains more than two thousand inhabitants, and not more than four thousand, it may have four justices; and when it contains more than four thousand inhabitants it may have five justices; *provided*, that whenever any township not voting in wards, contains more than seven thousand inhabitants, such township may have an additional justice for each additional three thousand inhabitants above four thousand.”

And insert, in lieu thereof, the following:

“There may be elected under this constitution not more than two justices of the peace in each of the townships of the several counties of this state, and in each of the wards in cities that may vote in wards not more than one justice of the peace; and the legislature shall provide by law the qualifications necessary for such justices to possess, and the method of ascertaining the possession of such qualifications, and no person elected as aforesaid, to the said office of justice of the peace, shall receive his commission until he is fully qualified according to law. The legislature shall also provide for the summary suspension of justices of the peace for misconduct in office, such suspension to continue until the end of the

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

523

next succeeding session of the legislature.”

Strike out paragraph 2, as follows:

“2. The population of the townships in the several counties of the state, and of the several wards, shall be ascertained by the last preceding census of the United States, until the legislature shall provide by law some other mode of ascertaining it.”

ARTICLE VII.

APPOINTING POWER AND TENURE OF OFFICE.

Section I.

Paragraph 5. Insert, after the words “major-general,” the following:
“the adjutant-general and quartermaster-general.”

Paragraph 9. Strike out the words “the adjutant-general, quartermaster-general, and.” Also strike out the word “other.”

Section II.

Paragraph 1. Strike out the word “and” where it occurs first in the paragraph. Insert after the word “appeals,” the following words:

“and judges of the inferior court of common pleas.”

Also, insert after the word “years,” the following words:

“and the judges of the inferior court of common pleas for the term of five years: they.”

Also, insert, between the word “be” and the word “diminished,” the following words:

“increased or.”

And add to the paragraph the following words:

“Justices of the supreme court, judges of the court of errors and appeals, and judges of the court of common pleas, when appointed to fill vacancies, shall hold for the unexpired term only.”

Strike out paragraph 2, as follows:

“Judges of the court of common pleas shall be appointed by the senate and general assembly in joint meeting. They shall hold their offices for five years; but when appointed to fill vacancies they shall hold for the unexpired term only.”

Change the number of paragraph 3 to number 2, and strike therefrom the words “and the keeper and inspectors of the state prison.”

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

Also strike out the word “they,” and insert in lieu thereof the word “he.”

Also strike out the words “their offices,” and insert in lieu thereof the words “his office.”

Also strike out the words “their successors,” and insert in lieu thereof the words “his successor.”

Change the number of paragraph 4 to 3, and strike out the word “and” between the word “chancery” and the word “secretary.”

Insert after the word “state,” the following words:

“and the keeper and inspectors of the state prison.”

Also insert after the word “years” the following words:

“except the attorney-general, who shall hold his office for three years.”

Change the number of paragraph 5 to number 4.

Change the number of paragraph 6 to number 5.

Change the number of paragraph 7 to number 6, and strike therefrom the following words:

“annually,” “annual,” and “they may be re-elected until they shall have served three years, but no longer.”

Insert, after the word “assembly,” the following words:

“and they shall hold their offices for three years.”

Also, add to the paragraph the following words:

“sheriffs shall annually renew their bonds.”

Change the number of paragraph 8 to number 7.

Change the number of paragraph 9 to number 8.

Change the number of paragraph 10 to number 9.

Change the number of paragraph 11 to number 10.

Insert as paragraph 11, a new paragraph, as follows:

“No law shall extend the term of any public officer, or increase or diminish his salary or emoluments after his election or appointment.”

Source:

“Report of the Constitutional Commission of New Jersey” dated December 23, 1873, affixed to the official manuscript minutes of the New Jersey General Assembly for March 23, 1874, located in the New Jersey State Archives, Trenton. Compare with *SENATE JOURNAL*, 1874, pages 48-59.

REPORT OF
THE CONSTITUTIONAL COMMISSION

525

Constitution

OF THE

State of New Jersey

AS PROPOSED TO BE AMENDED

BY THE

Constitutional Commission.

DECEMBER 23, 1873.

TRENTON, N.J.:
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1873.

**REPORT OF
THE CONSTITUTIONAL COMMISSION
CONSTITUTION OF NEW JERSEY,**

As proposed to be amended by the Commission appointed to “suggest and prepare Amendments to the State Constitution,” pursuant to a Joint Resolution approved April 4, 1873.

The matter proposed to be stricken out is enclosed in [brackets] and printed in SMALL CAPITAL letters. The matter proposed to be inserted is printed *initials*.
December 23, 1873.

STATE OF NEW JERSEY.

A CONSTITUTION

Agreed upon by the Delegates of the People of New Jersey, in Convention:
begun at Trenton on the fourteenth day of May, and continued to the twenty-ninth day of June, in the year of our Lord one thousand eight hundred and forty-four.

We, the people of the State of New Jersey, grateful to Almighty God for the civil and religious liberty which He hath so long permitted us to enjoy, and looking to Him for a blessing upon our endeavors to secure and transmit the same unimpaired to succeeding generations, do ordain and establish this Constitution:

ARTICLE I.

RIGHTS AND PRIVILEGES.

1. All men are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and of pursuing and obtaining safety and happiness.

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

527

2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have the right, at all times, to alter or reform the same whenever the public good may require it.

3. No person shall be deprived of the inestimable privilege of worshipping Almighty God in a manner agreeable to the dictates of his own conscience; nor under any pretense whatever be compelled to attend any place of worship contrary to his faith and judgment; nor shall any person be obliged to pay tithes, taxes or other rates for building or repairing any church or churches, place or places of worship, or for the maintenance of any minister of ministry, contrary to what he believes to be right, or has deliberately and voluntarily engaged to perform.

4. There shall be no establishment of one religious sect in preference to another; no religious test shall be required as a qualification for any office or public trust; and no person shall be denied the enjoyment of any civil right merely on account of his religious principles.

5. Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech or of the press. In all prosecutions or indictments for libel, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

6. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the papers and things to be seized.

7. The right of a trial by jury shall remain inviolate; but the legislature may authorize the trial of civil suits, when the matter in dispute does not exceed fifty dollars, by a jury of six men.

8. In all criminal prosecutions the accused shall have the right to a speedy and public trial by an impartial jury; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel in his defence.

9. No person shall be held to answer for a criminal offence unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases cognizable by justices of the peace, or arising in the army or navy or in the militia, when in actual service in time of war or public danger.

10. No person shall, after acquittal, be tried for the same offence. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offences, when the proof is evident or presumption great.

11. The privilege of the writ of habeas corpus shall not be suspended, unless in case of rebellion or invasion the public safety may require it.

12. The military shall be in strict subordination to the civil power.

13. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, except in a manner prescribed by law.

14. Treason against the state shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

15. Excessive bail shall not be required, excessive fines shall not be imposed, and cruel and unusual punishments shall not be inflicted.

16. [PRIVATE PROPERTY SHALL NOT BE TAKEN FOR PUBLIC USE WITHOUT JUST COMPENSATION; BUT LAND MAY BE TAKEN FOR PUBLIC HIGHWAYS, AS HERETOFORE, UNTIL THE LEGISLATURE SHALL DIRECT COMPENSATION TO BE MADE.] *Private property shall ever be held inviolate, but subservient to the public welfare, and shall not be taken for public use without just compensation. In all cases where lands are taken by any incorporated company, any land owner, being aggrieved by the award of commissioners, shall have the right of appeal, and have the damages re-assessed by the verdict of a jury, and such assessment shall be made without deduction for benefits.*

17. No person shall be imprisoned for debt in any action, or on any judgment founded upon contract, unless in case of fraud; nor shall any person be imprisoned for a militia fine in time of peace.

18. The people have the right freely to assemble together, to consult for the common good, to make known their opinions to their representatives,

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

529

and to petition for redress of grievances.

19. *No county shall be divided or have any part set off therefrom without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county voting on the question shall vote for the same.*

20. *No county, city, borough, town, township or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual, association or corporation, or become security for, or be directly or indirectly the owner of, any stock or bonds of any association or corporation; nor shall any county, city, borough, town, township or village incur, or be authorized by the legislature to incur, any indebtedness or to impose any tax except for state, county, city, township or village purposes. And no county shall contract or incur any debt, by bond or otherwise, exceedingly two per cent. of the valuation of its taxable property; and no town, borough or township exceeding four per cent.; and no city exceeding eight per cent., on a like valuation, excepting for its water supply.*

21. *No donation of land or appropriation of money shall be made by the state or any municipal corporation to or for the use of any society, association or corporation whatever.*

[19] 22. This enumeration of rights and privileges shall not be construed to impair or deny others retained by the people.

ARTICLE II.

RIGHT OF SUFFRAGE.

1. Every [WHITE] male citizen of the United States, of the age of twenty-one years, who shall have been a resident of this state one year, and of the county in which he claims his vote five months, *and of the election district in which he may offer his vote thirty days*, next before the election, shall be entitled to vote for all officers that now are, or hereafter may be, elective by the people; *provided*, that no person in the military, naval or marine service of the United States shall be considered a resident in this state by being stationed in any garrison, barrack, or military or naval place or station within this state; and no pauper, idiot, insane person, or person convicted of a crime which now excludes him from being a witness unless pardoned or

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

restored by law to the right of suffrage, shall enjoy the right of an elector; *provided, that in time of war no elector in the actual military service of the State, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the legislature shall have power to provide the manner in which, and the time and place at which, such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.*

2. The legislature may pass laws to deprive persons of the right of suffrage who shall be convicted of bribery at elections *or in legislation.*

ARTICLE III.

DISTRIBUTION OF THE POWERS OF GOVERNMENT.

1. The powers of the government shall be divided into three distinct departments—the legislative, executive and judicial; and no person or persons belonging to, or constituting one of these departments, shall exercise any of the powers properly belonging to either of the others, except as herein expressly provided.

ARTICLE IV.

LEGISLATIVE.

Section I.

1. The legislative power shall be vested in a senate and general assembly.

2. No person shall be a member of the senate who shall not have attained the age of thirty years, and have been a citizen and inhabitant of the state for four years, and of the county for which he shall be chosen one year, next before his election; and no person shall be a member of the general assembly who shall not have attained the age of twenty-one years, and have been a citizen and inhabitant of the state for two years, and of the county for which he shall be chosen one year, next before his election; *provided, that no person shall be eligible as a member of either house of the legislature*

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

531

who shall not be entitled to the right of suffrage.

3. Members of the senate and general assembly shall be elected yearly and every year, on the [SECOND TUESDAY OF OCTOBER] *first Tuesday after the first Monday in November*; and the two houses shall meet separately on the second Tuesday in January next after the said day of election, at which time of meeting the legislative year shall commence; but the time of holding such election may be altered by the legislature.

Section II.

1. The senate shall be composed of one senator from each county in the state, elected by the legal voters of the counties, respectively, for three years.

2. As soon as the senate shall meet after the first election to be held in pursuance of this constitution, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the first year; of the second class at the expiration of the second year; and of the third class at the expiration of the third year, so that one class may be elected every year; and if vacancies happen, by resignation or otherwise, the persons elected to supply such vacancies shall be elected for the unexpired terms only.

Section III.

1. The general assembly shall be composed of members annually elected by the legal voters of the counties, respectively, who shall be apportioned among the said counties as nearly as may be according to the number of their inhabitants. The present apportionment shall continue until the next census of the United States shall have been taken, and an apportionment of members of the general assembly shall be made by the legislature, at its first session after the next and every subsequent enumeration or census, and, when made, shall remain unaltered until another enumeration shall have been taken; *provided*, that each county shall at all times be entitled to one member; and the whole number of members shall never exceed sixty.

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

Section IV.

1. Each house shall direct writs of election for supplying vacancies, occasioned by death, resignation or otherwise; but if vacancies occur during the recess of the legislature, the writs may be issued by the governor, under such regulations as may be prescribed by law.

2. Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

3. Each house shall choose its own officers, determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, may expel a member.

4. Each house shall keep a journal of its proceedings, and from time to time publish the same; and the yeas and nays of the members of either house, on any question, shall, at the desire of one-fifth of those present, be entered on the journal.

5. Neither house, during the session of the legislature, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

6. All bills and joint resolutions shall be ~~READ THREE TIMES~~ *printed before they are received or considered, and shall be read throughout, section by section, on three several days, in each house, before the final passage thereof; but the reading of the title only, of any bill or joint resolution, shall never be taken as the reading thereof; provided, that in cases of actual invasion or insurrection, the legislature may, by a two thirds vote of the house where such bill or joint resolution shall be pending, otherwise order; and provided further, that all bills and joint resolutions, together with the amendments thereto, shall be printed and distributed among the members of each house at least one day before the vote shall be taken on the final passage thereof; and no bill or joint resolution shall pass unless there be a majority of all the members of each body personally present and agreeing thereto; and the yeas and nays of the members voting on such final passage shall be entered on the journal.*

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

533

7. Members of the senate and general assembly shall receive [A COMPENSATION FOR THEIR SERVICES, TO BE ASCERTAINED BY LAW, AND PAID OUT OF THE TREASURY OF THE STATE; WHICH COMPENSATION SHALL NOT EXCEED THE SUM OF THREE DOLLARS PER DAY FOR THE PERIOD OF FORTY DAYS FROM THE COMMENCEMENT OF THE SESSION, AND SHALL NOT EXCEED THE SUM OF ONE DOLLAR AND FIFTY CENTS PER DAY FOR THE REMAINDER OF THE SESSION. WHEN CONVENED IN EXTRA SESSION BY THE GOVERNOR THEY SHALL RECEIVE SUCH SUM AS SHALL BE FIXED FOR THE FIRST FORTY DAYS OF THE ORDINARY SESSION. THEY SHALL ALSO RECEIVE THE SUM OF ONE DOLLAR FOR EVERY TEN MILES THEY SHALL TRAVEL IN GOING TO AND RETURNING FROM THEIR PLACE OF MEETING, ON THE MOST USUAL ROUTE,] *annually the sum of five hundred dollars during the time for which they shall have been elected, and while they shall hold their office, and no other allowance or emolument, directly or indirectly, for any purpose whatever, except a sum not exceeding twenty-five dollars per session, to each member, which shall be in full for postage, stationery, and all other incidental expenses and perquisites.* The president of the senate and the speaker of the house of assembly shall, in virtue of their offices, receive an additional compensation, equal to one-third of their [PER DIEM] allowance as members.

8. Members of the senate and general assembly shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the sitting of their respective houses, and in going to and returning from the same; and for any speech or debate, in either house, they shall not be questioned in any other place.

Section V.

1. [NO MEMBER OF THE SENATE OR GENERAL ASSEMBLY SHALL, DURING THE TIME FOR WHICH HE WAS ELECTED, BE NOMINATED OR APPOINTED BY THE GOVERNOR OR BY THE LEGISLATURE IN JOINT MEETING, TO ANY CIVIL OFFICE UNDER THE AUTHORITY OF THIS STATE, WHICH SHALL HAVE BEEN CREATED, OR THE EMOLUMENTS WHEREOF SHALL HAVE BEEN INCREASED, DURING SUCH TIME.]

[2. IF ANY MEMBER OF THE SENATE OR GENERAL ASSEMBLY SHALL BE ELECTED TO REPRESENT THIS STATE IN THE SENATE OR HOUSE OF REPRESENTATIVES OF THE UNITED STATES, AND SHALL ACCEPT THEREOF, OR SHALL ACCEPT OF ANY OFFICE OR APPOINTMENT UNDER THE GOVERNMENT OF THE UNITED STATES, HIS SEAT IN THE

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

LEGISLATURE OF THIS STATE SHALL THEREBY BE VACATED.]

No member of the legislature shall receive any civil appointment within this state, or to the senate of the United States, from the governor, the governor and the senate, or from the legislature.

[3.] 2. No justice of the supreme court, nor judge of any other court, sheriff, justice of the peace, nor any person or persons possessed of any office of profit under the government of this state, shall be entitled to a seat either in the senate or in the general assembly; but on being elected and taking his seat his office shall be considered vacant; and no person holding any office of profit under the government of the United States shall be entitled to a seat in either house.

Section VI.

1. All bills for raising revenue shall originate in the house of assembly; but the senate may propose or concur with amendments, as on other bills.

2. No money shall be drawn from the treasury but for appropriations made by law.

3. The credit of the state shall not be directly or indirectly loaned in any case.

4. The legislature shall not, in any manner, create any debt or debts, liability or liabilities, of the state, which shall singly or in the aggregate, with any previous debts or liabilities, at any time exceed one hundred thousand dollars, except for purposes of war, or to repel invasion, or to suppress insurrection, unless the same shall be authorized by a law for some single object or work to be distinctly specified therein; which law shall provide the ways and means, exclusive of loans, to pay the interest of such debt or liability as it falls due, and also to pay and discharge the principal of such debt or liability within thirty-five years from the time of the contracting thereof, and shall be irrepealable until such debt or liability, and the interest thereon, are fully paid and discharged; and no such law shall take effect until it shall, at a general election, have been submitted to the people, and have received the sanction of a majority of all the votes cast for and against it at such election; and all money to be raised by the authority of such law shall be applied only to the specific object stated therein, and to the payment of the debt thereby created. This section shall not be construed to

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

535

refer to any money that has been, or may be, deposited with this state by the government of the United States.

Section VII.

1. No divorce shall be granted by the legislature.
2. No lottery shall be authorized by this state; and no ticket in any lottery not authorized by a law of this state shall be bought or sold within the state.
3. The legislature shall not pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or depriving a party of any remedy for enforcing a contract which existed when the contract was made.
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. *No law shall be revived or amended by reference to its title only, but the act revived, or the section or sections amended, shall be inserted at length. No general law shall embrace any provision of a private, special or local character. No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of the act, or which shall enact that any existing law, or any part thereof, shall be applicable, except by inserting it in such act.*
5. The laws of this state shall begin in the following style: "Be it enacted by the Senate and General Assembly of the State of New Jersey."
6. The fund for the support of free schools, and all money, stock and other property which may hereafter be appropriated for that purpose, or received into the treasury under the provision of any law heretofore passed to augment the said fund, shall be securely invested, and remain a perpetual fund; and the income thereof, except so much as it may be judged expedient to apply to an increase of the capital, shall be annually appropriated to the support of public *free* schools, for the equal benefit of all the people of the state; and it shall not be competent for the legislature to borrow, appropriate or use the said fund, or any part thereof, for any other purpose, under any pretense whatever. *A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the legislature shall establish and maintain public schools for the*

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

gratuitous instruction of all persons in this state between the ages of five and eighteen years. The term "free schools," used in this constitution, shall be construed to mean schools that aim to give to all a rudimentary education, and not to include schools designed to fit or prepare pupils to enter college, or schools controlled by or under the influence of any creed, religious society or denomination whatever.

7. No private or special law shall be passed authorizing the sale of any lands belonging in whole or in part to a minor or minors or other persons who may at the time be under any legal disability to act for themselves.

[8. THE ASSENT OF THREE-FIFTHS OF THE MEMBERS ELECTED TO EACH HOUSE SHALL BE REQUISITE TO THE PASSAGE OF EVERY LAW FOR GRANTING, CONTINUING, ALTERING, AMENDING OR RENEWING CHARTERS FOR BANKS OR MONEY CORPORATIONS; AND ALL SUCH CHARTERS SHALL BE LIMITED TO A TERM NOT EXCEEDING TWENTY YEARS.]

[9] 8. Individuals or private corporations shall not be authorized to take private property for public use without just compensation first made to the owners.

[10] 9. *No amendment to the charter of any municipal corporation shall be received by the legislature after thirty days from the first day of the meeting thereof, and no such amendment shall be so received or considered unless a notice, expressing the substance of such amendment, shall have been published once a week, for at least four weeks next before the first day of the meeting of the legislature, in one or more of the newspapers of the largest circulation, printed, published and circulated in the municipal corporation to be affected thereby, and if none is printed or published therein, then in the newspaper printed or published nearest thereto.*

10. The legislature may vest in the circuit courts, or courts of common pleas within the several counties of this state, chancery powers, so far as relates to the foreclosure of mortgages and sale of mortgaged premises.

11. *No trust funds shall be invested in the bonds or stock of any private corporation, unless such investment be authorized or directed in the instrument or by the person creating the trust.*

12. *No act of the legislature shall limit the amount to be recovered for injuries resulting in death, or for injuries to person or property; and in case of death from such injuries, the right of action shall survive, and the*

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

537

legislature shall prescribe for whose benefit such action shall be prosecuted. Nor shall any act prescribe any limitation of time within which suits may be brought against corporations for injuries to person or property, or for other causes different from that fixed by the general laws prescribing the time for the limitation of actions.

13. *No act of the legislature shall take effect until the fourth day of July next after its passage, unless the legislature shall, by a vote of two-thirds of all the members elected to each house, otherwise direct.*

14. *The legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say:*

Laying out, opening, altering and working roads or highways.

Vacating any road, town plot, street, alley or public grounds.

Regulating the internal affairs of towns and counties; appointing local offices or commissions to regulate municipal affairs.

Selecting, drawing, summoning or empaneling grand or petit jurors.

Regulating the rate of interest on money.

Creating, increasing or decreasing the percentage or allowance of public officers during the term for which said officers were elected or appointed.

Changing the law of descent.

Granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever.

Granting to any corporation, association or individual the right to lay down railroad tracks.

Providing for changes of venue in civil or criminal cases.

Providing for the management and support of free public schools.

The legislature shall pass general laws providing for the cases enumerated in this paragraph, and for all other cases which, in its judgment, may be provided for by general laws. The legislature shall pass no special act conferring corporate powers, but they shall pass general laws under which corporations may be organized and corporate powers of every nature obtained, subject, nevertheless, to repeal or alteration at the will of the legislature.

15. *The legislature may establish a court or courts, with original jurisdiction, over all cases of condemnation of lands and assessments for*

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

improvements.

16. *Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value in money. No property of any kind, protected by law, except that owned by the United States, the state, counties, townships, cities, towns or boroughs, shall be exempt by law from its full share of all state, county, township and city taxes and assessments, except burying grounds and cemeteries not held by stock companies. No law shall be enacted or contract entered into by which the exercise of the power of taxation shall be restricted, impaired or impeded. The legislature may provide by law for taking away from any person or persons, natural or artificial, now possessing or entitled to the same, any right of exemption from taxation which cannot be revoked without compensation, and for paying to such person or persons a just compensation for the right so taken away.*

Section VIII.

1. [MEMBERS OF THE LEGISLATURE SHALL, BEFORE THEY ENTER ON THE DUTIES OF THEIR RESPECTIVE OFFICES] *Every member of the legislature, before he enters on his duties, shall take and subscribe the following oath or affirmation:*

“I do solemnly swear (or affirm, as the case may be,) that I will support the constitution of the United States and the constitution of the state of New Jersey, and that I will honestly and faithfully discharge the duties of senator (or member of general assembly, as the case may be,) according to the best of my ability.” And I do solemnly swear (or affirm) that I have not paid or contributed anything, or made any promise in the nature of a bribe, to corruptly influence, directly or indirectly, any vote at the election at which I was chosen a member of the senate (or house of assembly); and I do further solemnly swear (or affirm) that I have not accepted or received, and I will not accept or receive, directly or indirectly, any money or other valuable thing from any corporation, company or person for any vote or influence I may give or withhold on any bill, resolution or appropriation, or for any other act as a member of the senate (or general assembly) of this state. And members elect of the senate or general assembly are hereby empowered to administer to each other the said oath or affirmation. Any

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

539

member who shall refuse to take such oath or affirmation shall forfeit his membership; and any person convicted of having falsely taken said oath or affirmation, or of having broken the same, shall be subject to the punishment provided for willful and corrupt perjury.

2. *Every officer of the legislature shall, before he enters upon his duties, take and subscribe the following oath or affirmation: "I do solemnly promise and swear (or affirm) that I will faithfully, impartially and justly perform all the duties of the office of ———, to the best of my ability and understanding; that I will carefully preserve all records, papers, writings or property entrusted to me for safe keeping by virtue of my office, and make such disposition of the same as may be required by law."*

ARTICLE V.

EXECUTIVE.

1. The executive power shall be vested in a governor.
2. The governor shall be elected by the legal voters of this state. The person having the highest number of votes shall be the governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by the vote of a majority of the members of both houses in joint meeting. Contested elections for the office of governor shall be determined in such manner as the legislature shall direct by law. When a governor is to be elected by the people, such election shall be held at the time when and at the place where the people shall respectively vote for members of the legislature.
3. The governor shall hold his office for three years, to commence on the third Tuesday of January next ensuing the election for governor by the people, and to end on the Monday preceding the third Tuesday of January, three years thereafter; and he shall be incapable of holding that office for three years next after his term of service shall have expired. And no appointment or nomination to office shall be made by the governor during the last week of his said term.
4. The governor shall not be less than thirty years of age, and shall have been for twenty years, at least, a citizen of the United States, and a resident of this state seven years next before his election, unless he shall have been

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

absent during that time on the public business of the United States or of this state.

5. The governor shall, at stated times, receive for his services a compensation, which shall be neither increased nor diminished during the period for which he shall have been elected.

6. He shall be the commander-in-chief of all the military and naval forces of the state; he shall have power to convene the legislature, *or the senate alone*, whenever in his opinion public necessity requires it; he shall communicate by message to the legislature at the opening of each session, and at such other times as he may deem necessary, the condition of the state, and recommend such measures as he may deem expedient; he shall take care that the laws be faithfully executed, and grant, under the great seal of the state, commissions to all such officers as shall be required to be commissioned.

7. Every bill which shall have passed both houses shall 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 shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it; if, after such reconsideration, [A MAJORITY] *two-thirds* of the whole number of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved of by [A MAJORITY] *two-thirds* of the whole number of that house, it shall become a law; but in neither house shall the vote be taken on the same day on which the bill shall be returned to it; and in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislature, by their adjournment, prevent its return, in which case it shall not be a law. *If any bill presented to the governor contain several items of appropriations of money, he may object to one or more of such items while approving of the other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the appropriation so objected to shall not take effect.*

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

541

If the legislature be in session he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If, on reconsideration, one or more of such items be approved by two-thirds of the members elected to each house, the same shall be a part of the law, notwithstanding the objections of the governor. All the provisions of this section in relation to bills not approved by the governor shall apply to cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.

8. No member of congress, or person holding an office under the United States or this state, shall exercise the office of governor; and in case the governor, or person administering the government, shall accept any office under the United States or this state, his office of governor shall thereupon be vacant. *Nor shall he be elected by the legislature to any office under the government of this state or of the United States, during the term for which he shall have been elected governor.*

9. The governor, or person administering the government, shall have power to suspend the collection of fines and forfeitures, and to grant reprieves to extend until the expiration of a time not exceeding ninety days after conviction; but this power shall not extend to cases of impeachment.

10. The governor, or person administering the government, the chancellor, and the six judges of the court of errors and appeals, or a major part of them, of whom the governor, or person administering the government, shall be one, may remit fines and forfeitures, and grant pardons after conviction, in all cases except impeachment.

11. The governor and all other civil officers under this state shall be liable to impeachment for misdemeanor in office, during their continuance in office, and for two years thereafter.

12. In case of the death, resignation or removal from office of the governor, the powers, duties and emoluments of the office shall devolve upon the president of the senate, and in case of his death, resignation or removal, then upon the speaker of the house of assembly for the time being, until another governor shall be elected and qualified; but in such case another governor shall be chosen at the next election for members of the legislature, unless such death, resignation or removal shall occur within thirty days immediately preceding such next election, in which case a

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

governor shall be chosen at the second succeeding election for members of the legislature. When a vacancy happens, during the recess of the legislature, in any office which is to be filled by the governor and senate, or by the legislature in joint meeting, the governor shall fill such vacancy, and the commission shall expire at the end of the next session of the legislature, unless a successor shall be sooner appointed; when a vacancy happens in the office of clerk or surrogate of any county, the governor shall fill such vacancy, and the commission shall expire when a successor is elected and qualified.

13. In case of the impeachment of the governor, his absence from the state, or inability to discharge the duties of his office, the powers, duties and emoluments of the office shall devolve upon the president of the senate; and in case of his death, resignation or removal, then upon the speaker of the house of assembly for the time being, until the governor, absent or impeached, shall return or be acquitted, or until the disqualification or inability shall cease (*sic*), or until a new governor be elected and qualified.

14. In case of a vacancy in the office of governor from any other cause than those herein enumerated, or in case of the death of the governor-elect before he is qualified into office, the powers, duties and emoluments of the office shall devolve upon the president of the senate, or speaker of the house of assembly, as above provided for, until a new governor be elected and qualified.

15. *Conviction of any felony or otherwise infamous crime, or of any official delinquency under the laws of this state, shall, after final judgment thereon, vacate any office under the constitution or laws of this state held by the person so convicted; and a duly authenticated record of such conviction and judgment shall be conclusive evidence of such forfeiture, and shall authorize competent authority to fill the vacancy occasioned thereby.*

ARTICLE VI.

JUDICIARY.

Section I.

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

543

1. The judicial power shall be vested in a court of errors and appeals in the last resort in all causes, as heretofore; a court for the trial of impeachments; a court of chancery; a prerogative court; a supreme court; circuit courts and such inferior courts as now exist, and as may be hereafter ordained and established by law; which inferior courts the legislature may alter or abolish, as the public good shall require.

Section II.

1. The court of errors and appeals shall consist of the chancellor, the justices of the supreme court, and six judges, or a major part of them; which judges are to be appointed for six years.

2. Immediately after the court shall first assemble, the six judges shall arrange themselves in such manner that the seat of one of them shall be vacated every year, in order that thereafter one judge may be annually appointed.

3. Such of the six judges as shall attend the court shall receive, respectively, a per diem compensation, to be provided by law.

4. The secretary of state shall be the clerk of this court.

5. When an appeal from an order or decree shall be heard, the chancellor shall inform the court, in writing, of the reasons for his order or decree; but he shall not sit as a member, or have a voice in the hearing or final sentence.

6. When a writ of error shall be brought, no justice who has given a judicial opinion in the cause in favor of or against any error complained of, shall sit as a member, or have a voice on the hearing, or for its affirmance or reversal; but the reasons for such opinion shall be assigned to the court in writing.

Section III.

1. The house of assembly shall have the sole power of impeaching, by a vote of a majority of all the members; and all the impeachments shall be tried by the senate, the members, when sitting for that purpose, to be on oath or affirmation "truly and impartially to try and determine the charge in question, according to evidence;" and no person shall be convicted without the concurrence of two-thirds of all the members of the senate.

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

2. Any judicial officer impeached shall be suspended from exercising his office until his acquittal.

3. Judgment in cases of impeachment shall not extend further than to removal from office, and to disqualification to hold and enjoy any office of honor, profit or trust under this state; but the party convicted shall, nevertheless, be liable to indictment, trial and punishment, according to law.

4. The secretary of state shall be the clerk of this court.

Section IV.

1. The court of chancery shall consist of a chancellor.

2. The chancellor shall be the ordinary or surrogate general, and judge of the prerogative court.

3. All persons aggrieved by any order, sentence or decree of the orphans' court, may appeal from the same, or from any part thereof, to the prerogative court; but such order, sentence or decree shall not be removed into the supreme court, or circuit court, if the subject matter thereof be within the jurisdiction of the orphans' court.

4. The secretary of state shall be the register of the prerogative court, and shall perform the duties required of him by law in that respect.

Section V.

1. The supreme court shall consist of a chief justice and four associate justices. The number of associate justices may be increased or decreased by law, but shall never be less than two.

2. The circuit courts shall be held in every county of this state by one or more of the justices of the supreme court, or a judge appointed for that purpose, and shall in all cases within the county, except in those of a criminal nature, have common law jurisdiction concurrent with the supreme court; and any final judgment of a circuit court may be docketed in the supreme court, and shall operate as a judgment obtained in the supreme court from the time of such docketing.

3. Final judgments in any circuit court may be brought by writ of error into the supreme court, or directly into the court of errors and appeals.

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

545

Section VI.

1. There shall be, *besides the justice of the supreme court, who may be ex officio the judge of said court*, no more than [FIVE] two judges of the inferior court of common pleas in each of the counties in this state, after the terms of the judges of said court now in office shall terminate. [ONE JUDGE FOR EACH COUNTY SHALL BE APPOINTED EVERY YEAR, AND NO MORE, EXCEPT TO FILL VACANCIES, WHICH SHALL BE FOR THE UNEXPIRED TERM ONLY.]

2. The commissions for the [FIRST] appointments of judges of said court shall bear date and take effect on the first day of April [NEXT; AND ALL SUBSEQUENT COMMISSIONS FOR JUDGES OF SAID COURT SHALL BEAR DATE AND TAKE EFFECT ON THE FIRST DAY OF APRIL IN EVERY SUCCESSIVE YEAR], except commissions to fill vacancies, which shall bear date and take effect when issued.

Section VII.

1. [THERE MAY BE ELECTED UNDER THIS CONSTITUTION, TWO, AND NOT MORE THAN FIVE, JUSTICES OF THE PEACE IN EACH OF THE TOWNSHIPS OF THE SEVERAL COUNTIES OF THIS STATE, AND IN EACH OF THE WARDS IN CITIES THAT MAY VOTE IN WARDS. WHEN A TOWNSHIP OR WARD CONTAINS TWO THOUSAND INHABITANTS OR LESS, IT MAY HAVE TWO JUSTICES; WHEN IT CONTAINS MORE THAN TWO THOUSAND INHABITANTS, AND NOT MORE THAN FOUR THOUSAND, IT MAY HAVE FOUR JUSTICES; AND WHEN IT CONTAINS MORE THAN FOUR THOUSAND INHABITANTS IT MAY HAVE FIVE JUSTICES; PROVIDED, THAT WHENEVER ANY TOWNSHIP, NOT VOTING IN WARDS, CONTAINS MORE THAN SEVEN THOUSAND INHABITANTS, SUCH TOWNSHIP MAY HAVE AN ADDITIONAL JUSTICE FOR EACH ADDITIONAL THREE THOUSAND INHABITANTS ABOVE FOUR THOUSAND.] *There may be elected under this constitution not more than two justices of the peace in each of the townships of the several counties of this state, and in each of the wards, in cities that may vote in wards, not more than one justice of the peace; and the legislature shall provide by law the qualifications necessary for such justices to possess, and the method of ascertaining the possession of such qualifications; and no person elected as aforesaid to the said office of justice of the peace, shall receive his commission until he is fully qualified according to law. The legislature shall also provide for the summary suspension of justices of the*

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

peace for misconduct in office, such suspension to continue until the end of the next succeeding session of the legislature.

[2. THE POPULATION OF THE TOWNSHIPS IN THE SEVERAL COUNTIES OF THE STATE, AND OF THE SEVERAL WARDS, SHALL BE ASCERTAINED BY THE LAST PRECEDING CENSUS OF THE UNITED STATES, UNTIL THE LEGISLATURE SHALL PROVIDE, BY LAW, SOME OTHER MODE OF ASCERTAINING IT.]

ARTICLE VII.

APPOINTING POWER AND TENURE OF OFFICE.

Section I.

MILITIA OFFICERS.

1. The legislature shall provide by law for enrolling, organizing and arming the militia.
2. Captains, subalterns and non-commissioned officers shall be elected by the members of their respective companies.
3. Field officers of regiments, independent battalions and squadrons shall be elected by the commissioned officers of their respective regiments, battalions or squadrons.
4. Brigadier generals shall be elected by the field officers of their respective brigades.
5. Major generals, *the adjutant general and quartermaster general* shall be nominated by the governor, and appointed by him, with the advice and consent of the senate.
6. The legislature shall provide, by law, the time and manner of electing militia officers, and of certifying their election to the governor, who shall grant their commissions, and determine their rank, when not determined by law; and no commissioned officer shall be removed from office but by the sentence of a court martial, pursuant to law.
7. In case the electors of subalterns, captains or field officers shall refuse or neglect to make such elections, the governor shall have power to appoint such officers, and to fill all vacancies caused by such refusal or neglect.
8. Brigade inspectors shall be chosen by the field officers of their

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

547

respective brigades.

9. The governor shall appoint [THE ADJUTANT GENERAL, QUARTERMASTER GENERAL AND] all [OTHER] militia officers whose appointment is not otherwise provided for in this constitution.

10. Major generals, brigadier generals, and commanding officers of regiments, independent battalions and squadrons, shall appoint the staff officers of their divisions, brigades, regiments, independent battalions and squadrons, respectively.

Section II.

CIVIL OFFICERS.

1. Justices of the supreme court, chancellor, [AND] judges of the court of errors and appeals, *and judges of the inferior court of common pleas*, shall be nominated by the governor and appointed by him, with the advice and consent of the senate.

The justices of the supreme court and chancellor shall hold their offices for the term of seven years, *and the judges of the inferior court of common pleas for the term of five years*; they shall, at stated times, receive for their services a compensation, which shall not be *increased or* diminished during the term of their appointments; and they shall hold no other office under the government of this state or of the United States. *Justices of the supreme court, judges of the court of errors and appeals, and judges of the court of common pleas, when appointed to fill vacancies, shall hold for the unexpired term only.*

[2. JUDGES OF THE COURTS OF COMMON PLEAS SHALL BE APPOINTED BY THE SENATE AND GENERAL ASSEMBLY, IN JOINT MEETING. THEY SHALL HOLD THEIR OFFICES FOR FIVE YEARS; BUT WHEN APPOINTED TO FILL VACANCIES THEY SHALL HOLD FOR THE UNEXPIRED TERM ONLY.]

[3] 2. The state treasurer [AND THE KEEPER AND INSPECTORS OF THE STATE PRISON] shall be appointed by the senate and general assembly in joint meeting.

[THEY] *He* shall hold [THEIR OFFICES] *his office* for one year, and until [THEIR SUCCESSORS] *his successor* shall be qualified into office.

[4] 3. The attorney general, prosecutors of the pleas, clerk of the

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

supreme court, clerk of the court of chancery, [AND] secretary of state, *and the keeper and inspectors of the state prison*, shall be nominated by the governor and appointed by him, with the advice and consent of the senate.

They shall hold their offices for five years, *except the attorney general, who shall hold his office for three years.*

[5] 4. The law reporter shall be appointed by the justices of the supreme court, or a majority of them; and the chancery reporter shall be appointed by the chancellor.

They shall hold their offices for five years.

[6] 5. Clerks and surrogates of counties shall be elected by the people of their respective counties, at the annual elections for members of the general assembly.

They shall hold their offices for five years.

[7] 6. Sheriffs and coroners shall be elected [ANNUALLY] by the people of their respective counties, at the [ANNUAL] elections for members of the general assembly, *and they shall hold their offices for three years.*

[THEY MAY BE RE-ELECTED UNTIL THEY SHALL HAVE SERVED THREE YEARS, BUT NO LONGER;] after which, three years must elapse before they can be again capable of serving. *Sheriff's shall annually renew their bonds.*

[8] 7. Justices of the peace shall be elected by ballot at the annual meetings of the townships in the several counties of the state, and of the wards in cities that may vote in wards, in such manner and under such regulations as may be hereafter provided by law.

They shall be commissioned for the county, and their commission shall bear date and take effect on the first day of May next after their election.

They shall hold their offices for five years, but when elected to fill vacancies they shall hold for the unexpired term only; *provided*, that the commission of any justice of the peace shall become vacant upon his ceasing to reside in the township in which he was elected.

The first election for justices of the peace shall take place at the next annual town meetings of the townships in the several counties of the state, and of the wards in cities that may vote in wards.

[9] 8. All other officers, whose appointments are not otherwise provided for by law, shall be nominated by the governor and appointed by him, with the advice and consent of the senate, and shall hold their offices

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

549

for the time prescribed by law.

[10] 9. All civil officers elected or appointed pursuant to the provisions of this constitution shall be commissioned by the governor.

[11] 10. The term of office of all officers elected or appointed pursuant to the provisions of this constitution, except when herein otherwise directed, shall commence on the day of the date of their respective commissions; but no commission for any office shall bear date prior to the expiration of the term of the incumbent of said office.

11. *No law shall extend the term of any public officer, or increase or diminish his salary or emoluments after his election or appointment.*

ARTICLE VIII.

GENERAL PROVISIONS.

1. The secretary of state shall be ex officio an auditor of the accounts of the treasurer, and, as such, it shall be his duty to assist the legislature in the annual examination and settlement of said accounts, until otherwise provided by law.

2. The seal of the state shall be kept by the governor, or person administering the government, and used by him officially, and shall be called the great seal of the state of New Jersey.

3. All grants and commissions shall be in the name and by the authority of the state of New Jersey, sealed with the great seal, signed by the governor, or person administering the government, and countersigned by the secretary of state, and it shall run thus: "The State of New Jersey to —, greeting." All writs shall be in the name of the state, and all indictments shall conclude in the following manner, viz: "against the peace of this state, the government and dignity of the same."

4. This constitution shall take effect and go into operation on the second day of September, in the year of our Lord one thousand eight hundred and forty-four.

ARTICLE IX.

AMENDMENTS.

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

Any specific amendment or amendments to the constitution may be proposed in the senate or general assembly, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature then next to be chosen, and shall be published for three months previous to making such choice, in at least one newspaper of each county, if any be published therein; and if, in the legislature next chosen as aforesaid, such proposed amendment or amendments, or any of them, shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment or amendments, or such of them as may have been agreed to as aforesaid by the two legislatures, to the people, in such manner and at such time, at least four months after the adjournment of the legislature, as the legislature shall prescribe; and if the people, at the special election to be held for that purpose only, shall approve and ratify such amendment or amendments, or any of them, by a majority of the electors qualified to vote for members of the legislature voting thereon, such amendment or amendments so approved and ratified shall become a part of the constitution; *provided*, that if more than one amendment be submitted, they shall be submitted in such manner and form that the people may vote for or against each amendment separately and distinctly; but no amendment or amendments shall be submitted to the people by the legislature oftener than once in five years.

ARTICLE X.

SCHEDULE.

That no inconvenience may arise from the change in the constitution of this state, and in order to carry the same into complete operation, it is hereby declared and ordained, that—

1. The common law and statute laws now in force, not repugnant to this constitution, shall remain in force until they expire by their own limitation, or be altered or repealed by the legislature; and all writs, actions, causes of action, prosecutions, contracts, claims and rights of individuals and of

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

551

bodies corporate, and of the state, and all charters of incorporation, shall continue, and all indictments which shall have been found, or which may hereafter be found, for any crime or offence committed before the adoption of this constitution, may be proceeded upon as if no change had taken place. The several courts of law and equity, except as herein otherwise provided, shall continue, with the like powers and jurisdiction as if this constitution had not been adopted.

2. All officers now filling any office or appointment shall continue in the exercise of the duties thereof, according to their respective commissions or appointments, unless by this constitution it is otherwise directed.

3. The present governor, chancellor and ordinary or surrogate general, and treasurer shall continue in office until successors, elected or appointed under this constitution, shall be sworn or affirmed into office.

4. In case of the death, resignation or disability of the present governor, the person who may be vice president of council at the time of the adoption of this constitution shall continue in office and administer the government until a governor shall have been elected and sworn or affirmed into office under this constitution.

5. The present governor, or in case of his death or inability to act, the vice president of council, together with the present members of the legislative council, and secretary of state, shall constitute a board of state canvassers, in the manner now provided by law, for the purpose of ascertaining and declaring the result of the next ensuing election for governor, members of the house of representatives, and electors of president and vice president.

6. The returns of the votes for governor, at the said next ensuing election, shall be transmitted to the secretary of state, the votes counted, and the election declared, in the manner now provided by law in the case of the election of electors of president and vice president.

7. The election of clerks and surrogates, in those counties where the term of office of the present incumbent shall expire previous to the general election of eighteen hundred and forty-five, shall be held at the general election next ensuing the adoption of this constitution, the result of which election shall be ascertained in the manner now provided by law for the

**REPORT OF
THE CONSTITUTIONAL COMMISSION**

election of sheriffs.

8. The elections for the year eighteen hundred and forty-four shall take place as now provided by law.

9. It shall be the duty of the governor to fill all vacancies in office happening between the adoption of this constitution and the first session of the senate, and not otherwise provided for; and the commissions shall expire at the end of the first session of the senate, or when successors shall be elected or appointed and qualified.

10. The restriction of the pay of members of the legislature, after forty days from the commencement of the session, shall not be applied to the first legislature convened under this constitution.

11. Clerks of counties shall be clerks of the inferior courts of common pleas and quarter sessions of the several counties, and perform the duties and be subject to the regulations now required of them by law, until otherwise ordained by the legislature.

12. The legislature shall pass all laws necessary to carry into effect the provisions of this constitution.

Done in convention, at the State House, in Trenton, on the twenty-ninth day of June, in the year of our Lord one thousand eight hundred and forty-four, and of the Independence of the United States of America the sixty-eighth.

ALEXANDER WURTS,
President of the Convention.

WILLIAM PATTERSON, *Secretary.*
TH. J. SAUNDERS, *Assistant Secretary.*

PART IV: LEGISLATIVE CONSIDERATION OF THE PROPOSED AMENDMENTS

Part IV begins with excerpts from the Governor's 1874 Annual Message to the Legislature concerning the Constitutional Commission's proposed amendments. Next are excerpts from the official journals of the Senate and General Assembly concerning consideration of the Commission's proposals. The bracketed page numbers refer to the pages in the official legislative journals. In our Part VII, which is a table of proposed amendments considered by the Commission and the 1874 and 1875 Legislatures, and action thereon, the references to Senate and Assembly journals are to these original bracketed page numbers (and not to the page numbers of this book).

The 1874 Senate commenced its consideration of the Commission report, consisting of thirty-nine unnumbered distinct proposals arranged consecutively by constitutional section, on January 21. Based on references to proposed amendments in the Senate Journal, it appears that the Senate printed the Commission's proposals in bill form, with line numbering, and numbered each "bill" as follows: "Senate No. 1" comprised those amendments that would amend or supplement Article I (Rights and Privileges) of the 1844 New Jersey Constitution; "Senate No. 2" comprised those amendments that would amend or supplement Article II (Right of Suffrage) of the 1844 New Jersey Constitution; "Senate No. 3" comprised those amendments that would amend or supplement Article IV (Legislative) of the 1844 New Jersey Constitution; "Senate No. 4" comprised those amendments that would amend or supplement Article V (Executive) of the 1844 New Jersey Constitution; "Senate No. 5" comprised those amendments that would amend or supplement Article VI (Judiciary) of the 1844 New Jersey Constitution; and "Senate No. 6" comprised those amendments that would amend or supplement Article VII (Appointing Power and Tenure of Office) of the 1844 New Jersey Constitution.

Unfortunately, Senate No. 1 through Senate No. 6 are no longer extant. Therefore, when the Senate Journal makes reference to a proposed constitutional amendment in Senate Nos. 1-6, the reader is advised to consult the Commission's Report A at the appropriate constitutional amendment for the text. Because documents Senate No. 1 through Sente No. 6 are not extant, any references to line numbers in those documents are not pertinent.

When considering a vote tally on a particular proposed amendment, the reader is informed that the 1874 and 1875 New Jersey Legislatures were comprised of 21 Senators and 60 Assemblymen; however, the Rules of each

LEGISLATIVE CONSIDERATION OF THE PROPOSED AMENDMENTS

house permitted passage of bills by a majority of those *present* once a quorum had been attained. Thus, certain proposed amendments were passed by less than a majority of members of a house.

Next, Part IV supplements the official Senate and Assembly journals with contemporary newspaper accounts of legislative proceedings that we have compiled and edited. The official Proceedings do not contain any record of debate, so it is only through reliance on newspaper coverage that any record of the debates survives. We believe that this resource is indispensable in understanding the background and intent of the proposals. This compilation will facilitate such understanding. The newspaper coverage of debates on any particular day was published the following day.

Our newspaper compilations are the result of exhaustive research of 14 daily and 24 weekly newspapers published between 1873 and 1875, covering Northern, Central and Southern geographic regions of the state and representing the viewpoints of Democratic, Republican and Independent presses. Of the 38 newspapers examined, the authors have identified a handful of newspapers from which the accounts of proceedings originated, the other newspapers generally reproducing verbatim or merely summarizing the source accounts. The primary newspapers were: the *Daily State Gazette* of Trenton, the *Daily True American* of Trenton, the *Newark Daily Advertiser*, and the *Newark Daily Journal*. The other newspapers borrowed their accounts from one of these four newspapers and may have supplemented such accounts with unique snippets or full speeches that were not included in the accounts of the primary newspapers. In order to provide the reader with the fullest and fairest account of newspaper coverage of legislative proceedings, without sacrificing readability, the authors have adopted the following methodology:

(1) After a careful, comparative study of each of the newspapers' accounts of a particular day's proceedings, we determined which newspaper provided the most comprehensive account and reproduced the text. The name of that newspaper appears in brackets, such as [*Daily State Gazette*], immediately above and at the right-hand margin of the excerpt.

(2) We then supplemented this selected newspaper's account with unique information from any of the other newspapers. If any of the other newspapers offered additional information (whether the text of an entire speech or merely a speaker's few words), we supplemented the selected newspaper's account with the additional information at the appropriate place and with attribution. In all cases, the name of the newspaper appears in brackets, such as [*Daily True American*], immediately above and at the right-hand margin of the

LEGISLATIVE CONSIDERATION OF THE PROPOSED AMENDMENTS

555

excerpt.

(3) If more than one newspaper provided significantly different accounts of the same discussion, and the editors were unable to reconcile them, then multiple accounts were included. When this occurs, the most comprehensive newspaper coverage appears first, followed by the differing accounts enclosed as follows: { }.

(4) Except for editorial corrections of punctuation, spelling and other obvious errors in form, which do not affect the substance of the text, the reproduced text is taken verbatim from the newspapers. Bracketed [text] is used by the authors to a) add editorial notes and b) denote corrections that were made by the authors. The use of (*sic*) denotes an error which has been reproduced as found in the original newspaper text.

(5) At the end of each day's compilation of newspaper proceedings, a more complete bibliographic citation to the specific newspaper articles used in that day's compilation is provided.

Overall, our goal is to provide a continuous, flowing account of proceedings and debates as reported in contemporary newspapers, with as little redundancy as possible. It is our hope that the resulting composite can be used to supplement the State-recorded minutes by providing a record, albeit unofficial, of debates and discussion that were omitted from the official proceedings.

To facilitate a subject matter search of the official Proceedings of the Commission and the Legislature, as well as newspaper coverage of those proceedings, the authors have prepared an Index to this volume, which should be used in conjunction with Part VII, which captures, in tabular form, the consideration of the Commission's proposals from introduction to final action. The reader should first consult the Index, which will act as a subject guide to each proposed amendment by number. For example, a search for "Education – Thorough and Efficient Clause" in the Index will refer the reader to **Proposed Amendment 84** in Table VII. The reader can then examine the entries under Proposed Amendment 84 in Table VII to locate all page references in the official Senate and Assembly journals where this proposal is discussed. For a record of debate, if any, the reader can consult the authors' compilation of newspaper accounts of proceedings for that day.

Next, Part IV contains the final engrossment of the 1874 Senate's recommended constitutional amendments. This is "Senate Amendments to the Constitution No. 7." (As noted above, Nos. 1 through 6 were working drafts of recommended changes to each article of the 1844 Constitution that was affected

556 **LEGISLATIVE CONSIDERATION OF**
 THE PROPOSED AMENDMENTS

by the Commission's proposals, and are not extant). These final Senate recommended amendments, in bill form, represent the Senate's modifications to the Commission's Report A. This document was then approved by the 1874 Assembly and later by both houses of the 1875 Legislature, without change. Thus, these were the amendments presented to, and approved by, the voters on September 7, 1875 and incorporated into the New Jersey Constitution.

Finally, Part IV contains excerpts from the Governor's 1875 Annual Message to the Legislature concerning the constitutional amendments.

ANNUAL MESSAGE

OF HIS EXCELLENCY

JOEL PARKER,

Governor of New Jersey,

TO THE LEGISLATURE—SESSION OF 1874.

* * *

CONSTITUTIONAL AMENDMENTS.

The Commissioners appointed in conformity with a resolution of the last Legislature, to suggest and prepare amendments to the State Constitution, have finished their labors and forwarded a report of the result of their deliberations, copies of which I herewith transmit. The changes proposed are few in number but are generally of an important character. Upon most of the amendments recommended by the Commission my views were fully expressed in my last annual message, and I will not now repeat the reasons then given in favor of their adoption.

In the midst of the urgent and exciting business of the session, it was impossible for the Legislature to give sufficient deliberation to the preparation of amendments to the organic law. A constitutional commission was therefore authorized to consider and carefully put in proper form, such amendments as should seem desirable. The Commission had no power to make a Constitution, as some in their criticism seemed to imply, nor could it even submit the proposed amendments to a popular vote, but it was a body merely advisory to the Legislature, a committee of able and experienced gentlemen residing in various sections of the State, to aid in the most important work legislators can be called upon to do. It is for the present Legislature to determine whether all or any of the reported amendments, or any others not reported, shall be hereafter submitted to the

558 **GOVERNOR'S ANNUAL MESSAGE FOR 1874**

people for adoption or rejection. These or other specific amendments may be proposed in the Senate or General Assembly, and if the same be agreed to by both Houses, will be entered on the journals and referred to the next Legislature to decide whether they shall be submitted to the people.

On account of vacancies produced by death and other causes, considerable time elapsed after the organization of the commission before it entered actively upon the duties assigned, but after the various committees were appointed the members applied themselves diligently to the business in hand, and as the result have presented a series of amendments, which, in the main, must commend themselves to the favor of the people. Seldom has a deliberative body convened in which so little local prejudice or partizan feeling existed, or in which greater patriotism, wisdom and discretion were displayed.

I recommend that provision be made for the necessary expenses of the commission, and that compensation be voted to its members and officers.

* * *

JOEL PARKER.

EXECUTIVE DEPARTMENT,
Trenton, N. J., January 13, 1874.

Sources:

NEW JERSEY LEGISLATIVE DOCUMENTS, 1874, [Document No. 1], p. 22-23.

SENATE JOURNAL, 1874, p. 42-43.

JANUARY 19, 1874

* * *

[page 71]

Mr. Stone offered the following resolution:

Resolved, That the proposed Amendments to the Constitution, as reported by the Constitutional Commission, be printed for the use of the Senate.

Which was read and agreed to.

JANUARY 21, 1874

* * *

[page 82]

[MORNING.]

Mr. Stone offered the following resolution:

Resolved, That the Senate hold a special session this afternoon, commencing at three o'clock, for the purpose of considering the Amendments to our State Constitution proposed by the Constitutional Commission, and that afternoon sessions, commencing at the same hour, be held for the same purpose on Tuesday and Wednesday of each week hereafter.

Which was read and agreed to.

* * *

[page 84]

AFTERNOON.

At three o'clock the Senate met.

Under the direction of the President, the Secretary called the Senate, when the following Senators appeared and answered the call:

Messrs. Cutler, Havens, Hendrickson, Hewitt, Hopkins, Jarrard, Lydecker, MacPherson, Newkirk, Potts, Sewell, Sheppard, Smith, Stone, Taylor (President), Thorn, Wood—17.

On motion of Mr. MacPherson, the reading of the Journal of the morning session was dispensed with.

560 EXCERPTS FROM THE 1874 SENATE JOURNAL

JANUARY 21, 1874

Mr. Stone moved that the Constitution of New Jersey, as proposed to be amended by the Commission appointed to “suggest and prepare Amendments to the State Constitution,” pursuant to a joint resolution approved April fourth, eighteen hundred and seventy-three, be taken up for consideration by the Senate.

The amendments made by the Commission to Article I were then read.

Mr. Stone offered the following as a substitute for paragraph 16, I:

“Private property shall not be taken for public use without just compensation. Whenever property is so taken by an incorporated company, any owner shall have the right of appeal to a jury, who shall make an assessment of damages for the taking thereof without deduction for benefits.”

At the request of the President, Mr. Hopper took the Chair.

Mr. Taylor moved to amend Mr. Stone’s substitute by striking out the words “by an incorporated company.”

Mr. Stone accepted Mr. Taylor’s amendment, and moved to further amend his substitute by adding the following: “But when land is taken by any municipal corporation, or for highways, the Legislature may provide that benefits may be de-
[page 85] ducted, and also the mode in which such deduction shall be made.”

Mr. Stone moved that his substituted paragraph be printed for the use of the Senate.

Which motion was agreed to, and the further consideration thereof postponed to Tuesday next [i.e. February 27, 1874].

Mr. Taylor moved that the Secretary cause to be printed in bill form the amendments proposed by the Constitutional Commission, in connection with the original Constitution, for the use of the Senate.

Which motion was agreed to.

Mr. Taylor moved that when the Senate adjourns, it be to meet on Friday morning, at ten o’clock, and that when it then adjourns it be to meet on Monday evening at eight o’clock.

Which motion was agreed to.

EXCERPTS FROM THE 1874 SENATE JOURNAL 561

JANUARY 21, 1874

On motion of Mr. Stone, the Senate then adjourned.

JANUARY 27, 1874

* * *

[page109]

[AFTERNOON.]

The special order of the day, the Amendments to the State Constitution proposed by the Constitutional Commission, was then taken up.

At the request of the President, Mr. Sewell took the chair.

Mr. Stone asked and obtained the consent of the Senate to withdraw his substitute for paragraph 16, Article I, of the Constitution.

* * *

[page110]

The consideration of the Amendments to the Constitution was then resumed.

Mr. Taylor moved to strike out the first eleven lines of Bill No. 1, Article I, of the amendment to the State Constitution proposed by the Constitutional Commission.

Mr. Cutler moved to amend by substituting for paragraph 16, Article I, the following:

“Private property shall not be taken for public use without just compensation. In all cases when property is so taken, any property-owner being aggrieved by the award of commissioners or otherwise shall have the right of appeal, and have the damages reassessed by the verdict of a jury, and such assessment shall be made without deduction for benefits.”

Which motion was not agreed to, by the following vote:

In the affirmative, were

Messrs. Cornish, Cutler, Hendrickson, Hopper, Lydecker, MacPherson, Potts, Smith, Taylor (President)–9.

562 EXCERPTS FROM THE 1874 SENATE JOURNAL

JANUARY 27, 1874

In the negative, were
Messrs. Havens, Hewitt, Hopkins, Jarrard, Leaming, Moore, Newkirk, Sewell,
Sheppard, Stone, Thorn, Wood—12.

[page 111]

Mr. Hopper moved to amend said bill by striking out all after the word
“compensation” in the third line, and inserting in lieu thereof the following:

“Nor without the verdict of a jury, if required by any party interested.”

Which motion was not agreed to, by the following vote:

In the affirmative, were
Messrs. Cornish, Cutler, Hendrickson, Hewitt, Hopper, MacPherson, Potts,
Smith—8.

In the negative, were
Messrs. Havens, Hopkins, Jarrard, Leaming, Moore, Newkirk, Sewell, Sheppard,
Stone, Taylor (President), Thorn, Wood—12.

Mr. Taylor’s motion was then agreed to, by the following vote:

In the affirmative, were
Messrs. Havens, Hewitt, Hopkins, Hopper, Jarrard, Leaming, MacPherson,
Moore, Newkirk, Potts, Sewell, Sheppard, Smith, Stone, Taylor (President),
Thorn, Wood—17.

In the negative, were
Messrs. Cutler, Hendrickson—2.

JANUARY 28, 1874

* * *

[page 129]

AFTERNOON.

At the request of the President, Mr. Sewell took the Chair.

The Senate then proceeded to the special order of business, the consider-
ation of the Amendments to the State Constitution proposed by the Constitu-
tional Commission.

EXCERPTS FROM THE 1874 SENATE JOURNAL 563

JANUARY 28, 1874

Mr. Taylor moved to strike out from Bill No. 1, Article I, all from the twelfth to the thirty-third lines inclusive.

Mr. Stone moved to amend Mr. Taylor's motion, by substituting the following:

Resolved, That the further consideration of the remaining sections proposed as an amendment to Article I, be postponed until the consideration of Article IV, Section VII.

[page 130]

Which amendment was agreed to, by the following vote:

In the affirmative, were

Messrs. Cutler, Hendrickson, Hopper, Lydecker, Potts, Smith, Stone, Thorn, Wood—9.

In the negative, were

Messrs. Hopkins, Jarrard, MacPherson, Newkirk, Sewell, Sheppard, Taylor (President)—7.

Mr. Taylor moved that the Senate proceed to consideration of Article IV, Section VII.

Which motion was not agreed to, by the following vote:

In the affirmative, were

Messrs. MacPherson, Taylor (President)—2.

In the negative, were

Messrs. Cutler, Havens, Hendrickson, Hopper, Potts, Sewell, Sheppard, Smith, Stone, Thorn, Wood—11.

Mr. Taylor moved to strike out from Article II, in the first and thirteenth lines, the word "paragraph," and insert in lieu thereof the word "section."

Which motion was agreed to.

The same Senator moved to amend Section II, Article II, by striking out all after the word "bribery."

Which was agreed to by the following vote:

In the affirmative, were

Messrs. Cutler, Havens, Hendrickson, Hopkins, Hopper, Jarrard, Lydecker, MacPherson, Newkirk, Potts, Sewell, Sheppard, Smith, Stone, Taylor (President),

564 EXCERPTS FROM THE 1874 SENATE JOURNAL

JANUARY 28, 1874

Thorn, Wood—17.

In the negative—none.

The first paragraph of Section I, Article II, was then agreed to.

Mr. Taylor moved to amend the fourth line of Article II, by striking out the word “thirty,” and inserting in lieu thereof the word “ten.”

[page131]

Mr. Smith moved to amend the amendment by adding after the words “thirty days” the following:

“Except at a town meeting or spring election, when one day’s residence in such election district shall be deemed to be sufficient.”

Which amendment was not agreed to, by the following vote:

In the affirmative, was

Mr. Smith—1.

In the negative, were

Messrs. Cutler, Havens, Hendrickson, Hopkins, Hopper, Jarrard, Lydecker, MacPherson, Newkirk, Potts, Sewell, Sheppard, Stone, Taylor (President), Thorn, Wood—16.

Mr. Taylor’s amendment was not agreed to by the following vote:

In the affirmative, were

Messrs. Jarrard, Potts, Taylor (President)—3.

In the negative, were

Messrs. Cutler, Havens, Hendrickson, Hopper, Lydecker, MacPherson, Newkirk, Sewell, Sheppard, Smith, Stone, Thorn, Wood—13.

Mr. Hopper moved that the second paragraph of Section I, Article II, lines three and four, be agreed to.

Which motion was not agreed to, by the following vote:

In the affirmative, were

Messrs. Cutler, Hendrickson, Hopper, Jarrard, Newkirk, Sewell, Taylor (President)—7.

In the negative, were

Messrs. Havens, Hopkins, Lydecker, MacPherson, Potts, Sheppard, Smith, Stone, Thorn, Wood—10.

EXCERPTS FROM THE 1874 SENATE JOURNAL 565

JANUARY 28, 1874

Mr. Taylor moved to strike out line fifth, Article II.
Which was not agreed to.

[page132]

The same Senator moved to amend the sixth line, Article II, by inserting the word “and” before the word “provided,” and the word “further” after the word “provided.”

Which was agreed to, by the following vote:

In the affirmative, were

Messrs. Cutler, Havens, Hendrickson, Hopkins, Hopper, Jarrard, Lydecker, MacPherson, Newkirk, Potts, Smith, Stone, Taylor (President), Thorn, Wood—15.

In the negative, were

Messrs. Sewell and Sheppard—2.

The paragraph from the sixth to the twelfth lines inclusive was then agreed to, by the following vote:

In the affirmative, were

Messrs. Cutler, Havens, Hendrickson, Hopkins, Jarrard, Lydecker, MacPherson, Newkirk, Potts, Sewell, Sheppard, Smith, Stone, Taylor (President), Thorn, Wood—16.

In the negative—none.

Article II, as amended, was then agreed to.

Bill No. 3, Article IV, was then taken up.

Mr. Taylor moved to strike out paragraph 3, Section I.

Which was not agreed to, by the following vote:

In the affirmative, were

Messrs. Newkirk, Sewell, Sheppard, Taylor (President), Thorn—5.

In the negative, were

Messrs. Cutler, Havens, Hendrickson, Hopper, Lydecker, MacPherson, Potts, Smith, Stone, Wood—10.

The said paragraph was then adopted by the following vote:

In the affirmative, were

566 EXCERPTS FROM THE 1874 SENATE JOURNAL

JANUARY 28, 1874

Messrs. Cutler, Havens, Hendrickson, Hopkins, Hopper, Lydecker, MacPherson, Newkirk, Potts, Sewell, Sheppard, Smith, Stone, Wood—14.

[page133]

In the negative, were
Messrs. Taylor (President), Thorn—2.

Mr. Taylor moved to strike out paragraph 6, Section IV.
Which was agreed to, by the following vote:
In the affirmative, were
Messrs. Hopkins, Hopper, Lydecker, MacPherson, Newkirk, Sewell, Sheppard, Smith, Stone, Taylor (President), Thorn, Wood—12.
In the negative, were
Messrs. Cutler, Havens, Hendrickson, Potts—4.

Mr. Stone moved to amend paragraph 7, Section II, by striking out the thirty-first, thirty-second and thirty-third lines.
Which was agreed to.

Mr. Taylor moved to amend paragraph 7, by striking out all of the twenty-fourth line after the word “session,” and the twenty-fifth and twenty-sixth lines.
Which was not agreed to, by the following vote:
In the affirmative, were
Messrs. Hendrickson, Hopper, Lydecker, Newkirk, Smith, Taylor (President)—6.
In the negative, were
Messrs. Cutler, Havens, Hopkins, MacPherson, Potts, Sewell, Stone, Thorn, Wood—9.

Mr. Taylor moved to amend paragraph 7, by striking out from the twenty-eighth line the word “five,” and inserting in lieu thereof the word “three.”
Which was not agreed to, by the following vote:
In the affirmative, were
Messrs. Taylor (President), Wood—2.
In the negative, were

[page134]

Messrs. Cutler, Havens, Hendrickson, Hopkins, Hopper, Lydecker, MacPherson,

EXCERPTS FROM THE 1874 SENATE JOURNAL 567

JANUARY 28, 1874

Newkirk, Potts, Sewell, Sheppard, Smith, Stone, Thorn—14.

Paragraph 7, as amended, was then agreed to, by the following vote:

In the affirmative, were

Messrs. Cutler, Hendrickson, Hopkins, Hopper, Lydecker, MacPherson, Newkirk, Potts, Sewell, Sheppard, Smith, Stone, Taylor (President), Thorn—14.

In the negative, were

Messrs. Havens and Wood—2.

On motion of Mr. Stone, line thirty-four, of paragraph 7, was then agreed to.

Mr. Havens offered the following resolution:

Resolved, That the consideration of Constitutional Amendments be the special order of the Senate tomorrow afternoon, at three o'clock.

Which was not agreed to.

Mr. Taylor moved that when the Senate adjourns on Thursday, it be to meet on Friday morning, at nine o'clock, and that when it then adjourns it be to meet on Monday evening at eight o'clock.

Which motion was agreed to.

Mr. Havens offered the following resolution:

Resolved, That no Senator be allowed to speak more than twice on the same subject, nor more than five minutes at a time.

The said resolution was laid on the table for one day, in accordance with the provisions of Rule 58, requiring one day's notice to be given to amend any standing rule of the Senate.

On motion of Mr. Taylor, the Senate then adjourned.

FEBRUARY 3, 1874

* * *

[page 176]

AFTERNOON.

At the request of the President, Mr. Sewell took the Chair.

The Senate then proceeded to the special order of the day, the consideration of the Amendments to the State Constitution proposed by the Constitutional Commission.

The Senate resumed the consideration of Bill No. 3, Article IV, Section V.

Mr. Hopper moved that the Senate disagree with the proposed amendments to Section V, of said Article.

Which motion was agreed to, by the following vote:

In the affirmative, were

Messrs. Hopkins, Hopper, Leaming, Lydecker, Moore, Newkirk, Sewell, Stone, Taylor (President), Thorn, Wood—11.

In the negative, were

Messrs. Cutler, Havens, Hewitt, MacPherson, Sheppard—5.

The following proposed amendment to Section VII, of Article IV, was then read:

Paragraph 4, add to the paragraph the following: "No law shall be revived or amended by reference to its title only, but the act revived, or the section or sections amended, shall be inserted at length. No general law shall embrace any provision of a private, special or local character. No act shall be passed which shall provide that any existing law, or any part thereof, [page 177] shall be made or deemed a part of the act, or which shall enact that any existing law or any part thereof, shall be applicable, except by inserting it in such act."

On the motion of Mr. Taylor, the amendment was adopted, by the following vote:

In the affirmative, were

Messrs. Cornish, Cutler, Havens, Hewitt, Hopkins, Jarrard, Leaming, Lydecker, MacPherson, Moore, Newkirk, Sewell, Taylor (President), Thorn, Wood—15.

In the negative, were

Messrs. Hopper, Sheppard—2.

EXCERPTS FROM THE 1874 SENATE JOURNAL 569

FEBRUARY 3, 1874

Lines 61 and 62, as follows, were agreed to:

“Paragraph 6, insert the word ‘free’ between the word ‘public’ and the word ‘schools,’ and add to the paragraph the following.”

Mr. Cutler moved to strike out of the proposed amendment to paragraph 6, the following words:

“A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people.”

Which motion was agreed to, by the following vote:

In the affirmative, were

Messrs. Cornish, Cutler, Hewitt, Hopkins, Hopper, Jarrard, Leaming, MacPherson, Moore, Newkirk, Potts, Smith, Stone, Taylor (President), Thorn, Wood—16.

In the negative, was

Mr. Sewell—1.

Mr. Cutler moved to strike out all after the word “that,” in the 68th line, and all of the 69th line to and including the word “schools,” and inserting in lieu thereof the words “are not.”

Which motion was not (*sic*) agreed to, by the following vote:

In the affirmative, were

[page 178]

Messrs. Cutler, Hopper, Jarrard, Leaming, MacPherson, Moore, Newkirk, Stone, Taylor (President), Thorn, Wood—11.

In the negative, were

Messrs. Cornish, Hewitt, Hopkins, Potts, Sewell—5.

Mr. Taylor moved to strike out all after the word “years” in the 66th line, all of the 67th, 68th, 69th, 70th and 71st lines.

Which motion was agreed to, by the following vote:

In the affirmative, were

Messrs. Cornish, Havens, Hewitt, Hopkins, Hopper, Leaming, Lydecker, Moore, Newkirk, Potts, Smith, Taylor (President), Wood—13.

In the negative, were

Messrs. Cutler, Jarrard, Sewell, Thorn—4.

570 EXCERPTS FROM THE 1874 SENATE JOURNAL

FEBRUARY 3, 1874

Mr. Cutler moved to insert after the word “shall” in the 64th line, the words:
“provide by general laws the means to.”

Which motion was agreed to, by the following vote:

In the affirmative, were

Messrs. Cornish, Cutler, Havens, Hewitt, Hopkins, Hopper, Jarrard, Leaming, Lydecker, MacPherson, Moore, Newkirk, Potts, Sewell, Smith, Thorn, Wood—17.

In the negative, were

Messrs. Stone, Taylor (President)—2.

Mr. Stone moved to strike out all from the commencement of the 63^d to the end of the 71st line.

Which motion was not agreed to, by the following vote:

In the affirmative, were

Messrs. Sewell, Stone, Taylor (President)—3.

In the negative, were

Messrs. Cutler, Havens, Hewitt, Hopper, Jarrard, Leaming, Lydecker, MacPherson, Newkirk, Potts, Smith, Thorn, Wood—13.

[page 179]

The following amended amendment was then taken up:

“The Legislature shall provide by general laws the means to establish and maintain public schools for the gratuitous instruction of all persons in this State between the ages of five and eighteen years.”

And agreed to, by the following vote:

In the affirmative, were

Messrs. Cutler, Havens, Hewitt, Hopkins, Hopper, Jarrard, Lydecker, MacPherson, Newkirk, Potts, Smith, Wood—12.

In the negative, were

Messrs. Sewell, Stone, Taylor (President), Thorn—4.

On motion of Mr. Stone, the Senate then adjourned.

FEBRUARY 4, 1874

* * *

[page199]

AFTERNOON.

The Senate then proceeded to the special order of the day, the consideration of the Amendments to the State Constitution proposed by the Constitutional Commission.

[page200]

Mr. Cutler moved to reconsider the vote whereby lines 64, 65 and 66, Section VII, Article IV [regarding public schools], were adopted.

Which motion was agreed to.

The said amendment was then made the special order for next Tuesday afternoon [i.e. February 10, 1874; however, the Senate did not resume consideration of the constitutional amendment concerning public schools until February 24, 1874].

Mr. Taylor moved that the consideration of paragraph 8, Section VII, be postponed until after the consideration of paragraph 14, of the same section.

Which was agreed to.

Mr. Taylor offered the following as a substitute for the proposed paragraph 9, of said section:

“9. No private, special or local bill shall be passed, unless public notice of the intention to apply therefor, and of the general objects thereof, shall have been previously given. The Legislature, at the next session after the adoption [t]hereof, and from time to time thereafter, shall prescribe the time and mode of giving such notice, the evidence thereof, and how such evidence shall be preserved.”

Mr. Stone moved that said amendment be printed for the use of the Senate, and that its further consideration be postponed for the present.

Which was agreed to.

Paragraph 11, of Section VII, was disagreed to, by the following vote:

In the affirmative, were

Messrs. Cornish, Cutler, Havens, Hendrickson, Leaming, MacPherson, Smith, Thorn—8.

572 EXCERPTS FROM THE 1874 SENATE JOURNAL

FEBRUARY 4, 1874

In the negative, were
Messrs. Hewitt, Hopper, Moore, Newkirk, Potts, Sewell, Sheppard, Stone, Taylor
(President), Wood—10.

Paragraph 12, of the same section, was disagreed to, by the following vote:
In the affirmative, were
Messrs. Cutler, Hopper, Leaming, Lydecker, Sheppard—5.
In the negative, were

[page 201]

Messrs. Cornish, Havens, Moore, Newkirk, Sewell, Smith, Stone, Taylor
(President), Thorn, Wood—10.

Paragraph 13, of the same section, was disagreed to, by the following vote:
In the affirmative—none.
In the negative, were
Messrs. Cornish, Cutler, Havens, Hendrickson, Hopper, Leaming, Lydecker,
Moore, Newkirk, Sewell, Sheppard, Smith, Stone, Taylor (President), Thorn,
Wood—16.

Mr. Stone offered the following substitute for paragraph 14:
“14. The Legislature shall pass no special act conferring corporate powers
upon private corporations, but they shall pass general laws under which private
corporations may be organized, subject, nevertheless, to repeal or alteration at the
will of the Legislature. Nor shall it increase or decrease the pay of public officers
during the term for which said officers may be elected or appointed.”

Mr. Taylor moved that said substitute be printed for the use of the Senate, and
the further consideration thereof be postponed until Tuesday next [i.e. February
10, 1874; however, the Senate did not resume consideration of this constitutional
amendment until February 11, 1874].

Which motion was agreed to.

A message was received from His Excellency, the Governor, by the hands of
his Private Secretary, endorsed “nominations.”

On motion of Mr. Taylor, the Senate then adjourned.

FEBRUARY 11, 1874

* * *

[page245]

Mr. Havens presented a petition from citizens of New Jersey, protesting against the adoption of the proposed amendment to the Constitution, which would make church property taxable.

Which was read and laid on the table.

Mr. Hewitt presented a similar petition.

Which was read and laid on the table.

* * *

[page274]

AFTERNOON.

The Senate then resumed the consideration of the Amendments to the State Constitution, proposed by the Constitutional Commission.

The Journal of Wednesday afternoon, February 4th, was read.

At the request of the President, Mr. Sewell took the Chair.

The following amendment, offered by Senator Taylor, as a substitute for proposed paragraph 9, Article IV:

“9. No private, special or local bill shall be passed, unless public notice of the intention to apply therefor, and of the general objects thereof, shall have been previously given. The Legislature, at the next session after the adoption [t]hereof, and from time to time thereafter, shall prescribe the time and mode of giving such notice, the evidence thereof, and how such evidence shall be preserved.”

Was read, and adopted, by the following vote:

In the affirmative, were

Messrs. Hendrickson, Hewitt, Hopkins, MacPherson, Newkirk, Stone, Taylor (President), Thorn, Wood—9.

In the negative, were

Messrs. Cutler, Hopper, Leaming, Lydecker, Moore, Sewell, Sheppard, Smith—8.

The following amendment, offered by Senator Stone, as a substitute for proposed paragraph 14, Section VII, Article IV:

574 EXCERPTS FROM THE 1874 SENATE JOURNAL

FEBRUARY 11, 1874

[page275]

“14. The Legislature shall pass no special act conferring corporate powers upon private corporations, but shall pass general laws under which private corporations may be organized, subject, nevertheless, to repeal or alteration at the will of the Legislature. Nor shall it increase or decrease the pay of public officers during the term for which said officers may be elected or appointed.”

Was taken up.

Mr. Hopper moved to amend Mr. Stone’s substitute by adding at the end of line two, the words “and municipal.”

Which motion was not agreed to, by the following vote:

In the affirmative, were

Messrs. Cutler, Havens, Hendrickson, Hopper, Leaming, Lydecker, Smith, Wood—8.

In the negative, were

Messrs. Hewitt, Jarrard, MacPherson, Moore, Newkirk, Potts, Sewell, Sheppard, Stone, Taylor (President), Thorn—11.

Mr. Stone moved that his amendment be agreed to as a substitute for paragraph 14, Section VII, Article IV, except so much thereof as is included in lines 114, 115, 117 and 118, and all after line 122 in said paragraph 14.

Mr. Hopper moved to lay said motion on the table.

Which motion was not agreed to.

FEBRUARY 12, 1874

* * *

[page276]

Mr. Stone presented a remonstrance from citizens of this [page 277] State against the adoption of an amendment to the State Constitution taxing church property.

Which was read and laid on the table.

* * *

EXCERPTS FROM THE 1874 SENATE JOURNAL 575

FEBRUARY 12, 1874

[page296]

The President laid before the Senate the following communication:

NATIONAL WOMAN'S SUFFRAGE ASSOCIATION
106 East 55th Street,
New York, February 5^h, 1874.

HON. J. W. TAYLOR, Dear Sir, – On behalf of the advocates of equal political rights for women, from whom several petitions were last fall sent to the Constitutional Commission, and by that body referred to the Legislature, I respectfully ask for them a hearing in support of their claims before the Judiciary Committee, or such other committee as may be proper, of one or both branches of the Legislature. Could such hearing be fixed for Thursday, February 19th, it would be esteemed a favor, and early notification sent as to the date and hour.

Respectfully yours,
LILLIE DEVEREUX BLAKE,
Executive Committee, National Woman's Suffrage Association.

Which was read, and referred to the Committee on the Judiciary.

FEBRUARY 18, 1874

* * *

[page340]

Mr. Hopkins presented a petition from citizens of Gloucester County, requesting the Legislature not to adopt the amendment to the State Constitution, suggested by the Constitutional Commission, the object of which is to tax church property.

Which was read and laid on the table.

* * *

[page360]

The Senate then resumed the consideration of the Amendments to the State Constitution, proposed by the Constitutional Commission.

The following amendment, offered by Senator Stone, as a substitute for proposed paragraph 14, Section VII, Article IV, as follows:

"14. The Legislature shall pass no special act conferring corporate powers

576 **EXCERPTS FROM THE 1874 SENATE JOURNAL**

FEBRUARY 18, 1874

upon private corporations; but it shall pass general laws under which private corporations may be organized, subject, nevertheless, to repeal or alteration at the will of the Legislature. Nor shall it increase or decrease the pay of public officers during the term for which said officers may be elected or appointed.”

Was not agreed to, by the following vote:

In the affirmative, were

Messrs. Hopper, Sewell, Stone—3.

In the negative, were

Messrs. Cutler, Havens, Hendrickson, Leaming, Taylor (President)—5.

Paragraph 14, of Section VII, Article IV, was then taken up and read.

Lines 108 and 109, as follows:

“Laying out, opening, altering and working roads or highways.”

“Vacating any road, town plot, street, alley or public grounds.”

Were adopted, by the following votes:

In the affirmative, were

Messrs. Cutler, Hendrickson, Hewitt, Hopper, Leaming, Newkirk, Potts, Sewell, Stone, Taylor (President)—10.

In the negative, was

Mr. Lydecker—1.

Lines 110 and 111, as follows:

[page 361]

“Regulating the internal affairs of towns and counties; appointing local offices or commissions to regulate municipal affairs.”

Were agreed to, by the following vote:

In the affirmative, were

Messrs. Cutler, Havens, Hendrickson, Hewitt, Hopper, Newkirk, Potts, Sewell, Sheppard, Taylor (President)—10.

In the negative, were

Messrs. Lydecker, Stone—2.

Line 112, as follows:

“Selecting, drawing, summoning or empaneling grand or petit jurors.”

Was agreed to, by the following vote:

EXCERPTS FROM THE 1874 SENATE JOURNAL 577

FEBRUARY 18, 1874

In the affirmative, were
Messrs. Cutler, Havens, Hendrickson, Hewitt, Hopper, Leaming, Lydecker,
Taylor (President), Wood—9.

In the negative, were
Messrs. Potts, Sewell, Sheppard, Stone—4.

Line 113, as follows:

“Regulating the rate of interest on money.”

Was not agreed to, by the following vote:

In the affirmative, were
Messrs. Cutler, Havens, Hendrickson, Hewitt, Wood—5.

In the negative, were
Messrs. Hopper, Leaming, Lydecker, Newkirk, Potts, Sewell, Sheppard, Stone,
Taylor (President)—9.

Lines 114 and 115, as follows:

“Creating, increasing or decreasing the per centage or allowance of public
officers during the term for which said officers were elected or appointed.”

[page362]

Were agreed to, by the following vote:

In the affirmative, were
Messrs. Cutler, Havens, Hendrickson, Hewitt, Hopper, Leaming, Lydecker,
Newkirk, Potts, Sewell, Sheppard, Taylor (President), Wood—13.

In the negative—none.

Line 116, as follows:

“Changing the law of descent.”

Was agreed to by the following vote:

In the affirmative, were
Messrs. Cutler, Hendrickson, Hewitt, Hopper, Leaming, Lydecker, Potts, Sewell,
Stone, Taylor (President), Wood—11.

In the negative—none.

Lines 117 and 118, as follows:

“Granting to any corporation, association or individual any exclusive
privilege, immunity or franchise whatever.”

578 EXCERPTS FROM THE 1874 SENATE JOURNAL

FEBRUARY 18, 1874

Were agreed to, by the following vote:

In the affirmative, were

Messrs. Cutler, Havens, Hendrickson, Hewitt, Hopper, Lydecker, Potts, Sewell, Stone, Taylor (President), Wood—11.

In the negative—none.

Lines 119 and 120, as follows:

“Granting to any corporation, association or individual the right to lay down railroad tracks.”

Were agreed to, by the following vote:

In the affirmative, were

Messrs. Cutler, Hendrickson, Hewitt, Hopper, Lydecker, Potts, Sewell, Sheppard, Smith, Taylor (President), Thorn, Wood—[12].

[page 363]

In the negative—none.

Line 121, as follows:

“Providing for changes of venue in civil or criminal cases.”

Was agreed to, by the following vote:

In the affirmative, were

Messrs. Cutler, Havens, Hendrickson, Hewitt, Hopper, Lydecker, Newkirk, Potts, Sewell, Sheppard, Stone, Taylor (President), Wood—[13].

In the negative—none.

Line 122, as follows:

“Providing for the management and support of the public schools.”

Was agreed to, by the following vote:

In the affirmative, were

Messrs. Cutler, Havens, Hendrickson, Hewitt, Hopper, Leaming, Lydecker, Moore, Newkirk, Potts, Sewell, Sheppard, Smith, Taylor (President), Thorn, Wood—16.

In the negative, was

Mr. Stone—1.

Lines 123, 124, and part of 125, as follows:

“The Legislature shall pass general laws providing for the cases enumerated

FEBRUARY 18, 1874

in this paragraph, and for all other cases which, in its judgment, may be provided for by general laws.”

Were agreed to, by the following vote:

In the affirmative, were

Messrs. Cutler, Hendrickson, Hewitt, Hopper, Leaming, Moore, Newkirk, Potts, Sewell, Sheppard, Taylor (President), Wood—12.

In the negative, were

Messrs. Havens, Stone—2.

Part of line 125, and lines 126, 127 and 128, as follows:

[page364]

“The Legislature shall pass no special act conferring corporate powers, but they shall pass general laws under which corporations may be organized, and corporate powers of every nature obtained, subject, nevertheless, to repeal or alterations at the will of the Legislature.”

Were agreed to, by the following vote:

In the affirmative, were

Messrs. Cutler, Havens, Hendrickson, Hewitt, Potts, Sewell, Sheppard, Taylor (President), Wood—9.

In the negative, were

Messrs. Hopper, Leaming, Moore, Newkirk, Stone—5.

Lines 129, 130, 131 and 132, as follows:

“Insert as paragraph 15, a new paragraph, as follows:

“15. The Legislature may establish a court or courts, with original jurisdiction, over all cases of condemnation of lands and assessments for improvements.”

Were taken up.

Mr. Stone moved to amend by striking out the words “a court or courts,” in the 130th line, and inserting in lieu thereof the word “commissions;” also, by striking out all after the word “lands,” in the 131st line, and inserting in lieu thereof the words: “taken for public use.”

Which amendment was not agreed to, by the following vote:

In the affirmative, was

Mr. Stone—1.

580 EXCERPTS FROM THE 1874 SENATE JOURNAL

FEBRUARY 18, 1874

In the negative, were
Messrs. Cutler, Hendrickson, Hewitt, Hopper, Leaming, Sheppard, Smith, Taylor
(President), Thorn, Wood—10.

Said paragraph 15 was not agreed to, by the following vote:
In the affirmative, were
Messrs. Cutler, Hendrickson—2.
In the negative, were

[page365]

Messrs. Havens, Hewitt, Hopper, Leaming, Lydecker, Moore, Newkirk, Potts,
Sewell, Smith, Stone, Taylor (President), Thorn, Wood—14.

Lines 133, 134, and part of 135, as follows:
“Insert as paragraph 16, a new paragraph, as follows:
“16. Property shall be assessed for taxes under general laws, and by uniform
rules, according to its true value in money.”
Were taken up.

Mr. Hopper moved to strike out the words “in money,” in the 135th line.
Which amendment was agreed to.

The paragraph, as amended, was then agreed to, by the following vote:
In the affirmative, were
Messrs. Cutler, Havens, Hendrickson, Hewitt, Hopkins, Hopper, Lydecker,
Moore, Newkirk, Potts, Sewell, Stone, Taylor (President), Thorn, Wood—15.
In the negative—none.

The following sentence in paragraph 16, included in lines 135, 136, 137, 138
and 139:

“No property of any kind, protected by law, except that owned by the United
States, the State, counties, townships, cities, towns or boroughs, shall be exempt
by law from its full share of all State, county, township and city taxes and
assessments, except burying grounds and cemeteries not held by stock
companies.”

Was taken up.

EXCERPTS FROM THE 1874 SENATE JOURNAL 581

FEBRUARY 18, 1874

Mr. Wood moved to amend by striking out the word “or” in the 137th line, and inserting after the word “boroughs” the words: “or religious societies.”

Mr. Hewitt moved to amend the amendment by substituting in lieu of the words “or religious societies,” the follow-[page 366] ing:

“so much of the property belonging to religious societies as may be habitually used for the purpose of public worship.”

Which amendment was agreed to, by the following vote:

In the affirmative, were

Messrs. Havens, Hendrickson, Hewitt, Hopkins, Hopper, Lydecker, Moore, Newkirk, Potts, Smith, Stone, Taylor (President), Thorn—13.

In the negative, were

Messrs. Cutler, Leaming, Sewell, Wood—4.

The paragraph, as amended, was not agreed to, by the following vote:

In the affirmative, was

Mr. Cutler—1.

In the negative, were

Messrs. Havens, Hendrickson, Hewitt, Hopkins, Hopper, Lydecker, Moore, Newkirk, Potts, Sewell, Sheppard, Smith, Stone, Taylor (President), Thorn, Wood—16.

Lines 139, 140 and 141, as follows:

“No law shall be enacted or contract entered into by which the exercise of the power of taxation shall be restricted, impaired or impeded.”

Were not agreed to, by the following vote:

In the affirmative, were

Messrs. Cutler, Hewitt, Potts, Stone, Taylor (President), Thorn—6.

In the negative, were

Messrs. Hopper, Leaming, Moore, Sewell, Sheppard, Smith, Wood—7.

Mr. Taylor moved to strike out the remainder of the paragraph, included in lines 141 to 145 inclusive, as follows:

“The Legislature may provide by law for taking away from any person or persons, natural or artificial, now possessing or [page 367] entitled to the same, any right of exemption from taxation which cannot be revoked without compensation, and for paying to such person or persons a just compensation for

582 EXCERPTS FROM THE 1874 SENATE JOURNAL

FEBRUARY 18, 1874

the right so taken away.”

Which motion was agreed to, by the following vote:

In the affirmative, were

Messrs. Hopper, Leaming, Moore, Newkirk, Sewell, Sheppard, Smith, Taylor (President), Thorn, Wood—10.

In the negative, were

Messrs. Cutler, Havens, Hendrickson, Hewitt, Potts, Stone—6.

Mr. Stone moved that when the Senate adjourns it be to meet this evening at eight o'clock.

Which motion was agreed to.

On the motion of Mr. Smith, the Senate then adjourned.

* * *

[page368]

[EVENING.]

At the request of the President, Mr. Sewell took the Chair.

The Senate then resumed the consideration of the Amendments to the State Constitution, proposed by the Constitutional Commission.

Section VIII, Article IV, was taken up.

On motion of Mr. Stone, all of said section included in lines 147 to 167 inclusive, as follows, was stricken out:

“Section VIII.—Strike out the following words:

[page369]

“Members of the Legislature shall, before they enter on the duties of their respective offices,” and insert in lieu thereof the following:

“Every member of the Legislature, before he enters on his duties, shall”.

Also, before the word “faithfully,” insert the words “honestly and”; also, after the word “ability,” insert the following:

“And I do solemnly swear (or affirm) that I have not paid or contributed anything, or made any promise in the nature of a bribe, to corruptly influence,

FEBRUARY 18, 1874

directly or indirectly, any vote at the election at which I was chosen a member of the Senate (or House of Assembly); and I do further solemnly swear (or affirm) that I have not accepted or received, and I will not accept or receive, directly or indirectly, any money or other valuable thing from any corporation, company or person, for any vote or influence I may give or withhold on any bill, resolution or appropriation, or for any other act as a member of the Senate (or General Assembly) of this State.”

And add to the paragraph the following:

“Any member who shall refuse to take such oath or affirmation shall forfeit his membership; and any person convicted of having falsely taken said oath or affirmation, or of having broken the same, shall be subject to the punishment provided for willful and corrupt perjury.”

The following paragraph, included within lines 170 to 176, inclusive, was agreed to:

“2. Every officer of the Legislature shall, before he enters upon his duties, take and subscribe the following oath or affirmation: ‘I do solemnly promise and swear (or affirm) that I will faithfully, impartially and justly perform all the duties of the office of _____, to the best of my ability and understanding; that I will carefully preserve all records, papers, writings or property entrusted to me for safe keeping by virtue of my office, and make such disposition of the same as may be required by law.’”

Bill No. 4, Article V, was then taken up.

Lines 1 and 2, as follows:

Paragraph 6. After the word “Legislature,” where it first occurs in said paragraph, insert the words: “or the Senate alone.”

[page370]

Were agreed to.

Lines 3, 4, and 5, as follows:

Paragraph 7. Strike out the words “a majority,” where they occur (in two places) in the paragraph, and insert in lieu thereof in both places the words “two-thirds.”

Were not agreed to, by the following vote:

584 EXCERPTS FROM THE 1874 SENATE JOURNAL

FEBRUARY 18, 1874

In the affirmative, were
Messrs. Cutler and Hendrickson—2.

In the negative, were
Messrs. Havens, Hewitt, Hopper, Leaming, Moore, Newkirk, Potts, Sewell,
Sheppard, Stone, Taylor (President), Thorn, Wood—13.

Mr. Stone offered the following amendments to Articles V, VI, and VII:

**ARTICLE V.
EXECUTIVE.**

Amend Article V, paragraph 10, by striking out the words, “and the six judges of the court of errors and appeals,” and insert “the justices of the supreme court.”

**ARTICLE VI.
JUDICIARY.**

Section I.

Strike out paragraph 1, in Article VI, and insert the following:

“1. The judicial power shall be vested in a supreme court [of] the last resort in all cases, both of law and equity; a court for the trial of impeachments; a court of chancery; a prerogative court; circuit courts, and such inferior courts as now exist, and as may be hereafter ordained and established by law; which inferior court the Legislature may alter or abolish as the public good may require.”

Strike out all of Section II.

[page371]

Section IV.

Strike out all of paragraphs 1, 2, 3 and 4, and insert as follows:

“1. The court of chancery shall consist of a chancellor, who shall be ordinary, or surrogate general, and judge of the prerogative court; and the Legislature may provide for the appointment of one or more vice- chancellors, not to exceed three, and each vice-chancellor shall have and exercise such powers and jurisdiction as the Legislature may from time to time confer, including the full power of the court of chancery and the chancellor.

“2. All persons aggrieved by any order, sentence or decree of the orphans’ court may appeal from the same, or from any part thereof, to the prerogative court, or directly to the supreme court.”

FEBRUARY 18, 1874

Section V.

Strike out all of paragraphs 1, 2 and 3, and insert:

“1. The supreme court shall have appellate jurisdiction in all cases of law and equity, and original jurisdiction in all cases of treason against the State, habeas corpus and certiorari, and exclusive original jurisdiction in cases of mandamus, quo warranto, and other prerogative writs and precepts; and the court shall have the power to execute and enforce its own judgments and decrees; the court shall consist of not less than three nor more than seven justices, and the number of the justices may be fixed by the Legislature from time to time; and judgments from the inferior courts may be docketed in this court; and the clerk of the present supreme court shall be the clerk of the court, and hold his office until his present commission expires.

“2. The circuit courts shall have original common law jurisdiction in all cases except those of a criminal nature, and except those of mandamus, quo warranto, and prerogative writs and precepts; the circuit courts shall have such jurisdiction by the writ of certiorari and habeas corpus as the Legislature may, from time to time, confer; the Legislature may confer upon the circuit courts equity jurisdiction in common law cases where an equitable defence is set up, or an equity arises in the cause.

“3. The Legislature shall, from time to time, divide the State into as many circuits as the public good shall require, and **[page 372]** one judge shall be appointed for each circuit, to hold the circuit court therein, but such judge may hold the court of any other circuit; and every county containing over fifty thousand inhabitants shall constitute one circuit, and for every county containing over one hundred thousand inhabitants two circuit judges shall be appointed; and for every additional fifty thousand inhabitants over one hundred thousand an additional circuit judge shall be appointed.

“4. The circuit judges shall take the places of the present justices of the supreme court in the courts of oyer and terminer and general jail delivery, quarter sessions of the peace, orphans’ courts, and inferior court of common pleas.

“5. Final judgments in any circuit court may be brought by writ of error into the supreme court.”

Section VI.

Strike out paragraph 1 and 2, and insert:

“1. There shall be, besides the judges of the circuit courts, who may be *ex-officio* judges of said court, no more than two judges of the inferior court of common pleas in each of the counties in this State after the terms of the judges of

FEBRUARY 18, 1874

said court now in office shall terminate; the commissions for the appointment of judges of said court shall bear date and take effect on the first day of April, except commissions to fill vacancies, which shall bear date and take effect when issued."

ARTICLE VII.
CIVIL OFFICERS.
Section II.

Strike out all of paragraph 1 and 2, and insert as follows:

"1. The present justices of the supreme court shall constitute the supreme court herein provided for, and shall hold their offices until their present commissions expire; and after the expiration of the term of the present chief justice, the justice whose commission has the shortest period to run, shall be the chief justice; and if two commissions bear date on the same day, then the two justices shall decide the same by lot; the present chancellor and vice chancellor shall hold their offices until their present commissions expire; justices of the supreme court, chancellor, circuit judges, and judges of the inferior court of common pleas shall be nominated by the governor and appointed by him, with the advice and consent of the [page 373] senate; the justices of the supreme court, chancellor, vice-chancellor, and circuit judges shall hold their offices for the term of seven years; they shall, at stated times, receive for their services a compensation to be paid out of the treasury of the State, which shall not be increased or diminished during the term of their appointments, and they shall hold no other office under the government of this State, or of the United States; judges of the inferior court of common pleas shall hold their offices for the period of five years."

Said amendments were read and ordered to be printed.

Mr. Stone moved to amend Bill 4, Article V, by striking out of the fourteenth line the words "two-thirds," and inserting in lieu thereof "a majority."

Which was agreed to.

Lines 6 to 9 inclusive, [w]as amended as follows:

"Also add to the paragraph the following:

"If any bill presented to the governor contain several items of appropriation of money, he may object to one or more of such items while approving of the other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the appropriation so objected to shall not take effect. If the Legislature be in session, he shall transmit to the

FEBRUARY 18, 1874

house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If, on reconsideration, one or more of such items be approved by a majority of the members elected to each house, the same shall be a part of the law, notwithstanding the objections of the governor. All the provisions of this section in relation to bills not approved by the governor shall apply to cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.”

Were agreed to, by the following vote:

In the affirmative, were

Messrs. Cutler, Havens, Hendrickson, Hewitt, Hopper, Leaming, Newkirk, Potts, Sewell, Sheppard, Stone, Taylor (President), Thom, Wood—14.

In the negative—none.

Lines 20 to 23, inclusive, as follows:

Paragraph 8. Add to the paragraph the following:

[page374]

“Nor shall he be elected by the Legislature to any office under the government of this State or of the United States, during the term for which he shall have been elected governor.”

Were agreed to, by the following vote:

In the affirmative, were

Messrs. Cutler, Havens, Hendrickson, Hewitt, Leaming, Moore, Newkirk, Sheppard, Taylor (President), Wood—10.

In the negative, were

Messrs. Hopper, Potts, Sewell, Stone—4.

Lines 24 to 30, inclusive, as follows:

“Insert as paragraph 15, a new paragraph, as follows:

“15. Conviction of any felony or otherwise infamous crime, or of any official delinquency under the laws of this State, shall, after final judgment thereon, vacate any office under the constitution or laws of this State held by the person so convicted; and a duly authenticated record of such conviction and judgment shall be conclusive evidence of such forfeiture, and shall authorize competent authority to fill the vacancy occasioned thereby.”

Were not agreed to, by the following vote:

In the affirmative, were

Messrs. Cutler, Havens, Hendrickson, Hewitt, Hopper, Leaming, Potts—7.

588 EXCERPTS FROM THE 1874 SENATE JOURNAL

FEBRUARY 18, 1874

In the negative, were
Messrs. Moore, Newkirk, Sewell, Sheppard, Stone, Taylor (President), Thorn,
Wood—8.

Bill No. 6, Article VII, was taken up.

Lines 1 to 5, inclusive, as follows:

Paragraph 5. After the words “major generals,” insert the words: “the adjutant general and quartermaster general.”

Paragraph 9. Strike out the words “the adjutant general, quartermaster general, and;” also, strike out the word “other.”

[page375]

Were agreed to.

On motion of Mr. Stone, the consideration of the following was postponed until after the amendments offered by him relative to said article should be printed:

Paragraph 1. Strike out the word “and” (where it occurs first) in the paragraph, and insert after the word “appeals,” the following words: “and judges of the inferior court of common pleas;” also, after the word “years,” insert the following: “and the judges of the inferior court of common pleas for the term of five years; they.” Also, insert between the word “be” and the word “diminished,” the words “increased or.”

Also, add to the paragraph the following:

“Justices of the supreme court, judges of the court of errors and appeals, and judges of the court of common pleas, when appointed to fill vacancies, shall hold for the unexpired term only.”

Strike out paragraph 2, as follows:

“2. Judges of the courts of common pleas shall be appointed by the Senate and General Assembly in joint meeting; they shall hold their offices for five years; but when appointed to fill vacancies, they shall hold for the unexpired term only.”

Lines 24 and 25, as follows:

Change the number of present paragraph 3 to number 2, and strike therefrom the following words: “and the keeper and inspectors of the State prison.”

Were agreed to.

FEBRUARY 18, 1874

Mr. Hopper moved to amend the proposed paragraph 2, by inserting after the word "treasurer," the word "comptroller."

Which was agreed to, by the following vote:

In the affirmative, were

Messrs. Cutler, Hendrickson, Hewitt, Hopper, Potts, Sewell, Stone, Taylor (President), Thorn—9.

In the negative, were

Messrs. Havens, Leaming, Newkirk, Sheppard—4.

[page376]

Mr. Stone moved to amend by striking out lines 26, 27, 28, and 29, and inserting in lieu thereof the following:

"Strike out the words 'one year,' in the second clause of paragraph 2, of Section II, and insert in lieu thereof the words 'three years.'"

Which motion was agreed to, by the following vote:

In the affirmative, were

Messrs. Cutler, Hendrickson, Hewitt, Hopper, Potts, Sewell, Stone, Taylor (President), Thorn—9.

In the negative, were

Messrs. Havens, Leaming, Moore, Newkirk, Sheppard—[5].

Lines 30, 31 and 32, as follows:

Change the number of present paragraph 4 to number 3, and strike out the word "and," where it occurs between the word "chancery" and the word "secretary."

Were agreed to.

Mr. Hewitt moved to amend by striking out the words "and inspectors," in lines 33 and 34.

Which was agreed to, and the paragraph, as amended, agreed to.

Lines 35 and 36, as follows:

Also add to the paragraph the following words: "except the attorney general, who shall hold his office for three years."

Were not agreed to, by the following vote:

In the affirmative, were

Messrs. Cutler, Moore, Newkirk, Sewell, Sheppard—5.

590 EXCERPTS FROM THE 1874 SENATE JOURNAL

FEBRUARY 18, 1874

In the negative, were
Messrs. Hewitt, Hopper, Lydecker, Potts, Stone, Taylor (President)–6.

Lines 37 to 44, inclusive, as follows:

“Change the number of present paragraph 5 to number 4.

“Change the number of present paragraph 6 to number 5.”

[page377]

“Change the number of present paragraph 7 to number 6,” and strike therefrom the words “annually,” “annual,” and “they may be re-elected until they shall serve three years, but no longer;” insert after the word “assembly,” the following words: “and they shall hold their offices for three years;” and add to the paragraph the following words: “sheriffs shall annually renew their bonds.”

Were agreed to, by the following vote:

In the affirmative, were

Messrs. Cutler, Havens, Hendrickson, Hewitt, Hopper, Lydecker, Moore, Newkirk, Potts, Sewell, Sheppard, Stone, Taylor (President), Thorn–14.

In the negative–none.

Lines 45 to 48, inclusive, as follows:

“Change the number of present paragraph 8 to number 7.

“Change the number of present paragraph 9 to number 8.

“Change the number of present paragraph 10 to number 9.

“Change the number of present paragraph 11 to number 10.”

Were agreed to.

Lines 50 and 51, as follows:

“11. No law shall extend the term of any public officer, or decrease or diminish his salary or emoluments after his election or appointment.”

Was not agreed to, by the following vote:

In the affirmative–none.

In the negative, were

Messrs. Cutler, Hewitt, Hopper, Lydecker, Moore, Newkirk, Potts, Sewell, Sheppard, Stone, Taylor (President), Thorn–[12].

Mr. Stone moved to reconsider the vote whereby paragraph 1, Section VIII, Article IV.

EXCERPTS FROM THE 1874 SENATE JOURNAL 591

FEBRUARY 18, 1874

Was disagreed to.

On motion of Mr. Hewitt, said motion was laid on the table.

FEBRUARY 24, 1874

* * *

[page454]

The Senate then proceeded to the special order of the day, the consideration of the Amendments to the State Constitution proposed by the Constitutional Commission.

Mr. Stone's amendments to Articles V, VI, and VII, were postponed until Tuesday afternoon next [i.e. March 3, 1874; however, the Senate did not resume consideration of Stone's amendments until March 11, 1874].

At the request of the President, Mr. Sewell took the Chair.

Bill 3, Section VII, of Article IV, was taken up.

Lines 61 to 70, inclusive, as amended, as follows:

Paragraph 6. Add to the paragraph the following words:

"The Legislature shall provide by general laws the means to establish and maintain public schools for the gratuitous instruction of all persons in this State, between the ages of five and eighteen years."

And were read.

Mr. Taylor moved to strike out all after the word "shall" in the sixty-fourth line, to and including the word "persons" in the sixty-sixth line, and insert in lieu thereof the following:

"provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children."

Which amendment was agreed to, by the following vote:

In the affirmative, were

592 EXCERPTS FROM THE 1874 SENATE JOURNAL

FEBRUARY 24, 1874

[page455]

Messrs. Cornish, Cutler, Havens, Hendrickson, Hewitt, Hopper, Lydecker, Newkirk, Potts, Sewell, Sheppard, Stone, Taylor (President), Thorn, Wood—15.

In the negative—none.

Lines 72 to 79, as follows:

Strike out paragraph 8, as follows:

“8. The assent of three-fifths of the members elected to each house shall be requisite to the passage of every law for granting, continuing, altering, amending or renewing charters for banks or money corporations; and all such charters shall be limited to a term not exceeding twenty years.”

Change the number of present paragraph 9 to number 8.

Were agreed to.

Bill 1, Article I, was taken up.

Lines 12 to 16, inclusive, as follows:

Insert as paragraph 19, a new paragraph, as follows:

“19. No county shall be divided or have any part set off therefrom without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county voting on the question shall vote for the same.”

Were not agreed to, by the following vote:

In the affirmative, were

Messrs. Hendrickson, Potts—2.

In the negative, were

Messrs. Havens, Hewitt, Hopper, Leaming, Moore, Sheppard, Stone, Taylor (President), Thorn, Wood—10.

Lines 17 to 28, inclusive, as follows:

Insert as paragraph 20, a new paragraph, as follows:

“20. No county, city, borough, town, township or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual, association or corporation, or become security for, or be directly or indirectly the [page 456] owner of any stock or bonds of any association or corporation; nor shall any county, city, borough, town, township or village incur or be authorized by the Legislature to incur, any indebtedness, or to impose any tax except for

FEBRUARY 24, 1874

State, county, city, township or village purposes; and no county shall contract or incur any debt, by bond or otherwise, exceeding two per cent. of the valuation of its taxable property; and no town, borough or township exceeding four per cent.; and no city exceeding eight per cent. on a like valuation, excepting for its water supply.”

Were taken up and read.

Mr. Stone moved to strike out all after the word “corporation,” in the twenty-first line.

Which amendment was agreed to.

The paragraph, as amended, was then adopted, by the following vote:

In the affirmative, were

Messrs. Cutler, Havens, Hendrickson, Hewitt, Hopper, Leaming, Newkirk, Potts, Sewell, Stone, Taylor (President), Wood—12.

In the negative, were

Messrs. Moore, Sheppard, Thorn—3.

Lines 29 to 33, inclusive, as follows:

Insert as paragraph 21, a new paragraph, as follows:

“21. No donation of land or appropriation of money shall be made by the State or any municipal corporation to or for the use of any society, association or corporation whatever.”

Change the number of present paragraph 19 to number 22.

Were taken up, read, and adopted.

Mr. Hewitt moved to take from the table the motion to reconsider the vote whereby:

Article IV, Section VIII, lines 147 to 167, inclusive, as follows:

Section VIII. Strike out the following words:

[page457]

“Members of the Legislature shall, before they enter on the duties of their respective offices.”

And insert in lieu thereof the following:

“Every member of the Legislature, before he enters on his duties, shall.”

594 EXCERPTS FROM THE 1874 SENATE JOURNAL

FEBRUARY 24, 1874

Also, before the word “faithfully” insert the words “honestly and”; also, after the word “ability” insert the following:

“And I do solemnly swear (or affirm) that I have not paid or contributed anything, or made any promise in the nature of a bribe, to corruptly influence, directly or indirectly, any vote at the election at which I was chosen a member of the Senate (or House of Assembly); and I do further solemnly swear (or affirm) that I have not accepted or received, and I will not accept or receive, directly or indirectly, any money or other valuable thing from any corporation, company or person, for any vote or influence I may give or withhold on any bill, resolution or appropriation, or for any other act as a member of the Senate (or General Assembly) of this State.”

And add to the paragraph the following:

“Any member who shall refuse to take such oath or affirmation shall forfeit his membership; and any person convicted of having falsely taken said oath or affirmation, or of having broken the same, shall be subject to the punishment provided for willful and corrupt perjury.”

Were not agreed to.

Which motion was agreed to, by the following vote:

In the affirmative, were

Messrs. Cutler, Havens, Hendrickson, Hewitt, Hopper, Potts, Stone, Thorn—8.

In the negative, was

Mr. Sewell—1.

Mr. Stone moved to strike out all of the section down to and including “honestly and,” in line 152.

Which was agreed to.

Mr. Stone moved to strike out the remainder of the section comprised in lines 152 to 167, inclusive.

Which was agreed to, by the following vote:

[page458]

In the affirmative, were

Messrs. Cornish, Havens, Hopper, Leaming, Lydecker, Moore, Newkirk, Sewell, Sheppard, Stone, Taylor (President), Thorn, Wood—13.

In the negative, were

Messrs. Cutler, Hendrickson, Hewitt, Potts—4.

FEBRUARY 25, 1874

* * *

[page484]

On motion of Mr. Stone, the Secretary was directed to have **[page 485]** printed the amendments to the Constitution, as amended by the Senate.

MARCH 10, 1874

* * *

[page710]

The special order of the day, the Amendments to the Constitution proposed by the Constitutional Commission, was then taken up.

Mr. Stone moved that the amendments agreed to by the Senate be engrossed under the supervision of a committee of two, to be appointed by the President.

[page711]

Which was agreed to, and the President appointed Messrs. Stone and Cutler as said committee.

The consideration of Article VI of the Constitution was, on motion of Mr. Stone, made the special order for tomorrow afternoon.

MARCH 11, 1874

* * *

[page747]

The special order of the day, the Amendments to the Constitution, proposed by the Constitutional Commission, was taken up.

Bill No. 5, Article VI, Section VI, was taken up.

Mr. Stone moved that the Senate disagree with the proposed amendments to said article.

Which motion was agreed to.

596 EXCERPTS FROM THE 1874 SENATE JOURNAL

MARCH 11, 1874

[page748]

On motion of Mr. Stone, the further consideration of the amendments was postponed until tomorrow.

MARCH 12, 1874

* * *

[page782]

The following Amendments to the Constitution of this State, as proposed by the Senate, were taken up and read a third time.

ARTICLE I.
RIGHTS AND PRIVILEGES.

Insert as paragraph 19, a new paragraph, as follows:

“19. No county, city, borough, town, township or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual, association or corporation, or become security for or be directly or indirectly the owner of any stock or bonds of any association or corporation.”

Insert as paragraph 20, a new paragraph, as follows:

“20. No donation of land or appropriation of money shall be made by the State or any municipal corporation to or for the use of any society, association or corporation whatever.”

Change the number of present paragraph 19 to 21.

[page783]

ARTICLE II.
RIGHT OF SUFFRAGE.

Section I.

Strike out the word “white” between the word “every” and the word “male” in the first line.

Add to the paragraph the following:

“And provided further, that in time of war no elector in the actual military service of the State, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the Legislature shall have power to provide the manner in which, and the time and place at which, such absent electors may vote, and for the return and canvass of

EXCERPTS FROM THE 1874 SENATE JOURNAL 597

MARCH 12, 1874

their votes in the election districts in which they respectively reside.”

Section II.

Strike out all of the second section after the word “bribery.”

**ARTICLE IV.
LEGISLATIVE.**

Section I.

Paragraph 3. Strike out the words: “second Tuesday of October,” and insert in lieu thereof the words: “first Tuesday after the first Monday in November.”

Section IV.

Paragraph 7. Strike out the following words:

“A compensation for their services, to be ascertained by law, and paid out of the treasury of the State; which compensation shall not exceed the sum of three dollars per day for the period of forty days from the commencement of the session, and shall not exceed the sum of one dollar and fifty cents per day for the remainder of the session. When convened in extra session by the governor they shall receive such sum as shall be fixed for the first forty days of the ordinary session. They shall also receive the sum of one dollar for every ten miles they shall travel in going to and returning from their place of meeting, on the most usual route,”

And insert in lieu thereof the following:

“Annually the sum of five hundred dollars during the time for which they shall have been elected, and while they shall hold their office, and no other allowance or emolument, directly or indirectly, for any purpose whatever.”

[page 784]

Also strike out the words “per diem.”

Section VII.

Paragraph 4. Add to the paragraph the following:

“No law shall be revived or amended by reference to its title only, but the act revived, or the section or sections amended, shall be inserted at length. No general law shall embrace any provision of a private, special or local character. No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of the act, or which shall enact that any existing law, or any part thereof, shall be applicable, except by inserting it in such an act.”

598 EXCERPTS FROM THE 1874 SENATE JOURNAL

MARCH 12, 1874

Paragraph 6. Insert the word “free” between the word “public” and the word “schools,” and add to the paragraph the following:

“The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in this State between the ages of five and eighteen years.”

Strike out paragraph 8, as follows:

“8. The assent of three-fifths of the members elected to each house shall be requisite to the passage of every law for granting, continuing, altering, amending or renewing charters for banks or money corporations; and all such charters shall be limited to a term not exceeding twenty years.”

Change the number of present paragraph 9 to 8.

Insert as paragraph 9, a new paragraph, as follows:

“9. No private, special, or local bill shall be passed, unless public notice of the intention to apply therefor, and of the general object thereof, shall have been previously given. The Legislature, at the next session after the adoption thereof, and from time to time thereafter, shall prescribe the time and mode of giving such notice, the evidence thereof, and how such evidence shall be preserved.”

Insert as paragraph 11, a new paragraph, as follows:

“11. The Legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say:

“Laying out, opening, altering and working roads or highways.

“Vacating any road, town plot, street, alley or public grounds.

“Regulating the internal affairs of towns and counties; appointing local offices or commissions to regulate municipal affairs.

[page 785]

“Selecting, drawing, summoning or empaneling grand or petit jurors.

“Creating, increasing or decreasing the percentage or allowance of public officers during the term for which said officers were elected or appointed.

“Changing the law of descent.

“Granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever.

“Granting to any corporation, association or individual the right to lay down railroad tracks.

“Providing for changes of venue in civil or criminal cases.

“Providing for the management and support of free public schools.

“The Legislature shall pass general laws providing for the cases enumerated

EXCERPTS FROM THE 1874 SENATE JOURNAL 599

MARCH 12, 1874

in this paragraph, and for all other cases which, in its judgment, may be provided for by general laws. The Legislature shall pass no special act conferring corporate powers, but they shall pass general laws under which corporations may be organized and corporate powers of every nature obtained, subject nevertheless, to repeal or alteration at the will of the Legislature.”

Insert as paragraph 12, a new paragraph, as follows:

“12. Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value.”

Section VIII.

Insert as paragraph 2, a new paragraph, as follows:

“2. Every officer of the Legislature shall, before he enters upon his duties, take and subscribe the following oath or affirmation: “I do solemnly promise and swear (or affirm) that I will faithfully, impartially and justly perform all the duties of the office of _____, to the best of my ability and understanding; that I will carefully preserve all records, papers, writings or property entrusted to me for safe keeping by virtue of my office, and make such disposition of the same as may be required by law.”

ARTICLE V.

EXECUTIVE.

Paragraph 6. After the word “Legislature,” where it occurs first in said paragraph, insert the words “or the senate alone.”

[page 786]

Paragraph 7. Add to the paragraph the following:

“If any bill presented to the governor contain several items of appropriations of money, he may object to one or more of such items while approving of the other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the appropriation so objected to shall not take effect. If the Legislature be in session he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If, on reconsideration, one or more of such items be approved by a majority of the members elected to each house, the same shall be a part of the law, notwithstanding the objections of the governor. All the provisions of this section in relation to bills not approved by the governor shall apply to cases in which he shall withhold his approval from any item or items

600 EXCERPTS FROM THE 1874 SENATE JOURNAL

MARCH 12, 1874

contained in a bill appropriating money.”

Paragraph 8. Add to the paragraph the following:

“Nor shall he be elected by the Legislature to any office under the government of this State or of the United States, during the term for which he shall have been elected governor.”

ARTICLE VII.

APPOINTING POWER AND TENURE OF OFFICE.

Section I.

MILITIA OFFICERS.

Paragraph 5. After the words “major generals,” insert the words “the adjutant general and quartermaster general.”

Paragraph 9. Strike out the words “the adjutant general, quartermaster general and.”

Also strike out the word “other.”

Section II.

CIVIL OFFICERS.

Paragraph 1. Strike out the word “and” (where it occurs first) in the paragraph, and insert after the word “appeals” the following words: “and judges of the inferior court of common pleas.”

Change the number of present paragraph 3 to number 2, and strike therefrom the following words: and the keeper and inspectors of the State prison;” and insert in lieu thereof the words “and comptroller.”

[page 787]

Also, strike out the words “one year” in the second clause of paragraph 2 of Section II, and insert in lieu thereof the words “three years.”

Change the number of present paragraph 4 to number 3, and strike out the word “and” where it occurs between the word “chancery” and the word “secretary.”

Also, insert after the word “State” the words: “and the keeper of the State prison.”

Change the number of present paragraph 5 to number 4.

Change the number of present paragraph 6 to number 5

Change the number of present paragraph 7 to number 6, and strike therefrom the words “annually,” “annual,” and “they may be re-elected until they shall serve

EXCERPTS FROM THE 1874 SENATE JOURNAL 601

MARCH 12, 1874

three years, but no longer.” Insert after the word “assembly” the following words: “and they shall hold their offices for three years;” and add to the paragraph the following words: “sheriffs shall annually renew their bonds.”

Change the number of present paragraph 8 to number 7.

Change the number of present paragraph 9 to number 8.

Change the number of present paragraph 10 to number 9.

Change the number of present paragraph 11 to number 10.

Upon the question, “shall these engrossed Amendments proposed by the Senate to the Constitution of this State be agreed to?” it was decided as follows:

In the affirmative, were

Messrs. Cornish, Cutler, Havens, Hewitt, Hopkins, Jarrard, MacPherson, Newkirk, Potts, Sewell, Sheppard, Stone, Taylor (President), Thorn—14.

In the negative—none.

Under the direction of the President, the Secretary carried said Amendments to the House of Assembly, and informed them that the Senate had passed the same, and requested their concurrence therein.

MARCH 19, 1874

* * *

[page951]

...the House of Assembly had passed the following concurrent resolution:

[page952]

WHEREAS, A concurrent resolution to adjourn *sine die* on the 20th instant has been adopted; and

WHEREAS, If the Legislature should adhere to the above resolution, and adjourn at the time indicated, there will remain a large amount of important public and private business undisposed of; and

WHEREAS, The House of Assembly have been unable for want of time to consider and act on the Amendments to the Constitution, proposed by the commission appointed to prepare said amendments, and submit them to the Legislature, and revision of the laws, although it has made every effort consistent with the public good and their duty to their constituents to dispose of said

602 EXCERPTS FROM THE 1874 SENATE JOURNAL

MARCH 19, 1874

amendments properly; therefore

Resolved, By the House of Assembly, (Senate concurring), that the resolution fixing the time of adjournment of the two houses of the Legislature, on Friday, March twentieth, eighteen hundred and seventy-four, be, and the same is hereby rescinded, and that the two houses adjourn *sine die* on Friday, March twenty-seventh, eighteen hundred and seventy-four, at twelve o'clock noon.

In which the concurrence of the Senate was requested.

* * *

[page 1006]

Mr. Stone moved to take from the table the House concurrent resolution relative to extending the time of final adjournment.

Which motion was agreed to, and the resolution read.

Mr. Stone moved to amend by substituting the following:

WHEREAS, A concurrent resolution has been adopted to adjourn *sine die* on Friday, March twentieth, instant, at twelve o'clock, noon; and whereas, it appears that all matters of ordinary legislation can be acted upon and completed by Saturday, the twenty-first instant, at twelve o'clock, noon; and whereas, two matters of extraordinary legislation, to wit, the proposed Constitutional Amendments and the Revision of the Laws cannot during the present session be fully considered and completed, because among other reasons all the commissioners appointed to make said Revision have not finished their work; and whereas, said Revision will now be manifestly incomplete unless it includes the laws passed at the present session; therefore,

Resolved, (the House of Assembly concurring), That when the Legislature adjourn, it adjourn to meet in extra session on the first Tuesday of June next, at eleven o'clock, A.M., for the special purpose of considering the Constitutional Amendments and Revision of the Laws, and for no other purpose; and that [page 1007] the present session adjourn on Saturday, the twenty-first instant, at twelve o'clock, noon.

Which was read and the consideration thereof postponed for the present.

* * *

EXCERPTS FROM THE 1874 SENATE JOURNAL 603

MARCH 19, 1874

[page 1028]

The substitute to the House concurrent resolution offered by Mr. Stone, as follows, was taken up:

WHEREAS, A concurrent resolution has been adopted to adjourn *sine die* on Friday, March twentieth, instant, at twelve o'clock, noon; and whereas, it appears that all matters of ordinary legislation can be acted upon and completed by Saturday, the twenty-first instant, at twelve o'clock, noon; and whereas, two matters of extraordinary legislation, to wit, the proposed Constitutional Amendments and the Revision of the Laws cannot during the present session be fully considered and completed, because among other reasons all the commissioners appointed to make said Revision have not finished their work; and whereas, such Revision will now be manifestly incomplete unless it includes the laws passed at the present session; therefore,

Resolved, (the House of Assembly concurring), That when the Legislature adjourn, it adjourn to meet in extra session on the first Tuesday of June next, at eleven o'clock, A.M., for the special purpose of considering the Constitutional Amendments and Revision of the Laws, and for no other purpose; and that the present session adjourn on Saturday, the twenty-first instant, at twelve o'clock, noon.

The resolution was read and not agreed to.

The House concurrent resolution, as follows:

WHEREAS, A concurrent resolution to adjourn *sine die* on the 20th instant has been adopted; and

WHEREAS, If the Legislature should adhere to the above resolution, and adjourn at the time indicated, there will remain a large amount of important public and private business undisposed of; and

[page 1029]

WHEREAS, The House of Assembly has been unable for want of time to consider and act on the Amendments to the Constitution, proposed by the commission appointed to prepare said amendments, and submit them to the Legislature, and Revision of the Laws, although it has made every effort consistent with the public good and their duty to their constituents to dispose of said amendments properly; therefore

Resolved, By the House of Assembly, (Senate concurring), that the resolution fixing the time of adjournment of the two houses of the Legislature, on Friday,

604 EXCERPTS FROM THE 1874 SENATE JOURNAL

MARCH 19, 1874

March twentieth, eighteen hundred and seventy-four, be, and the same is hereby rescinded, and that the two houses adjourn *sine die* on Friday, March twenty-seventh, eighteen hundred and seventy-four, at twelve o'clock, noon.

Was taken up and agreed to, by the following vote:

In the affirmative, were

Messrs. Cutler, Havens, Hewitt, Hopkins, Jarrard, Leaming, Lydecker, MacPherson, Moore, Newkirk, Potts, Sewell, Sheppard, Smith, Stone, Thorn, Wood—17.

In the negative, were

Messrs. Cornish, Hopper — 2.

MARCH 26, 1874

* * *

[page 1197]

... the House of Assembly had passed the Amendments made in the Senate to the Constitution of this State.

Without amendment.

* * *

Source: SENATE JOURNAL, 1874.

EXCERPTS FROM THE 1874 ASSEMBLY MINUTES 605

MARCH 16, 1874

* * *

[page839]

A message was received from the Senate by the hands of Mr. Babcock, its Secretary, as follows:

SENATE CHAMBER,
TRENTON, March 16, 1874.

Mr. Speaker:

I am directed by the Senate to inform the House of Assembly that the Senate has passed ... the amendments proposed by the Senate to the Constitution of this State.

In which the concurrence of the House of Assembly is requested.

JOHN F. BABCOCK,
Secretary of the Senate.

[page840]

Which was accepted and the said Constitution read a first time by its title and ordered to have a second reading, and referred to its appropriate committee.

The following are the proposed amendments to the Constitution referred to in the above message:

[Ed. Note: The text of the Senate Amendments to the Constitution No. 7 appears on pages 840 to 845 of Assembly Minutes 1874. Verbatim text of the Senate Amendments to the Constitution No. 7 is reproduced in the Senate Journal, *supra*, [pages 782-787]. See also, this Volume at pages 745-750.]

MARCH 18, 1874

* * *

[page946]

Mr. Ward offered the following:

WHEREAS, The commission appointed to revise and amend the Constitution, and submit the result of their deliberations to the Legislature, have presented to this House for its consideration sundry amendments, which it is the duty of this House to dispose of in such a manner as is provided for by the Constitution of this State; and

WHEREAS, These amendments have been prepared for submission to the

606 EXCERPTS FROM THE 1874 ASSEMBLY MINUTES

MARCH 18, 1874

Legislature with great care and vast expense to the State; and

WHEREAS, It is desirable that the amendments thus submitted should be acted upon, in order that they may be submitted to the people for their action, as provided; therefore, be it

Resolved, That from and after this date this House hold evening sessions for the consideration of the amendments to the Constitution, which have been submitted to the House by the Constitutional Commission appointed by the Governor, and that such amendments be made a special order for such evening sessions.

* * *

[page 1000]

Mr. Morrow, from the Committee on Judiciary, to whom was referred Senate amendments to the Constitution No. 7, reported the same.

* * *

[page 1005]

Mr. Morrow moved that a committee be appointed to present a plan to act upon the Constitutional Amendments.

Which motion was agreed to.

Mr. Ward moved to suspend the special order.

Which motion was agreed to.

[page 1006]

The Speaker announced the following Committee on [the] Plan to Consider the Constitutional Amendments:

Messrs. Morrow, Smith, Ward, McGill and Jones.

Mr. Morrow moved that the Sergeant-at-Arms be instructed to furnish the members with a copy of the Amendments as presented by the Commission and Senate.

Which motion was agreed to.

EXCERPTS FROM THE 1874 ASSEMBLY MINUTES 607

MARCH 19, 1874

* * *

[page 1011]

Mr. Ward offered the following:

WHEREAS, A concurrent resolution to adjourn *sine die* on the 20th inst., was adopted; and

WHEREAS, If the Legislature should adhere to the above resolution, and adjourn at the time indicated, there will remain a large amount of important public and private business indisposed of; and

WHEREAS, The House of the Assembly for want of time to consider and act on the amendments to the Constitution pro-[page 1012] posed by the Commission appointed to prepare said amendments, and submit them to the Legislature and the revision of the laws, although it has made every effort consistent with the public good, and their duty to their constituents to dispose of said amendments properly, therefore

Resolved, By the House of Assembly, (Senate concurring,) That the resolution fixing the time of final adjournment of the two Houses of the Legislature on Friday, March 20th, 1874, be and the same is hereby rescinded, and that the two Houses adjourn *sine die*, on Friday, March 27, 1874.

Which was read, when

Mr. D. Henry called the ayes and nays on its adoption, and it was adopted by the following vote:

In the affirmative, were

Messrs. Adams, Anderson, Baldwin, Borton, Budd, Carpenter, Wm. B., Carscallen, Carse, Conover, Cox, Doremus, Dowdney, Eldridge, Gill, Halsey, Hemmingway, Henry, T. S., Hoppock, Howell, Iszard, Jones, Kirk, Lindsay, Marter, McDonnell, Morrow, Schenck, Sheeran, Skellenger, Smith, Sproul, Ten Broeck, Van Deursen, Ward, Washburn, Young, Zeluff—37.

In the negative, were

Messrs. Carpenter, J., Coombs, Fitzgerald, Gifford, Henry, D., Herring, H.C., Hobart (Speaker), Lonan, Magee, McGill, Mutchler, Pope, Skellenger, Sutphen, Vanderbilt, Vanness—16.

608 EXCERPTS FROM THE 1874 ASSEMBLY MINUTES

MARCH 20, 1874

* * *

[page 1108]

Mr. Morrow from the committee to whom was referred the matter of devising a plan to be pursued by this House in its action upon the Constitutional Amendments, adopted by the Constitutional Commission, report as follows:

1. They recommend that the work of the Commission as adopted by them be received and taken for a second reading.
2. That the House then reconsider their adoption, rejection, substitution or amendment.

[page 1109]

3. That the work of the Constitutional Commission be taken in the same order as adopted by them, and that the several sections be considered separately.

SAM'L MORROW, Jr.,
A. J. SMITH, and others.

Which report was read and accepted.

MARCH 23, 1874

* * *

[page 1130]

The House then took up the following:

[Ed. Note: The text of the Report of the Constitutional Commission of New Jersey appears on pages [1130 to 1143] of Assembly Minutes 1874. The Report [A] is reproduced in this Volume at pages 513-524.]

* * *

[page 1143]

The House then proceeded to consider the same by articles and sections, as follows:

The following were then read:

ARTICLE I.
RIGHTS AND PRIVILEGES.

Strike out paragraph 16 as follows:

“16. Private property shall not be taken for public use without just compensation; but land may be taken for public use highways, as heretofore, until

EXCERPTS FROM THE 1874 ASSEMBLY MINUTES 609

MARCH 23, 1874

the Legislature shall direct compensation to be made.”

And insert in lieu thereof the following:

“16. Private property shall ever be held inviolate, but subservient to the public welfare, and shall not be taken for public use without just compensation. In all cases where lands are taken by any incorporated company, any land owner, being aggrieved by the award of commissioners, shall have the right of appeal, and have the damages re-assessed by the verdict of a jury, and such assessment shall be made without deduction for benefits.”

Insert as paragraph 19 a new paragraph, as follows:

“19. No county shall be divided or have any part set off therefrom without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county voting on the question shall vote for the same.”

Insert as paragraph 20 a new paragraph, as follows:

[page 1144]

“20. No county, city, borough, town, township or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual, association or corporation, or become security for, or be directly or indirectly the owner of, any stock or bonds of any association or corporation; nor shall any county, city, borough, town, township or village incur, or be authorized by the Legislature to incur, any indebtedness or to impose any tax except for State, county, city, township or village purposes. And no county shall contract or incur any debt, by bond or otherwise, exceeding two per cent. of the valuation of its taxable property; and no town, borough or township exceeding four per cent.; and no city exceeding eight per cent., on like valuation, excepting for its water supply.”

Insert as paragraph 21 a new paragraph, as follows:

“21. No donation of land or appropriation of money shall be made by the State or any municipal corporation to or for the use of any society, association or corporation whatever.”

Change the number of present paragraph 19 to number 22.

Mr. Hobart (Mr. Fitzgerald in the chair) moved to strike out [the Commission’s proposed amendments to] Article I, and insert in lieu thereof the following:

Insert as paragraph 19 a new paragraph, as follows:

“19. No county, city, borough, town, township or village shall hereafter give

610 EXCERPTS FROM THE 1874 ASSEMBLY MINUTES

MARCH 23, 1874

any money or property, or loan its money or credit to, or in aid of any individual, association or corporation, or become security for, or be directly or indirectly the owner of any stock or bonds of any association or corporation.

“20. No donation of land or appropriation of money shall be made by the State or any municipal corporation to or for the use of any society, association or corporation whatever.”

Change the number of present paragraph 19 to 20.

Which motion was adopted.

The following was then read:

[page 1145]

ARTICLE II. RIGHT OF SUFFRAGE.

Paragraph 1. Strike out the word “white” between the word “every” and the word “male” in the first line.

After the words “five months” insert the following words: “and of the election district in which he may offer his vote thirty days.”

Mr. Ward moved to adopt the same as read.

Which motion was agreed to.

The following was then read:

Add to the paragraph the following:

“Provided, that in time of war no elector in the actual military service of the State, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the Legislature shall have power to provide the manner in which, and the time and place at which, such absent electors may vote, and for the return and canvass of their vote in the election districts in which they respectively reside.”

Paragraph 2. Add to the paragraph the following words, “or legislation.”

Mr. Morrow moved to amend by striking out the above and inserting in lieu thereof, the following:

EXCERPTS FROM THE 1874 ASSEMBLY MINUTES 611

MARCH 23, 1874

ARTICLE II.

RIGHT OF SUFFRAGE.

Paragraph 1. Strike out the word "white" between the word "every" and the word "male" in the first line.

Add to the paragraph the following:

"And provided further, that in time of war no elector in the actual military service of the State, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the Legislature shall have power to provide the manner in which, and the time and place at which, such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside."

[page 1146]

Section II.

Strike out all of the second section after the word "bribery."

On the adoption of which motion, Mr. Morrow called the ayes and nays.

And they were sustained and taken, and the motion agreed to, as follows:

In the affirmative, were

Messrs. Adams, Baldwin, Bogert, Borton, Carpenter, Wm. B., Carse, Cole, Cox, Dowdney, Fitzgerald, Halsey, Henry, D., Herring, H.C., Hobart (Speaker), Hoppock, Iszard, Kirk, Lindsay, Marter, McKinley, Morrow, Mutchler, Smith, Sutphen, Vanness, Young, Zeluff-[27].

In the negative, were

Messrs. Budd, Carpenter, J., Carscallen, Conover, Doremus, Eldridge, Gill, Hemmingway, Henry, T. S., Howell, Jones, Langley, Lonan, Magee, McGill, Patterson, Rabe, Schenck, Sheeran, Skellenger, Vanderbilt, Ward, Washburn-23.

* * *

The following were then read:

ARTICLE IV.

LEGISLATIVE.

Section I.

Paragraph 3. Strike out the following words, "Second Tuesday of October," and insert in lieu thereof the words, "first Tuesday after the first Monday in November."

Mr. Jones moved to adopt the same.

Which motion was agreed to.

612 EXCERPTS FROM THE 1874 ASSEMBLY MINUTES

MARCH 23, 1874

[page 1147]

The following was then read:

Section IV.

Paragraph 6. Strike out the words: "read three times," and insert in lieu thereof the following: "printed before they are received or considered, and shall be read throughout, section by section on three several days;" also, after the word "thereof," insert the following:

"But the reading of the title only, of any bill or joint resolution, shall never be taken for the reading thereof; *provided*, that in cases of actual invasion or insurrection, the Legislature may, by a two-thirds vote of the house where such bill or joint resolution shall be pending, otherwise order; *and provided further*, that all bills and joint resolutions, together with the amendments thereto, shall be printed and distributed among the members of each house at least one day before the vote shall be taken on the final passage thereof."

Mr. Morrow moved to strike out the fourth section, and on that he called the ayes and nays.

Call sustained and taken, and the motion was agreed to as follows:

In the affirmative, were

Messrs. Adams, Baldwin, Borton, Budd, Carpenter, Wm. B., Carscallen, Cole, Cox, Dowdney, Eldridge, Halsey, Hemmingway, Hobart (Speaker), Hoppock, Howell, Iszard, Jones, Kirk, Marter, McKinley, Morrow, Schenck, Sproul, Sutphen, Vanness, Young-[26].

In the negative, were

Messrs. Carpenter, J., Carse, Conover, Fitzgerald, Gill, Henry, D., Lindsay, McGill, Patterson, Rabe, Sheeran, Skellenger, Smith, Vanderbilt, Ward-15.

The following was then read:

Paragraph 7. Strike out the following words:

"A compensation for their services, to be ascertained by law, and paid out of the Treasury of the State; which compensation shall not exceed the sum of three dollars per day [page 1148] for the period of forty days from the commencement of the session, and shall not exceed the sum of one dollar and fifty cents per day for the remainder of the session. When convened in extra session by the Governor they shall receive such sum as shall be fixed for the first forty days of the ordinary session. They shall also receive the sum of one dollar for every ten miles they shall travel in going to and returning from their place of meeting, on the most usual route."

EXCERPTS FROM THE 1874 ASSEMBLY MINUTES 613

MARCH 23, 1874

And insert in lieu thereof the following:

“Annually the sum of five hundred dollars during the time for which they shall have been elected, and while they shall hold their office, and no other allowance or emolument, directly or indirectly, for any purpose whatever, except a sum not exceeding twenty-five dollars per session, to each member, which shall be in full for postage, stationery, and all other incidental expenses and perquisites.”

Also strike out the words “per diem.”

Mr. Hobart moved to strike out the above and substitute therefor the following:

Paragraph 7. Strike out the following words:

“A compensation for their services, to be ascertained by law, and paid out of the Treasury of the State; which compensation shall not exceed the sum of three dollars per day for the period of forty days from the commencement of the session, and shall not exceed the sum of one dollar and fifty cents per day for the remainder of the session. When convened in extra session by the Governor they shall receive such sum as shall be fixed for the first forty days of the ordinary session. They shall also receive the sum of one dollar for every ten miles they shall travel in going to and returning from their place of meeting, on the most usual route.”

And insert in lieu thereof the following:

“Annually the sum of five hundred dollars during the time for which they shall have been elected, and while they shall hold their office, and no other allowance or emolument, directly or indirectly, for any purpose whatever.”

Also, strike out the words “per diem.”

Which motion was agreed to.

MARCH 24, 1874

* * *

[page 1183]

Mr. Morrow offered the following:

Resolved, That the first hour of the evening session of this House be devoted to the consideration of the revision of the [page 1184] laws, the remaining portion of the session to the Constitutional Amendments.

614 EXCERPTS FROM THE 1874 ASSEMBLY MINUTES

MARCH 24, 1874

Which was read and adopted.

* * *

[page 1212]

The consideration of the Constitutional Amendments was then resumed.

Mr. Morrow moved to lay over to this evening.
Which motion was agreed to.

[Ed. Note: The Assembly did not resume consideration of the Constitutional Amendments until March 25.]

MARCH 25, 1874

* * *

[page 1252]

The House then proceeded to the consideration of the report of the Constitutional Commission on the amendments to the Constitution.

[page 1253]

The following was read:

Section V.

Strike out paragraphs one and two, as follows:

“No member of the Senate or General Assembly shall, during the time for which he was elected, be nominated or appointed by the Governor or by the Legislature in joint meeting, to any civil office under the authority of this State, which shall have been created, or the emoluments whereof shall have been increased during such time.”

“If any member of the Senate or General Assembly shall be elected to represent this State in the Senate or House of Representative of the United States, and shall accept thereof, or shall accept any office or appointment under the government of the United States, his seat in the Legislature of this State shall thereby be vacated.”

And insert in lieu thereof the following:

“1. No member of the Legislature shall receive any civil appointment within this State, or to the Senate of the United States, from the Governor, the Governor

EXCERPTS FROM THE 1874 ASSEMBLY MINUTES 615

MARCH 25, 1874

and the Senate, or from the Legislature.”

Change the number of present paragraph 3 to number 2.

Mr. Ward moved to strike out the whole of said recommendation.

Which motion was agreed to.

The following was then read:

Section VII.

Paragraph 4. Add to the paragraph the following:

“No law shall be revived or amended by reference to its title only, but the act revived, or the section or sections amended, shall be inserted at length. No general law shall embrace any provision of a private, special or local character. No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of the act, or which shall enact that any existing law, or any part thereof, shall be applicable, except by inserting it in such act.”

[page 1254]

Mr. Hobart (Mr. Fitzgerald in the chair) moved to adopt the paragraph as read.

Which motion was agreed to.

The following was then read:

Paragraph 6. Insert the word “free” between the word “public” and the word “schools,” and add to the paragraph the following:

“A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the Legislature shall establish and maintain public schools for the gratuitous instruction of all persons in this State between the ages of five and eighteen years. The term ‘free schools,’ used in this Constitution, shall be construed to mean schools that aim to give to all a rudimentary education, and not to include schools designed to fit or prepare pupils to enter college, or schools controlled by or under the influence of any creed, religious society or denomination whatever.”

Mr. Hobart moved to strike out the paragraph and substitute the following for the same:

Paragraph 6. Insert the word “free” between the word “public” and the word “schools,” and add to the paragraph the following:

“The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in

616 EXCERPTS FROM THE 1874 ASSEMBLY MINUTES

MARCH 25, 1874

this State between the ages of five and eighteen years.”

Which motion was agreed to.

The following was then read:

Strike out paragraph 8 as follows:

“The assent of three-fifths of the members elected to each house shall be requisite to the passage of every law for granting, continuing, altering, amending or renewing charters for banks or money corporations; and all such charters shall be limited to a term not exceeding twenty years.”

Change the number of present paragraph 9 to number 8.

Insert as paragraph 9 a new paragraph, as follows:

[page 1255]

“9. No amendment to the charter of any municipal corporation shall be received by the Legislature after thirty days from the first day of the meeting thereof, and no such amendment shall be so received or considered unless a notice, expressing the substance of such amendment, shall have been published once a week, for at least four weeks next before the first day of the meeting of the Legislature, in one or more of the newspapers of the largest circulation, printed, published and circulated in the municipal corporation to be affected thereby, and if none is printed or published therein, then in the newspaper printed or published nearest thereto.”

Mr. Hobart moved to strike out the paragraph just read and substitute the following:

Strike out paragraph 8, as follows:

“8. The assent of three-fifths of the members elected to the house shall be requisite to the passage of every law for granting, continuing, altering, amending or renewing charters for banks or money corporations; and all such charters shall be limited to a term not exceeding twenty years.”

Change the number of present paragraph 9 to 8.

Insert as paragraph 9, a new paragraph, as follows:

“9. No private, special, or local bill shall be passed, unless public notice of the intention to apply therefor, and of the general object thereof, shall have been previously given. The Legislature, at the next session after the adoption thereof, and from time to time thereafter, shall prescribe the time and mode of giving such notice, the evidence thereof, and how such evidence shall be preserved.”

EXCERPTS FROM THE 1874 ASSEMBLY MINUTES 617

MARCH 25, 1874

Which motion was agreed to.

The following was then read:

Insert as paragraph 11 a new paragraph, as follows:

“11. No trust funds shall be invested in the bonds or stock of any private corporation, unless such investment be authorized or directed in the instrument, or by the person creating the trust.”

Mr. Hobart moved to strike out the above recommendation.

[page 1256]

Which motion was agreed to.

The following was then read:

Insert as paragraph 12 a new paragraph, as follows:

“12. No act of the Legislature shall limit the amount to be recovered for injuries resulting in death, or for injuries to person or property; and in case of death from such injuries, the right of action shall survive, and the Legislature shall prescribe for whose benefit such action shall be prosecuted. Nor shall any act prescribe any limitation of time within which suits may be brought against corporations for injuries to person or property, or for other causes different from that fixed by the general laws prescribing the time for the limitation of actions.”

Insert as paragraph 13 a new paragraph, as follow:

“13. No act of the Legislature shall take effect until the fourth day of July next after its passage, unless the Legislature shall, by a vote of two-thirds of all the members elected to each house, otherwise direct.”

Mr. Hobart moved to strike out the paragraph.

Which motion was agreed to.

The following was then read:

Insert as paragraph 14 a new paragraph, as follows:

“[14]. The Legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say:

“Laying out, opening, altering and working roads or highways.

“Vacating any road, town-plot, street, alley or public grounds.

“Regulating the internal affairs of towns and counties; appointing local offices or commissions to regulate municipal affairs.

618 EXCERPTS FROM THE 1874 ASSEMBLY MINUTES

MARCH 25, 1874

“Selecting, drawing, summoning or empaneling grand or petit jurors.

“Regulat[ing] the rate of interest on money.

[page 1257]

“Creating, increasing or decreasing the per centage or allowance of public officers during the term for which said officers were elected or appointed.

“Changing the law of descent.

“Granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever.

“Granting to any corporation, association or individual the right to lay down railroad tracks.

“Providing for changes of venue in civil or criminal cases.

“Providing for the management and support of free public schools.

“The Legislature shall pass general laws providing for the cases enumerated in this paragraph, and for all other cases which, in its judgment, may be provided for by general laws. The Legislature shall pass no special act conferring corporate powers, but they shall pass general laws under which corporations may be organized and corporate powers of every nature obtained, subject, nevertheless, to repeal or alteration, at the will of the Legislature.”

Mr. Ward moved to amend the paragraph of the Commission by striking out in line 105 the word “fourteen,” and insert[ing] “eleven,” and by striking out in line 113, the words “regulating the rate of interest on money.”

Which amendments were adopted.

The paragraph as amended was then adopted.

The following was then read:

Insert as paragraph 15 a new paragraph, as follows:

“15. The Legislature may establish a court or courts, with original jurisdiction, over all cases of condemnation of lands and assessments for improvements.”

Mr. Hobart moved to strike out the same.

Which motion was adopted.

The following was then read:

Insert as paragraph 16 a new paragraph, as follows:

EXCERPTS FROM THE 1874 ASSEMBLY MINUTES 619

MARCH 25, 1874

[page 1258]

“16. Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value in money. No property of any kind, protected by law, except that owned by the United States, the State, counties, townships, cities, towns or boroughs, shall be exempted by law from its full share of all State, county, township and city taxes and assessments, except burying [grounds] and cemeteries not held by stock companies. No law shall be enacted or contract entered into by which the exercise of the power of taxation shall be restricted, impaired or impeded. The Legislature may provide by law for taking away from any person or persons, natural or artificial, now possessing or entitled to the same, any right of exemption from taxation which cannot be revoked without compensation, and for paying to such person or persons a just compensation for the right so taken away.”

Mr. Hobart moved to strike out paragraph 16, and insert in lieu thereof the following:

Insert as paragraph 12, a new paragraph, as follows:

“12. Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value in money.”

Which substitute was adopted.

The following was then read:

Section VIII.

Strike out the following words, “Members of the Legislature shall, before they enter on the duties of their respective offices,” and insert in lieu thereof, the following: “Every member of the Legislature, before he enters on his duties, shall”.

Also, before the word “faithfully” insert the words “honestly and”.

Also, after the word “ability” insert the following:

“And I do solemnly swear (or affirm) that I have not paid or contributed anything, or made any promise in the nature of a bribe, to corruptly influence, directly or indirectly, any vote at the election at which I was chosen a member of this Senate (or House of Assembly); and I do further solemnly **[page 1259]** swear (or affirm) that I have not accepted or received, and I will not accept or receive, directly or indirectly, any money or other valuable thing from any corporation, company or person for any vote or influence I may give or withhold on any bill, resolution or appropriation, or for any other act as a member of the Senate (or

620 EXCERPTS FROM THE 1874 ASSEMBLY MINUTES

MARCH 25, 1874

General Assembly) of this State.”

Add to the paragraph the following:

“Any member who shall refuse to take such oath or affirmation shall forfeit his membership; and any person convicted of having falsely taken said oath or affirmation, or of having broken the same, shall be subject to the punishment provided for willful and corrupt perjury.”

Make the above paragraph No. 1, and insert as paragraph 2 a new paragraph, as follows:

“2. Every officer of the Legislature shall, before he enters upon his duties, take and subscribe the following oath or affirmation: ‘I do solemnly promise and swear (or affirm) that I will faithfully, impartially and justly perform all the duties of the office of _____, to the best of my ability and understanding; that I will carefully preserve all records, papers, writings, or property entrusted to me for safe keeping by virtue of my office, and make such disposition of the same as may be required by law.’”

Mr. Hobart moved to strike out [the Commission’s proposed amendments to] Section VIII, and insert in lieu thereof, the following:

Section VIII.

Insert as paragraph 2, a new paragraph, as follows:

“2. Every officer of the Legislature shall, before he enters upon his duties, take and subscribe the following oath or affirmation: ‘I do solemnly promise and swear (or affirm) that I will faithfully, impartially and justly perform all the duties of the office of _____, to the best of my ability and understanding; that I will carefully preserve all records, papers, writings or property entrusted to me for safe keeping by virtue of my office, and make such disposition of the same as may be required by law.’”

Which motion was agreed to.

The following was then read:

[page 1260]

ARTICLE V.

EXECUTIVE.

Paragraph 6. After the word “Legislature” where it occurs first in said paragraph, insert the words “or the Senate alone.”

Paragraph 7. Strike out the words “a majority” where they occur (in two

EXCERPTS FROM THE 1874 ASSEMBLY MINUTES 621

MARCH 25, 1874

places) in the paragraph, and insert in lieu thereof in both places the words “two-thirds.”

Also, add to the paragraph the following:

“If any bill presented to the Governor contain several items of appropriations of money, he may object to one or more of such items while approving of the other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the appropriations so objected to shall not take effect. If the Legislature be in session, he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If, on reconsideration, one or more of such items be approved by two-thirds of the members elected to each house, the same shall be a part of the law, notwithstanding the objections of the Governor. All the provisions of this section in relation to bills not approved by the Governor, shall apply to cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.”

Paragraph 8. Add to the paragraph the following:

“Nor shall he be elected by the Legislature to any office under the government of this State or of the United States, during the term for which he shall have been elected Governor.”

Insert as paragraph 15 a new paragraph, as follows:

“15. Conviction of any felony or otherwise infamous crime or of any official delinquency under the laws of this State shall, after final judgment thereon, vacate any office under the Constitution or laws of this State held by the person so convicted; and a duly authenticated record of such conviction and judgment shall be conclusive evidence of such forfeiture, and shall authorize competent authority to fill the vacancy occasioned thereby.”

[page 1261]

Mr. Cole moved to strike out the whole of Article V and insert the following:

ARTICLE V.

EXECUTIVE.

Paragraph 6. After the word “Legislature,” where it occurs first in said paragraph, insert the words “or the Senate alone.”

Paragraph 7. Add to the paragraph the following:

“If any bill presented to the Governor contain several items of appropriations of money, he may object to one or more of such items while approving of the other portions of the bill.

622 EXCERPTS FROM THE 1874 ASSEMBLY MINUTES

MARCH 25, 1874

“In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the appropriation so objected to shall not take effect.

“If the Legislature be in session he shall transmit to the House in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered.

“If, on reconsideration, one or more of such items be approved by [a majority] of the members elected to each House, the same shall be a part of the law, notwithstanding the objections of the Governor.

“All the provisions of this section in relation to bills not approved by the Governor shall apply to cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.”

Paragraph 8. Add to the paragraph the following:

“Nor shall he be elected by the Legislature to any office under the Government of this State or of the United States, during the term for which he shall have been elected Governor.”

Which motion was agreed to.

The following was then read:

ARTICLE VI.

JUDICIARY.

Section VI.

Paragraph 1. After the words “there shall be” insert the following:

[page 1262]

“Besides the justice of the supreme court, who may be *ex-officio* the judge of said court.”

Also, strike out the word “five” and insert in lieu thereof the word “two.”

Also, strike out the following words:

“One judge for each county shall be appointed every year, and no more, except to fill vacancies, which shall be for the unexpired term only.”

Paragraph 2. Strike out the word “first” where it occurs first in the paragraph.

Also, strike out the following:

“Next; and all subsequent commissions for judges of said court shall bear date and take effect on the first day of April in every successive year.”

EXCERPTS FROM THE 1874 ASSEMBLY MINUTES 623

MARCH 25, 1874

Section VII.

Strike out paragraph 1, as follows:

“There may be elected under this Constitution, two, and not more than five, justices of the peace in each of the townships of the several counties of this State, and in each of the wards in cities that may vote in wards. When a township or ward contains two thousand inhabitants or less, it may have two justices; when it contains more than two thousand inhabitants, and not more than four thousand, it may have four justices; and when it contains more than four thousand inhabitants it may have five justices; provided, that whenever any township not voting in wards contains more than seven thousand inhabitants, such township may have an additional [justice for each additional] three thousand inhabitants above four thousand.”

And insert in lieu thereof [the] following:

“There may be elected under this Constitution not more than two justices of the peace in each of the townships of the several counties of this State, and in each of the wards, in cities that may vote in wards, not more than one justice of [the] peace; and the Legislature shall provide by law the qualifications necessary for such justices to possess, and the method of ascertaining the possession of such qualifications; and no person elected as aforesaid to the said office of justice of the peace, shall receive his commission until he is fully qualified **[page 1263]** according to law. The Legislature shall also provide for the summary suspension of justices of the peace for misconduct in office, such suspension to continue until the end of the next succeeding session of the Legislature.”

Strike out paragraph 2, as follows:

“2. The population of the townships in the several counties of the State, and of the several wards, shall be ascertained by the last preceding census of the United States, until the Legislature shall provide, by law, some other mode of ascertaining it.”

Mr. Ward moved to strike out the whole of [the Commission’s proposed amendments to] Article VII as read.

Which motion was agreed to.

[Ed. note: Presumably, the Assembly then proceeded to accept the Senate’s amendments to Article VI.]

624 EXCERPTS FROM THE 1874 ASSEMBLY MINUTES

MARCH 25, 1874

The following was then read:

ARTICLE VII.

APPOINTING POWER AND TENURE OF OFFICE.

Section I.

MILITIA OFFICERS.

Paragraph 5. After the words "major generals," insert the words "the adjutant general and quartermaster general."

Paragraph 9. Strike out the words "the adjutant general, quartermaster general and."

Also, strike out the word "other."

Section II.

CIVIL OFFICERS.

Paragraph 1. Strike out the word "and" (where it occurs first) in the paragraph, and insert after the word "appeals" the following words "and judges of the inferior court of common pleas."

Also, after the word "years" insert the following:

"And the judges of the inferior court of common pleas for the term of five years; they."

[page 1264]

Also, insert between the word "be" and the word "diminished," the words "increased or."

Also, add to the paragraph the following:

"Justices of the supreme court, judges of the court of errors and appeals, and judges of the court of common pleas, when appointed to fill vacancies, shall hold for the unexpired term only."

Strike out paragraph 2, as follows:

"2. Judges of the court of common pleas shall be appointed by the Senate and General Assembly, in joint meeting. They shall hold their offices for five years; but when appointed to fill vacancies they shall hold for the unexpired term only."

Change the number of present paragraph 3 to number 2, and strike therefrom the following words:

"And the keeper and inspectors of the State prison."

Also, strike out the word[s] "they," and insert in lieu thereof the word "he." Strike out the word "their offices," and insert in lieu thereof the words "his office,"

EXCERPTS FROM THE 1874 ASSEMBLY MINUTES 625

MARCH 25, 1874

and strike out the words “their successors,” and insert in lieu thereof the words “his successor.”

Change the number of present paragraph 4 to number 3, and strike out the word “and” where it occurs between the word “chancery” and the word “secretary.”

Also, insert after the word “State” the words, “and the keeper and inspectors of the State prison.”

Also, add to the paragraph the following words, “except the attorney-general, who shall hold his office for three years.”

Change the number of present paragraph 5 to number 4.

Change the number of present paragraph 6 to number 5.

Change the number of present paragraph 7 to number 6, and strike therefrom the words “annually,” “annual,” and “they may be re-elected until they shall serve three years, but no longer;” insert after the word “assembly” the following words:

“And they shall hold their offices three years;” and [page 1265] add to the paragraph the following words: “Sheriffs shall annually renew their bonds.”

Change the number of present paragraph 8 to number 7.

Change the number of present paragraph 9 to number 8.

Change the number of present paragraph 10 to number 9.

Change the number of present paragraph 11 to number 10.

Insert as paragraph 11 a new paragraph, as follows:

“11. No law shall extend the term of any public officer, or increase or diminish his salary or emoluments after his election or appointment.”

Mr. Ward moved to strike out the Article VII, and insert in lieu thereof the following:

ARTICLE VII.

APPOINTING POWER AND TENURE OF OFFICE.

Section I.

MILITIA OFFICERS.

Paragraph 5. After the words “major-generals,” insert the words “the adjutant general and quartermaster general.”

Paragraph 9. Strike out the words “the adjutant general, quartermaster general and.”

Also, strike out the word “other.”

626 EXCERPTS FROM THE 1874 ASSEMBLY MINUTES

MARCH 25, 1874

Section II.

CIVIL OFFICERS.

Paragraph 1. Strike out the word “and” (where it occurs first) in the paragraph, and insert after the word “appeals” the following words: “and judges of the inferior court of common pleas.”

Change the number of present paragraph 3 to number 2, and strike therefrom the following words:

[page 1266]

“And the keeper and inspectors of the State prison;” and insert in lieu thereof the words “and comptroller.”

Also, strike out the words “one year” in the second clause of paragraph 3 of Section II, and insert in lieu thereof the words “three years.”

Change the number of present paragraph 4 to number 3, and strike out the word “and” where it occurs between the word “chancery” and the word “secretary.”

Also, insert after the word “State” the words, “and the keeper of the State prison.”

Change the number of present paragraph 5 to number 4.

Change the number of present paragraph 6 to number 5.

Change the number of present paragraph 7 to number 6, and strike therefrom the words “annually,” “annual,” and “they may be re-elected until they shall serve three years, but no longer.”

Insert after the word “assembly” the following words:

“And they shall hold their offices for three years;” and add to the paragraph the following words:

“Sheriffs shall annually renew their bonds.”

Change the number of present paragraph 8 to number 7.

Change the number of present paragraph 9 to number 8.

Change the number of present paragraph 10 to number 9.

Change the number of present paragraph 11 to number 10.

Which motion was agreed to.

The amendments as adopted by articles, sections and paragraphs were then engrossed and read as a whole by the following vote:

In the affirmative, were

Messrs. Adams, Albertson, Baldwin, Bogert, Borton, Carpenter, Wm. B.,

EXCERPTS FROM THE 1874 ASSEMBLY MINUTES 627

MARCH 25, 1874

Carscallen, Carse, Cole, Conover, Coombs, Doremus, Dowdney, Eldridge, Fitzgerald, Gifford, Gill, Halsey, Hemmingway, Henry, D., Henry, T. S., Herring, H.C., Hobart (Speaker), Howell, Iszard, Jones, [page 1267] Kirk, Langley, Lindsay, McDonnell, McKinley, Patterson, Pope, Rabe, Schenck, Sellick, Sutphen, Vanderbilt, Vanness, Ward, Washburn, Zeluff-[42].

In the negative, were

Messrs. Budd, Carpenter, J., Cox, Lonan, Magee, Sheeran, Skellenger, Smith, Sproul-9.

Ordered, That the Clerk carry the Amendments to the Constitution, adopted by the House, to the Senate, and inform them of the adoption of the same, and request them to take some action thereon.

* * *

Source: ASSEMBLY MINUTES, 1874.

JANUARY 20, 1875

* * *

[page 61]

[Senator Stone] offered the following:

Resolved, That the Secretary of the Senate be directed to obtain from the Secretary of State the engrossed Copy of the Constitutional Amendments as adopted last session, and that the consideration of said amendments be made the special order for next Tuesday.

Which was adopted.

JANUARY 26, 1875

* * *

[page 70]

The Senate proceeded to the consideration of the proposed amendments to the State Constitution, which were read, and the several articles voted on separately.

[page 71]

ARTICLE I.
RIGHTS AND PRIVILEGES.

Insert as paragraph 19, a new paragraph, as follows:

“19. No county, city, borough, town, township or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual association or corporation, or become security for, or be directly or indirectly the owner of any stock or bonds of any association or corporation.”

Insert as paragraph 20, a new paragraph, as follows:

“20. No donation of land or appropriation of money shall be made by the State or any municipal corporation to or for the use of any society, association or corporation whatever.”

Change the number of present paragraph 19 to number 21.

Was agreed to by the following vote:

In the affirmative, were

Messrs. Abbett, Blackwell, Cornish, Dayton, Hendrickson, Hill, Hopkins, Hopper, Jarrard, Leaming, Madden, Newkirk, Potts, Schultze, Sewell, Taylor (Pres't), Thorn, Willets, Wood—19.

In the negative—none.

630 EXCERPTS FROM THE 1875 SENATE JOURNAL

JANUARY 26, 1875

ARTICLE II.
RIGHT OF SUFFRAGE.

Section I.

Strike out the word "white" between the word "every" and the word "male" in the first line.

Add to the paragraph the following:

"And provided further, that in time of war no elector in the actual military service of the State, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the Legislature shall have power to provide the manner in which, and the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside."

Section II.

Strike out all of the second section after the word "bribery."

Was agreed to by the following vote:

[page 72]

In the affirmative, were

Messrs. Abbett, Blackwell, Cornish, Dayton, Hill, Hopkins, Hopper, Jarrard, Leaming, Madden, Newkirk, Potts, Schultze, Sewell, Taylor (Pres't), Thorn, Willets, Wood—18.

In the negative—none.

ARTICLE IV.
LEGISLATIVE.

Section I.

Paragraph 3. Strike out the words "second Tuesday of October," and insert in lieu thereof the words "first Tuesday after the first Monday in November."

Section IV.

Paragraph 7. Strike out the following words:

"A compensation for their services, to be ascertained by law, and paid out of the treasury of the State; which compensation shall not exceed the sum of three dollars per day for the period of forty days from the commencement of the session, and shall not exceed the sum of one dollar and fifty cents per day for the remainder of the session. When convened in extra session by the Governor, they shall

EXCERPTS FROM THE 1875 SENATE JOURNAL 631

JANUARY 26, 1875

receive such sum as shall be fixed for the first forty days of the ordinary session. They shall also receive the sum of one dollar for every ten miles they shall travel in going to and returning from their place of meeting on the most usual route," and insert in lieu thereof the following:

"Annually the sum of five hundred dollars during the time for which they shall have been elected and while they shall hold their office, and no other allowance or emolument, directly or indirectly, for any purpose whatever."

Also strike out the words "per diem."

Section VII.

Paragraph 4. Add to the paragraph the following:

"No law shall be revived or amended by reference to its title only, but the act revived, or the section or sections amended, shall be inserted at length. No general law shall embrace any provision of a private, special or local character. No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of the act, or which shall enact that any existing law, or any [page 73] part thereof, shall be applicable, except by inserting it in such act."

Paragraph 6. Insert the word "free" between the word "public" and the word "schools," and add to the paragraph the following:

"The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in this State between the ages of five and eighteen years."

Strike out paragraph 8, as follows:

"8. The assent of three-fifths of the members elected to each house shall be requisite to the passage of every law for granting, continuing, altering, amending or renewing charters for banks or money corporations, and all such charters shall be limited to a term not exceeding twenty years."

Change the number of present paragraph 9 to 8.

Insert as paragraph 9, a new paragraph, as follows:

"9. No private, special, or local bill shall be passed, unless public notice of the intention to apply therefor, and of the general object thereof, shall have been previously given. The Legislature, at the next session after the adoption thereof, and from time to time thereafter, shall prescribe the time and mode of giving such notice, the evidence thereof, and how such evidence shall be preserved."

Insert as paragraph 11, a new paragraph, as follows:

"11. The Legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say:

632 EXCERPTS FROM THE 1875 SENATE JOURNAL

JANUARY 26, 1875

“Laying out, opening, altering and working roads or highways.

“Vacating any road, town plot, street, alley or public grounds.

“Regulating the internal affairs of towns and counties; appointing local offices or commissions to regulate municipal affairs.

“Selecting, drawing, summoning or empanelling grand or petit jurors.

“Creating, increasing or decreasing the per centage or allowance of public officers during the term for which said officers were elected or appointed.

“Changing the law of descent.

[page 74]

“Granting to any corporation, association or individual, any exclusive privilege, immunity or franchise whatever.

“Granting to any corporation, association or individual the right to lay down railroad tracks.

“Providing for changes of venue in civil or criminal cases.

“Providing for the management and support of free public schools.

“The Legislature shall pass general laws providing for the cases enumerated in this paragraph, and for all other cases which, in its judgment, may be provided for by general laws. The Legislature shall pass no special act conferring corporate powers, but they shall pass general laws under which corporations may be organized and corporate powers of every nature obtained, subject, nevertheless, to repeal or alteration at the will of the Legislature.”

Insert as paragraph 12, a new paragraph, as follows:

“12. Property shall be assessed for taxes under general laws and by uniform rules, according to its true value.”

Section VIII.

Insert as paragraph 2, a new paragraph, as follows:

“2. Every officer of the Legislature shall, before he enters upon his duties, take and subscribe the following oath or affirmation: ‘I do solemnly promise and swear (or affirm) that I will faithfully, impartially and justly perform all the duties of the office of _____, to the best of my ability and understanding; that I will carefully preserve all records, papers, writings or property entrusted to me for safe keeping by virtue of my office, and make such disposition of the same as may be required by law.’”

Was agreed to by the following vote:

In the affirmative, were

EXCERPTS FROM THE 1875 SENATE JOURNAL 633

JANUARY 26, 1875

Messrs. Dayton, Hendrickson, Hill, Hopkins, Hopper, Jarrard, Leaming, Madden, Newkirk, Potts, Schultze, Sewell, Taylor (Pres't), Thorn, Willets, Wood—16.

In the negative, were
Messrs. Abbett, Blackwell, Cornish—3.

ARTICLE V.
EXECUTIVE.

Paragraph 6. After the word "Legislature," where it [page 75] occurs first in said paragraph, insert the words "or the Senate alone."

Paragraph 7. Add to the paragraph the following:

"If any bill presented to the Governor contain several items of appropriations of money, he may object to one or more of such items while approving of the other portions of the bill. In such cases he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the appropriation so objected to shall not take effect. If the Legislature be in session, he shall transmit to the House in which the bill originated, a copy of such statement, and the items objected to shall be separately reconsidered. If, on reconsideration, one or more of such items be approved by a majority of the members elected to each House, the same shall be a part of the law, notwithstanding the objections of the Governor. All the provisions of this section, in relation to bills not approved by the Governor, shall apply to cases in which he shall withhold his approval from any item or items contained in a bill appropriating money."

Paragraph 8. Add to the paragraph the following:

"Nor shall he be elected by the Legislature to any office under the government of this State or of the United States, during the term for which he shall have been elected Governor."

Was agreed to by the following vote:

In the affirmative, were

Messrs. Abbett, Dayton, Hendrickson, Hill, Hopkins, Hopper, Jarrard, Leaming, Madden, Newkirk, Potts, Schultze, Sewell, Taylor (Pres't), Thorn, Willets, Wood—17.

In the negative—none.

ARTICLE VII.
APPOINTING POWER AND TENURE OF OFFICE.

Section I.

MILITIA OFFICERS.

Paragraph 5. After the words "major generals," insert the words "the adjutant general and quartermaster general."

634 EXCERPTS FROM THE 1875 SENATE JOURNAL

JANUARY 26, 1875

Paragraph 9. Strike out the words “the adjutant general, quartermaster general and.”

[page 76]

Also strike out the word “other.”

Section II.

CIVIL OFFICERS.

Paragraph 1. Strike out the word “and” (where it occurs first) in the paragraph, and insert after the word “appeals” the following words: “And judges of the inferior court of common pleas.”

Change the number of present paragraph 3 to number 2, and strike therefrom the following words: “And the keeper and inspector[s] of the State prison,” and insert in lieu thereof the words “and comptroller.”

Also, strike out the words “one year,” in the second clause of paragraph 2 of Section II, and insert in lieu thereof the words “three years.”

Change the number of present paragraph 4 to number 3, and strike out the word “and” where it occurs between the word “chancery” and the word “secretary.”

Also, insert after the word “State,” the words, “and the keeper of the State prison.”

Change the number of present paragraph 5 to number 4.

Change the number of present paragraph 6 to number 5.

Change the number of present paragraph 7 to number 6, and strike therefrom the words “annually,” “annual,” and “they may be re-elected until they shall serve three years, but no longer.” Insert after the word “assembly” the following words:

“And they shall hold their offices for three years,” and add to the paragraph the following words: “Sheriffs shall annually renew their bonds.”

Change the number of present paragraph 8 to number 7.

Change the number of present paragraph 9 to number 8.

Change the number of present paragraph 10 to number 9.

Change the number of present paragraph 11 to number 10.

Was agreed to by the following vote:

In the affirmative, were

Messrs. Blackwell, Cornish, Dayton, Hendrickson, Hill, Hopper, Jarrard, Leaming, Madden, Newkirk, Potts, Schultze, Sewell, Taylor (Pres’t), Thorn,

EXCERPTS FROM THE 1875 SENATE JOURNAL 635

JANUARY 26, 1875

Willets, Wood—17.

In the negative—none.

[page 77]

At the request of the President, Mr. Sewell took the chair.

Mr. Hopper moved to reconsider the vote by which paragraph [19], Art. I, of the proposed amendments to the Constitution of the State, was adopted.

Which motion was agreed to by the following vote:

In the affirmative, were

Messrs. Abbett, Blackwell, Cornish, Dayton, Hendrickson, Hill, Hopkins, Hopper, Leaming, Madden, Newkirk, Potts, Schultze, Sewell, Taylor (Pres't), Thom, Willets, Wood—18.

In the negative—none.

Mr. Hopper moved to strike out, in paragraph [19], Art. I, the words "Individual association, or."

Mr. Abbett moved that the further consideration of the same be laid over until Wednesday morning.

Which was agreed to.

JANUARY 27, 1875

* * *

[page 82]

The Senate proceeded to the consideration of the amendment to paragraph [19], Art. I, of the proposed Constitutional Amendments, as offered by Mr. Hopper.

The motion to adopt the amendment was disagreed to by the following vote:

In the affirmative, was

Mr. Hopper—1.

In the negative, were

Messrs. Abbett, Blackwell, Dayton, Hendrickson, Hopkins, Madden, Potts, Schultze, Sewell, Taylor (Pres't), Willets, Wood—12.

The original proposed amendment was then adopted by the following vote:

636 EXCERPTS FROM THE 1875 SENATE JOURNAL

JANUARY 27, 1875

In the affirmative, were
Messrs. Abbett, Blackwell, Cornish, Dayton, Hendrickson, Hopkins, Hopper,
Jarrard, Leaming, Madden, Newkirk, Potts, Schultze, Sewell, Stone, Taylor
(Pres't), Willets, Wood—18.

In the negative—none.

FEBRUARY 1, 1875

* * *

[page 85]

Mr. Hill asked and obtained leave to have his vote recorded in favor of the passage of the Constitutional Amendment. [i.e. The original proposed amendment to Article I, paragraph XIX, as noted on January 27, 1875. The final vote tally would then be 19-0.]

FEBRUARY 8, 1875

* * *

[page 133]

In accordance with the direction of the President, the Secretary carried the following bills to the House of Assembly, informed it that the Senate had passed the same, and requested its concurrence therein...

[page 134]

...the proposed amendment to the State Constitution designated as Senate Bill, No. 7, of 1874.

APRIL 9, 1875

* * *

[page 898]

The Secretary of the Senate this day filed with the Secretary of State...
[the] Senate amendments to the Constitution, (No. 7 of 1874).

* * *

Source: SENATE JOURNAL, 1875.

EXCERPTS FROM THE 1875 ASSEMBLY MINUTES 637

FEBRUARY 8, 1875

[page231]

A message was received from the Senate by the hands of Mr. Voorhees, its Secretary, as follows:

SENATE CHAMBER,
TRENTON, FEBRUARY 8, 1875.

Mr. Speaker:--

I am directed by the Senate to inform the House of Assembly that the Senate has agreed to several proposed amendments to the Constitution of the State herewith transmitted...

N. W. VOORHEES,
Secretary of the Senate.

FEBRUARY 11, 1875

* * *

[page317]

Mr. Halsey offered the following:

Resolved, That the proposed Constitutional Amendments be made the special order of business for next Tuesday morning.

Which was agreed to.

FEBRUARY 16, 1875

* * *

[page351]

Mr. McGill offered the following:

Resolved, That in acting upon the Constitutional Amendment[s] referred by the Legislature of 1874, to this Legislature, each specific amendment proposed be taken up separately and acted upon, that the vote upon each proposed amendment be by yeas and nays.

Which was read and adopted.

Mr. McGill moved to refer the reading of the Constitutional Amendments until afternoon.

Which motion was agreed to.

638 EXCERPTS FROM THE 1875 ASSEMBLY MINUTES

FEBRUARY 16, 1875

[page 354]

The proposed amendments to the Constitution were taken up.

SENATE AMENDMENTS TO THE CONSTITUTION.

ARTICLE I.

RIGHTS AND PRIVILEGES.

Insert as paragraph 19, a new paragraph, as follows:

1[9]. No county, city, borough, town, township or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual association or corporation, or become security for or be directly or indirectly the owner of any stock or bonds of any association or corporation.

Upon the calling of the roll the following gentlemen voted:

In the affirmative, were

Messrs. Blancke, Carrolton, Carscallen, Dodd, Doyle, French, Gill, Goble, Gordon, Halsey, Henry, D., Henry, T.S., Herring, H.C., Kirk, Lodge, Magee, McDonald, McGill, Morrow, Patterson, Pope, Scovel, Skellenger, Sutphen, Swing, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Wilson, Woodruff, Youmans—33.

In the negative—none.

Insert as paragraph 20, a new paragraph as follows:

20. No donation of land or appropriations of money shall be made by the state or any municipal corporation to or for **[page 355]** the use of any society, association, or corporation whatever.

Upon the calling of the roll the following gentlemen voted:

In the affirmative, were

Messrs. Blancke, Carrolton, Carscallen, Conover, L., Dodd, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, T.S., Herring, H.C., Kinnard, Kirk, Lodge, Magee, McDonald, McGill, Morrow, Owen, Patterson, Payne, Pope, Scovel, Shann, Sheeran, Sutphen, Swing, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Wilson, Woodruff, Youmans—37.

In the negative—none.

Change the number of present paragraph 19 to 21.

[Upon the calling of the roll the following gentlemen voted:]

In the affirmative, were

Messrs. Blancke, Carrolton, Carscallen, Conover, L., Dodd, Fitzgerald, French, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T.S., Herring, H.C.,

EXCERPTS FROM THE 1875 ASSEMBLY MINUTES 639

FEBRUARY 16, 1875

Kinnard, Kirk, Magee, McDonald, McGill, Patterson, Scovel, Shann, Sheeran, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Wilson, Woodruff, Youmans—31.

In the negative—none.

ARTICLE II.

RIGHT OF SUFFRAGE.

Strike out the word “white” between the word “every” and the word “male” in the first line.

Upon the calling of the roll the following gentlemen voted:

[page 356]

In the affirmative, were

Messrs. Blancke, Carrolton, Conover, L., Dodd, Doyle, Fitzgerald, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S., Herring, H.C., Kinnard, Kirk, Magee, McDonald, Moffett, Morrow, Patterson, Pope, Scovel, Shann, Sheeran, Skellenger, Sutphen, Swayze, Swing, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Wilson, Woodruff, Youmans, Youngblood, Zeluff—48.

In the negative—none.

Add to the paragraph the following:

“And provided further, that in time of war no elector in the actual military service of the state, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the legislature shall have the power to provide the manner in which, and the time and place at which, such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.”

Upon the calling of the roll the following gentlemen voted:

In the affirmative, were

Messrs. Anderson, Blancke, Carpenter, Carrolton, Carscallen, Conover, L., Dodd, Doyle, Edmunds, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S., Herring, H.C., Kirk, Lodge, Magee, McDonald, McGill, Moffett, Morrow, Patterson, Pope, Rabe, Scovel, Shann, Sheeran, Skellenger, Sutphen, Swayze, Swing, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson, Woodruff, Zeluff—44.

In the negative—none.

640 EXCERPTS FROM THE 1875 ASSEMBLY MINUTES

Section II.

Strike out all of the second section after the word “bribery.”

Upon the calling of the roll the following gentlemen voted:

In the affirmative, were

[page357]

Messrs. Blancke, Carrolton, Carscallen, Conover, L., Dodd, Doyle, Fitzgerald, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S., Herring, H.C., Kinnard, Kirk, Lodge, Magee, McDonald, Moffett, Patterson, Pope, Rabe, Scovel, Shann, Sheeran, Sutphen, Swayze, Swing, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson, Woodruff, Zeluff—41.

In the negative—none.

ARTICLE IV. LEGISLATIVE.

Section I.

Paragraph 3. Strike out the following words: “second Tuesday of October,” and insert in lieu thereof the words: “first Tuesday after the first Monday in November.”

Upon the calling of the roll the following gentlemen voted:

In the affirmative, were:

Messrs. Blancke, Carpenter, Carrolton, Carscallen, Conover, L., Dodd, Doyle, Fitzgerald, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S., Herring, H.C., Kinnard, Kirk, Lodge, Magee, Moffett, Morrow, Patterson, Pope, Rabe, Scovel, Shann, Sheeran, Sutphen, Swayze, Swing, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson, Woodruff, Zeluff—40.

In the negative—none.

Paragraph 7. Strike out the following words:

“A compensation for their services, to be ascertained by law, and paid out of the treasury of the state; which compensation shall not exceed the sum of three dollars per day for the **[page 358]** period of forty days from the commencement of the session, and shall not exceed the sum of one dollar and fifty cents per day for the remainder of the session; when convened in extra session by the governor they shall receive such sum as shall be fixed for the first forty days of the ordinary session; they shall also receive the sum of one dollar for every ten miles they shall

EXCERPTS FROM THE 1875 ASSEMBLY MINUTES 641

FEBRUARY 16, 1875

travel in going to and returning from their place of meeting, on the most usual route.”

And insert in lieu thereof the following:

“Annually the sum of five hundred dollars during the time for which they shall have been elected, and while they shall hold their office, and no other allowance or emolument, directly or indirectly, for any purpose whatever.”

Upon the calling of the roll the following gentlemen voted:

In the affirmative, were

Messrs. Anderson, Blancke, Carrolton, Conover, L., Edmunds, Fitzgerald, French, Goble, Gordon, Halsey, Henry, D., Henry, T. S., Herring, H.C., Kinnard, Kirk, Lodge, Magee, McDonald, McGill, Moffett, Owen, Patterson, Rabe, Scovel, Shann, Sheeran, Sutphen, Swayze, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson—34.

In the negative, were

Messrs. Doyle, Gill, Hendrickson, Morrow, Skellenger, Swayze, Woodruff—7.

Also to strike out the words “per diem.”

Upon calling of the roll the following gentlemen voted:

In the affirmative, were

Messrs. Blancke, Carrolton, Carscallen, Conover, L., Dodd, Dowdney, Edmunds, French, Gill, Goble, Gordon, Halsey, Henry, D., Henry, T. S., Herring, H.C., Kinnard, Kirk, Lodge, Magee, McDonald, McGill, Patterson, Rabe, Scovel, Shann, Sheeran, Sutphen, Swayze, Swing, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson, Woodruff—38.

In the negative—none.

[page359]

Section VII.

Paragraph 4. Add to the paragraph the following:

“No law shall be revived or amended by reference to its title only, but the act revived, or the section or sections amended, shall be inserted at length; no general law shall embrace any provision of a private, special or local character; no act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of the act, or which shall enact that any existing law, or any part thereof, shall be applicable, except by inserting it in such act.”

Was taken up, read a third time, and passed by the following vote:

In the affirmative, were

642 EXCERPTS FROM THE 1875 ASSEMBLY MINUTES

FEBRUARY 16, 1875

Messrs. Blancke, Carrolton, Carscallen, Conover, L., Doyle, Edmunds, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S., Herring, H.C., Kinnard, Kirk Lodge, Magee, McDonald, McGill, Moffett, Morrow, Patterson, Pope, Rabe, Scovel, Shann, Sheeran, Skellenger, Sutphen, Swing, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson, Woodruff—40.

In the negative—none.

Paragraph 6. Insert the word “free” between the word “public” and the word “schools,” and add to the paragraph the following:

“The legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children [in] this State between the ages of five and eighteen years.”

Upon calling of the roll the following gentlemen voted:

[page360]

In the affirmative, were

Messrs. Anderson, Blancke, Carrolton, Carscallen, Conover, L., Dodd, Doyle, Edmunds, Fitzgerald, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S., Herring, H.C., Kinnard, Kirk, Lodge, Magee, McDonald, Moffett, Morrow, Patterson, Pope, Rabe, Scovel, Shann, Sheeran, Skellenger, Sutphen, Swayze, Swing, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson, Woodruff, Youmans—44.

In the negative—none.

Strike out paragraph 8, as follows:

“8. The assent of three-fifths of the members elected to each house shall be requisite to the passage of every law for granting, continuing, altering, amending or renewing charters for banks or money corporations; and all such charters shall be limited to a term not exceeding twenty years.”

In the affirmative, were

Messrs. Blancke, Carrolton, Carscallen, Conover, L., Dodd, Dowdney, Doyle, Edmunds, Fitzgerald, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S., Herring, H.C., Kinnard, Kirk, Lodge, Magee, McDonald, McGill, Moffett, Morrow, Owen, Patterson, Pope, Rabe, Scovel, Shann, Sheeran, Skellenger, Sutphen, Swayze, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson, Woodruff, Youmans—41.

EXCERPTS FROM THE 1875 ASSEMBLY MINUTES 643

FEBRUARY 16, 1875

In the negative, was
Mr. Swing-[1].

Change the number of present paragraph 9 to 8.
Upon the calling of the roll the following gentlemen answered to their names:

[page361]

Messrs. Anderson, Blancke, Carrolton, Carscallen, Conover, L., Dodd, Edmunds, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S., Herring, H.C., Kirk, Lodge, Magee, McDonald, McGill, Moffett, Pope, Rabe, Scovel, Shann, Sheeran, Sutphen, Swayze, Swing, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Woodruff, Youmans-39.

In the negative—none.

Insert as paragraph 9, a new paragraph, as follows:

“9. No private, special, or local bill shall be passed, unless public notice of the [in]tention to apply therefor, and of the general object thereof, shall have been previously given; the Legislature, at the next session after the adoption thereof, and from time to time thereafter, shall prescribe the time and mode of giving such notice, the evidence thereof, and how such evidence shall be preserved.”

Upon the calling of the roll the following gentlemen answered to their names:

In the affirmative, were

Messrs. Blancke, Carrolton, Carscallen, Conover, L., Dodd, Doyle, Edmunds, French, Gill, Goble, Gordon, Halsey, Henry, D., Henry, T. S., Herring, H.C., Kinnard, Kirk, Lodge, Magee, McDonald, McGill, Moffett, Morrow, Pope, Rabe, Scovel, Shann, Sheeran, Skellenger, Sutphen, Swayze, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson, Woodruff, Youmans- 40.

In the negative, was

Mr. Swing-[1].

Insert as paragraph 11, a new paragraph, as follows:

“11. The legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say:

“Laying out, opening, altering and working roads or highways.

“Vacating any road, town plot, street, alley or public grounds.

644 EXCERPTS FROM THE 1875 ASSEMBLY MINUTES

FEBRUARY 16, 1875

[page362]

“Regulating the internal affairs of towns and counties; appointing local offices or commissions to regulate municipal affairs.

“Selecting, drawing, summoning or empanelling grand or petit jurors.

“Creating, increasing or decreasing the per centage or allowance of public officers during the term for which said officers were elected or appointed.

“Changing the law of descent.

“Granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever.

“Granting to any corporation, association or individual the right to lay down railroad tracks.

“Providing for changes of venue in civil or criminal cases.

“Providing for the management and support of free public schools.

“The legislature shall pass general laws providing for the cases enumerated in this paragraph, and for all other cases which, in [its] judgment, may be provided for by general laws. The legislature shall pass no special act conferring corporate powers, but they shall pass general laws under which corporations may be organized and corporate powers of every nature obtained, subject, nevertheless, to repeal or alteration at the will of the legislature.”

Upon the calling of the roll the following gentlemen voted:

In the affirmative, were

Messrs. Anderson, Blancke, Carrolton, Carscallen, Conover, L., Dowdney, Doyle, Edmunds, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S., Herring, H.C., Kinnard, Kirk, Lodge, Magee, McDonald, McGill, Moffett, Patterson, Pope, Rabe, Scovel, Shann, Sheeran, Skellenger, Sutphen, Swayze, Swing, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson, Woodruff, Youmans—43.

In the negative—none.

[page363]

Insert as paragraph 12, a new paragraph, as follows:

“12. Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value.”

Upon the calling of the roll the following gentlemen voted:

In the affirmative, were

Messrs. Blancke, Carrolton, Carscallen, Conover, L., Dowdney, Doyle, Edmunds, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S.,

EXCERPTS FROM THE 1875 ASSEMBLY MINUTES 645

FEBRUARY 16, 1875

Herring, H.C., Kinnard, Kirk, Lodge, Magee, McDonald, McGill, Moffett, Morrow, Pope, Rabe, Scovel, Shann, Sheeran, Skellenger, Sutphen, Swayze, Swing, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson, Youmans-41.

In the negative—none.

Section VIII.

Insert as paragraph 2, a new paragraph, as follows:

“2. Every officer of the legislature shall, before he enters upon his duties, take and subscribe the following oath or affirmation: ‘I do solemnly promise and swear (or affirm) that I will faithfully, impartially and justly perform all the duties of the office of _____ to the best of my ability and understanding; that I will carefully preserve all records, papers, writings or property entrusted to me for safe keeping by virtue of my office, and make such disposition of the same as may be required by law.’”

Upon the calling of the roll the following gentlemen vote:

In the affirmative, were

Messrs. Carrolton, Carscallen, Conover, L., French, Gill, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S., Kinnard, Kirk, Lodge, Magee, McDonald, McGill, Moffett, Patterson, Pope, Rabe, Scovel, Shann, Sheeran, Skellenger, Sutphen, Swayze, Swing, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson, Youmans-37.

In the negative—none.

[page 364]

ARTICLE V.

EXECUTIVE.

Paragraph 6. After the word “legislature,” where it occurs first in said paragraph, insert the words “or the Senate alone.”

Upon the calling of the roll the following gentlemen voted:

In the affirmative, were

Messrs. Anderson, Blancke, Carrolton, Carscallen, Conover, L., Dodd, Dowdney, Doyle, Edmunds, Fitzgerald, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S., Herring, H.C., Kinnard, Kirk, Magee, McDonald, Moffett, Morrow, Pope, Rabe, Scovel, Shann, Sheeran, Skellenger, Sutphen, Swayze, Swing, Taylor, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson, Woodruff-42.

646 EXCERPTS FROM THE 1875 ASSEMBLY MINUTES

FEBRUARY 16, 1875

In the negative—none.

Paragraph 7. Add to the paragraph following:

“If any bill presented to the governor contain several items of appropriations of money, he may object to one or more of such items while approving of the other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the appropriation [so] objected to shall not take effect. If the legislature be in session he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If, on reconsideration, one or more of such items be approved by a majority of the members elected to each house, the same shall be a part of the law, notwithstanding the objections of the governor. All the provisions of this section in relation to bills not approved by the governor shall apply to cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.”

[page365]

Upon the calling of the roll the following gentlemen voted:

In the affirmative, were

Messrs. Anderson, Blancke, Carrolton, Carscallen, Conover, L., Dodd, Dowdney, Doyle, Edmunds, Fitzgerald, French, Gill, Gordon, Halsey, Hendrickson, Henry, D., Herring, H.C., Kinnard, Kirk, Lodge, Magee, McDonald, McGill, Moffett, Pope, Rabe, Scovel, Shann, Sheeran, Skellenger, Sutphen, Swayze, Swing, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson, Woodruff—42.

In the negative—none.

Paragraph 8. Add to the paragraph the following:

“Nor shall he be elected by the legislature to any office under the government of this state or of the United States, during the term for which he shall have been elected governor.”

Upon the calling of the roll the following gentlemen voted:

In the affirmative, were:

Messrs. Anderson, Blancke, Carrolton, Carscallen, Conover, L., Dodd, Dowdney, Doyle, Edmunds, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Herring, H.C., Kinnard, Kirk, Magee, McDonald, McGill, Moffett, Pope, Rabe, Scovel, Shann, Sheeran, Skellenger, Sutphen, Swayze, Swing, Teed, Toffey,

EXCERPTS FROM THE 1875 ASSEMBLY MINUTES 647

FEBRUARY 16, 1875

Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson, Woodruff, Youmans—40.

In the negative—none.

[page366]

ARTICLE VII.

APPOINTING POWER AND TENURE OF OFFICE.

Section I.

MILITIA OFFICERS.

Paragraph 5. After the words “major generals,” insert the words “the adjutant general and quartermaster general.”

Upon the calling of the roll the following gentlemen voted:

In the affirmative, were

Messrs. Anderson, Blancke, Carrolton, Carscallen, Conover, L., Dodd, Dowdney, Doyle, Edmunds, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S., Herring, H.C., Kinnard, Kirk, Magee, McDonald, McGill, Moffett, Pope, Rabe, Scovel, Shann, Sheeran, Skellenger, Sutphen, Swayze, Swing, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson, Woodruff, Youmans—42.

In the negative—none.

Paragraph 9. Strike out the words “the adjutant general, quartermaster general and.”

Also, strike out the word “other.”

Upon the calling of the roll the following gentlemen voted:

In the affirmative, were

[page367]

Messrs. Anderson, Blancke, Carrolton, Carscallen, Conover, L., Dodd, Dowdney, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S., Herring, H.C., Kinnard, Kirk, Lodge, Magee, McDonald, McGill, Moffett, Patterson, Pope, Rabe, Scovel, Shann, Sheeran, Skellenger, Sutphen, Swayze, Swing, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson, Woodruff—41.

In the negative—none.

648 EXCERPTS FROM THE 1875 ASSEMBLY MINUTES

FEBRUARY 16, 1875

Section II.

CIVIL OFFICERS.

Paragraph 1. Strike out the word “and” (where it occurs first) in the paragraph, and insert after the word “appeals” the following words: “and judges of the inferior court of common pleas.”

Upon the calling of the roll the following gentlemen voted:

In the affirmative, were

Messrs. Anderson, Blancke, Carrolton, Carscallen, Conover, L., Dodd, Dowdney, Doyle, Edmunds, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S., Herring, H.C., Kinnard, Kirk, Lodge, Magee, McDonald, McGill, Moffett, Morrow, Patterson, Pope, Rabe, Scovel, Shann, Sheeran, Skellenger, Sutphen, Swayze, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson, Youmans—42.

In the negative—none.

Change the number of present paragraph 3 to number 2, and strike therefrom the following words: “and the keeper and inspectors of the state prison,” and insert in lieu thereof the words “and comptroller.”

Upon the calling of the roll the following gentlemen voted:

In the affirmative, were

[page368]

Messrs. Anderson, Blancke, Bird, Carrolton, Carscallen, Conover, L., Dodd, Dowdney, Doyle, Edmunds, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S., Herring, H.C., Kinnard, Kirk, Lodge, Magee, McDonald, McGill, Moffett, Pope, Rabe, Scovel, Shann, Sheeran, Skellenger, Sutphen, Swayze, Swing, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson, Youmans—41.

In the negative—none.

Also, strike out the words “one year” in the second clause of paragraph 2 of section 2, and insert in lieu thereof the words “three years.”

Upon the calling of the roll the following gentlemen voted:

In the affirmative, were

Messrs. Anderson, Blancke, Carrolton, Carscallen, Conover, L., Dodd, Dowdney, Doyle, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S., Herring, H.C., Kirk, Lodge, Magee, McDonald, McGill, Moffett, Morrow,

EXCERPTS FROM THE 1875 ASSEMBLY MINUTES 649

FEBRUARY 16, 1875

Pope, Rabe, Scovel, Shann, Sheeran, Skellenger, Sutphen, Swayze, Swing, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson, Woodruff, Youmans—41.

Change the number of present paragraph 4 to number 3, and strike out the word “and” where it occurs between the word “chancery” and the word “secretary.”

Upon the calling of the roll the following gentlemen voted:

In the affirmative, were

Messrs. Anderson, Blancke, Carrolton, Carscallen, Conover, L., Dodd, Dowdney, Doyle, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S., Herring, H.C., Kinnard, Kirk, Lodge, Magee, McDonald, McGill, Moffett, Morrow, Pope, Rabe, Scovel, Shann, Sheeran, Skellenger, Sutphen, Swayze, Swing, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson, Youmans—41.

In the negative—none.

[page369]

Also, insert after the word “state” the words “and the keeper of the state prison.”

Upon the calling of the roll the following gentlemen voted:

In the affirmative, were

Messrs. Anderson, Blancke, Carrolton, Carscallen, Conover, L., Dodd, Dowdney, Doyle, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S., Herring, H.C., Kinnard, Kirk, Lodge, Magee, McDonald, McGill, Moffett, Pope, Rabe, Scovel, Shann, Sheeran, Skellenger, Sutphen, Swayze, Swing, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson, Youmans—41.

In the negative—none.

Change the number of present paragraph 5 to number 4.

Upon the calling of the roll the following gentlemen voted:

In the affirmative, were

Messrs. Anderson, Blancke, Carrolton, Carscallen, Conover, L., Dodd, Dowdney, Doyle, Fitzgerald, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S., Herring, H.C., Kinnard, Kirk, Lodge, Magee, McDonald, McGill, Moffett, Pope, Rabe, Scovel, Shann, Sheeran, Skellenger, Sutphen, Swayze,

650 EXCERPTS FROM THE 1875 ASSEMBLY MINUTES

FEBRUARY 16, 1875

Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson, Youmans—40.

In the negative—none.

Change the number of present paragraph 6 to number 5.

Upon calling of the roll the following gentlemen voted:

In the affirmative, were

Messrs. Anderson, Blancke, Carrolton, Carscallen, Conover, L., Dodd, Dowdney, Doyle, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S., Herring, H.C., Kirk, Lodge, Magee, McDonald, McGill, Moffett, Patterson, Pope, Rabe, Scovel, Shann, Sheeran, Skellenger, Sutphen, Swayze, Toffey, Teed, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson, Youmans—40.

In the negative, Mr. Swing.

[page370]

Change the number of present paragraph 7 to number 6, and strike therefrom the words “annually,” “annual,” and “they may be re-elected until they shall serve three years, but no longer.” Insert after the word “assembly,” the following words: “and they shall hold their offices for three years;” and add to the paragraph the following words: “sheriffs shall annually renew their bonds.”

Upon the calling of the roll the following gentlemen voted:

In the affirmative, were

Messrs. Anderson, Blancke, Carrolton, Carscallen, Conover, L., Dodd, Dowdney, Doyle, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S., Herring, H.C., Kirk, Lodge, Magee, McDonald, McGill, Moffett, Patterson, Pope, Rabe, Scovel, Shann, Sheeran, Skellenger, Sutphen, Swayze, Swing, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Wilson, Woodruff, Youmans, Youngblood—41.

In the negative—none.

Change the name of present paragraph 8 to number 7.

Upon the calling of the roll the following gentlemen voted:

In the affirmative, were

Messrs. Anderson, Blancke, Carrolton, Carscallen, Conover, L., Dodd, Dowdney, Doyle, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S., Herring, H.C., Kirk, Lodge, Magee, McDonald, McGill, Moffett, Pope, Rabe, Scovel, Shann, Sheeran, Skellenger, Sutphen, Swayze, Swing, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson, Youmans—40.

EXCERPTS FROM THE 1875 ASSEMBLY MINUTES 651

FEBRUARY 16, 1875

In the negative—none.

Change the number of present paragraph 9 to number 8.

Upon the calling of the roll the following gentlemen voted:

[page371]

In the affirmative, were

Messrs. Anderson, Blancke, Carrolton, Carscallen, Conover, L., Dodd, Dowdney, Doyle, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S., Herring, H.C., Kinnard, Kirk, Lodge, Magee, McDonald, McGill, Moffett, Patterson, Payne, Pope, Rabe, Scovel, Shann, Sheeran, Skellenger, Sutphen, Swayze, Swing, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson, Youmans—43.

In the negative—none.

Change the number of present paragraph 10 to number 9.

Upon the calling of the roll the following gentlemen voted:

In the affirmative, were

Messrs. Anderson, Blancke, Carrolton, Carscallen, Conover, L., Dodd, Dowdney, Doyle, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S., Herring, H.C., Kinnard, Kirk, Lodge, Magee, McDonald, Moffett, Pope, Rabe, Shann, Sheeran, Skellenger, Sutphen, Swayze, Swing, Teed, Toffey, Torbet, Van Cleef, Vanderbilt (Speaker), Warrington, Wilson—39.

In the negative—none.

Change the number of present paragraph 11 to number 10.

Upon the calling of the roll the following gentlemen voted:

In the affirmative, were

Messrs. Anderson, Blancke, Bird, Bogert, Carrolton, Carscallen, Conover, L., Dodd, Doyle, French, Gill, Goble, Gordon, Halsey, Hendrickson, Henry, D., Henry, T. S., Herring, H.C., Kinnard, Magee, McDonald, McGill, Moffett, Patterson, Pope, Scovel, Shann, Sheeran, Sutphen, Swing, Teed, Van Cleef, Vanderbilt (Speaker), Wilson, Youmans, Youngblood—36.

In the negative—none.

* * *

Source: ASSEMBLY MINUTES, 1875.

NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS

653

JANUARY 19, 1874

[Daily State Gazette]

[At] 8 P.M. [the] Senate met.

* * *

Mr. Stone offered a resolution that the proposed amendments to the Constitution be printed in bill form.

Adopted.

Newspaper Source for January 19, 1874:

“N.J. Legislature - XCVIIIth Session,” *Daily State Gazette*, January 20, 1874.

JANUARY 21, 1874

[Daily State Gazette]

Mr. Stone offered a resolution that the Senate hold a special session this afternoon for the purpose of considering the Constitutional amendments, and that afternoon sessions be held on Tuesday and Wednesday for the same purpose. Adopted.

[Newark Daily Journal]

At the commencement of the [afternoon] proceedings, President Taylor stated that under the resolution passed in the morning the business was the consideration of the amendments to the Constitution of the State, as reported by the Constitutional Commission.

Mr. Stone moved that the amendments be taken up by sections and considered *seriatim*,...

[Daily Public Opinion]

...according to the number of the article amended.

[Newark Daily Journal]

Carried.

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

JANUARY 21, 1874

The amendments to Article First were read, and the one under consideration was to [Article I, paragraph] 16. Strike out "Private property shall not be taken for public use without just compensation, but land may be taken for public highways, as heretofore, until the Legislature shall direct compensation to be made." In place thereof insert, "Private property shall be held inviolate, but subservient to the public welfare, and shall not be taken for public use without just compensation. In all cases where lands are taken by any incorporated company, any landowner, being aggrieved by the award of commissioners, shall have the right of appeal and have the damages reassessed by the verdict of a jury, and such assessment shall be made without deduction for benefits."

Mr. Taylor said that under the ruling the proposition to strike out and to insert would be considered together.

[Daily Public Opinion]

Mr. Stone objected to the phraseology as being too verbose, and somewhat of the amendment as useless.

[Newark Daily Journal]

Mr. Stone offered the following substitute for [Article I, paragraph] 16:

"Private property shall not be taken for public use without just compensation. Whenever property is so taken by an incorporated company, any owner shall have the right to appeal to a jury, who shall make an assessment of damages for the taking thereof, without deduction for benefits."

Mr. Stone said that his object in offering this amendment was not to impair the proposition of the Commission. He had noticed in the Constitutions of other States they had made an elaborate Constitution, attempting to explain the reason why the amendments were made. Our Commission have directed their efforts to make a Constitution in the plainest possible language. He did not see the use of the words "Shall ever be held inviolate," and that in his opinion it was better to use the original language, "Private property shall not be taken," &c. So in the next portion of the [paragraph] it would be better to put it in plainer language.

Mr. McPherson called for the reading of the [paragraph] again, and after it was reread the President vacated the chair and it was occupied by Senator Hopper.

[Daily Public Opinion]

{President Taylor, resigning the chair to Mr. Hopper, took the floor, and although agreeing with Mr. Stone in the main, thought the Commission's

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

655

JANUARY 21, 1874

amendment corresponded with the reading of the old United States Constitution, and did not like to use new words when the old would cover the same ground. He thought, however, that personal as well as real property owners should be included.}

[Newark Daily Journal]

Mr. Taylor agreed with the Senator from Union [i.e. Mr. Stone], and stated that there are certain phraseologies in all Constitutions which should be followed, especially that of the United States, from which our Constitution is closely copied. No person has the right to interfere with private property without making just compensation, and the State or United States has no right to do so without making compensation. He did not see any necessity for a change in the language, for in the present section the expression "Shall ever be held inviolate" is implied. The right of the public is superior to the private right when public necessity requires it. He continued by saying that he was opposed to so many words and that the phraseology might lead to litigation. Private property is inviolate now, but is subservient to public use, but cannot be taken even for that without compensation. He referred to the taking of land for private corporations and to assessments of damages and benefits.

A little friendly cross-fire took place, and Mr. Taylor moved to strike out the words "by an incorporated company."

Mr. Stone objected to Mr. Taylor's amendment on the ground that there are cases in which assessments for benefits should be made; he referred to the power of common councils to take land, to open streets, &c., and the amendment if adopted would prevent any benefits being assessed.

Mr. Taylor inquired whether the words "without deduct[ion] for benefits" would have any effect to preclude the assessments afterwards. He said he was not prepared to discuss the phraseology then, and was opposed to the amendment, and thought it should be broader and more general.

Mr. McPherson asked Mr. Stone what his understanding was of the clause "without deduction for benefits."

Mr. Stone, after some little debate, made the following amendment to the amendment: "But when land is taken by any municipal corporation for highways, the Legislature may provide that benefits may be deducted, and also the mode in which such deductions shall be made."

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

JANUARY 21, 1874

[Daily Public Opinion]

On motion of Mr. Stone, the substitute, with amendments offered, was ordered a separate printing, and made the special order for next session.

The next three[paragraphs] proposed by the Commission to be added to Article I of the Constitution, relative to dividing of counties, municipal corporations or counties being limited, in amount of debt they may incur, and forbidding donation of land or money appropriation by the State or Municipal corporation to any society, &c., were read, but on motion of Mr. Taylor laid over...

[Daily True American]

...till Tuesday next, and made the special order for that day. The Secretary was ordered to have 400 copies [of the Commission's proposed constitutional amendments] printed in bill form.

The Senate adjourned...

[Daily Public Opinion]

...the session lasting over an hour.

Newspaper Sources for January 21, 1874:

"N.J. Legislature - XCVIIIth Session," *Daily State Gazette*, January 22, 1874.

"The State Capital...Senate Discussion on the Constitutional Amendment," *Newark Daily Journal*, January 22, 1874.

"New Jersey Legislature," *Daily Public Opinion*, January 22, 1874.

"Legislature of New Jersey," *Daily True American*, January 22, 1874.

JANUARY 27, 1874

[Daily State Gazette]

[At] 3 P.M [the] Senate met.

* * *

The Senate took up the consideration of the proposed amendments to the Constitution.

At the request of the President [i.e. Mr. Taylor], Mr. Sewell took the chair.

NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS

657

JANUARY 27, 1874

[Newark Daily Journal]

Mr. Stone stated that at the last meeting he introduced a substitute for Paragraph 16 in Article I; but he had not seen it. The amendment which was on his desk was not the one.

The Secretary [i.e. Mr. Babcock] read the amendment as printed:

“Private property [shall] not be taken for public use without just compensation. Whenever property is so taken any owner shall have the right to an appeal to the jury, who shall make an assessment of damages for the taking thereof without deduction for benefits; but when land is taken by any municipal corporation or for highways the Legislature may provide that benefits may be deducted, and also the mode in which such deduction shall be made.”

Mr. Stone contended that the above was merely a suggestion and not an amendment, and called for the reading of the journal. The journal corresponded with the printed bill. Mr. Stone said he offered the original amendment and moved that a vote be taken upon it – at the same time asking leave to withdraw the “suggestion.”

Mr. McPherson asked whether the record on the journal was correct, and suggested that it would be necessary to amend the minutes.

Mr. Taylor said that no action had been taken on the suggestion.

Mr. Taylor said that the amendment or suggestion of Mr. Stone was [not] germane, as it was provided for on page 11 of the amendments, and thought that the amendments should be stricken out as they were provided for elsewhere in the Constitution, and that it was merely verbiage and unnecessary wording.

Mr. Cutler saw no way when a land owner was aggrieved how he could have the assessments made.

Mr. Stone did not understand the matter, but thought the amendment should be stricken out of [Article] No. I and placed in [Article] No. IV.

Mr. Taylor stated that he was in favor of letting the old section stand as it was, as there was ten-fold more words and trash, and that with all respect to the Commission, he did not see any new ideas in the amendments. He liked the old section, as it was terse and neat and had been often adjudicated upon.

After some debate by Messrs. Cutler, Taylor, Stone and others, Mr. Cutler moved the following as a substitute:

“Private property shall not be taken for public use without just compensation. In all cases where property is so taken, any property owner being aggrieved by the award of commissioners or otherwise, shall have the right of appeal and have the damages reassessed by the verdict of a jury; and such assessment shall be made

NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS

JANUARY 27, 1874

without deduction for benefits.”

A long debate took place upon this amendment, in which Messrs. Cutler, McPherson, Stone, Hopper, Taylor and Wood took part. The principal point was the assessment for benefits.

[Daily Public Opinion]

Thereupon Mr. Stone propounded a conundrum to Mr. Cutler regarding the matter of appeal, after a municipal commission has assessed benefits, and further expatiated on the old English law allowing highways to be opened through private property, without any compensation whatever. The same system was adopted by New Jersey in the Constitutional Convention in 1844, but now private property owners ask for new streets to be opened for benefit of their own, as well as adjoining property, and therefore had custom been altered, with deduction for benefits the proper thing.

[Daily State Gazette]

Mr. Stone asked if this amendment would allow property from which a part should be taken for a highway to be charged with the benefits which would accrue to the residue of the property.

Mr. Cutler thought it would not, and further that he was opposed to charging property with benefits which might accrue to it by reason of a part being used as a public highway.

Mr. Stone said he was then opposed to the amendment, because it was unfair that, when a street was opened for the benefit of property through which it ran, the land owners should receive full pay for what was taken away, and yet pay nothing for the great benefit which was done to the residue of the land.

Mr. Taylor thought that the adoption of the amendment would not preclude the man whose land had been taken, and who had been paid in full from being subsequently assessed for the benefits. The amendment means that when the assessment is made the owner must be paid in full, without any deduction at that time for benefits; but afterwards, when the costs of the improvement are to be made, the balance of the property taken shall be liable with surrounding property for the benefits which accrue to it.

Mr. Stone said he began to think there was no need for any amendment in this respect at all. If the suggestions made to amend the Constitution do not strike fair-minded people as needed, we had better not adopt them.

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

659

JANUARY 27, 1874

[Newark Daily Journal]

Mr. Stone said that the Senate did not want to adopt amendments which would keep the people in law [i.e. litigation] all the time. Constitution-making is bad business and retards the other business of the Legislature, and thought it would be much better to go back to the old Constitution and have confidence in the Legislature; let well enough alone, and thereby save the people from a vast amount of litigation.

Mr. McPherson said, is it not better to incorporate this amendment in the Constitution and not trust so much to the Legislature? Try to frame a Constitution by which the State can get along without so much legislation. In the large State of Illinois the session was only 28 days, while in the small State of New Jersey it is from three to four months.

[American Standard]

Mr. McPherson said if we would examine the statutes of the State we would find that too much latitude has been allowed to legislatures that has gone before us, and asked the Senator from Union [i.e. Mr. Stone] to permit us to proceed in the amendments and pass them.

[Newark Daily Journal]

Mr. Taylor made some peculiar remarks in relation to the Senator [i.e. Mr. McPherson] speaking in that manner during his last year, and hinted that a gubernatorial canvass was on the board, and that if the Senator from Hudson should fill the Executive chair, it would be a wise thing to have no Legislature.

The Senator from Hudson stated that it would not be a very pleasant position to occupy even with a Legislature.

[American Standard]

{Mr. Taylor said it would be a good thing no doubt for the Senator from Hudson [i.e. Mr. McPherson] to make a Constitution that would allow him when Governor of the State to have the Constitution so framed that he would not be troubled with the meeting of a Legislature.

Mr. McPherson replied that he was not anxious for a position of so much labor as that attached to the chair of the Governor.}

[Newark Daily Journal]

Mr. Wood was in favor of retaining the old section without amendment.

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

JANUARY 27, 1874

Mr. Hopper said he was not inclined to make innovations in the Constitution or laws. In all cases where the Constitution had operated well, and where well-known customs under such Constitution were good and worked well, it would not be well to make changes except they went farther than the present Constitution. He differed from new-fangled ideas and looked upon the opening of a street in a city the same as opening a highway. In relation to assessment for benefits, the assessments in some cases work a great deal of injury, and on account of changes a great deal of robbery. Lots are bought by speculators and applications are gotten up whereby property not benefited is assessed and taxed.

He continued by saying that if I had my way, I would have every street that was opened, opened by general taxation, instead of filling private purses from the public pocket. If without the will of a property owner his property is assessed at \$1,000 for damages, and \$500 is assessed for benefits, he only gets \$500; it is unfair. The Constitution says a just compensation, and not to have the benefits deducted, but the damages. The question is, shall land be taken without a jury having the right to say what the damages are, and to have a provision made whereby the land owner should be enabled to have a jury to say whether he was entitled to benefits or not?

[Daily State Gazette]

{Mr. Hopper thought that the language of the amendments proposed did not alter at all the present Constitution as it has been construed by the courts. If he had his way he would not have either of these propositions in the Constitution, for he believed that streets in cities should be opened only as roads in townships are: when demanded by the public, for the public benefit, and [be] paid for out of the funds. This matter of opening streets for the benefit of private parties has always been made the opportunity for great frauds. He knew of instances where parties would buy lands at tax sales \$20 or \$25 a lot, and then demand the opening of a street. When this was done, damages amounting to \$200 or \$300 a lot would be paid, and the expenses levied on lands on another street.}

[American Standard]

{Mr. Hopper said he was in favor of a general assessment, as he had known the greatest frauds perpetrated in the matter of assessments in cities, and that unless it was made general he would oppose the movement, and coincided with the views of the Senator from Hudson [i.e. Mr. McPherson], that all assessments should be made general, and then no improvement would be made unless actually

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

661

JANUARY 27, 1874

wanted, and fraud could not exist as at present.}

[Newark Daily Journal]

Mr. Stone said he did not intend changing the law, but merely to improve the phraseology, and had come to the conclusion that they were better off with the section as it now is.

Mr. McPherson said that the reason he had been so captious was merely from a desire to have included in the Constitution some provision that all cities will have the same rights and privileges as other cities more favored; some general provision that cannot be overridden by the Legislature.

[American Standard]

{Mr. McPherson said he was in favor of the amendment because Jersey City could not, under the present amendment, be robbed as they had been by benefit assessments.}

Mr. Cutler then explained the case of benefit assessment in his place, and showed that the present Constitution was powerless to help his people in being deprived of a trial for their rights, and many of them had their property sold.

[Daily State Gazette]

After further discussion the amendment offered by Mr. Cutler was lost 9 to 12.

Mr. Stone withdrew his substitute.

[Newark Daily Journal]

After further remarks by Mr. Cutler, Mr. Taylor moved to strike out the first eleven lines of the amendment (includes the whole amendment), making the whole amendment void, leaving it as it is now.

Mr. Hopper moved as an amendment that: "Private property cannot be taken for public use without just compensation, nor without the verdict of a jury if referred by any party interested."

Mr. Taylor opposed the amendment, as he said there never had been any such abuse in New Jersey to require such an amendment. "What," he said, "is the use of compelling the Legislature of New Jersey to do something which it always has done and always will do? You might as well require the sun to rise at the hour it does."

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

JANUARY 27, 1874

[American Standard]

{Mr. Taylor objected because a trial by jury would involve a delay of time that would be of great damage to improvements by waiting for lawful verdicts that might be carried up for a long time and make litigation to the damage of the city and the citizens.}

[Newark Daily Journal]

Mr. Hopper stated that there was no sentence in the Constitution to provide how the just compensation is to be made, and that the question is, "Is the Senate willing to adopt the amendment without alteration?"

[American Standard]

Mr. Hopper said there should be in the organic law a provision to make a jury trial for the taking of land for streets and highways.

Mr. Cutler said two afternoons have been spent in the discussion of one amendment, and up to this time no decision has been made and hereafter we take up the whole report and read it, as many of the Senators did not appear to have read it in full.

[Newark Daily Journal]

After some further debate, which occupied a long time, and several skirmishes between Senators Taylor and Hopper, the amendment [offered by Mr. Hopper] was lost by a vote of 8 to 12.

The following is the vote:

Yeas: Cornish, Cutler, Hendrickson, Hewitt, Hopper, McPherson, Potts, Smith—8

Nays: Havens, Hopkins, Jarrard, Leaming, Moore, Newkirk, Sewell, Sheppard, Stone, Taylor, Thom, Wood—12.

[Daily State Gazette]

The motion made by Mr. Taylor to reject the amendment as proposed by the Commission was agreed to, 17 to 2.

[Jersey City Evening Journal]

The Senate then, at 5:45, adjourned...

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

663

JANUARY 27, 1874

[Newark Daily Journal]

... to [the next] morning at ten o'clock.

Newspaper Sources for January 27, 1874:

"N.J. Legislature – XCVIIIth Session," *Daily State Gazette*, January 28, 1874.

"The State Capital," *Newark Daily Journal*, January 28, 1874.

"New Jersey Legislature," *Daily Public Opinion*, January 28, 1874.

"Our Trenton Letter," *American Standard*, January 28, 1874.

"Legislative Proceedings," *Jersey City Evening Journal*, January 28, 1874.

JANUARY 28, 1874

[Daily True American]

[At] 3 P.M. [the] Senate met.

[Newark Daily Journal]

The Senate this afternoon again considered the proposed changes [to] the Constitution.

Mr. Taylor stated that the special order of business would be taken up under the resolution, and vacated the chair, which was occupied by Mr. Sewell, who announced that the business was the consideration of the amendments to the Constitution as proposed by the Constitutional Commission.

[Paragraph] 19 (new) of Article I was read:

"No county shall be divided or have any part set off therefrom without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county voting on the question shall vote for the same."

Mr. Taylor said that the amendment is a curtailment of the rights and privileges of the citizens of the State, and in fact is a proposed restriction on the Legislature. He claimed that the next proposition is of the same character, as follows:

No county, city, borough, town, township or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual, association or corporation, or become security for, or be directly or indirectly the owner of, any stock or bonds of any association or corporation, &c.

Mr. Taylor moved to strike out the two sections.

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

JANUARY 28, 1874

[Newark Daily Advertiser]

{First Mr. Taylor said: Whatever may be the merit of the proposed amendment, it is set forth in the wrong article. This does not relate to the fundamental rights of citizens. The effect of the proposed amendment, as it stands, proposed restriction upon legislation. Mr. Taylor moved that the paragraph under discussion be placed in Section VII, Article IV. Mr. Taylor's motion was adopted.}

[Daily State Gazette]

{Mr. Taylor thought that the proposition should not be inserted in Article I, as that was an announcement of the rights reserved to the people. He moved that the amendment and the subsequent amendment to Article I be stricken out. It should form a part of Article IV.}

Mr. Cutler thought the better plan would be to suspend any action now until the place is reached where they should be inserted.

Mr. Stone moved that the further consideration of the remaining sections of Article I be postponed for the present. Which was agreed to.

[Newark Daily Journal]

{After debate by Mr. McPherson, Mr. Cutler, Mr. Taylor and Mr. Hopper, a motion of Mr. Stone to postpone was carried by a vote of 9 to 7.}

Mr. Taylor wanted to know when the Senate would get through with Article I, and moved to take up Article IV, Section VII.

Mr. Stone wanted to know why we wanted to jump, as it would be better to go right on and consider the sections *seriatim*.

Mr. Taylor said it was as good to jump over an article as to leave another [unsettled].

Mr. Taylor's motion to take up Article IV, Section VII was lost, 2 to 11.

STRIKING OUT THE [WORD] "WHITE" OF THE CONSTITUTION.

Article II was then taken up, and the word "white," in Section 1st., was unanimously stricken out.

[Newark Daily Advertiser]

{That part of the proposed right of suffrage amendment, which provides for striking out the word white from the Constitution was agreed to by the Senate.}

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

665

JANUARY 28, 1874

[Newark Daily Journal]

The following amendment was taken up and debated at length:

“After the words ‘five months’ insert the following words ‘and of the election district in which he may offer his vote, thirty days.’”

[Newark Daily Advertiser]

{The next clause, requiring a voter to reside in the election district in which he offers his vote 30 days next before the election was then discussed with considerable earnestness by Senators Stone and Taylor.}

[Newark Daily Journal]

Mr. Stone said as the amendment now stood he would be compelled to vote against it. Every man is entitled to a vote when not disqualified. He said the amendment was arbitrary.

[Newark Daily Advertiser]

{Mr. Stone thought the time [i.e. 30 days] was too long, as such a provision was calculated to deprive every man who moves on the first of April, the usual country moving day, of his vote.}

[Daily State Gazette]

{Mr. Stone opposed the amendment, because he believed that every man should be entitled to vote, if he is of age, where he may happen to be. This amendment is intended to cure “colonizing.” That is a great evil, but the remedy is more injurious than the evil.}

Mr. Taylor moved to strike out the word “thirty” and insert “ten.”

Mr. Stone said that this amendment improved the matter, yet he did not agree with the spirit of the amendment. He thought every honest man should not be prevented from voting. If any man is compelled by necessity, or any other cause, to move from one voting district in one ward to another district in the same ward, he would be deprived of his vote.

Mr. Taylor said the same course of reasoning would apply to the case of a man moving from Elizabeth to Newark, who would be deprived of his vote unless he moved five months before election.

[Newark Daily Advertiser]

{Mr. Taylor thought the Constitution could not be moulded to suit every man’s convenience. If the thirty days clause should be stricken out, and the

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

JANUARY 28, 1874

provision requir[e] a man to reside in the county for five months, there would be an inconsistency and also a positive injustice in the law. Elizabeth and Newark join, and they are in different counties. If a man move from Newark to Elizabeth four months previous to the election he would be deprived of the franchise. There must be some regulation to protect the honest voter against the sneaking man who deposits his vote by fraud.}

[Daily State Gazette]

Mr. Wood opposed the amendment; while it might be a good provision in cities, it would be injurious in the country.

[Newark Daily Advertiser]

An amendment [was] offered by Mr. Smith to change the time of residence in election districts from thirty days to one day, [at a town meeting or spring election].

[Daily State Gazette]

{Mr. Smith moved to amend by inserting a provision that this clause should not apply to spring elections, where five days' residence will be sufficient. Which was not agreed to.}

[Newark Daily Journal]

{Mr. Smith suggested that spring elections be excepted, but favored fall elections being included.

Mr. Taylor moved that ten days instead of thirty be the time.

Mr. Smith objected.}

After further debate by Messrs. Taylor, Stone, Wood and Smith, the one day amendment was lost 1 to 16, the ten day 3 to 13, and the original amendment [as proposed by the Commission] was lost by a vote of 7 to 10.

The following was adopted by a vote of 15 to 2 [Sewell and Sheppard voting in the negative]:

“Provided, that in time of war no elector in the actual military service of the State, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the Legislature shall have power to provide the manner in which, and the time and place at which, such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.”

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

667

JANUARY 28, 1874

[Daily State Gazette]

The proposition to deprive persons of the right of suffrage who shall be convicted of bribery at elections or in legislation, was taken up.

Mr. Taylor moved to strike out the words "at elections or in legislation," so as to punish bribery committed in any way.

[Daily Public Opinion]

The following, as amended by Mr. Taylor, was agreed to:

"The Legislature may pass laws to deprive persons of the right of suffrage who shall be convicted of bribery or any infamous crime."

[Daily True American]

The proposition to amend Article IV, Section I, paragraph [3] making the day of the State elections fall on the first Tuesday after the first Monday in November, so as to make it conform to the day now fixed by law, was agreed to.

[Daily Public Opinion]

{The proposed amendment changing [the] time of Legislative election[s] from [the] 2d Tuesday in October to [the] 1st Tuesday after [the] 1st Monday in November was debated, and a motion by Mr. Taylor to strike out the same was lost.}

[Daily State Gazette]

The proposition that all bills should be printed before they are received or considered, and shall be read throughout, section by section, on three several days, but the reading of the title only of any bill or joint resolution, shall never be taken as the reading thereof; provided, that in cases of actual invasion or insurrection, the Legislature may by a two-thirds vote of the house where such bill shall be pending, otherwise order; and provided further, that all bills and joint resolutions, together with the amendments thereto, shall be printed and distributed among the members of each house, at least one day before the vote shall be taken on the final passage thereof, was then discussed.

Mr. Taylor opposed the amendment because it was unnecessary; if no discretion is to be left to the Legislature it had better be abolished. There are times when it is necessary to pass bills in a hurry, as was seen in 1871, when it was proposed to increase the salary of the Governor; when general laws shall be adopted they will be able to give more time to the consideration of particular bills.

Messrs. Stone and Wood also opposed the amendment.

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

JANUARY 28, 1874

[Newark Daily Advertiser]

...Senator Taylor moved to strike out the amendment concerning the reading of bills. He said that he did not see the necessity for making amendments providing for the "reading of bills throughout, etc." and that they "shall be printed before they are received." He thought that if the citizens of the State had sufficient confidence in men to send them here to make laws they should not treat them as children afterwards. Senator Stone sustained Mr. Taylor in his remark, and said that the plan imposed would be almost entirely impracticable. Mr. Hopper also concurred in the opinions of Messrs. Taylor and Stone.

[Daily State Gazette]

The question was taken on the motion of Mr. Taylor to strike out; the proposition was agreed to, 12 to 4.

[Newark Daily Journal]

Section VII [concerning the compensation of legislators] was then taken up and discussed – [to strike out:]

"A compensation for their services to be ascertained by law and paid out of the Treasury of the State; which compensation shall not exceed the sum of three dollars per day for the period of forty days from the commencement of the session, and shall not exceed the sum of one dollar and fifty cents per day for the remainder of the session. When convened in extra session by the Governor they shall receive such sum as shall be fixed for the first forty days of the ordinary session."

And insert in lieu thereof the following:

"Annually the sum of five hundred dollars during the time for which they shall have been elected, and while they shall hold their office, and no other allowance or emoluments, directly or indirectly, for any purpose whatever."

The allowance of twenty-five dollars for stationery, etc., was stricken out.

A lengthy discussion as regards mileage took place, and the question of accepting free passes was fully discussed.

Mr. Stone said he was in favor of abolishing mileage. The law, as far as he understood it, was to equalize the pay of members, and the amendment proposed does not accomplish it.

Mr. Wood contended that \$500 was double the present pay, and was without any perquisites whatever, and thought the mileage ought to be abolished. He believed that the members ought to have good pay, but that was too much. If

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

669

JANUARY 28, 1874

members chose to make a display, let them, and not make the State pay for it.

The motion to strike out the mileage clause was lost by a vote of 6 to 9.

The question as to the pay of members of the Legislature was brought up.

Mr. Taylor moved that the pay be \$300 per annum.

Mr. Hopper opposed the [motion].

Mr. Stone thought the pay fixed by the Constitutional Commission was low enough, and did not think there was any impropriety in receiving a reasonable compensation.

Mr. McPherson said that we are making progress against bribery and corruption at elections, but we are making little progress in other directions. "I believe that \$500 is a fair amount to be paid." He hoped the committee would have sufficient dignity to agree with the Commission.

Mr. Wood said he had very little faith in the giv[ing] of high salaries to make men honest. He referred to the prices charged by the landlords of hotels in Trenton, and said they took advantage of the members, as they charged for 3 1/2 days. This could be remedied if the Senators put their backs against it, and go somewhere else.

He favored the old provision to pay the members \$8 a day, and concluded by saying that the State had no more funds than it knew what to do with.

In reply to some previous remarks of Mr. Wood, intimating that Senator McPherson was a candidate for Governorship, Mr. McPherson said that he had ceased to be a candidate.

Mr. Wood asked whether he could go before the people of New Jersey after voting for such an increase?

Mr. McPherson replied: "I dare go before the people of New Jersey trusting in their intelligence on any question, and to justify my vote in any manner given consistent with my judgment. Those Senators who know me best know that I have courage to do anything I believe to be right; and, further, before I would vote for a measure of public interest contrary to my judgment, even if asked to do so by my constituents, I would resign my position in the Senate."

After some further discussion, the amendment making the pay of members \$500 was adopted.

[Daily State Gazette]

{The proposition providing that the annual salary of members of the Legislature shall be \$500 and no other allowance, directly or indirectly, except a sum not exceeding \$25 to each member for postage, stationery, and all other

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

JANUARY 28, 1874

incidental expenses and perquisites, was taken up.

Mr. Stone moved to strike out the words "except a sum not exceeding \$25, &c." Which was agreed to.

Mr. Taylor moved to retain the words, "they shall also receive the sum of one dollar for every ten miles they shall travel in going to and returning from their place of meeting, on the most usual route."

Mr. Stone opposed the motion. The idea of the mileage clause is to equalize the pay of members; but the condition of affairs does not now exist.

Mr. Wood opposed the motion. He thought that \$500 was too much, and he thought that the people would think so who had to pay the expenses. The pay should be enough to support a man respectably while he is here. Opinions differ as to what is "respectably." Some seem to think that because they are here accidentally they must make a great spread, and they are not so much at home either.

The amendment offered by Mr. Taylor was lost, 6 to 9.

Mr. Taylor moved to make the annual salary \$300 instead of \$500.

Mr. Stone thought the sum of \$500 was not too much. It will not more than pay the reasonable board bill of a person who wishes to live with the ordinary hotel conveniences. No man should complain that a member of the Legislature who leaves his business should at least pay his expenses. The vast majority of this and every Legislature are middle aged men who work for a livelihood, and when they come here their reasonable expenses should at least be paid.

Mr. Taylor said the Legislature was generally in session three days a week for about ten weeks, and the pay as he proposed to make it would be about \$10 per day.

Mr. McPherson said that the amendments proposed would allow worthy men who cannot afford to sacrifice their time to come here and serve the State without being dependent upon any one.

Mr. Stone had no faith in high salaries making men honest. There has been more grabbing since the salaries were raised than before. Good pay did not prevent Tweed from stealing. And the increase of the pay of members will only induce men to come here for the money which is paid. The increase will make a difference of \$16,000 to the taxpayers of the State and there are other uses to which it can be better applied.

Mr. McPherson said that the people of New Jersey was an intelligent one, and could see as well as he did that the pay of members of the Legislature was too small, and should be increased. He would act in accordance with his better judgment and when his people disagreed with him he would resign rather than act

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

671

JANUARY 28, 1874

against it.

Mr. Hopper said that we should look at this matter fairly, and not speak to be reported in the newspapers. Any member who is fit to be sent here as a Senator is worth \$500 for the session. Nobody will pretend that any member will make money by coming here for \$500. Another consideration is that this is the salary for the whole term, and cannot be increased directly or indirectly, and if an extra session of the Legislature is called, there is no other compensation.

The amendment offered by Mr. Taylor to make the pay \$300 instead of \$500 was lost, 2 to 9.

The paragraph as amended was then adopted, 14 to 2.

The suggestion to make the pay of the presiding officers one-third more than the pay of members was adopted.}

[Newark Daily Advertiser]

{The clause relative to the compensation of legislators then came up. Mr. Taylor opposed the proposed amendments. The abolition of the mileage system would bear hard upon those members who reside at a distance.

Mr. Stone thought that as every member of the Legislature had a railroad pass there was no necessity for mileage. He did not think a railroad pass was a bribe and a legislator could vote just as conscientiously with a pass as without it. Mr. Taylor thought this pass system ought not enter into the consideration of the pay of a legislator. He hoped the time would come when this odious pass system would be abolished.

Mr. Wood was opposed to the \$500 clause. He represented workingmen and they had to pay the expenses of those who lived at Trenton more extravagantly than they did at home, for the sake of making a spread.

Mr. Stone thought if the members did not live at home better than they did in Trenton, the Lord help them.

A vote to strike out the compensation clause now in force was then taken, and the amendment was lost, 6 to 9.

The provision to make the compensation \$500 per term, without mileage; with a sum not exceeding \$25 to each member in full for postage, stationery, etc., was then taken up.

An animated discussion ensued. Mr. Wood thought men who were too poor to be able to come to the Legislature for less than \$500 – they had better stay at home. Mr. McPherson thought the proposed salary no more than reasonable. He did not think the people of New Jersey were parsimonious people, and they were willing

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

JANUARY 28, 1874

to pay their representatives a reasonable compensation for their services. Mr. Hopper thought that it was only fair that the man who served the State should be compensated.

The question on the substitute motion of Senator Taylor to make the pay \$300 instead of \$500 was then voted upon and lost, ayes 2 – nays 9. The original proposition of \$500 was then agreed to, ayes 14 – nays 2.}

[Daily Public Opinion]

{The matter of the extra allowance of \$25 to each Legislator in full for postage, &c., was stricken out, as being too trivial a matter for insertion in the Constitution.}

[Daily State Gazette]

Mr. Taylor moved to strike out the proposition of the Commission providing as a substitute for paragraphs 1 and 2, of [Section V, Article IV], the following: No member of the Senate shall receive any civil appointment with[in] this State, or to the Senate of the United States, from the Governor and the Senate, or from the Legislature.

Mr. Taylor thought the amendment would be futile, because the only object which could be attained would be that a member by his office might exercise undue influence in securing an appointment or election. This amendment would not remedy the difficulty, if it exists, because a member might make his combinations and bargains, and then by resigning, cease to be a member, and be elected to the position.

[Newark Daily Journal]

Mr. Havens offered a resolution that the consideration of the amendments to the Constitution be made a special order for this afternoon at 3 o'clock. Lost. Also that no Senator shall speak more than twice on the same subject, and not more than five minutes at one time.

[Daily State Gazette]

A motion to make the consideration of the Constitutional Amendments the special order for tomorrow afternoon, was agreed to.

Newspaper Sources for January 28, 1874:

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

673

“Legislature of New Jersey,” *Daily True American*, January 29, 1874.
“The State Capital...Desultory Debate Over the Constitutional Amendments,”
Newark Daily Journal, January 29, 1874.
“From Trenton: The Constitutional Amendments...,” *Newark Daily Advertiser*,
January 29, 1874.
“N.J. Legislature - XCVIIIth Session,” *Daily State Gazette*, January 29, 1874.
“New Jersey Legislature,” *Daily Public Opinion*, January 29, 1874.

FEBRUARY 3, 1874

[Daily Public Opinion]

[The Senate] met at 3 P.M., with special order to [resume discussion of] the Constitutional Commission’s report, amendments up to Section V, Article IV, [having been] previously considered.

[Jersey City Evening Journal]

Mr. Taylor left the chair to Senator Sewell.

[Newark Daily Journal]

The amendment to Article IV, Section V, striking out the first and second paragraphs and inserting in place thereof, “No member of the Legislature shall receive any civil appointment within this State, or to the Senate of the United States, from the Governor and the Senate, or from the Legislature,” was lost by a vote of 5 to 13.

[Daily Public Opinion]

Mr. McPherson interrogated the Senate as to certain points therewith connected, but [after] explanation by the chair acknowledged himself “slightly mixed” (as might be almost the case with everybody under such extensive sway of “striking out” and “insertions.”)

[Newark Daily Journal]

The following was adopted by a vote of 15 to 2:

“No law shall be revived or amended by reference to its title only, but the act revived, or the section or sections amended, shall be inserted at length. No general law shall embrace any provision of a special, private or local character. No act

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

FEBRUARY 3, 1874

shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of the act, or which shall enact that any existing law, or any part thereof, shall be applicable, except by inserting it in such act.”

The next paragraph, No. 6, was taken up.

“Insert the word ‘free’ between the word ‘public’ and the word ‘schools’ and add to the paragraph the following:

“A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the Legislature shall establish and maintain public schools for the gratuitous instruction of all persons in this State between the ages of five and eighteen years. The term “free schools” used in this Constitution shall be construed to mean schools that aim to give all a rudimentary education, and not to include schools designed to fit or prepare pupils to enter college, or schools controlled by or under the influence of any creed, religious society or denomination whatever.”

Mr. Stone moved that the Senate disagree to the amendment, saying that the word “free” should be stricken out, as it was of such a general character that its meaning could not be understood. The first part of the amendment contains an argument and a conclusion, and that no Constitution should be adopted which argues in itself the reason of its adoption. His next objection was to that portion which said that the Legislature shall establish and maintain public schools. If this was adopted it is probable that the people would lose interest therein, and they should have something to say as to taxation. He opposed the entire amendment as being too general.

[Daily State Gazette]

{Mr. Stone opposed the adoption of the amendment as being imbued with too much language of a general meaning.}

[Daily Public Opinion]

{Mr. Stone moved to disagree because of the amendment being too general, and conveying an argument as well as conclusion; the Legislature was to maintain schools according to such provision, while really the people ought to be left to consider the matter fully, as to taxation, &c.}

[Newark Daily Journal]

Mr. Taylor also opposed the amendment, as something could be done without it, and as heretofore no State in the Union had been more successful as far as

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

675

FEBRUARY 3, 1874

education was concerned than New Jersey, and was opposed to the word “rudimentary,” because there was no efficient system of free schools except they are properly graded, and if they were not there was nothing for scholars to look up to. He said if this word was inserted what would become of the Normal School. He had no objection to prohibit sectarian schools being supported by the State.

[Daily State Gazette]

{Mr. Taylor said we ought not to amend the Constitution unless it is to meet a need felt by the State. There is certainly no need for a Constitutional demand for free education in New Jersey. “I am also opposed to it if it is designed to restrict the limits of free education.” This amendment cuts off all schools from the State support which go beyond the three R’s. It would cut off all the high schools of Newark and Morristown, where pupils are prepared for college; there is nothing taught in these schools that unfits a boy for citizenship. It would cut off the Normal School, for there the pupils learn not the rudiments, but how to teach others.}

[Jersey City Evening Journal]

{Mr. Taylor...said: “It is hardly necessary to amend this part of the Constitution unless the people really feel the want of a change. The people of New Jersey do not need any legislative injunction in the cause of education. No State in the Union is as liberal, or has gone so many steps forward in education as this, as her action during the last three years proves.” He was opposed to the amendment, because, if it did not comport with the civilization of our people; if the clause was to goad the people on, he was opposed to it; if it was to restrain them, he was opposed to it. He was persuaded that the thing would regulate itself. This clause leaves the Constitution open to argument. He was also opposed to it because it gave an interpretation to the term “free schools.” The framers of the clause have a dictionary injected into it. He supposed “schools” meant education, and free meant “rudimentary.” The proposed amendment would lop off the High School in Newark, and all of the High Schools in the State, and leave us in the three Rs - “reading, riting and rithmetic.” There can be no system of free schools unless they are properly graded.}

[Daily Public Opinion]

{Mr. Taylor agreed with the Senator previously speaking [i.e. Mr. Stone], and thought too much of [a] dictionary was injected into the proposed amendment; the

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

FEBRUARY 3, 1874

rudimentary education there provided for might exclude the State Normal School, the High School of Newark, &c., from the open rights under such Constitutional amendment.}

[Newark Daily Journal]

Mr. Hopper agreed with the former speakers and said it was an incitement to scholars to have graded schools, and referred to his son, who is now practicing law with him, who was educated in one of the Paterson free schools.

[Daily State Gazette]

{Mr. Hopper said the amendment was not only crudely and roughly expressed, but fraught with danger, and would involve our public schools in interminable difficulties. There was no necessity for the restriction as to rudimentary education – the establishment of the high school is an incitement to the lower grades.}

[Jersey City Evening Journal]

{Mr. Hopper was opposed to the amendment. He was in favor of leaving the Constitution precisely as it is. The workings of our present school system shows that it is all that can be desired.}

[Daily State Gazette]

Mr. Stone said the amendment proposes to instruct the Legislature what its duties shall be, and it is powerless to effect what is set down for it to do. Suppose we adopt this amendment and the Legislature does not choose to act under it, who is to compel them.

Mr. Cutler said it was possible to so amend the proposition as to make it acceptable.

[Newark Daily Journal]

Mr. Cutler moved to strike out four lines, 63, 64, 68 and 69, the explanatory portion and the portion referring to rudimentary education.

[Daily State Gazette]

{Mr. Cutler moved to amend the proposition so that it should read, "The Legislature shall establish and maintain public schools for the gratuitous instruction of all persons in this State between the ages of five and eighteen years.

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

677

FEBRUARY 3, 1874

The term 'free schools' used in this Constitution shall be construed to mean schools that are not controlled by or under the influence of any creed, religious society or denomination whatever."}

[Jersey City Evening Journal]

On motion to strike out the words "aim to give to all a rudimentary education," etc., an animated speech was made by Mr. Stone, in which he denounced any attempt to unite church and state, or let the question of creed enter into our public schools.

[Daily Public Opinion]

A motion to strike out certain lines [63, 64, 68, and 69] of the amendment, by Mr. Cutler, after long discussion on the part of Messrs. Taylor, Hopper, Cutler and Stone, was agreed to.

[Daily State Gazette]

Mr. Hopper opposed the first branch of the proposition as amended, because it might and could be construed to mean that the Legislature should "maintain" the schools by the appointment of officers and teachers. There was no need for presenting a clause compelling the Legislature to establish free schools, the Legislature has made great advances in these matters, and the amendment is unnecessary.

After discussion, the original proposition was amended in accordance with the motion of Mr. Cutler, as above. ["The Legislature shall establish and maintain public schools for the gratuitous instruction of all persons in this State between the ages of five and eighteen years. The term 'free schools' used in this Constitution shall be construed to mean schools that are not controlled by or under the influence of any creed, religious society or denomination whatever."]

Mr. Taylor then moved to strike out all after the word "years," which was agreed to 13 to 4.

Mr. Cutler then moved to amend by providing that "The Legislature shall provide by general laws the means to establish and maintain public schools for the gratuitous instruction of all persons in this State between the ages of five and eighteen years," which was agreed to.

Mr. Cutler defended the proposition as fixing in the organic law the enunciation of the determination of the people of the State to maintain a system of free schools. The adoption of the amendment could do no harm.

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

FEBRUARY 3, 1874

Mr. Stone said the same reasoning could apply to the insertion of the Ten Commandments; they could do no harm, but they were entirely unnecessary in that place.

[Newark Daily Journal]

Mr. Stone claimed that the motion was ridiculous, as the State had never maintained public schools, but only furnished aid to do so.

[Jersey City Evening Journal]

A number of motions, for and against the remaining clauses, and the whole matter got into beautiful confusion, several Senators not being able to tell what motion was really before the Senate.

Mr. Hewitt thought the public school system should be recognized in the fundamental law of the State.

Mr. Stone thought the thing was getting still more ridiculous.

[Daily State Gazette]

Mr. Stone moved to strike out the suggestion as amended, which was not agreed to, 3 to 13.

The question was taken on the adoption of the proposition as amended, on motion of Mr. Cutler, and it was adopted, 12 to 4.

[Daily Public Opinion]

The Senate then adjourned.

Newspaper Sources for February 3, 1874:

“New Jersey Legislature,” *Daily Public Opinion*, February 4, 1874.

“Legislative Proceedings,” *Jersey City Evening Journal*, February 4, 1874.

“The State Capital...The Constitutional Amendments Again Under Debate,” *Newark Daily Journal*, February 4, 1874.

“N.J. Legislature - XCVIIIth Session,” *Daily State Gazette*, February 4, 1874.

FEBRUARY 4, 1874

[Daily State Gazette]

[At] 3 P.M. [the] Senate met.

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

679

FEBRUARY 4, 1874

The Senate took up the amendments to the Constitution.

[Daily Public Opinion]

Mr. Sewell took the chair and President Taylor occupied the floor.

Mr. Cutler moved to reconsider the vote of yesterday relative to a clause in Section VII, Article IV concerning public schools, which was agreed to, as also a motion making such matter the special order [for] next Tuesday afternoon.

[Newark Daily Journal]

The amendment [Article IV, Section VIII] proposing that a vote of three-fifths of the members of each House shall be necessary to the passage of every law granting, continuing and altering, &c., charters for banks or money corporations, and that all such charters shall be limited to 20 years, was taken up.

On motion of Mr. Taylor this amendment was laid over until the paragraph [Article IV, Section VII, paragraph 14] respecting special laws was acted upon.

Paragraph 9 was next taken up: "No amendment to the charter of any municipal corporation shall be received by the Legislature after thirty days from the first day of the meeting thereof, and no such amendment shall be so received or considered unless a notice thereof, expressing the substance of such amendment, shall have been published once a week for at least four weeks before the first day of the meeting of the Legislature, in one or more newspapers of the largest circulation of the county or municipal corporation."

Mr. Taylor moved to strike out the whole amendment and insert the following:

"No private, special or local bill shall be passed, unless public notice of the intention to apply therefor shall have been previously given. The Legislature at the next session after the adoption hereof, and from time to time thereafter, shall prescribe the time and mode of giving such notice, the evidence thereof, and how such evidence shall be [preserved]." Carried.

[Daily State Gazette]

[Mr. Taylor] said this left the details of such notice to be fixed by the Legislature.

[Daily Public Opinion]

After advocacy by Mr. Taylor, with support from Mr. Stone, on motion of the latter, the new proposition was ordered printed and to be acted on next Tuesday.

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

FEBRUARY 4, 1874

[Daily State Gazette]

Agreed to.

[Newark Daily Journal]

[Article IV, Section VII, paragraph] 11 was taken up: "No trust funds shall be invested in the bonds of any private corporation unless such investment shall be authorized or directed in the instrument or by the person creating the trust."

[Daily State Gazette]

Mr. Stone said there might be great objection to this provision, and stated cases where the person creating the trust had given discretionary powers to trustees or executors. The present laws were sufficient to protect trust estates. He thought it better to leave the matter to the Legislature.

Mr. Taylor said the amendment illustrated the difference between what should be placed in the Constitution and what should be left to the law. He disagreed with this provision as part of the Constitution.

Mr. Hopper agreed entirely with Mr. Taylor.

Mr. McPherson thought it was one of the wisest provisions in the amendments. It was to protect the interest of orphans – to prevent gambling away their property.

Mr. Stone replied that there was a great danger from investments in many public bonds, as in those of private corporations.

[Daily Public Opinion]

Mr. Cutler explain[ed] that [paragraph 11] was copied from the Ohio Constitution.

[Newark Daily Journal]

After considerable discussion by Messrs. Stone, Taylor, McPherson, Hopper, and Sewell, the amendment was lost by a vote of 8 to 10.

Section No. 12 was then taken up. It refers to injuries resulting in death, providing that no act shall limit the time wherein actions for damages shall be commenced against corporations, or for other causes different from those fixed by the general law.

[Daily Public Opinion]

[Paragraph 12] was characterized by Mr. Stone as similar to Don Quixote

NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS

681

FEBRUARY 4, 1874

fighting windmills; contingencies were provided for that might never happen; the Constitution ought only provide for wants of this generation, and not of generations untold.

The proposed new [paragraph] 12 was disagreed to, by a vote of 5 to 10.

[Newark Daily Journal]

[Article IV, Section VII, paragraph] 13. "No act of the Legislature shall take effect until the fourth day of July next after its passage, unless the Legislature shall, by a vote of two-thirds of all the members elected to each House, otherwise direct."

[Daily Public Opinion]

...was briefly opposed by Mr. Hopper as an improper provision for the Constitution, and unanimously disagreed to,...

[Newark Daily Journal]

...0 to 16.

[Article IV, Section VII, paragraph] 14 was then taken up.

[Ed. Note: As none of the newspaper accounts adequately provided the text for this amendment, the correct text, from the Commission's Report, is inserted below.]

"14. The Legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say:

"Laying out, opening, altering and working roads or highways.

"Vacating any road, town-plot, street, alley or public grounds.

"Regulating the internal affairs of towns and counties; appointing local offices or commissions to regulate municipal affairs.

"Selecting, drawing, summoning or empaneling grand or petit jurors.

"Regulating the rate of interest on money.

"Creating, increasing, or decreasing the per centage or allowance of public officers during the time for which said officers were elected or appointed.

"Changing the law of decent.

"Granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever.

"Granting to any corporation, association or individual the right to lay down railroad tracks.

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

FEBRUARY 4, 1874

“Providing for changes of venue in civil or criminal cases.

“Providing for the management and support of free public schools.

“The Legislature shall pass general laws providing for the cases enumerated in this paragraph, and for all other cases which in its judgment may be provided for by general laws. The Legislature shall pass no special act conferring corporate powers, but they shall pass general laws under which corporations may be organized, and corporate powers of every nature obtained, subject, nevertheless, to repeal or alteration at the will of the Legislature.”

[Daily Public Opinion]

[Which] brought forth [a] very long discussion.

[Newark Daily Journal]

Mr. Hopper stated that some very foolish and some very good things were in the amendment, but that some should not be in the Constitution.

Mr. Stone advocated the striking out of the whole section, and referred to the fact of Union and Essex counties being so nearly allied by the growth of the cities of Newark and Elizabeth; and advocated general laws, saying that as these two cities were so allied a [revision] of the laws would work harm to one of the counties. He referred to the legislation as regarded Jersey City, and said he would be glad to have the same law enacted for Union County. He was in favor of the passage of general laws, and would be in favor of striking out the whole of the amendment and standing where we were before.

[Jersey City Evening Journal]

{...an able speech was made by Mr. Stone in opposition to some of the proposed restrictions, particularly as to the regulation of the affairs of municipalities. He said that while some of the provisions of the amendment would prove beneficial in some localities, they would be detrimental in others; that regulations which may be desirable in large cities like Newark would be burthensome in smaller towns and villages. He objected also to the prohibition of local legislation, as to the drawing of juries, payment of interest, &c.

Mr. Stone's remarks on these subjects were characterized by great clearness and force, and commanded the close attention of the Senate.}

[Newark Morning Register]

{Senator Stone moved to strike out this section, and on being reminded by

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

683

FEBRUARY 4, 1874

Senator McPherson of the Jury Commission for Jersey City, the Senator from Union took the bold ground that frequently Sheriffs were incompetent to select proper jurors on account of political consideration, and he cited late instances where drunken men had been placed on juries in important cases.}

[Daily Public Opinion]

Mr. McPherson, in reply to Mr. Stone, agreed with some of the gentleman's remarks, though excepting to others, particularly in reference to commissions to regulate municipal affairs; the jury abuse in Jersey City was also referred to, and the hope expressed, that constitutional regulation would be adopted, whereby the political party in power would not use the people of any particular proclivity for predominance of such party.

[Daily State Gazette]

{Mr. McPherson very warmly advocated the propriety of adopting the clause relative to regulating the internal affairs of towns and counties, and appointing local offices or commissions to regulate municipal affairs. He referred to the mismanagement of the affairs of Jersey City under the control of commissioners, and thought that, in view of such a state of things, it was right and proper to make a Constitutional provision preventing the Legislature from interfering with the business of cities.}

Mr. Taylor said that if there was anything that had been demanded by the people for the past ten years, it was the provisions of this section. In relation to [the] Jersey City charter, it seemed that city required such extraordinary legislation. He would be willing to have a law for the government of every municipality in the State properly classified. Also for all other purposes, where possible, as a matter of economy in enacting special laws, he favored general laws. If there was anything needed in any State it was uniformity of law, certainly, so that when the application of the law was once made it should be for all municipalities and people. If there was anything that should be embodied in the Constitution, it is the prohibition of the passage of any special laws on every subject where general laws could be passed.

[Jersey City Evening Journal]

{Mr. Taylor... replied very forcibly to some remarks of Mr. McPherson as to municipal affairs in Jersey City. He believed in the idea of uniformity in the legislation of the State, and urged that the diversity of municipal regulations

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

FEBRUARY 4, 1874

tended only and inevitably to mischievous results. If there is anything that should be secured in a State, it is one uniform, permanent, universal law, which will secure fixedness, unity, and all the advantages resulting from the prohibition of all special legislation where general laws will secure the end in view. The people have clamored for this prohibition, and the Legislature would commit a serious error if it should refuse to incorporate the proposed restrictions of special and local legislation in the organic law.}

[Paterson Daily Press]

{Mr. Taylor denounced special legislation, and advocated a uniformity of laws for the people of the State....In the course of Mr. Taylor's remarks he referred to the great increase of newspapers and the consequent increase of expense in printing the laws. He said there were little papers all over the State, printed partly in New York, and having very little New Jersey news, constantly coming forward claiming the printing of the laws.}

[Daily Public Opinion]

{Mr. Taylor thought that the past ten years' legislative experience taught the necessity of some general laws, explaining how the multitude of acts for this and that locality had occasioned a multitude of litigation, also replying to the political points of Mr. McPherson's address.}

Mr. McPherson answered in an eloquent speech of considerable length.

[Newark Daily Journal]

SENATOR MCPHERSON'S REMARKS.

Mr. McPherson said, ["]while I agree with the Senator from Union [i.e. Mr. Stone] in many things, I cannot do so in regard to the amendment to strike out the section which refers to the power of the Legislature to exercise a supreme control, as they have done in some cases, over the citizens of many localities. I believe that when an equitable, just and true government enacts a law, it is as good for his constituents as for mine, and that if the government that the party in power had given to Jersey City was so much conducive to the interests of the people, why should he (Senator Stone) not consent to the same form and system for Elizabeth. It was for this purpose that the same general principle should apply to all sections of the State and become part of the Constitution. A political party having the votes and power on their side care nothing for the general sentiment of the people or the requirements of the law. Constitutions are made to protect minorities, and we

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

685

FEBRUARY 4, 1874

desire and believe that by [e]ngrafting this amendment into the organic laws of the State, no party in the future, be they Democratic or be they Republican, can forget their obligations to the future and to the people of the State as to pass unequal and unjust laws. To illustrate, the party in power in this Legislature have imposed upon the people of Jersey City a system of government repugnant to its people and injurious to their interests. They have taken away from them the power of self-government, and have treated them simply as a conquered province. They have placed the control and government of the city in the hands of agents of their own selection, who were not the chosen of the people and had not the confidence of the people. They had made it impossible for the taxpayers of the city to control the money they were required to pay into the public treasury, by placing over said moneys a guardian of their own selection to disburse the same. They [i.e. Republicans] have given to us a government more expensive than the governments of Newark, Elizabeth, Rahway and New Brunswick combined.

[“I say it without fear of successful contradiction, that there cannot be found upon the earth a city containing a like number of inhabitants that has been more expensive to maintain. Now, with all these facts staring us in the face, and after having petitioned and remonstrated year after year, we find that the party in power turn a deaf ear to all our entreaties. The present organization of our city government is used as a political machine to support and strengthen the dominant party in the Legislature. Now, sir, it is to prevent a recurrence of this evil, it is to secure to all the rights and privileges of local self-government, that we desire to engraft [this amendment] into the Constitution. We desire to introduce a provision that will secure to all the people of the State that justice which political requirements have denied.[“]

He asked the Senator from Union if he dared to go back to his constituents and carry as a legacy to them the form of government which the party in power had seen fit to impose on Jersey City, and if he had not been a party to its creation, he had been a party to its continuance. In obedience to a message passed in 1873, our honored Governor made a selection of intelligent and honest men to prepare amendments to the Constitution of the State. They were men who had resided in New Jersey for a very long time, and men identified with its interests and knew its wants and rights, and had proposed certain amendments. The amendments were to remove [from the Legislature, the power] to make special legislation upon all matters that could be provided for by general legislation by general provision of the law, thus removing from the legislative halls all of the corruptions of special legislation. It was a result long desired and sadly needed in our State, and

NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS

FEBRUARY 4, 1874

commended itself to every intelligent Senator; but we find that immediately upon its introduction, objections are raised simply because it would not redound to the political supremacy of the party in power. We find that even upon the great question of general policy the statesman is sunk in the politician.

The Senator then referred to the amendment concerning jurors.

[Ed. Note: As there were substantive variations in McPherson's speech as recorded in the *Newark Daily Journal* and the *Jersey City Herald*, we have reproduced both accounts. We have also included editorial text from the *Jersey City Herald* that we found relevant. McPherson's comments are best understood in light of the Jersey City Reorganization Act of 1871. See Introduction of this Volume at pages 107-110.]

[Jersey City Herald]

{During the consideration, on Wednesday, in the Senate, of the proposed amendments to the State Constitution, Senator Stone, of Union, moved to strike out that part which says, among other things, that the Legislature shall pass no laws appointing commissioners to regulate municipal affairs. Mr. McPherson quickly took the floor in opposition to Mr. Stone's motion, and delivered a most effective and telling speech, full of keen sarcasm and substantiated by blushing facts relative to the government of Jersey City by legislative commissions. Mr. Stone felt the rebuke so acutely that he left his seat and passed into the lobby, when Mr. McPherson, in humorous taunts, addressed the vacant seat. Seeing the marked effect his speech had on the Senate, President Taylor desired to break the force of McPherson's blows, but his failure was absolute, his remarks being desultory, and not germane to the issue. Several gentlemen gathered around Mr. McPherson, when the Senate adjourned, and, taking him by the hand, warmly congratulated him on his success, not alone for the attitude he assumed, but for the surprise he occasioned in developing all the attributes of a ready and powerful debater, a cogent reasoner, and a forcible and effective speaker. It was remarked on all sides that it was the ablest speech made in the Senate in two years. The speech was an impromptu one, and no notes of it could be had. We copy the following brief synopsis of it from a Trenton paper:

Mr. McPherson said: ["Mr. President, while I agree with the Senator from Union in many things, I cannot do so in regard to his motion to strike out the section which refers to the power of the Legislature to exercise a supreme control, as it has done in some cases, over the citizens of certain localities. I believe that a

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

687

FEBRUARY 4, 1874

broad and liberal sense of true government will shrink from enacting any law that is not as good and applicable to the Senator's constituents as to mine. I believe that as the government which the party in power gave to Jersey City is conducive to the interests of the citizen, the Senator from Union should feel happy in consenting to the same form and system for Elizabeth. The amendment which the Senator desires expunged is for the purpose of applying the same general principles to all sections of the State. Shall it be said that a political party, having the votes and power on its side, cares nothing for the moral sentiment of the people or the requirements of the fundamental laws of the land? Constitutions are made to protect minorities. By engrafting this amendment into the original laws of the State, no political party in the future can so far forget its obligations to the people of the State as to pass unequal and unjust laws. The party in power in this Legislature has imposed upon the people of Jersey City a system of government repugnant to its people and injurious to their interests. The party in power in this Legislature has taken away from the people the right of self-government, and treated them simply as a conquered province. The majority in these legislative halls has placed the control and government of the city in the hands of agents of its own selection, who were not the chosen of the people, and have not the confidence of the people. The party in power here, Mr. President, made it impossible for the taxpayers of Jersey City to control the money they are required to pay into the public treasury, by placing over said money a guardian of its own selection to disburse the same. The dominant party in the State and nation has given to us a government more expensive than the governments of Newark, Elizabeth, Rahway and New Brunswick combined. I assert it as a fact that cannot be disparaged, there cannot be found upon the earth a city containing a like number of inhabitants that has been more expensive to maintain. Now, with all these facts staring us in the face, and after having petitioned and remonstrated year after year, we find that the party in power turn a deaf ear to all our entreaties. The present organization of our city government is used as a political machine to support and strengthen the dominant party in the Legislature. Now, sir, it is to prevent a recurrence of this evil, it is to secure to all the rights and privileges of local self-government that we desire to engraft this amendment into the Constitution. We desire to introduce a provision that will secure to all the people of the State that justice which political requirements have denied. Let me ask the learned Senator from Union if he dare go back to his constituents and carry as a legacy to them the form of government which the party had seen fit to impose on Jersey City? If he had not been a party to its creation, he has been a party to its continuance. In obedience to a message

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

FEBRUARY 4, 1874

passed in 1873, our honored Governor made a selection of intelligent and honest men to provide amendments to the Constitution of the State; they were men who had resided in New Jersey for a very long time, and were identified with its interests, and knew its wants and requirements, and had passed certain amendments. The amendments were to remove from the Legislature the power to make special legislation upon all matters that could be provided for by general legislation or by general provision of the law, thus removing from the legislative halls all of the corruptions of special legislation. It was a result long desired and sadly needed in our State, and commended itself to the intelligent Senator, but we find that immediately upon its introduction objections are raised, simply because it would not redound to the political supremacy of the party in power. We find even upon the great question of general policy the statesman is sunk in the politician.[”]

The Senator then referred to the amendment concerning jurors, and ended his brilliant effort with an earnest appeal to the majority to sink party in statesmanship, and not legislate with a view to temporary successes in politics, but for those who will come after us, and who shall closely scan our work.}

[Newark Daily Journal]

Mr. Wood offered a motion to strike out the whole section.

Mr. Stone said the matter had taken too broad a range.

[Daily Public Opinion]

Mr. Stone offered as a substitute for the proposed amendment by the Commission, that the Legislature shall pass no special act conferring corporate powers on private corporations, but general laws thereon shall be passed subject to repeal by the Legislature; also that the pay of public officers shall not be increased or diminished during the term of office.

[Newark Daily Journal]

After some debate upon this question...

[Daily State Gazette]

...[Mr. Stone’s substitute was] ordered printed, and made special order for Tuesday [next].

[Newark Daily Journal]

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

689

FEBRUARY 4, 1874

The Senate [then] adjourned to meet [tomorrow] morning at 10 o'clock.

Newspaper Sources for February 4, 1874:

"N.J. Legislature – XCVIIIth Session," *Daily State Gazette*, February 5, 1874.

"New Jersey Legislature," *Daily Public Opinion*, February 5, 1874.

"The State Capital...The Constitutional Amendments – Eloquent Speech of Senator McPherson," *Newark Daily Journal*, February 5, 1874.

"New Jersey Legislature," *Jersey City Evening Journal*, February 5, 1874.

"The Legislature," *Newark Morning Register*, February 5, 1874.

"The Legislature," *Paterson Daily Press*, February 5, 1874.

"An Able Speech – Senator McPherson's Rebuke to Partisan Legislation," *Jersey City Herald*, February 7, 1874.

"Our Trenton Letter," *American Standard* (Jersey City), February 5, 1874.

FEBRUARY 10, 1874

[Daily True American]

AFTERNOON SESSION.

[The] Senate met [at 3 P.M.] and resumed the consideration of the Constitutional Amendments. Mr. Sewell in the Chair.

The clause providing for general legislation in certain cases was taken up, with the amendment offered by Mr. Stone, who said that the President of the Senate was entirely unable to be present, and he much desired that he should be present during the discussion of these amendments. He, therefore, moved that the Senate adjourn, which was agreed to, 10 to 9.

[Newark Daily Advertiser]

{The Senate met this afternoon to take up the consideration of the Constitutional Amendments. Mr. Stone, however, stated that President Taylor was suffering with a sick headache and was unable to attend this session. As it was desirable that the Senate should have the benefit of Mr. Taylor's counsel on the amendments, he moved that the Senate adjourn, which was agreed to.}

Newspaper Sources for February 10, 1874:

"Legislature of New Jersey," *Daily True American*, February 11, 1874.

"From Trenton," *Newark Daily Advertiser*, February 11, 1874.

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

FEBRUARY 11, 1874

[Daily State Gazette]

[At] 10 A.M. [the] Senate met.

* * *

Messrs. Havens and Hewitt [presented petitions], one each against the amendment to the Constitution providing for the taxation of church property.

[Jersey City Evening Journal]

{Mr. Havens presented [a] remonstrance from 850 citizens against the taxation of church property. Mr. Hewitt presented a similar remonstrance.}

* * *

[Daily State Gazette]

AFTERNOON SESSION.

The Senate met [at] 3 P.M. [and] resumed the consideration of the Constitutional Amendment[s].

[Newark Daily Journal]

...Senator Sewell occupied the chair.

The amendment to the report of the Constitutional Commission offered by Mr. Taylor was taken up. It was a substitute to paragraph 9, {Section VII,} Article IV, reading as follows:

“No private, special or local bill shall be passed unless public notice of the intention to apply therefor, and of the general objects thereof shall have been previously given. The Legislature, at the next session after the adoption hereof, and from time to time [t]hereafter, shall prescribe the time and mode of giving such notice, the evidence thereof, and how such evidence shall be preserved.”

[Newark Morning Register]

The substitute...puts into the fundamental law a statute now existing which has been frequently neglected.

[Newark Daily Journal]

Mr. Stone moved that the amendment be adopted.

Mr. Hopper said that if either of the amendments were to be adopted he thought the one proposed by the Constitutional Commission was the most

**NEWSPAPER ACCOUNTS OF
SENATE PROCEEDINGS**

691

FEBRUARY 11, 1874

important one of the two, but he did not see the propriety of taking either of them as part of the Constitution. The first one, that offered by the Commission, is the most important, as it is of greater interest, because it refers to municipal corporations. He spoke of the requirement of advertising the notice of intention to apply, and thought that such a provision should not be inserted in the Constitution, but that the Legislature should have power to regulate the requirements for the introduction of bills, [and] that difficulty and trouble might arise from their adoption.

[Daily State Gazette]

{Mr. Hopper thought neither the original or the substitute should be adopted because it would be a question as to whether any law which the Legislature might pass had received the required notice, and therefore as to its constitutionality.}

[Newark Daily Journal]

Mr. Taylor believed that if either should be passed the substitute was the one, as it fixes neither the mode [nor the] time of notice required, and it is for the Legislature to say how the notice shall be given, and believed that his amendment was preferable.

[Daily Public Opinion]

{Mr. Taylor replied that the difficulty with the proposed amendment was its fixing absolutely the time and mode of giving the notice required, also now no preservation of the evidence of notice, leaving naught for the Legislature to change the details or publication of notice, if so needed.}

[Newark Daily Journal]

Mr. Stone said he was in favor of Mr. Taylor's substitute and did not think that the Legislature of 1846 had a right to legislate for that of 1874. He claimed that the Commission made a report that was a mass of verbiage, and that it was merely a fight over trifles. He believed that no special legislation should be carried out without being advertised. He thought that the amendment of Mr. Taylor was good in principle.

[Daily Public Opinion]

{Mr. Stone favored the substitute because it embodied the very principle we seek and yet leaves the Legislature discretion in making changes actually required.}

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS****FEBRUARY 11, 1874*****[Newark Daily Journal]***

Mr. Cutler referred to the introduction of municipal bills without the knowledge of Common Councils, and said that the adoption of the substitute might interfere with paragraph 14.

[Daily Public Opinion]

{Mr. Cutler objected to the substitute because it enunciates in the start that private, special or local bills may be hereafter passed, and we are striving now for general laws to the greatest extent possible.}

[Newark Daily Journal]

Mr. Taylor said that the Constitutional Commission of this State had not gone as far as other states, and referred to the states of New York, Pennsylvania and Ohio, and that there is a class of local bills that must necessarily be acted on by the Legislature.

[Daily Public Opinion]

{Mr. Taylor answered that it would be impossible not to have some special legislation in the future as in the past, and his substitute was therefore not objectionable on that ground of reference to private or local laws.}

[Daily True American]

{Mr. Taylor thought that the suggestion of the Commission entered too much into particulars—was too [in]flexible. The substitute required the notice, but left to the Legislature to prescribe the conditions of the notice. The provision of the present law is sufficient, because it is a mere requirement fixed by one Legislature for the government of a succeeding session.}

[Daily State Gazette]

{Mr. [Taylor] thought that the suggestion of the Commission entered too much into particulars—was too inflexible. The substitute is inefficient because it is a mere requirement fixed by the Legislature for the government of a succeeding session.}

[Newark Daily Journal]

Mr. Hopper thought that the two articles were of an entirely different

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

693

FEBRUARY 11, 1874

character, and was in favor of the amendment of the Commission; he also said that all amendments to municipal laws should be advertised.

Mr. Taylor said that there should be a notice given and the law referred to be a binding one, and did not believe that there would be any trouble or complication.

Mr. Hopper thought the objection would make the laws so passed a bungling piece of business.

After a great deal of discussion, the resolution was adopted by a vote of 9 to 8.

[Daily Public Opinion]

The substitute of Mr. Stone for the Commission's amendment paragraph 14, Section VII, Article IV, was next discussed.

[Daily State Gazette]

14. "The Legislature shall pass no special act conferring corporate powers upon private corporations, but they shall pass general laws under which private corporations may be organized, subject, nevertheless, to repeal or alteration at the will of the Legislature. Nor shall it increase or decrease the pay of public officers during the term for which said officers may be elected or appointed."

[Newark Daily Journal]

Mr. Taylor said that the substitute did not include all the articles mentioned in the amendment of the [Commission].

[Daily State Gazette]

{Mr. Taylor thought the substitute did not go far enough; it should include many of the subjects provided for in the original suggestions offered by the Commission. If there has anything been demonstrated as a need throughout the State, it is that of putting a stop to so much legislation.}

[Jersey City Evening Journal]

{Mr. Taylor said he was in favor of the amendment, but wished it to go further, to the end that the mischiefs of private legislation might, if possible, be altogether averted.}

[Daily Public Opinion]

{Mr. Taylor said there was not enough ground covered by the substitute as

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

FEBRUARY 11, 1874

against special legislation, a great evil, and to be provided against surely in certain enumerated cases.}

[Newark Daily Journal]

Mr. Stone said the Commission appeared to think that the [Legislature] would do something wrong, and we have a notion in our heads that we must insert everything we can to protect us from the terrors of posterity. And it seemed that because other states had passed new constitutions, New Jersey should do the same.

[Daily State Gazette]

{Mr. Stone thought that the suggestion [of the Commission] went too far, and provided against evils which did not exist.}

[Daily Public Opinion]

{Mr. Stone, in advocating his substitute, said that the Commission in their action seemed to have had mortal terror of the Legislature doing something bad, and it was a wonder they had not proposed a Constitutional Amendment against a man shooting his grandmother.}

[Jersey City Evening Journal]

{Mr. Stone strongly supported the substitute.}
Mr. Wood favored the original amendment.

[Newark Daily Journal]

Mr. Hopper thought that the articles contained in the recommendation of the Constitutional Commission should be considered before Mr. Stone's substitute was acted upon.

Mr. Wood made a long speech on the subject of special legislation being oppressive to the laboring men.

[Daily Public Opinion]

{Mr. [Wood] made remarks at length in opposition to special laws, and favoring general laws so far as practicable.}

[Daily State Gazette]

{Mr. Wood said if general laws were proper in one particular, they would be

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

695

FEBRUARY 11, 1874

proper in all cases for which they could be drawn.}

[Newark Daily Journal]

Mr. Stone moved to strike out several articles, lines 114 and 115, respecting the pay of public officers, that it should not be increased or decreased during the term for which they might be elected or appointed--lines 117 and 118, granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever.

[Jersey City Evening Journal]

{Finally Mr. Stone modified his substitute so as to leave certain proportions of the original amendment still open for consideration, whereupon another debate sprung up, participated in by Messrs. Stone, Taylor, Hopper and McPherson.}

[Newark Daily Journal]

Mr. Hopper moved that the motion of Mr. Stone be laid upon the table until the articles proposed to Section VII in Article IV were debated.

On motion of Mr. Hopper the section was amended so as to read "private and municipal corporations." He referred to the laws of England in relation to municipal corporations, and insisted that there ought to be one here.

[Daily Public Opinion]

{Mr. Hopper moved to include "municipal" as well as private corporations, in the substitute, which Mr. Stone opposed on the ground that no inflexible law should be made as to government alike of the small and large cities.}

[Daily State Gazette]

{Mr. Hopper moved to amend the substitute by providing that the Legislature shall pass several laws under private and municipal corporations.}

[Newark Daily Journal]

Mr. Stone opposed any general law to be applied to all cities, as a law made to govern a large city would not act beneficially for a small one. He also heard that a party was preparing a law to meet such requirements.

[Daily State Gazette]

{Mr. Stone opposed the amendment, because it would be impossible to pass a

NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS

FEBRUARY 11, 1874

law which would apply equally to a city of 7,000 and to one of 100,000 inhabitants.}

[Newark Daily Journal]

Mr. McPherson referred to a statement of Mr. Stone that the Legislature can do no wrong, as it is the act of the people's representatives. He would bring up the rate of interest on money. Some say it has benefited his county [i.e. Hudson County]. The Senator from Somerset [i.e. Mr. Wood] says it is erroneous. [The Senator from] Union contradicts this and says it is not. Have they ever passed laws in relation to roads? Have they ever appointed officers to regulate the local affairs? He also referred to the absconding treasury of Jersey City [i.e. Alexander Hamilton, who in 1871 stole money from the Jersey City treasury before fleeing to Mexico]. Have they ever interfered with the drawing and impanelling [of] jurors? If I believed all the Senator said, I would believe that such a thing never took place. He concluded by saying that in Hudson County they felt those unjust laws. He was in favor of considering all the acts separately, and fairly discussed *seriatim*. The Senator admits that the policy in regard to the general railroad law was correct, and if so why cannot general benefits be obtained by amendment to the Constitution, and desired that some general provision should be made to have general laws. Speaking of Jersey City, he said, we demand the right to govern ourselves, and to have power to regulate our own affairs and elect our own officers. He said he was in favor of taking up all the amendments in order.

[Ed. Note: Mr. McPherson's comments are best understood in light of the Jersey City Reorganization Act of 1871. See Introduction of this Volume at pages 107-110.]

[Daily State Gazette]

{Mr. McPherson replied in a sarcastic manner to the position of Mr. Stone on the Legislature deserving to have the same power as heretofore, calling attention to their enactments for Jersey City, the Jury Commission, &c., as special instances of their good works. He moved further consideration of the substitute be postponed until the Commission's amendment in detail was acted upon.}

[Newark Daily Journal]

Mr. Hopper's amendment to insert the word "municipal" was lost by a vote...

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

697

FEBRUARY 11, 1874

[Daily State Gazette]

...[of] 8 to 11.

[Newark Daily Journal]

After some further comments, on motion the Senate then adjourned.

Newspaper Sources for February 11, 1874:

"N.J. Legislature – XCVIIIth Session," *Daily State Gazette*, February 12, 1874.

"New Jersey Legislature," *Jersey City Evening Journal*, February 12, 1874.

"The State Capital...The Amendments Again Under Discussion in the Senate,"
Newark Daily Journal, February 12, 1874.

"The Legislature," *Newark Morning Register*, February 12, 1874.

"New Jersey Legislature," *Daily Public Opinion*, February 12, 1874.

"Legislature of New Jersey," *Daily True American*, February 12, 1874.

FEBRUARY 12, 1874

[Daily Public Opinion]

[The Senate] met [at] 10 A.M.

* * *

Mr. Stone presented a petition from Plainfield against [the] proposed constitutional amendment taxing church property.

[Daily State Gazette]

The Chair [President Taylor] laid before the Senate a communication from Lillie [D.] Blake, asking a hearing of the National Woman Suffrage Association, before the Judiciary Committee, which was accepted and a hearing granted.

[American Standard]

{[L]illie Devereaux Blake sends a communication to be heard on Woman's Rights. It made a stir in the Senate at its close. [L]illie was in the gallery and Mr. Hopper objected to so important a matter going to [the Judiciary] Committee, as all the members would like to hear the lady. He moved to send the communication

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

FEBRUARY 12, 1874

to the Committee of the Whole, and in that direction the communication took its leave.}

[Daily Public Opinion]

{The Woman's National Suffrage Association have asked permission to be heard before the Judiciary Committee of the Senate, upon Thursday of next week. No definite action has been taken upon the request, although the Chair expressed a desire that such favor should be granted.}

[Ed. Note: For treatment of woman's suffrage by the 1873 Constitutional Commission, see Introduction to this Volume at pages 114-116.]

Newspaper Sources for February 12, 1874:

"New Jersey Legislature" *Daily Public Opinion*, February 12, 1874.

"N.J. Legislature – XCVIIIth Session," *Daily State Gazette*, February 13, 1874.

"Trenton Letter," *American Standard*, February 13, 1874.

[No Title], *Daily Public Opinion*, February 12, 1874.

FEBRUARY 18, 1874

[Daily State Gazette]

AFTERNOON SESSION.

[At] 3 P.M. [the] Senate met.

[American Standard]

Senator McPherson is not in his seat and has not been there today, it being understood he is unwell and unable to attend the session. He will, however, be able to be in his seat [tomorrow] morning.

[Daily State Gazette]

The Senate resumed the consideration of the Constitutional Amendments and took up the substitute offered by Mr. Stone for a part of the proposition of the Commission relative to public laws, as follows:

"The Legislature shall pass no special act conferring corporate powers upon private corporations, but they shall pass general laws under which private

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

699

FEBRUARY 18, 1874

corporations may be organized, subject, nevertheless, to repeal or alteration at the will of the Legislature. Nor shall it increase or decrease the pay of public officers during the term for which said officers may be elected or appointed.”

The substitute was lost.

[Daily Fredonian]

Mr. Hopper then moved to consider the several items of the amendment [as originally proposed by the Constitutional Commission] separately, which was agreed to.

[Daily State Gazette]

The Senate took up the suggestions of the Commission as follows:

“14. The Legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say:

“Laying out, opening, altering and working roads or highways.

“Vacating any road, town plot, street, alley or public grounds.

“Regulating the internal affairs of towns and counties; appointing local offices or commissions to regulate municipal affairs.

“Selecting, drawing, summoning or empaneling grand or petit jurors.

“Regulating the rate of interest on money.

“Creating, increasing or decreasing the per centage or allowance of public officers during the term for which said officers were elected or appointed.

“Changing the law of descent.

“Granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever.

“Granting to any corporation, association or individual the right to lay down railroad tracks.

“Providing for changes of venue in civil or criminal cases.

“Providing for the management and support of free public schools.

“The Legislature shall pass general laws providing for the cases enumerated in this paragraph, and for all other cases which, in its judgement, may be provided for by general laws. The Legislature shall pass no special act conferring corporate powers, but they shall pass general laws under which corporations may be organized and corporate powers of every nature obtained, subject, nevertheless, to repeal or alteration at the will of the Legislature.”

The whole proposition, except the line “regulating the rate of interest on money,” was agreed to.

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

FEBRUARY 18, 1874

[Jersey City Herald]

It is proper that we should state that it was entirely due to Mr. McPherson's able and unabating efforts that this part [i.e. ¶14] was adopted.

[Ed. Note: See Mr. McPherson's speech on February 4, 1874.]

[Daily State Gazette]

The Senate took up the following suggestions:

"[Article IV, Section VII, paragraph] 15. The Legislature may establish a court or courts, with original jurisdiction, over all cases of condemnation of lands and assessments for improvements."

On being asked, Mr. Cutler stated the reasons which impelled the Commission to suggest the amendment.

Mr. Taylor said the Legislature now had the right to establish this court, and the amendment is unnecessary; besides, he was opposed to the creation of any more courts, especially one which was to act without a jury.

Mr. Stone moved to amend by providing for the establishment of a commission, with original jurisdiction, over all cases of condemnation of lands taken for public use, which was disagreed to.

The paragraph as proposed by the Commission was not agreed to...

[Daily State Gazette]

The proposition of the Commission relative to taxation was taken up, and, on motion of Mr. Stone, the question was divided, and the following clause was first considered: "Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value in money."

Mr. Hopper moved to strike out the words "in money," which was agreed to. The clause was then adopted.

The following clause was then considered: "No property of any kind protected by law, except that owned by the United States, the State, counties, townships, cities, towns or boroughs, shall be exempt by law from its full share of all State, county, township and city taxes and assessments, except burying grounds and cemeteries not held by stock companies."

Mr. Wood moved to insert after the word "borough[s]," the words "or all religious societies."

Mr. Taylor thought the whole clause should be rejected, because he thought religious and educational institutions should not be taxed. Other states were

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

701

FEBRUARY 18, 1874

providing for establishing state Seminaries, and this amendment provides that while we pay \$1,000,000 for education, we refuse to shelter from tax the religious and educational institutions of the State, which shed such a glory and beneficent influence upon the State. Wipe out our religious and educational institutions and we would lapse back into barbarism in a few years. If we turn our backs upon these institutions they will go elsewhere, and New Jersey should provide for her own.

[Daily Fredonian]

{Mr. Taylor said he agreed with the principle of [Wood's] amendment to exempt all property of religious societies. The provision [of the Commission] changes what has been the policy of the State from its foundation. We propose that our seminaries and institutions of learning, which are the factors of our moral growth, which are doing more than all the influences of government for the welfare of the State, shall be taxed just the same as a beer saloon or hotel. Many of these institutions are struggling for life. Lovers of learning abroad have put their money into them, believing that the policy of the State would remain as it has been. Now we propose to throttle them instead of granting them all possible help. He was opposed to the whole proposition as utterly unworthy of the State.}

[Daily State Gazette]

Mr. Hopper thought the clause ought and would strike every good citizen with surprise, and would meet with the objections of almost everyone. The literary institutions of this State were established and supported in a great degree by the people of other states; they are pointed to by the people of the State with pride, and should no more be taxed than should this State House, which is protected by the municipal government of Trenton. If taxes are to be levied upon our charitable educational institutions, why should the public school houses be exempt? There is no more reason in one than in the other. He hoped the whole clause would be stricken out. The idea of taxation was to tax property from which money could be made; now what money is made by our churches and educational institutions?

[Daily Fredonian]

{Mr. Hopper took the same ground. Churches and institutions of learning are not legitimate subjects of taxation. We exempt public school houses in cities from taxation, but propose the egregious folly of taxing colleges which are contributing in the largest sense to the public development and elevation. The true idea of

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

FEBRUARY 18, 1874

taxation is to tax what is of pecuniary benefit to the owner. But everybody knows that our educational institutions are anything else than money-making affairs. He felt that the whole proposition ought to be at once and summarily rejected.}

[Daily State Gazette]

Mr. Wood said that taxation was a difficult matter to consider. He was in favor of general taxation, but he would not lay church property, which was non-productive of revenue. There are churches in our State which were established here because of oppression in other countries. They have grown and spread to their present position by their own exertions and unaided by the State, and the State would have no right to turn around and tax them. If there is a church in this State which receives a revenue from the property which they apply to other than religious purposes, it should be taxed. Is there any difference between a church supported by its revenue, or by the contributions of its supporters? He thought not. Men support churches voluntarily; if a man gives \$100 to a church, it is sunk to him, and yet this proposition compels him to pay taxes on it. It has been said that there are magnificent churches, which are exempt; he thought that churches should be adapted to the class of people which it was designed to draw to it. A church which suited the people of Somerset, would remain empty at Newark.

[Daily Fredonian]

{Mr. Wood also argued against the amendment, and in favor of the exemption proposed by him.}

[Daily State Gazette]

Mr. Hopper thought if educational societies were to be taxed, religious societies should also be taxed. His remarks applied to one as well as the other. He hoped that Mr. Wood's amendment would not be agreed to, and that the whole proposition would be defeated.

Mr. Taylor agreed that the proper basis of taxation was the revenue which it produced, because that was what supported its owners. That is one of Adam Smith's rules of political economy. He would make no distinction between the humble churches or the magnificent Cathedral of Newark; he would lose his right hand before he voted for taxation of religious and literary institutions.

[Daily Fredonian]

{Mr. Taylor, resuming his argument, insisted that property should only be

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

703

FEBRUARY 18, 1874

taxed according to its income. But church and educational property is dead property; it yields no revenue to those who have donated it, and only sufficient to the institutions themselves to meet necessary expenses. He would lose his right hand before voting to tax either colleges or churches. He did not care whether churches were elegant and costly, or humble and poor. If men choose to build churches to the Lord whose spires rise to meet the sun in his coming, he would encourage them; there was beneficence in the very shadow of the spires.}

[Daily State Gazette]

Mr. Smith concurred with what had been said by Senators [Taylor, Wood and Hopper]. The doctrines of the church formed the basis of all civil government, and if we destroyed the Church, anarchy would reign. The church is a benefit to the State and the reason given for taxing it that its property is protected by the State is incorrect; the protection is mutual. There are tens of thousands of young people of the State who depend for all their moral and religious instruction upon the efforts made by the church on the Sabbath. The church has done more for the amelioration of the human race than any other influence, and should be at least exempted from taxation, as should the educational institutions of the State.

[Daily Fredonian]

{Mr. Smith concurred in the remarks already made, speaking forcibly as to the vital importance of church and educational influence in promoting moral and intellectual culture.}

[Daily State Gazette]

Mr. Hewitt said he could not vote for the amendment because it was in too broad a shape. Religious societies may own farms. He moved to substitute for the amendment of Mr. Wood, the following, "so much of the property of religious societies as may be habitually used for the purpose of public worship." The substitute was adopted...

[Daily Fredonian]

...13 to 4.

[Daily State Gazette]

Mr. Stone said the principle which induced the Commission to insert the proposition to make all property taxable, was that all property was protected by

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

FEBRUARY 18, 1874

law; they then exempted the property of the State; counties and municipalities were exempted because they represented taxes, and to tax them would be to take money out of one pocket and put it in the other. It is now proposed to exempt religious and education institutions. So far as educational institutions [are] concerned, he would exempt them, because they are and always were the wards of the State. So far as religious societies were concerned, theoretically they should be taxed, because while educational societies were the avowed wards of the State, it has been the avowed purpose and principle of the State government to separate the influences of the Church from the government of the State. Practically, he thought they should be exempted, because they, all of them, were of benefit to the people and to the State. Taxation should not be governed strictly by the mere question of property. We should consider what is best for the interests of the State. If it should be for the interest of the State to exempt manufactories, they should exempt them. He thought the matter should be left to the Legislature, and if they considered it best for the State to exempt any particular interest, they should be able to do so.

[Daily Fredonian]

{Upon the paragraph as thus amended, Mr. Stone spoke at some length, favoring the exemption of educational property. As to church property he believed theoretically that it should not be exempted, but as a matter of practice, he believed it should be. He enforced his views by an elaborate argument, covering to some extent the ground traversed by the previous speakers.}

[Daily State Gazette]

The suggestion [proposed by the Commission] was rejected by 1 to 16.

[Daily Fredonian]

{Finally, the proposition as amended was rejected, only Mr. Cutler voting in its favor.}

[Daily State Gazette]

The following was then considered: "No law shall be enacted by or contract entered into by which the exercise of the power of taxation shall be restricted, impaired or impeded."

Mr. Stone thought the provision was a good one, especially taken in connection with the clause relative to general legislation.

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

705

FEBRUARY 18, 1874

After discussion, the proposition...

[Daily Fredonian]

...was supported by Messrs. Stone and Taylor, and opposed by Mr. Hopper, and was adopted.

[Daily State Gazette]

The rest of the paragraph, as follows: The Legislature may provide by law for taking away from any person or persons, natural or artificial, now possessing or entitled to the same, any right of exemption from taxation which cannot be revoked without compensation, and for paying to such person or persons a just compensation for the right so taken away.

Mr. Taylor moved to strike out the clause.

Mr. Stone said the proposition was a good one. If the people adopt what the Senate has already adopted, there will be no more exclusive privileges granted, and if the Legislature should think it best to make the laws uniform and repeal contracts already entered into, this clause would give them the right.

Mr. Taylor thought this clause was unnecessary because the Legislature now had the right to condemn the franchise granted by a previous Legislature.

The proposition was adopted, 10 to 6.

[Daily Fredonian]

...the Senate adjourned until evening, when the consideration of the Constitutional Amendments was resumed.

[Daily State Gazette]

EVENING SESSION.

[At] 8 P.M. [the] Senate met.

* * *

The Senate resumed the consideration of the Constitutional Amendments.

[Daily Fredonian]

The paragraph relative to the oaths of members of the Legislature was taken up. It requires every member to swear that he has not paid anything, or made any promise in the nature of a bribe to influence any vote in the election at which he

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

FEBRUARY 18, 1874

was chosen, and that he has not accepted or received, and will not accept or receive, any money or other valuable thing from any corporation or person for any vote or influence he may give or withhold on any matter before the Legislature. Any member refusing to take this oath shall forfeit his membership, and any person convicted of having taken the oath falsely shall be subject to punishment for wilful and corrupt perjury. Mr. Stone moved to strike out the whole paragraph.

[Daily State Gazette]

On motion of Mr. Stone, the paragraph was stricken out.

[Newark Morning Register]

{The proposed amendment to the legislators' oath incorporating "faithfully" and an iron-clad position as to all corrupt influences was not agreed to.}

[Daily State Gazette]

The suggestion for an oath to be taken by officers of the Legislature before he enters his duties, was adopted.

[Newark Morning Register]

{On motion of Mr. Stone the new paragraphs as to legislative officers swearing to performance of duty and careful presentation of all papers intrusted to their keeping was adopted.}

[Daily Fredonian]

Article V, relative to the Executive, was then taken up. The amendment authorizing the Governor to convene the Senate alone in extra session was agreed to.

[Daily State Gazette]

{The suggestion which allows the Governor to convene the Senate alone, in extra session, in case of emergency, was adopted.}

The suggestion requiring a two-thirds vote of both Houses to overcome a veto of the Governor, was taken up, and opposed by Mr. Taylor, on the ground that the 81 members of the Legislature by majority should have the right to pass a bill, especially with the safeguards that are thrown around it, by requiring delay after the reception of the veto message. The present method prevents hasty legislation: the prerogative of the Executive or Judiciary if trenched on by the Legislature will be protected by the Supreme Court declaring the law unconstitutional.

NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS

707

FEBRUARY 18, 1874

[Daily Fredonian]

{The proposition that it shall require a two-thirds vote to pass a bill over a veto by the Governor was opposed by Mr. Taylor, who thought the existing checks were quite sufficient to prevent hasty legislation. Under our present usage, every bill has to be acted upon twice in case of a veto, and there was ample opportunity afforded for a thorough investigation of the measure and the objections of the Governor. He thought that if a majority of each House declares in favor of a bill it ought to be a law, and he regarded it as unrepugnant to insist that the Governor shall have power to defeat the expression thus given by the direct representatives of the people.}

[Daily State Gazette]

Mr. Stone said that if 60 members of the House and 13 members of the Senate should vote for a bill vetoed by the Governor, 8 members of the Senate could, under the amendment, prevent the passage of a bill.

The clause was rejected – 2 to 13.

Mr. Stone offered a suggestion for the reorganization of the Judiciary system, which were ordered printed, without reference.

[Ed. Note: Although the exact text of Mr. Stone's suggestion for the reorganization of the judicial system was not provided in any of the newspapers that were consulted, a summary of Mr. Stone's proposal appears in the February 27, 1874 issue of the Paterson Daily Press and in the February 28, 1874 issue of the Mount Holly Herald. The text of this summary is reproduced here.]

[Paterson Daily Press, Mount Holly Herald]

THE NEW JUDICIARY ARTICLE.

We give below a summary of propositions submitted to the Senate by Mr. Stone, changing the Constitution, terms of office, and mode of appointment of the State Judiciary.

The Court of Errors and Appeals is abolished entirely.

The Court of Pardons (par. 10, Art. V.) shall consist of the Governor, the Chancellor, and the Justices of the Supreme Court.

The Supreme Court is made a court of the last resort, in all cases, both of law and equity.

The Court of Chancery (Art. VI., Sec. IV.) shall consist of a Chancellor, with

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS****FEBRUARY 18, 1874**

the same powers and functions as now; and the Legislature may provide for the appointment of, not exceeding three Vice Chancellors, who shall have such powers and jurisdiction as the Legislature may confer, including the full power of the Court of Chancery and the Chancellor.

The Supreme Court (Art. VI., Sec. V.) shall have appellate jurisdiction in all cases of law and equity, and original jurisdiction in all cases of treason against the State, habeas corpus and certiorari; and exclusive original jurisdiction in mandamus, quo warranto, and other prerogative writs and precepts; and shall have power to execute and enforce its own judgments and decrees. The Court shall consist of not less than three nor more than seven justices, as may be fixed by the Legislature. Judgments of the inferior courts may be docketed in this Court, and the present Clerk of the Supreme Court shall be clerk of this Court until his commission expires.

The Circuit Court shall have original common law jurisdiction in all cases except those of a criminal nature and those of mandamus, quo warranto, and prerogative writs and precepts; they shall have such jurisdiction by a writ of certiorari and habeas corpus as may be conferred upon them by the Legislature. The Legislature may confer upon them equity jurisdiction in common law cases where an equitable defence is set up, or as equity arises in the cause.

The Legislature shall divide the State into as many Circuits as the public good shall require. There shall be one judge appointed for each Circuit, but such judge may hold the court of any other Circuit. Every county containing over 50,000 inhabitants shall constitute a Circuit; and for every county containing over 100,000 inhabitants two judges shall be appointed and an additional judge for each additional 50,000 inhabitants.

The circuit judges shall take the places of the present justices of the Supreme Court in the Courts of Oyer and Terminer and General Jail Delivery, Quarter Sessions of the Peace, Orphans' Courts, and Inferior Courts of the Common Pleas.

Final judgments in any Circuit Court may be brought by writ of error into the Supreme Court.

Sec. VI. Besides the judge of the Circuit Courts, there shall be no more than two judges of the Inferior Court of Common Pleas in each county, after the terms of the present judges shall terminate. Commissions shall bear date on the first day of April.

Article VII, Section II. The present justices of the Supreme Court shall constitute the Supreme Court herein provided for, and shall hold office until their present commissions expire; after the expiration of the term of the present Chief

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

709

FEBRUARY 18, 1874

Justice, the justice whose commission has the shortest period to run, shall be the Chief [Justice]; and if two commissions bear the same date, the two justices shall decide the same by lot. The present Chancellor and Vice Chancellor shall hold their offices until their present commissions expire.

Justices of the Supreme Court, Chancellor, Vice Chancellor, Circuit judges and judges of the Inferior Court of Common Pleas shall be nominated by the Governor and appointed by him, with the advice and consent of the Senate. The justices of the Supreme Court, Chancellor, Vice Chancellor, and Circuit judges shall hold their offices for the term of seven years; their salary shall not be increased or diminished during the term of their appointments, and they shall hold no other office under the government of this State or of the United States. Judges of the Inferior Court of Common Pleas shall hold their offices for the period of five years.

[Daily State Gazette]

The Senate took up the clause allowing the Governor to veto separate items of an appropriation bill, and it was adopted.

[Daily Fredonian]

{The amendment authorizing the Governor to object to one or more items of appropriation bills while approving of the other portions of the bill, was agreed to with a slight alteration.}

[Daily Public Opinion]

{The proposition that the Governor may veto any one item in an appropriation bill, instead of the whole bill, and the next making the Executive ineligible to the Legislature or United State Senate during his term of office, were unanimously adopted.}

[Daily Fredonian]

The amendment providing that the Governor shall not be elected by the Legislature to any State or Federal office during the term for which he shall have been elected Governor, was agreed to, 10 to 4.

[Daily State Gazette]

The clause providing that the conviction of any felony or otherwise infamous crime, or of any official delinquency under the law of the State, shall, after final

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

FEBRUARY 18, 1874

judgment, vacate any office under the Constitution, &c. [was taken up.]

Mr. Taylor said that this was dangerous, because after the original Court delivered its final judgement, a man would be deprived of office, and the Supreme Court or Court of Errors and Appeals [c]ould reverse the judgment of the original Court.

The paragraph was disagreed to, 7 to 8.

The Judiciary article was postponed.

[Daily Fredonian]

Article VII, relative to the appointing power and tenure of office, was next taken up.

[Daily State Gazette]

The clause providing for the nomination by the Governor, and confirmation by the Senate of the Adjutant and Quartermaster Generals was adopted.

The clause for the appointment of the Keeper and Inspectors of the State Prison by the Governor and confirmation by the Senate, was taken up.

Mr. Hewitt said the only question to be considered was the propriety of keeping in the words "Inspectors of the State Prison." The Board of Inspectors have been kept in power only because the Constitution provides for their appointment. The great difficulty at present is the clashing of authority between the Board of Supervisors and the Inspectors.

Mr. Hewitt moved to strike out the words providing for the appointment of Inspectors, which was agreed to...

[Newark Morning Register]

...after some remarks from the gentleman [i.e. Mr. Hewitt] as to the expense attendant upon such officials.

[Daily State Gazette]

The clause as amended was then agreed to.

Mr. Hopper moved the insertion of a clause providing for the election of a Comptroller by Joint Meeting, which was agreed to.

[Daily Fredonian]

{Mr. Hopper moved to amend so as to require the Comptroller to be appointed by the Governor instead of elected by Joint Meeting, which was adopted.}

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

711

FEBRUARY 18, 1874

[Daily State Gazette]

Mr. Potts moved to provide for the Treasurer and Comptroller holding office for three years, which was agreed to.

The Senate took up the clause providing that the Keeper of the State Prison shall hold office for five years and the Attorney General three [years], when the part in relation to the Keeper was adopted and that relating to the Attorney General was lost.

The clause providing that Sheriffs shall hold office for three years, after which three years must elapse before they can again be elected, and shall annually renew their bonds, was taken up, and advocated by Senators Stone and [Hopper], and adopted.

[Daily Public Opinion]

{The proposition that Sheriffs and Coroners shall be elected every three years, instead of annually, was unanimously adopted.}

[Daily State Gazette]

The clause providing that no law shall extend the term of any public officer or increase or decrease his salary or emoluments after his election or appointment [was taken up].

Mr. Taylor moved to amend by inserting after the word "officer" the words "provided for by this Constitution," which was agreed to.

Mr. Taylor thought the amendment was unnecessary, because a part is already provided for by an amendment, and it is not possible to change the term of an office under the Constitution by law. The proposition was lost,...

[Daily Public Opinion]

...1 to 13.

Adjourned.

Newspaper Sources for February 18, 1874:

"N.J. Legislature – XCVIIIth Session," *Daily State Gazette*, February 19, 1874.

"Our Trenton Letter," *American Standard* (Jersey City), February 19, 1874.

"New Jersey Legislature," *Daily Fredonian*, February 20, 1874

[Untitled entry], *Jersey City Herald*, February 21, 1874.

"The Legislature," *Newark Morning Register*, February 19, 1874.

"The New Judiciary Article," *Paterson Daily Press*, February 27, 1874.

"The New Judiciary Article," *Mount Holly Herald*, February 28, 1874.

"New Jersey Legislature," *Daily Public Opinion*, February 19, 1874.

NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS

FEBRUARY 24, 1874

[Daily State Gazette]

AFTERNOON SESSION.

[At] 3 P.M. [the] Senate met.

The Senate took up the amendments proposed to the Constitution.

[Newark Daily Journal]

The special order was consideration of the Constitutional Commission report, the first matter taken up being amendments offered by Senator Stone to Articles V, VI and VII. The gentleman named said the bar of the State would hold a meeting tomorrow night relative to such amendments, and moved to postpone consideration of the judiciary article until next Tuesday afternoon. Agreed to.

[Jersey City Evening Journal]

{The Senate proceeded to the consideration of the amendments of the judiciary article of the Constitution, offered by Mr. Stone. That gentleman stated that a meeting of the bar was to be held to consider these amendments, and as it was desirable that further time should be given Senators for their examination, he suggested that they be furthered until Tuesday next, which suggestion was adopted.}

[Ed. Note: The State Bar Association met to consider Stone's proposed amendments to the Judicial Article of the Constitution on February 25, February 28, and March 3, 1874. Although the editors were unable to locate the official minutes of those meetings, we have compiled relevant newspaper accounts of the proceedings. These accounts appear in this section under those dates.]

[Daily State Gazette]

On motion of Mr. Taylor (Mr. Sewell in the Chair), the clause relative to the establishment of public schools was taken up.

Mr. Taylor moved to amend so that it shall read, "The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children of this State between the ages of five and eighteen years," which was agreed to. The paragraph, as amended, was then adopted.

[Newark Daily Journal]

{Paragraph 6, Section 7, Article IV, being taken up as not acted upon definitely before, Mr. Taylor moved an amendment, which was adopted, so that the new

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

713

FEBRUARY 24, 1874

amendment shall read:

“The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in this State between the ages of 5 and 18 years. The term ‘free schools’ used in the Constitution shall be construed to mean schools that are not controlled by or under the influence of any creed, religious society, or denomination whatever.”}

[Daily State Gazette]

The Senate took up the amendments proposed to Article I, which had been laid over at a previous session—the suggestion requiring a vote of the people before dividing any county.

The amendment was opposed by Senators Stone and Taylor, on the ground that while the interests of the State might demand the division of a county yet the votes of a majority of its inhabitants would prevent it. The State creates the county, and yet to divide it, it would be compelled to ask the leave of the county. The amendment was lost...

[Newark Daily Journal]

...by a vote of 2 to 12.

[Daily State Gazette]

The Senate took up the suggestion relative to the borrowing of credit or insuring of debt by municipalities. The clause was amended so as to read as follows: “No county, city, borough, town township, or village shall hereafter give any money or property, or loan its money or credit to or in aid of any individual, association or corporation, or become security for, or be directly or indirectly the owner of any stock or bonds of any association or corporation.”

[Newark Daily Journal]

{The new paragraph 20, of Article I, was considered by Mr. Stone as preventing a city ordering and paying for a 4th of July salute, and he moved to strike out all except what reads “No county, city, borough, town, township, or village shall hereafter give any money or property, or loan its money or credit to or in aid of any individual or corporation.”

The proposition thus amended was adopted – 12 to 3.}

The new paragraph 21, Article I, that “No donation of land or appropriation of

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

FEBRUARY 24, 1877

money shall be made by the State, or any municipal corporation to or for the use of any society, association or corporation whatever," was agreed to unanimously.

[Daily State Gazette]

The Senate took up the suggestion of the Commission to strike out paragraph 8, Sec. VII, Art. IV, requiring a three-fifths vote for a charter or supplement to the charter of a banking institution, and it was agreed to.

[Newark Daily Journal]

{The proposition to strike out a paragraph of the old Constitution requiring three-fifths majority to pass laws for granting or amending the charters for banks or money corporations, with limit of such charters to 20 years, was adopted.}

Mr. Hewitt moved to reconsider the vote by which that portion of Section VIII, Article IV (relative to legislators taking [an] oath that they had never been bribed) had been previously stricken out of the Commission's report.

The reconsideration being agreed to, Mr. Stone renewed his former motion to strike out [the] first part of such proposed paragraph, and also the latter portion, both of which motions were adopted after vigorous opposition by Messrs. Stone and Taylor to such bribery oath, and Mr. Hewitt advocating the same.

[Jersey City Evening Journal]

{The amendment relative to the oath of members of the Legislature was taken up, the vote by which the amendment was rejected being [re]considered. The amendment requires every member to swear that he has never received any money for any vote; that he has never paid money for election purposes, &c. Mr. Taylor moved to strike out the whole amendment, on the ground that it was wholly unnecessary, and that a man who had corruptly sold his vote would not hesitate to swear that he had not done so. Mr. Hewitt favored the amendment. Mr. Stone strongly opposed its adoption on the ground that to put it in the Constitution would be an imputation upon the honesty of every man who may become a member of the Legislature. Besides, no man can be made honest by hedging him about with constitutional oaths. The motion to strike out was agreed to, 13 to 4.}

[Newark Daily Journal]

The Senate then went into a short Executive session, and at its conclusion adjourned until tomorrow.

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

715

FEBRUARY 24, 1877

Newspaper Sources for February 24, 1874:

“N.J. Legislature – XCVIIIth Session,” *Daily State Gazette*, February 25, 1874.

“The State Capital...,” *Newark Daily Journal*, February 25, 1874.

“New Jersey Legislature,” *Jersey City Evening Journal*, February 25, 1874.

FEBRUARY 25, 1874

[Daily Public Opinion]

All [of] the Constitutional [Commission’s] report having been disposed of except the Judiciary article, Mr. Stone moved that those amendments adopted be engrossed. The Chair said better have them printed.

Newspaper Sources for February 25, 1874:

“New Jersey Legislature,” *Daily Public Opinion*, February 25, 1874.

716 **NEWSPAPER ACCOUNTS OF THE
NEW JERSEY BAR ASSOCIATION MEETINGS**

[Ed. Note: The New Jersey Bar Association held meetings on February 25, February 28, and March 3, 1874, to consider Senator Stone's proposed amendment on the reorganization of the Judiciary.]

FEBRUARY 25, 1874

[Daily Public Opinion]

A number of prominent legal gentlemen of the State met in the Senate Chamber here last evening, to discuss the proposed amending of the Judiciary article of the Constitution. Hon. John W. Taylor was made chairman, and Hon. A.T. McGill, secretary.

Mr. Stone said a common opinion prevailed with the bar generally, that the Judiciary Department of New Jersey needed reorganization. At the speaker's suggestion, Mr. Weart had drawn up suitable matter for a Constitutional Amendment relative to composition of our courts, which he moved that Mr. W[ear] now explain.

Mr. Weart proceeded to say the Court of Errors and Appeals was defective now because of Lay Judges therein; there was still greater necessity for change in the circuits, their population ranging all the way from 81,000 to nearly 207,000; he proposed we have more Circuit Judges, who shall be distributed through the State in circuits having a population of 50,000 at the smallest; that the Supreme Court Justices should rotate in office, never all sit together, and to go from place to place.

Mr. Pitney, like the previous speaker, would do away with all Lay Judges in the Court of Errors, and moreover in the Common Pleas; did not favor the system of Circuit Judgeship proposed by Mr. Weart, there should be more than one appeal, because an argument is the better understood the more often it is heard; he would like a Supreme Court, with two Vice Chancellors sitting therein, and composed of only nine members in all; favored abolishment of writs of errors, and having all cases go up on appeal.

Mr. Whitehead thought some plan should be adopted for a branch of the Supreme Court to sit in the north part of the State, to save counsel great waste of time in waiting here at Trenton so long for their cases to come on; spoke mostly, however, on account of a lull in the discussion and "to break the ice," as it were.

Mr. Dixon said after one so large as Mr. W[hitehead] (a six-footer, or more) had broken the ice, so small a man as the speaker ought certainly to be able to get in the hole; thought the Court of Appeals should be a large body so it can be divided; strongly favored the union of law and equity in the same court; such was already the case in New York and in England.

Mr. Taylor spoke at length in favor of this latter view on law and equity being

**NEWSPAPER ACCOUNTS OF THE
NEW JERSEY BAR ASSOCIATION MEETINGS** 717

FEBRUARY 25, 1874

combined in the one Court.

Mr. Pitney was against it.

On motion of Mr. Stone, a committee consisting of Messrs. Taylor, Pitney, Weart, Dixon and Whitehead was appointed to consider the suggestions here made, and frame some proper constitutional amendment of the judiciary article, to be presented at a meeting of the bar in the same room on next Tuesday night.

Adjourned.

[Daily True American]

{The meeting of the members of the Bar, which was held at the Senate Chamber on Wednesday evening last, was attended by about 25 lawyers. John W. Taylor, Esq., was appointed Chairman, and Alex. T. McGill, Esq., Secretary.

Mr. Stone said that on his suggestion, Mr. Jacob Weart, of Jersey City, had drawn the proposed amendment. He approved the provisions of the article.

Mr. Weart said that the provisions of the Constitution were suitable to the time in which they were adopted. The constitution of the Court of Errors and Appeals was deficient on account of the Lay Judges; there was no member of the Bar in favor of retaining that Court in its present shape. The necessity for change in the Circuit Courts is greater. The population of the several districts, as now constituted, varies greatly. The First District has a population of 81,000; the Fifth District, 89,843; the Fourth District, 104,031; the Third District, 117,850; the Second District, 121,507; the Seventh District, 186,798; the Sixth District, 206,718.

In the discussion of the proposed changes by this meeting, the general expression of opinion was adverse to the abolition of the Court of Errors, but in favor of the elimination of the lay element. It was proposed, in the discussion, to add two more Justices to those of the Supreme Court and make the Court of Errors consist of the Justices of the Supreme Court, the Chancellor and Vice Chancellor.

The proposition to have the Chief Justice selected by the Court or to be the member whose term first expired, was favorably spoken of.

Without taking any action on the proposition, the whole subject was referred to a committee, consisting of John W. Taylor, Wm. Silas Whitehead, Jacob Weart, Jona. Dixon, Jr., and Albert C. Pitney. The meeting adjourned to meet on Tuesday evening next, at which time the report of the Committee will be made.}

Newspaper Sources:

“Considering Our Courts,” *Daily Public Opinion*, February 26, 1874.

“The Proposed Judicial Amendment,” *Daily True American*, February 27, 1874.

718 **NEWSPAPER ACCOUNTS OF THE
NEW JERSEY BAR ASSOCIATION MEETINGS**

FEBRUARY 28, 1874

[Daily State Gazette]

The committee held a meeting on Saturday last, at Newark, and it is understood that a majority of the committee agreed to report to the next bar meeting a proposition to abolish the Court of Chancery, and to unite the law and equity powers in the same judges, and also [to abolish] the present Court of Errors and Appeals. It is also understood that the [minority] of the committee will submit a proposition retaining the Court of Chancery, and joining in the recommendation that the lay element be removed from the Court of Errors and Appeals. The Bar will meet on this (Tuesday) evening, at 8 P.M., at the Senate Chamber, to receive the report of the bar committee, and to take action thereon.

[Daily True American]

{The committee, consisting of Messrs. Jno. W. Taylor, W.S. Whitehead, of Essex, and Messrs. Weart and Dixon, of Hudson, held a meeting at Newark on Saturday last, when the subject was discussed. We learn that the result of the conference will be two reports. The majority of the committee agreed to report a proposition to abolish the Court of Chancery and the present Court of Errors and Appeals, and to unite the law and equity powers in the same Judges. The minority report will favor the retention of the Court of Chancery, and unite in the recommendation that the lay element of the Court of Errors and Appeals be done away with.

The Bar will meet this (Tuesday) evening in the Senate Chamber to receive and act upon these reports. Without desiring to anticipate the discussion or the action of the meeting, we may express our doubts, based upon what we can learn of public sentiment, that the people will consent to the change proposed in the constitution of the Court of Errors and Appeals.}

Newspaper Sources:

"The Bar Committee and Proposed Judiciary Section to the Constitution,"

Daily State Gazette, March 3, 1874.

"The Proposed Judiciary Amendments," *Daily True American*, March 3, 1874.

MARCH 3, 1874

[Daily Public Opinion]

A meeting of the bar was held in the Senate Chamber of the State House last evening. Mr. Taylor presided and Mr. Charles E. Green acted as Secretary. Mr.

**NEWSPAPER ACCOUNTS OF THE
NEW JERSEY BAR ASSOCIATION MEETINGS** 719

MARCH 3, 1874

Dixon submitted a majority report of the committee appointed at a meeting of the bar held last week, and Mr. [P]itney presented the views of the minority. Both reports were accepted - but were not adopted as expressing the view of the bar meeting. Both reports embraced the idea of abolishing the lay element of the Court of Appeals. The majority report favored the abolishment of the Court of Chancery - the minority opposed the idea. Both favored the continuance of the Supreme Court as it now is. The matter was largely discussed by Courtland Parker, Mr. Dixon, Col. Halstead and Mr. Pitney. Various suggestions were thrown out by Messrs. Winfield, Coult, Taylor, Senator Stone and Mr. Weart.

Courtland Parker said that the judicial system of New Jersey needed no radical amendment. He favored the idea of having presiding Judges in Common Pleas Courts, in the several counties where needed; also that causes should be prohibited from being brought into the Circuit Court except those exceeding a certain, to be specified, amount - and real estate transactions.

The sense of the meeting being taken, showed that the Court of Chancery should not be abolished; that the Supreme Court should be composed of Judges who should preside at circuits. In other words, that it should be continued as it is at present, and that the Court of Appeals should be composed of members of the Supreme Court and Court of Chancery, and that it should not be a distinct and independent tribunal.

The meeting adjourned at a late hour.

[Daily True American]

{The meeting of the bar in the Senate Chamber last evening to receive the reports of the committee appointed to consider the proposed Judiciary amendments, offered in the Senate by Mr. Stone, extended to a late hour. Majority and minority reports having been presented and read by Messrs. Dixon and Pitney, an animated discussion on the several propositions ensued. Finally a vote being reached, the proposition to abolish the Court of Chancery was defeated by a large vote. A proposition that in law courts and equity, defences and equitable answers to legal defences be entertained, was defeated. The meeting voted that the Supreme Court continue to be composed of Judges who shall preside at the Circuits as now. A motion was made that the Court of Errors and Appeals should consist of independent Judges. Lost. It was then moved that the Court of Errors and Appeals consist of the Supreme Court Judges, the Chancellor and as many Vice Chancellors as there may be. This was carried. It was moved that the lay Judges be added, which being also carried, the meeting adjourned, the sense of the

**720 NEWSPAPER ACCOUNTS OF THE
NEW JERSEY BAR ASSOCIATION MEETINGS**

MARCH 3, 1874

meeting, as expressed by the vote, being favorable to leaving the Judicial system as it is. The meeting not being adjourned until midnight, it is impossible to give a report of the discussion.}

Newspaper Sources:

“Meeting of the Bar,” *Daily Public Opinion*, March 4, 1874.

“The Bar Meeting,” *Daily True American*, March 4, 1874.

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

721

MARCH 10, 1874

[Daily State Gazette]

[At] 3 P.M. [the] Senate met.

* * *

Mr. Stone moved the appointment of a committee of two to superintend the engrossment of the Constitutional amendments.

Adjourned.

Newspaper Source for March 10, 1874:

“N.J. Legislature - XCVIIIth Session,” *Daily State Gazette*, March 11, 1874.

MARCH 11, 1874

[Daily State Gazette]

[At] 3 P.M. [the] Senate met.

The Senate took up the Constitutional Amendments, being the special order.

Mr. Stone withdrew the amendments to the Judiciary Article proposed by him some time since.

Mr. Stone moved to strike out that part of Section VI, Article VI of that article, providing that there shall be only one judge appointed for each county each year, which was agreed to. Mr. Stone said that as there was great disagreement as to the amendments proposed by the Commission to this Article, he would move that the whole be disagreed to. The motion was adopted unanimously.

[Newark Daily Journal]

{The Constitutional Commission’s report being the special order, Mr. Stone moved to strike out the first four lines of the Judiciary paragraph, leaving the Legislature to decide as heretofore regarding the number of Common Pleas Judges in the various counties. Agreed to.

After some preliminary remarks, Mr. Stone moved to disagree to all the proposed amendments to the Judiciary article. The motion was carried *viva voce*.}

The same Senator [Stone] moved that as all the amendments acted upon had been engrossed, they be put on a third reading, which was agreed to; but, it being afterward found that the engrossment was not complete, the matter was laid over until tomorrow morning.

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS****MARCH 11, 1874****Newspaper Sources for March 11, 1874:**

“N.J. Legislature – XCVIIIth Session,” *Daily State Gazette*, March 12, 1874.

“Legislature of New Jersey,” *Newark Daily Journal*, March 12, 1874.

MARCH 12, 1874*[Daily State Gazette]*

[At] 10 A.M. [the] Senate met.

* * *

The Senate took a recess of fifteen minutes to permit of the engrossment of one of the Constitutional Amendments, after which the entire series was passed.

[Newark Daily Journal]

{The Constitutional Commission report, as amended in the Senate, was reported by a special committee, as having been correctly engrossed, and passed by a vote of 14 to 0.}

Adjourned to Monday night.

Newspaper Sources for March 12, 1874:

“N.J. Legislature – XCVIIIth Session,” *Daily State Gazette*, March 13, 1874.

“Legislature of New Jersey,” *Newark Daily Journal*, March 13, 1874.

MARCH 16, 1874*[Newark Daily Journal]*

The opinion of many of the members is that the session will be prolonged until the 27th, as the Constitutional Amendments sent to the House from the Senate tonight will demand at least two days’ consideration.

Newspaper Source for March 16, 1874:

“The State Capital,” *Newark Daily Journal*, March 17, 1874.

NEWSPAPER ACCOUNTS
OF ASSEMBLY PROCEEDINGS

723

MARCH 18, 1874

[Daily State Gazette]

HOUSE.
[MORNING SESSION.]

[At] 10 A.M. [the] House met.

* * *

Mr. Ward offered the following:

WHEREAS, The Commission appointed to revise and amend the Constitution and submit the result of their deliberations to the Legislature, have presented to this House, for its consideration, sundry amendments which it is the duty of this House to dispose of in such a manner as is provided for by the Constitution of this State; *and whereas*, these amendments have been prepared for submission to the Legislature with great care and vast expense to the State; *and whereas*, it is desirable that the amendments thus submitted should be acted upon in order that they may be submitted to the people for their action as provided; therefore, be it

Resolved, That from and after this date this House hold evening sessions for the consideration of the amendments to the Constitution, which have been submitted to the House by the Constitutional Commission, appointed by the Governor, and that such amendments be made a special order for such evening sessions.

[Daily Fredonian]

{Mr. Ward offered a resolution that the evenings of this week be devoted to the consideration of the amendments to the Constitution. He supported it by saying that these amendments had been carefully prepared and should be given due consideration. He was not in favor of the adjournment this week to leave so many valuable bills untouched. He did not recognize the right or propriety of this Legislature to adjourn and go home, leaving so much important business yet untouched.}

Mr. Morrow was in favor of the resolution, but thought the Legislature should sit next week so that the necessary business could be properly transacted. The resolution was agreed to.

[Daily Public Opinion]

{Mr. Ward followed the resolution with a few remarks, advocating the

**NEWSPAPER ACCOUNTS
OF ASSEMBLY PROCEEDINGS**

MARCH 18, 1874

consideration of the amendments in a proper manner.

Mr. Morrow and Mr. Coles also spoke in the same strain.}

EVENING SESSION.

[At] 8 P.M. [the] House met.

[Newark Daily Journal]

This evening the amendments proposed by the Constitutional Commission appointed to prepare them came up. Mr. Ward moved that in order to define some plan of action they be taken up in the order they came from the Commission.

Mr. Morrow agreed with Mr. Ward. It was proper that they should be taken up as proposed by the gentleman from Sussex [i.e. Mr. Ward] not as they came from the Senate. The resolution calling for the Commission expressly stated that the amendments shall be submitted to the Legislature—not to [the] Senate alone. There was nothing which could call for such a course.

[American Standard]

{In the House tonight the subject of the Constitutional Amendments came up, and Mr. Ward objected to taking them up as they came from the Senate, on the ground that it was improper for the House to take them up as they came from the Senate. He said this was the proper House to take up the report of the Commission, this being the popular branch of the Legislature, and to them was intended the report, and it should have come to their House first, and the effort of the Senate to cut off debate on these amendments was an outrage on the House and the people of the State. In this view, Mr. Ward was sustained by Mr. Morrow, of Essex, and Capt. Gill, of Union.}

[Daily True American]

{Mr. Ward inquired how the House should proceed to consider these amendments. He offered a resolution that the Clerk first read the amendments reported by the Commission – and then read the amendments thereto made by the Senate.}

[Newark Daily Journal]

Mr. Hobart at this juncture called Mr. Fitzgerald to the chair and took the floor. He hoped the motion of Mr. Ward would not prevail. He considered it necessary to take up the amendments as they came from the Senate, so that the

**NEWSPAPER ACCOUNTS
OF ASSEMBLY PROCEEDINGS**

725

MARCH 18, 1874

same language might be used in case the House should concur in the changes proposed by the Senate. Should they agree on the same amendment, the language would be different and the amendments rejected.

He moved as a substitute for the motion of Mr. Ward that the amendments be taken up as they came from the Senate, and that when this portion was finished they be acted on as they came from the Commission.

Mr. Ward said he was willing to go as far as any man to get a proper conclusion in regard to the matter. The amendments as they come from the Senate are not the same as submitted by the Constitutional Commission to the Legislature. They are not in the form that the Constitution provides that the House should act upon them. The gentleman from Passaic [i.e. Mr. Hobart] may apprehend difficulty, but the proper way is to consider [the] Senate amendments afterward.

Mr. Morrow alluded to the resolution, saying that the amendments were prepared for the Legislature – not [the] Senate alone. He did not know why [the] Senate should spend eight or ten weeks upon them and cull out what they please, and then send the result of their labor to the lower house and ask it to concur in their work. It was highly improper. The House was entitled to the same wide scope as the Senate and should take hold of the amendments as though they had not been acted upon at all. They should be either accepted or rejected. What may take a week to consider should not be passed upon in two hours.

[Jersey City Evening Journal]

{Mr. Morrow did not think this House should play second to the Senate. That body took eight weeks to consider the amendments, but the House are only given a few hours.}

[Newark Daily Journal]

Mr. Hobart asked why the House had been waiting for the action of the Senate so long? Why had they not discussed the matter before? He did not want to preclude discussion on the amendments as they came from the Commission, but thought that if taken up first as they came from the Senate it would save trouble. He was willing to stay as long as “any other man” and discuss the questions involved thoroughly and to do it decently.

Mr. Morrow did not consider the House had waited for the Senate.

Mr. Gill said the Senate had been five or six weeks discussing the amendments, and now at the close of the session send them to the House, with the idea that the House will adopt *en masse* what it has been so long digesting. The

**NEWSPAPER ACCOUNTS
OF ASSEMBLY PROCEEDINGS**

MARCH 18, 1874

questions involved in the amendments are serious and important, and must be handled with great care and deliberation. He did not want the Senate to dictate the manner in which the House shall act on the changes. It had been attempting to do so from the first.

[Jersey City Evening Journal]

{Mr. Gill said the amendments of the Commission should be taken up first. The Assembly had been snubbed all along by the Senate. They had rights which should be respected, and they propose to take no learnings from the Senate.}

Mr. J. Carpenter asked that public bills be first considered. He moved to reconsider the vote whereby this evening was set down to the Constitutional Amendments.

[Newark Daily Journal]

{Mr. Carpenter moved that the resolution making amendments the special order for evening be reconsidered. Declared out of order.}

Mr. Jones thought that if the amendments could not be acted upon properly, a special session of the Legislature should be called. In due respect to the oath of office, members could not pass over so important a matter as the amendments lightly. They should have careful consideration and that could not be had in the two days left. He did not want to stay any longer and would give a large sum could he finish and go home. His oath, however, he regarded as of more importance, and in respect to that oath he felt in duty bound to give every matter just and fair attention.

[American Standard]

{Mr. Jones, of Essex, and Mr. Carpenter, of Hunterdon, took the same view. Mr. Jones said he desired to be at home, but felt he did not discharge his oath by the kind of legislation that had taken place here within the last few days in rushing through business by railroad speed.}

[Jersey City Evening Journal]

{Mr. Jones said that, as the Senate refuse[s] to agree to a postponement of adjournment, he was in favor of laying aside these Amendments altogether so as to dispose of the public bills.}

Mr. Hobart's substitute, to take up the amendments, was adopted – 27-21. [See **Ed. Note below.**]

**NEWSPAPER ACCOUNTS
OF ASSEMBLY PROCEEDINGS**

727

MARCH 18, 1874

Mr. Jones moved that we pass these amendments in a lump. We might as well do that as act upon them in this way. The Speaker ruled this out of order. Messrs. Morrow and Ward entered their written protests against the manner in which these amendments were being acted up[on].

[Daily State Gazette]

{Messrs. Ward and Gill protested against the manner of considering these amendments as proposed by Mr. Hobart.}

[Newark Daily Journal]

...the Clerk proceeded to read the Senate amendments. He was interrupted, however, by a motion that the matter be laid on the table. This was agreed to.

[Ed. Note: The Assembly Minutes indicate that Mr. Carpenter moved to lay the amendments on the table and that his motion was agreed to 27 to 21. If the Minutes are correct, then it appears that the newspaper accounts confused the vote on Mr. Hobart's substitution of the Senate Amendments for the Commission's Report with Mr. Carpenters' motion to table. In any event, it is evident that there was considerable conflict as to whether the Assembly should proceed with the Commission's Report or the Senate Amendments. The issue was referred to a Committee for resolution.]

[Daily State Gazette]

The Clerk proceeded to read the Senate amendments to Article I, paragraph 19.

Mr. Ward had read paragraph 16 of said Article, which had been stricken out by the Senate, which he proposed to reinstate.

[Jersey City Evening Journal]

{The first Senate paragraph being read, Mr. Ward called for the reading of the corresponding paragraph as reported by the Commission. Mr. Ward moved to adopt the Commission paragraph and reject the Senate amendment. Before this was put, Mr. Morrow moved that a committee of five be appointed to devise some means to bring this matter understandingly before the House and report at ten o'clock tomorrow. It was carried *viva voce* with no nays.

Mr. Fitzgerald, as Speaker *Pro Tem*, announced as the special committee Messrs. Morrow, Smith, Ward, McGill and Jones.}

**NEWSPAPER ACCOUNTS
OF ASSEMBLY PROCEEDINGS**

MARCH 18, 1874

[Newark Daily Journal]

{The Clerk again commenced to read, and had not proceeded far when Mr. Morrow moved that a committee of five be appointed to define some plan whereby the House might consider the amendments fairly and carefully. The motion was agreed to, and Messrs. Morrow, Smith, Ward, [McGill] and Jones appointed by [the Speaker] *pro tem*.}

Speaker [*pro tem*] Fitzgerald, whose alacrity in making the appointment of the committee and the placing of three Democrats thereon, was noticed by all.

Newspaper Sources for March 18, 1874:

"N.J. Legislature – XCVIIIth Session," *Daily State Gazette*, March 19, 1874.

New-Jersey Legislature," *Daily Fredonian*, March 19, 1874.

"New Jersey Legislature," *Daily Public Opinion*, March 18, 1874.

"The State Capital...The Constitutional Amendments," *Newark Daily Journal*, March 19, 1874.

"Our Trenton Letter," *American Standard*, March 20, 1874.

"Legislature of New Jersey," *Daily True American*, March 19, 1874.

"New Jersey Legislature," *Jersey City Evening Journal*, March 19, 1874.

NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS

729

MARCH 19, 1874

[*Daily True American*]

SENATE.
EVENING SESSION.

[At] 8 P.M. [the] Senate met.

* * *

On motion of Mr. Stone the House concurrent resolution on adjournment was taken up, when that gentleman offered the following resolution:

WHEREAS, A concurrent resolution has been adopted to adjourn *sine die*, on Friday, March 20th, inst., at 12 o'clock noon; and whereas, it appears that all matters of judiciary legislation can be acted upon and completed by Saturday, 21st inst., at 12 o'clock noon; and whereas, two matters of extraordinary legislation, to wit, the proposed Constitutional Amendments and the revision of the laws cannot, during the present session, be fully considered and completed, because among other reasons all the commissioners appointed to make said revision have not finished their work; and whereas, such revision will be manifestly incomplete unless it includes the laws passed at the present session; therefore,

Resolved (the House of Assembly concurring), That when the Legislature adjourn, it adjourn to meet in extra session, on the first Tuesday of June next, at 11 o'clock A.M., for the special purpose of considering the Constitutional Amendments and revision of the laws, and for no other purpose; and that the present session adjourn on Saturday, the 21st inst., at 12 o'clock.

On motion of Mr. Stone, the resolution was temporarily laid over.

Newspaper Source for March 19, 1874:

"Legislature of New Jersey," *Daily True American*, March 20, 1874.

NEWSPAPER ACCOUNTS
OF ASSEMBLY PROCEEDINGS

MARCH 20, 1874

[Daily State Gazette]

HOUSE.

[At] 10 A.M. [the] House met.

[Newark Daily Journal]

Mr. Morrow, chairman of the special committee to devise a plan for the consideration of the Constitutional Amendments, this morning reported the following: That the work of the Commission, as adopted, be recorded and taken for a second reading; 2d, That the House then consider their adoption, rejection of substitution, or amendment; 3d, That the work of the Commission be taken in the same order as adopted by them, and that the several sections be considered separately.

[Daily State Gazette]

Adopted.

* * *

Mr. Smith offered a resolution that Monday evening be devoted to consideration of the Constitutional Commission Amendments.

Agreed to.

* * *

Adjourned.

Newspaper Sources for March 20, 1874:

“N.J. Legislature – XCVIIIth Session,” *Daily State Gazette*, March 21, 1874.

“The State Capital...The Constitutional Amendments,” *Newark Daily Journal*, March 21, 1874.

MARCH 23, 1874

[Daily State Gazette]

[At] 8 P.M. [the] House met.

**NEWSPAPER ACCOUNTS
OF ASSEMBLY PROCEEDINGS**

731

MARCH 23, 1874

[Newark Daily Journal]

...the House proceeded to discuss the Constitutional Amendments as they came from the Commission appointed to prepare them.

[Jersey City Evening Journal]

The 1st Article, referring to rights and privileges, and the taking of private property, was read when Mr. Ward moved to adopt the amendment as it came from the Constitutional [Commission]. Mr. Jones moved to strike out the latter part. Mr. Morrow further amended by striking out the whole amendment, so as to leave the Constitution in this respect as it came from our fathers. Mr. Ward objected, as he believed it wrong to have property taken and benefits assessed as now was the case. The amendment of Mr. Morrow was then agreed to so that the amendment was stricken out as it was by the Senate.

[Newark Daily Journal]

{The sixteenth paragraph, regarding private property, was stricken out on motion of Mr. Jones after a warm debate, in which several members had an opportunity to display their oratorical ability.}

[Jersey City Evening Journal]

The amendments [to Article I, paragraphs No. 19, No. 20 and No. 21 submitted by the Commission] relative to counties, cities, towns and villages in regard to division, indebtedness or appropriation by the State, were read. Mr. Hobart, Mr. Fitzgerald in the chair, moved to substitute the Senate amendment, which was agreed to.

The amendment regarding the right of suffrage [i.e. Article II] was read, when Mr. Morrow moved to strike out the period of 30 days, being the same as done by the Senate. Mr. Jones objected; he thought it would encourage colonization. Mr. Morrow thought otherwise, and that colonization should be [dealt with] by legislation. He wanted the Constitution in this effect as it now stood. Mr. Cole thought the right of voting inherent in a citizen, and that we had no right to deprive them of it by saying they shall live so long in a certain house. Several members spoke for and against the "thirty days residence." The motion to strike out was agreed to 26 to 23; the clause giving soldiers the right to vote [when away in war], and relative to bribery and corruption, was made to conform with the Senate amendment, 32 to 2.

**NEWSPAPER ACCOUNTS
OF ASSEMBLY PROCEEDINGS**

MARCH 23, 1874

[Newark Daily Journal]

{The article in reference to the right of suffrage occupied the attention of the House for some time, Mr. Jones thinking it perfectly proper that persons should reside at least thirty days in the election district in which they vote before the election. This he thought would remedy the colonizing evil.

Mr. Cole wanted every safeguard placed upon the right of suffrage, but thought the present registry law sufficient.

Messrs. McKinley and Hemingway favored the thirty day arrangement, and Mr. Ward spoke in denunciatory terms of the registry law. Its arbitrary character as applied to townships and country districts had a few years since revolutionized the political aspect of the Legislature.

Mr. Morrow thought that no man should be deprived of his vote. The Constitution as it stands today is good enough.

Mr. Hobart said that the thirty day law would deprive two or three thousand voters in his city (Paterson) of the right to vote at the Spring election, as April 1st was moving day in that municipality.

On motion the thirty days were stricken out and ten days substituted.

The amendments to the second section, striking out all after the word "bribery" were adopted; also Article IV, Section I, paragraph 3, [i.e. changing the day of legislative elections to the first Tuesday after the first Monday in November] as prepared by the Commission.}

Paragraph 6, requiring bills to be read through section by section on three several days, was discussed at great length.

Mr. Morrow moved that the section be stricken out, but A. J. Smith and Mr. Ward objected. The former made an extended speech, in which he referred to the evils of hasty legislation.

Mr. Morrow thought if the Constitution was altered it would not change the manner of working. He made some home thrusts at the way legislation had been conducted by the majority party in the House during the past few days.

Mr. Vanderbilt proposed to read bills twice on two consecutive days, and the proposition was [not] agreed to.

[Jersey City Evening Journal]

{The amendment requiring bills in the Legislature to be read three times through on as many days, was objected to by Mr. Morrow, who moved to strike it out, as the Senate had done. He thought that such readings would occupy the entire session or more, after throwing out all private bills and only working on

**NEWSPAPER ACCOUNTS
OF ASSEMBLY PROCEEDINGS**

733

MARCH 23, 1874

public acts.

Messrs. Smith, Jones and several others favored the Commission's amendment, and the former spoke for it at some length. After a discussion of over forty-five minutes, the motion of Mr. Morrow was agreed to – 20 to 16, and the amendment is thus the same as that of the Senate.}

[Jersey City Evening Journal]

The amendment relative to salary was amended by Mr. Hobart, to make the salary \$500, being the same as the Senate had agreed to – which was agreed to.

[Newark Daily Journal]

{In reference to the clause making the pay of members \$500 per session, Mr. Hobart moved to strike out the clause giving members \$25 worth of stationery, postage stamps, &c. It was agreed to.}

[Newark Daily Advertiser]

In all the amendments so far discussed this evening, the House agreed to the amendments as agreed upon by the Senate.

[Newark Daily Journal]

The House then adjourned.

Newspaper Sources for March 23, 1874:

“N.J. Legislature – XCVIIIth Session,” *Daily State Gazette*, March 24, 1874.

“The State Capital...The Constitutional Amendments,” *Newark Daily Journal*, March 24, 1874.

“New Jersey Legislature,” *Jersey City Evening Journal*, March 24, 1874.

“From Trenton: The Constitutional Amendments – The Last Week,” *Newark Daily Advertiser*, March 24, 1874.

MARCH 24, 1874

[Daily State Gazette]

**HOUSE.
EVENING SESSION.**

[At] 8 o'clock P.M. [the] House met.

* * *

**NEWSPAPER ACCOUNTS
OF ASSEMBLY PROCEEDINGS**

MARCH 24, 1874

[The consideration of the] Constitutional Amendments [was] postponed until tomorrow evening.

Newspaper Source for March 24, 1874:

“N.J. Legislature – XCVIIIth Session,” *Daily State Gazette*, March 25, 1874.

MARCH 25, 1874

[Daily State Gazette]

**HOUSE.
EVENING SESSION.**

[At] 8 o'clock P.M. [the] House met

* * *

The House then took up the Constitutional Amendments.

The Senate amendment in regard to taking private property for public use without just compensation – Article I, paragraph 16 – was adopted. All the other Senate amendments to this article were adopted.

Article IV, Section VII, paragraphs 11, 12 and 13, 14, 15, 16; also, the amendments to the VIIth Section, made by the Senate, were adopted.

In Article V, paragraph 8, and in paragraph 5 in Article VII, proposed by the Commission, were adopted.

Mr. Vanderbilt moved that “Inspectors of the State Prison” be appointed by the Governor, as well as the Keeper. Lost.

Mr. Smith spoke against the amendments at some length, more on account of the striking out of the clause which vacated an office held by a person convicted of a crime.

Mr. Vanderbilt explained his vote by saying that while many amendments suggested by the Commission were good, and which had been rejected, and which he should like to have seen adopted, yet because what remained met his approval, he would vote for the bill.

The question coming up on the adoption of the Senate amendments to the Constitutional Amendments, as amended in the House, the same were adopted 45 to 9.

**NEWSPAPER ACCOUNTS
OF ASSEMBLY PROCEEDINGS**

735

MARCH 25, 1874

[Newark Daily Advertiser]

{The House, this evening, took up the Constitutional Amendments as proposed by the Commission, and read them through by articles, sections and paragraphs, when the amendments as proposed by the Senate were accepted. Several other amendments were proposed but none of these were agreed to and received but about 6 votes. The discussion of these amendments occupied about an hour, when they were returned to the Senate without amendments by a vote of 48 (*sic*) to 9, after Mr. Smith had made a speech against the whole amendments because the clause added by the Commission vacating an office on account of felony had been stricken out.}

[Newark Daily Journal]

{The House tonight finished the discussion of the Constitutional Amendments. Only one hour was taken to go over them, the amendments as agreed upon in the Senate being adopted in every instance.}

[American Standard]

{The House have finished the consideration of the Constitutional Amendments, and made a final passage of them as they came from the Senate, with but slight amendments (*sic*), and so for the next two days they will have the entire time to finish up the business of the session.}

[Ed. Note: The Assembly did not make any amendments to the Constitutional Amendments as passed by the Senate.]

Newspaper Sources for March 25, 1874:

"N.J. Legislature – XCVIIIth Session," *Daily State Gazette*, March 26, 1874.

"From Trenton...Constitutional Amendments, Etc.," *Newark Daily Advertiser*, March 26, 1874.

"The State Capital," *Newark Daily Journal*, March 26, 1874.

"Our Trenton Letter," *American Standard*, March 27, 1874.

NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS

JANUARY 26, 1875

[Daily State Gazette]

[At] 10 A.M. [the] Senate met.

* * *

The Constitutional Amendments already agreed upon and published were taken up. They were severally read and agreed to. The first amendment in Article I was agreed to, 19 to 0; Article II, 18 to 0; Article IV, 16 to 3; Article V, 17 to 0; Article VII, 19 to 0.

Mr. Hopper moved a reconsideration of the amendment to Article I, the clause which forbids any loaning of the public credit of any county, city, borough, township or village to any individual, association or corporation, and gave his reasons. The bill was reconsidered, and Mr. Hopper proceeded to state his objections to this clause. The intention evidently was to prevent municipal governments from loaning [their] credit to railroad or other corporations; that they should not be bonded for the benefit of any such corporations, but the language of the amendment will cut off the giving of money for the poor or benevolent purposes. In the city of Paterson, for instance, the Common Council frequently give money to individuals and to the poor. This, in his opinion, would prevent this. He therefore moved to strike out the words "individual, association, or." Mr. Hopper thought that by striking out these words it would not invalidate our previous action. The amendment would have to be acted upon by the successive Legislatures before it went to the people.

Mr. Abbett could not agree with the gentleman from Passaic [i.e. Mr. Hopper] in regard to the effect of this amendment; we must vote for two successive Legislatures and submit to a vote of the people the very thing upon which we acted before. He did not think that any judicial body would put the construction on the amendment that the Senator from Passaic has, to prevent the loan of money for poor purposes. It was to prevent mortgages of the future municipal corporations for railroad purposes.

President Taylor took the floor and differed with the construction the gentleman from Passaic put upon this amendment. He agreed with the gentleman from Hudson (Mr. Abbett). Those who will be called upon to construe the amendment will look to the mischief it was designed to prevent. That mischief is well understood to be the loaning of the credit of municipal governments to corporations, to level the towns and cities for railroad projects, and not to prevent the distribution of money for poor and benevolent purposes. He proceeded at

**NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS**

737

JANUARY 26, 1875

length to argue this point.

The discussion was continued by Mr. Hopper, Mr. Abbett and Mr. Taylor, and finally on the motion of Mr. Abbett, laid over for the present.

[Jersey City Evening Journal]

{In the Senate this morning the Constitutional Amendments, which had been made the special order, were taken up. All were adopted except the one amending Article "one," which provides that no county, city or borough shall hereafter give any money or property, or loan its money [or] credit to or in aid of any individual, association or corporation, or become security for or be directly or indirectly interested in any stock or bonds of any association or corporation. Senator Hopper was afraid that this would cut off gifts to charitable institutions, and preclude the giving of aid to the public charities, and proposed an amendment to divest it of this feature.

Mr. Abbett opposed Hopper's amendment, urging that it might vitiate the original amendment, and that the purpose sought to be compassed by the amendment was merely to cut off gifts or obligations to railroad corporations and other such monopolies.

President Taylor took the same view of the matter, and after some further discussion, the amendment was laid over till tomorrow for further consideration.}

[American Standard]

{The Senate took up the amendments to the Constitution, and Article I was first considered, and the amendments to it were adopted as it was adopted last year; Article II took the same course; Article IV, as amended, was agreed to as adopted; Article V was adopted as heretofore; amendments to Article VII [were] agreed to.

Mr Hopper then made a motion to reconsider Article I, and said the more he studied it the more he was satisfied the amended article was improper, and the motion was adopted. Mr. Hopper then stated the article as adopted last winter was improper – as it prohibited the municipalities from extending aid to the poor, as they could not aid them by any appropriation in time of need, and he said the object of the paragraph was to prohibit them from loaning money to any corporate body and not to prohibit them for other aid.

Mr. Abbett said he could not agree with the Senator from Passaic, and if an amendment was made he was of opinion it must be adopted by two legislatures, and also must you wait five years before you alter it again, and he did not think the

NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS

JANUARY 26, 1875

interpretation the Senator placed on it right, nor that language could be placed in the Constitution to stop municipalities from the loan of the people's money. The President [Taylor] also sustained the view taken by Mr. Abbett, and stated the amendment did not take from the municipality the right to aid the poor by the gift of money, for their aid and support; and he said if the amendment was adopted, he felt sure no court would disturb an appropriation for the poor.

Mr. Hopper said if the opinion given by Charles O'Connor [see Ed. Note below] be worth anything, and the action of the people was worth anything, then the proposition made by him that the change of the phraseology would not invalidate the amendments or send them over two or five years, and he claimed that striking out the two words would not affect the validity of the amendments, and that if stricken out the two words would make no impediment to the amendments. Mr. Hopper said he still persisted that if the words were left in, no municipality could donate to any charitable object.

Mr. Abbett still persisted in his views and held it did not disable the municipality for donating charity. Mr. Taylor then spoke again maintaining his position. Mr. Abbett then made a motion to lay the section over until the morning, and it was adopted.}

[Ed. Note: Mr. Hopper is referring to a recent legal opinion offered by the noted New York attorney, Charles O'Connor (1804-1884), who argued that, despite the New York Constitution's requirement that constitutional amendments be approved by two successive Legislatures, if proposed amendments are approved by popular vote, and subsequently it is discovered that those amendments underwent some alteration in the second Legislature, then those amendments are still valid since they were approved by the people. For the text of O'Connor's opinion, see "The Amendments Valid, Mr. Charles O'Connor Sustains Their Legality," NEW YORK TRIBUNE, December 22, 1874.]

[Newark Daily Advertiser]

{The constitutional amendments were considered in the Senate today upon the section forbidding the loaning of the public credit of any county, city, township or village, to any individual association or corporation. Mr. Hopper wanted to modify it so as to allow corporations to give money for the poor or benevolent purposes, and moved to strike out "individual association." Mr. Abbett and Mr. Taylor both said they did not think that any judicial body would put the construction on the amendment to prevent the loan of money for poor purposes. It

NEWSPAPER ACCOUNTS
OF SENATE PROCEEDINGS

739

JANUARY 26, 1875

was to prevent mortgages for the future of municipal corporations for railroad purposes.}

[Daily State Gazette]

The Senate went into Executive session, after which...

[Jersey City Evening Journal]

...the Senate at 12:30 adjourned till tomorrow at 10.

Newspaper Sources for January 26, 1875:

"N.J. Legislature – XCIXth Session," *Daily State Gazette*, January 27, 1875.

"By Telegraph:...Amending the State Constitution," *Jersey City Evening Journal*, January 26, 1875.

"The State Capital," *American Standard*, January 27, 1875.

"The Legislature...Constitutional Amendments," *Newark Daily Advertiser*, January 27, 1875.

JANUARY 27, 1875

[Daily State Gazette]

SENATE.

[At] 10 A.M. [the] Senate met.

* * *

The Constitutional Amendments were then taken up. Mr. Hopper's amendment to Article I, to strike out the words, "individual or association," was lost, 19 to 1, and the original amendment was adopted, 19 to 0. (This closes the amendments to the Constitution so far as the Senate is concerned, having been passed by two separate sessions.)

Newspaper Source for January 27, 1875:

"N.J. Legislature – XCIXth Session," *Daily State Gazette*, January 28, 1875.

NEWSPAPER ACCOUNTS
OF ASSEMBLY PROCEEDINGS

FEBRUARY 16, 1875

[HOUSE.]

[MORNING SESSION.]

[Daily State Gazette]

[At] 10 A.M. [the] House met.

* * *

Mr. McGill offered a resolution that in acting on the Constitutional Amendments, each specific amendment be taken up separately, and that the vote be by ayes and nays.

The consideration of the amendments being in order, they were postponed until this afternoon.

* * *

AFTERNOON SESSION.

[At] 3 P.M. [the] House met.

[Newark Daily Advertiser]

The House took up this afternoon the Constitutional Amendments, but the majority of the members seemed to have no idea of the importance of these changes and paid little or no attention to them. Many members were absent from their seats, others congregated in the lobbies to smoke or lounge, and some seemed to look upon the whole thing as a farce or joke and voted "no" occasionally "just for the fun of the thing," or to have a chance to make a set speech in "Mr. Speaker, I change my vote to aye." As for the reading clerk, he got *carte blanche* from some members to put them down as voting aye to each amendment, and did so every time, but occasionally he forgot who were in their seats and who were absent, and in more than one case names were put down of men who were never near the House the whole afternoon. From the roll call on each amendment, it is learned that about forty members were present and voted each time, but so hurried was the roll and so little attention was paid by the members to voting, that after the first two or three amendments most of the "ayes" were guessed at. Mr. Swing, of Salem, who is known as the inveterate "no" voter of the House, carried out his character by voting "no" frequently, and his vote is so recorded, but it is doubtful whether he cared either way how he voted or perhaps

**NEWSPAPER ACCOUNTS
OF ASSEMBLY PROCEEDINGS**

741

FEBURARY 16, 1875

didn't know how to vote. His regular "no" invariably called out a laugh, and in this House the man that makes the most fun, so as to pass away time, seems to be considered the best of good fellows.

The amendments were taken up one by one, and the yeas and nays taken on each. The first received 33 votes, none negative; second amendment, 37 to 0; third, 31 to 0.

On the Suffrage amendment, Mr. Van Cleef moved to strike out the word "male," so as to permit of female suffrage, which was negatived, and was not meant in earnest.

On the amendment to strike the word "white" from the Constitution, Messrs. Doyle, Fitzgerald, T.P. Henry and Patterson voted "No," but ere the vote was announced Mr. Fitzgerald arose and said that though it was very much against the grain to vote for this amendment, he supposed he must accept the inevitable, and would therefore change his vote to 'aye.' The others who had voted "no" then followed him in changing their votes.

The rest of the amendments were then accepted unanimously, save by the frequent "no" of Mr. Swing, except that which fixed the pay of the members at \$500; and against this were recorded Messrs. Dodd, Doyle, Gill, Hendrickson, Morrow, Skellinger, Patterson, Swing and Woodruff—34 to 9.

It was five o'clock when the Amendments were finished, their whole consideration and passage taking up only a few minutes over an hour, and the House then adjourned. The next course in the matter of these Amendments is the introduction of a bill setting forth how, when and in what manner the special election required by the Constitution shall be held. The Constitution provides that "it shall be the duty of the Legislature to submit such proposed amendment or amendments, or such of them as may have been agreed to as aforesaid by the two Legislatures to the people, in such manner and at such time, at least four months after the adjournment of the Legislature, as the Legislature shall prescribe; and if the people, at a special election to be held for that purpose only, shall approve and ratify such amendment or amendments, or any of them, by a majority of the electors qualified to vote for members of the Legislature voting thereon, such amendment or amendments so approved and ratified shall become a part of the Constitution; provided, that if more than one amendment be submitted, they shall be submitted in such manner and form that the people may vote for or against each amendment separately and distinctly."

A bill is now being prepared to provide for this special election and will be introduced shortly in the Senate.

**NEWSPAPER ACCOUNTS
OF ASSEMBLY PROCEEDINGS**

FEBUARY 16, 1875

[The New York Times]

{The House met in the afternoon and took up the constitutional amendments and adopted them all. Some of the Democrats were obliged to show the cloven foot when the amendment striking the word “white” from the Constitution was on its passage. Several members voted “no” upon this amendment. One of those who thus voted [i.e. Mr. Fitzgerald] arose before the vote was announced, and, saying that it went “against his grain,” changed his vote. Those who voted likewise followed suit, and the amendment was unanimously passed.}

[Newark Daily Journal]

{The House session this afternoon was consumed in the adopting of the Constitutional Amendments, and other business of minor importance. All of the amendments were agreed to with but faint opposition, except the following:

ARTICLE IV – LEGISLATIVE.

Section IV.

Paragraph 7. Strike out the following words:

“A compensation for their services to be ascertained by law, and paid out of the Treasury of the State; which compensation shall not exceed the sum of three dollars per day for the period of forty days from the commencement of the session, and shall not exceed the sum of one dollar and fifty cents per day for the remainder of the session. When convened in extra session by the Governor, they shall receive such sum as shall be fixed for the first forty days of the ordinary session. They shall also receive the sum of one dollar for every ten miles they shall travel in going to and returning from their place of meeting on the most usual route.”

– and insert in lieu thereof the following:

“Annually the sum of five hundred dollars during the time for which they shall have been elected, and while they shall hold their office, and no other allowance or emolument, directly or indirectly, for any purpose whatever.”

Which received eight negative votes – Messrs. Dodd, Doyle, Gill, Hendrickson, Morrow, Skellinger, Swing and Woodruff, to 34 in the affirmative. All of the others received on an average 40 votes each. Mr. Swing, of Salem County, was the only member who recorded his vote in the negative about a half-dozen of times.}

**NEWSPAPER ACCOUNTS
OF ASSEMBLY PROCEEDINGS**

743

FEBURARY 16, 1875

[Daily State Gazette]

{The House took up the consideration of the Constitutional Amendments.

The amendments were severally read, voted on, and agreed to almost unanimously. The only amendment to which any serious opposition was made was that relative to the pay of members of the Legislature, which was passed by a vote of 34 to 9 (Messrs. Dodd, Doyle, Fitzgerald, Morrow, Skellinger, Swing, Woodruff, Hendrickson and Gill).}

Newspaper Sources for February 16, 1875:

“N.J. Legislature – XCIXth Session,” *Daily State Gazette*, February 17, 1875.

“The Legislature...Constitutional Amendments,” *Newark Daily Advertiser*, February 17, 1875.

“New Jersey Legislature,” *The New York Times*, February 17, 1875.

“The State Capital – The Constitutional Amendments Adopted by the House,” *Newark Daily Journal*, February 17, 1875.

STATE OF NEW JERSEY.

SENATE

AMENDMENTS TO THE CONSTITUTION NO. 7.

ARTICLE I.

RIGHTS AND PRIVILEGES.

- 1 Insert as paragraph 19, a new paragraph, as follows:
- 2 “19. No county, city, borough, town, township or village shall hereafter
- 3 give any money or property, or loan its money or credit, to or in aid of any
- 4 individual, association or corporation, or become security for or be directly or
- 5 indirectly the owner of any stock or bonds of any association or corporation.”
- 6 Insert as paragraph 20, a new paragraph, as follows:
- 7 “20. No donation of land or appropriation of money shall be made by the
- 8 state or any municipal corporation to or for the use of any society, association,
- 9 or corporation whatever.”
- 10 Change the number of present paragraph 19 to 21.

ARTICLE II.

RIGHTS OF SUFFRAGE.

Section I.

- 1 Strike out the word “white” between the word “every” and the word
- 2 “male” in the first line.
- 3 Add to the paragraph the following:
- 4 “*And provided further*, that in time of war no elector in the actual military
- 5 service of the state, or of the United States, in the army or navy thereof, shall
- 6 be deprived of his vote by the reason of his absence from such election district;
- 7 and the legislature shall have power to provide the manner in which, and the
- 8 time and place at which, such absent electors may vote, and for the return and
- 9 canvass of their votes in the election districts in which they respectively reside.”

746 **AMENDMENTS TO THE CONSTITUTION NO. 7**

Section II.

10 Strike out all the second section after the word “bribery.”

ARTICLE IV.

LEGISLATIVE.

Section I.

1 Paragraph 3.—Strike out the words: “second Tuesday of October,” and
2 insert in lieu thereof the words: “first Tuesday after the first Monday in
3 November.”

Section IV.

4 Paragraph 7.—Strike out the following words:
5 “A compensation for their services, to be ascertained by law, and paid out
6 of the treasury of the state; which compensation shall not exceed the sum of
7 three dollars per day for the period of forty days from the commencement
8 of the session, and shall not exceed the sum of one dollar and fifty cents per
9 day for the remainder of the session; when convened in extra session by the
10 governor they shall receive such sum as shall be fixed for the first forty days of
11 the ordinary session; they shall also receive the sum of one dollar for every
12 ten miles they shall travel in going to and returning from their place of meeting,
13 on the most usual route,”
14 — and insert in lieu thereof the following:
15 “Annually the sum of five hundred dollars during the time for which they
16 shall have been elected, and while they shall hold their office, and no other
17 allowance or emolument, directly or indirectly, for any purpose whatever.”
18 Also strike out the words “per diem.”

Section VII.

19 Paragraph 4.—Add to the paragraph the following:
20 “No law shall be revived or amended by reference to its title only, but the
21 act revived, or the section or sections amended, shall be inserted at length;
22 no general law shall embrace any provision of a private, special or local charac-
23 ter; no act shall be passed which shall provide that any existing law, or any
24 part thereof, shall be made or deemed a part of the act, or which shall enact
25 that any existing law, or any part thereof, shall be applicable, except by insert-
26 ing it in such act.”
27 Paragraph 6.—Insert the word “free” between the word “public” and the

AMENDMENTS TO THE CONSTITUTION NO. 7 747

28 word “schools,” and add to the paragraph the following:

29 “The legislature shall provide for the maintenance and support of a
30 thorough and efficient system of free public schools for the instruction of all the
31 children of this state between the ages of five and eighteen years.”

32 Strike out paragraph 8, as follows:

33 “8. The assent of three-fifths of the members elected to each house shall
34 be requisite to the passage of every law for granting, continuing, altering,
35 amending or renewing charters for banks or money corporations; and all such
36 charters shall be limited to a term not exceeding twenty years.”

37 Change the number of present paragraph 9 to 8.

38 Insert as paragraph 9, a new paragraph, as follows:

39 “9. No private, special, or local bill shall be passed, unless public notice of
40 the [in]tention to apply therefor, and of the general object thereof, shall have
41 been previously given; the legislature, at the next session after the adoption
42 thereof, and from time to time thereafter, shall prescribe the time and mode of
43 giving such notice, the evidence thereof, and how such evidence shall be
44 preserved.”

45 Insert as paragraph 11, a new paragraph, as follows:

46 “11. The legislature shall not pass private, local or special laws in any of
47 the following enumerated cases, that is to say:

48 “Laying out, opening, altering and working roads or highways.

49 “Vacating any road, town plot, street, alley or public grounds.

50 “Regulating the internal affairs of towns and counties; appointing local
51 offices or commissions to regulate municipal affairs.

52 “Selecting, drawing, summoning or empanneling grand or petit jurors.

53 “Creating, increasing or decreasing the per centage or allowance of public
54 officers during the term for which said officers were elected or appointed.

55 “Changing the law of descent.

56 “Granting to any corporation, association or individual any exclusive
57 privilege, immunity or franchise whatever.

58 “Granting to any corporation, association or individual the right to lay
59 down railroad tracks.

60 “Providing for changes of venue in civil or criminal cases.

61 “Providing for the management and support of free public schools.

62 “The legislature shall pass general laws providing for the cases enumerated
63 in this paragraph, and for all other cases which, in its judgement, may be pro-
64 vided for by general laws. The legislature shall pass no special act conferring
65 corporate powers, but they shall pass general laws under which corporations
66 may be organized, and corporate powers of every nature obtained, subject,

748 AMENDMENTS TO THE CONSTITUTION NO. 7

67 nevertheless, to repeal or alteration at the will of the legislature.”

68 Insert as paragraph 12, a new paragraph, as follows:

69 “12. Property shall be assessed for taxes under general laws, and by
70 uniform rules, according to its true value.”

Section VIII.

71 Insert as paragraph 2, a new paragraph, as follows:

72 “2. Every officer of the legislature shall, before he enters upon his duties,
73 take and subscribe the following oath or affirmation: ‘I do solemnly promise
74 and swear (or affirm) that I will faithfully, impartially and justly perform all
75 the duties of the office of _____, to the best of my ability and understanding;
76 that I will carefully preserve all records, papers, writings or property entrusted
77 to me for safe keeping by virtue of my office, and make such disposition of
78 the same as may be required by law.’”

ARTICLE V.

EXECUTIVE.

1 Paragraph 6.—After the word “legislature,” where it occurs first in said
2 paragraph, insert the words “or the senate alone.”

3 Paragraph 7.—Add to the paragraph the following:

4 “If any bill presented to the governor contain several items of appropria-
5 tions of money, he may object to one or more of such items while approving of
6 the other portions of the bill. In such case he shall append to the bill, at the
7 time of signing it, a statement of the items to which he objects, and the appro-
8 priation so objected to shall not take effect. If the legislature be in session he
9 shall transmit to the house in which the bill originated a copy of such state-
10 ment, and the items objected to shall be separately reconsidered. If, on recon-
11 sideration, one or more of such items be approved by a majority of the members
12 elected to each house, the same shall be a part of the law, notwithstanding the
13 objections of the governor. All the provisions of this section in relation to
14 bills not approved by the governor shall apply to cases in which he shall with-
15 hold his approval from any item or items contained in a bill appropriating
16 money.”

17 Paragraph 8.—Add to the paragraph the following:

18 “Nor shall he be elected by the legislature to any office under the govern-
19 ment of this state or of the United States, during the term for which he shall
20 have been elected governor.”

ARTICLE VII.

APPOINTING POWER AND TENURE OF OFFICE.

Section I.

MILITIA OFFICERS.

- 1 Paragraph 5.—After the words “major generals,” insert the words “the
- 2 adjutant general and quartermaster general.”
- 3 Paragraph 9.—Strike out the words “the adjutant general, quartermaster
- 4 general and.”
- 5 Also strike out the word “other.”

Section II.

CIVIL OFFICERS.

- 6 Paragraph 1.—Strike out the word “and” (where it occurs first) in the
- 7 paragraph, and insert after the word “appeals” the following words: “and
- 8 judges of the inferior court of common pleas.”
- 9 Change the number of present paragraph 3 to number 2, and strike there-
- 10 from the following words: “and the keeper and inspectors of the state prison;”
- 11 and insert in lieu thereof the words “and comptroller.”
- 12 Also, strike out the words “one year” in the second clause of paragraph 2
- 13 of section 2, and insert in lieu thereof the words “three years.”
- 14 Change the number of present paragraph 4 to number 3, and strike out the
- 15 word “and” where it occurs between the word “chancery” and the word
- 16 “secretary.”
- 17 Also, insert after the word “state” the words “and the keeper of the state
- 18 prison.”
- 19 Change the number of present paragraph 5 to number 4.
- 20 Change the number of present paragraph 6 to number 5.
- 21 Change the number of present paragraph 7 to number 6, and strike there-
- 22 from the words “annually,” “annual,” and “they may be re-elected until they
- 23 shall serve three years, but no longer.” Insert after the word “assembly,” the
- 24 following words: “and they shall hold their offices for three years;” and add
- 25 to the paragraph the following words: “sheriffs shall annually renew their
- 26 bonds.”
- 27 Change the number of present paragraph 8 to number 7.
- 28 Change the number of present paragraph 9 to number 8.
- 29 Change the number of present paragraph 10 to number 9.
- 30 Change the number of present paragraph 11 to number 10.

750 AMENDMENTS TO THE CONSTITUTION NO. 7

Source: ASSEMBLY MINUTES, March 16, 1874, (from original manuscript version in the New Jersey State Archives). [Reprinted without line numbers in ASSEMBLY MINUTES, 1874, p. 840-845.] Compare with the original manuscript version of SENATE JOURNAL, March 12, 1874, [Reprinted without line numbers in SENATE JOURNAL, 1874, p. 782-787.]

ANNUAL MESSAGE

OF HIS EXCELLENCY,

JOEL PARKER,*GOVERNOR OF NEW JERSEY,*

TO THE LEGISLATURE SESSION OF 1875.

* * *

CONSTITUTIONAL AMENDMENTS.

Both Houses of the Legislature, at the last session, agreed to several amendments to the Constitution of this State, entered them upon their Journals, and have referred them to you to decide whether they shall be submitted to the people. The proposed amendments have been published as the Constitution requires, and may be acted upon at any time you shall determine to consider them. It is hoped that the consideration of these proposed changes in the organic law will not be postponed to so late a day in the session, that other business shall intervene to interrupt your deliberations.

The adoption of the proposed amendments would conduce materially to the public welfare. Several of them are of the utmost importance, and the people should have the opportunity to vote upon them.

In the article upon suffrage it is proposed to strike the word "white" from the present Constitution. This should be done to make it conform to one of the recent amendments of the Constitution of the United States, by which our election officers are now governed.

It is right that qualified electors in the military service should be allowed to vote if necessarily absent from home on duty, but the legislation to carry into effect the provisions of this amendment, when adopted, should carefully guard the ballot box, and make it impossible for Returning Boards to deprive the soldier of the effect of the ballot he may cast.

Among the most important of the proposed amendments is the one which

752 GOVERNOR'S ANNUAL MESSAGE FOR 1875

forbids special legislation, and provides for general laws on the various subjects therein specified. Should this be adopted, the general railroad law, which was passed with such unanimity two years ago, will be secured, and hereafter there can be no monopoly of routes of travel in any part of the State. With this amendment in force no special law can be passed appointing commissioners to govern municipalities, and the long train of evils which follow such departure from the principle of local self-government will hereafter be averted. Neither can corporate powers be granted except by general legislation, and the Legislature would hereafter be relieved from the mass of business which now engrosses attention, the sessions would be shortened and the expenses of government diminished.

The paragraph which compels the Legislature to provide for the maintenance and support of a thorough and efficient system of free public schools, for the instruction of all the children of the State of legal school age, will commend itself to the friends of education.

My views in favor of other proposed amendments were fully stated to your predecessors, and I will not repeat them. An opportunity is now given to incorporate needed reforms in the Constitution without entirely superseding an instrument with which the people of the State are in the main satisfied.

It is to be regretted that in the amendments referred for your action, there was not incorporated the paragraph recommended by the constitutional commission, which provided that conviction for felony or other infamous crime, should, after final judgment thereon, vacate office, and that a duly authenticated record of such conviction and judgment should be conclusive evidence of such vacancy. It has been decided in this State that such offenders cannot be removed by any mode except impeachment, and as the court of impeachment convenes only at long intervals, the extraordinary spectacle may be presented of convicts exercising for months the privileges of office. Although this provision cannot now be incorporated in the Constitution, yet it may be embodied in a statute, and considering that it has produced good results in other States, it would be wise to pass such a law.

JOEL PARKER.

EXECUTIVE DEPARTMENT,
TRENTON, N. J., Jan. 12, 1875.

* * *

Sources:

DOCUMENTS OF THE NEW JERSEY LEGISLATURE, 1875, [Document No. 1], p. 20-21.
SENATE JOURNAL, 1875, p. 38-39; ASSEMBLY MINUTES, 1875, p. 39-40.

PART V: THE SPECIAL ELECTION ON THE CONSTITUTIONAL AMENDMENTS

Part V begins with the legislative act directing the method of presenting the proposed amendments on the ballot and the conduct of the special ratification election to be held on September 7, 1875.

This is followed by the official certification by the Board of State Canvassers of the results of the special election. We have presented only the statewide and county tabulation of votes for and against each proposed amendment. The actual document that certifies the election results, held by the New Jersey State Archives, also includes a similar breakdown by municipality that we have not reproduced here.

Finally, Part V contains the 1875 Proclamation of the Governor, of the same date as the official certification, formally declaring that the constitutional amendments had been ratified, and containing the text thereof.

**THE SPECIAL ELECTION ON
THE CONSTITUTIONAL AMENDMENTS**

**THE SPECIAL ELECTION ON
THE CONSTITUTIONAL AMENDMENTS**

755

CHAPTER CCCLXVII. [CHAPTER 367.]

An Act to provide for submitting proposed Amendments
to the Constitution of this State, to the people thereof.

WHEREAS, Certain proposed amendments to the constitution of the state of New Jersey were, at the session of the legislature of this state in the year eighteen hundred and seventy-four, agreed to by a majority of the members elected to each of the two houses thereof, and entered on the journals of each of said houses, with the yeas and nays taken thereon, and referred to the legislature then next to be chosen; *and whereas*, the said proposed amendments were published as required by the constitution; *and whereas*, in the legislature then next chosen, being the legislature now in session, such proposed amendments have been agreed to by a majority of all members elected to each house; *and whereas*, the constitution of this state requires the legislature to submit such proposed amendments as have been agreed to as aforesaid to the people at a special election to be held for that purpose only, therefore,

1. *BE IT ENACTED by the Senate and General Assembly of the State of New Jersey*, That on Tuesday, the seventh day of September next, an election shall be held in the several townships and wards of this state, at the place or places in each of said townships or wards where the last election for governor was held, to enable the electors qualified to vote for members of the legislature to vote for or against each of such proposed amendments to the constitution.

2 *And be it enacted*, That the judges of election in the several townships and wards who shall be in office on the seventh day of September next, shall be the judges of said election, and the polls shall be opened and closed at the times now fixed by law for opening and closing of polls at the annual election in this state, and the said election shall be conducted by the same officers and in the manner now required by law in conducting the annual elections in this state, unless otherwise directed in this act.

3. *And be it enacted*, That at such election each voter may present a ballot on which shall be written or printed, or partly written or partly printed, in the form following, namely:

For all propositions on this ballot which are not cancelled with ink or pencil, and against all which are so cancelled;

For the proposed amendment, designated paragraph nineteen [of] article one, relative to "Rights and privileges;"

For the proposed amendment, designated paragraph twenty, article one, relative to "Rights and privileges;"

**THE SPECIAL ELECTION ON
THE CONSTITUTIONAL AMENDMENTS**

For the proposed amendment, designated section one of article two, relative to "Right of suffrage;"

For the proposed amendment, designated section two of article two, relative to "Right of suffrage;"

For the proposed amendment, designated paragraph three of section one, article four, relative to "Legislative;"

For the proposed amendment, designated paragraph seven of section four of article four, relative to "Legislative;"

For the proposed amendment, designated paragraph four, section seven of article four, relative to "Legislative;"

For the proposed amendment, designated paragraph six, section seven of article four, relative to "Legislative;"

For the proposed amendment, designated paragraph eight, section seven of article four, relative to "Legislative;"

For the proposed amendment, designated paragraph nine, of section seven of article four, relative to "Legislative;"

For the proposed amendment, designated paragraph eleven, section seven of article four, relative to "Legislative;"

For the proposed amendment, designated paragraph twelve, section seven, of article four, relative to "Legislative;"

For the proposed amendment, designated paragraph two, of section eight, of article four, relative to "Legislative;"

For the proposed amendment, designated paragraph six, of article five, relative to "Executive;"

For the proposed amendment, designated paragraph seven, of article five, relative to "Executive;"

For the proposed amendment, designated paragraph eight, of article five, relative to "Executive;"

For the proposed amendment, designated paragraph five, of section one, of article seven, relative to "Appointing power and tenure of office;"

For the proposed amendment, designated paragraph nine, of section one, of article seven, relative to "Appointing power and tenure of office;"

For the proposed amendment, designated paragraph one, section two, of article seven, relative to "Appointing power and tenure of office;"

For the proposed amendment, designated paragraph two, section two, of article seven, relative to "Appointing power and tenure of office;"

For the proposed amendment, designated paragraph three, section two, of article seven, relative to "Appointing power and tenure of office;"

For the proposed amendment, designated paragraph four, section two, of

**THE SPECIAL ELECTION ON
THE CONSTITUTIONAL AMENDMENTS**

757

article seven, relative to "Appointing power and tenure of office;"

For the proposed amendment, designated paragraph five, of section two, of article seven, relative to "Appointing power and tenure of office;"

For the proposed amendment, designated paragraph six, of section two, of article seven, relative to "Appointing power and tenure of office;"

For the proposed amendment, designated paragraph seven, section two, of article seven, relative to "Appointing power and tenure of office;"

For the proposed amendment, designated paragraph eight, section two, of article seven, relative to "Appointing power and tenure of office;"

For the proposed amendment, designated paragraph nine, section two, of article seven, relative to "Appointing power and tenure of office;"

For the proposed amendment, designated paragraph ten, section two, of article seven, relative to "Appointing power and tenure of office;"

4. *And be it enacted*, That each of said ballots shall be counted as a vote cast for each proposition thereon not cancelled with ink or pencil, and against each proposition so cancelled, and return thereof shall be made accordingly by the judges of election.

5. *And be it enacted*, That all persons entitled to vote in this state for members of the legislature, at the time of said election, shall, in their respective townships and wards, be entitled to vote at the poll where they would be entitled to vote for members of the legislature.

6. *And be it enacted*, That after finally closing the polls of such election, the judges of election shall count and canvass the ballots given, relative to each of the said proposed amendments to the constitution, and thereupon shall set down in writing the whole number of votes given for each of the said proposed amendments in the words in which the said proposed amendment is hereinbefore given, and the whole number of votes given against each of the said proposed amendments as hereinbefore given, and shall certify and subscribe a statement of the result of the same, and cause the same certified to be delivered by a messenger appointed by them to the secretary of state of this state within one week after said election, who shall forthwith file the same in his office as an official paper.

7. *And be it enacted*, That it shall be the duty of the governor to summon to attend him, on the twenty-first day after such election, four or more of the members of the senate, who shall meet on the last named day in the senate chamber, in the city of Trenton, at the hour of two o'clock P.M., and they, with the governor, shall constitute a board of state canvassers to canvass and estimate the votes given for and against each of said amendments, and the said board of state canvassers shall proceed to organize and determine the result according to the provisions of the act entitled "An act to regulate elections," approved April

**THE SPECIAL ELECTION ON
THE CONSTITUTIONAL AMENDMENTS**

sixteenth, eighteen hundred and forty-six, so far as they are applicable, and shall determine and declare which of said proposed amendments have been adopted, and shall forthwith deliver a statement of the result as to each amendment to the secretary of state of this state, to be filed in his office as an official paper, and any proposed amendment which by said certificate and determination of the board of state canvassers shall appear to have received in its favor a majority of all the votes cast in the state for and against said proposed amendment shall, from the time of filing said certificate, be and become an amendment to and part of the constitution of this state, and it shall be the duty of the governor of this state forthwith, after such determination, to issue a proclamation declaring which of said proposed amendments have been adopted by the people.

8. *And be it enacted*, That this act, together with the said proposed amendments, shall be published in all the newspapers which were authorized by law on the first day of January, eighteen hundred and seventy-five, to publish the laws of this state, and the same shall be published in the said newspapers for four weeks next preceding said election once in each week, and no other publication shall be made in said newspapers, but neglect or failure to publish as aforesaid shall not impair the validity of such election, and the secretary of state shall furnish a copy of this law to each of said newspapers.

9. *And be it enacted*, That the same notice of the election provided for by this act in the townships and wards of the state shall be given as is now required by law in case of the annual election for members of the legislature.

10. *And be it enacted*, That all officers of election who shall assist in conducting said election shall receive the same compensation and be paid in the same manner as is now provided by law in case of the annual election.

11. *And be it enacted*, That no law respecting the registration of voters shall be applicable to the election provided for by this act.

12. *And be it enacted*, That it shall be the duty of the secretary of state to prepare and have printed a sufficient number of the ballots provided for in this act in the form herein provided for the use of the voters of the state, and shall, at least two weeks before the time fixed herein for said election, transmit to the clerk of each county in this state a sufficient number for the use of the voters of that country, and it shall be the duty of the clerk of each county, at least one week before said election, to transmit to the judges of election in each polling district of his county a sufficient number for the use of the voters of such polling district.

13. *And be it enacted*, That this act shall take effect immediately.

Approved April 8, 1875.

Source:

LAWS OF NEW JERSEY, 1875, p. 72-77.

**THE SPECIAL ELECTION ON
THE CONSTITUTIONAL AMENDMENTS**

759

A Statement of the Determination of the Board of State Canvassers

*Relative to an Election held in the State of New Jersey on the
seventh day of September, in the year of our Lord one thousand eight hundred
and seventy-five, for Proposed Amendments to the Constitution of this State.*

.....

The said Board do determine [and declare] that at the said Election,

1. The proposed amendment, designated paragraph nineteen to article one, relative to “Rights and Privileges:” [Article I. Rights and Privileges]—Insert as paragraph 19 a new paragraph, as follows: “19. No county, city, borough, town, township or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual, association or corporation, or become security for, or be directly or indirectly the owner of, any stock or bonds of any association or corporation,”... WAS ADOPTED.

2. The proposed amendment, designated paragraph twenty, article one, relative to “Rights and Privileges:”—Insert as paragraph 20 a new paragraph, as follows: “20. No donation of land or appropriation of money shall be made by the State or any municipal corporation to or for the use of any society, association or corporation whatever.” Change the number of present paragraph 19 to number 21,... WAS ADOPTED.

3. The proposed amendment, designated section one of article two, relative to “Right to Suffrage:” [Article II. Right of Suffrage. Section I]—Strike out the word “white” between the word “every” and the word “male” in the first line. Add to the paragraph the following: “*And provided further,* that in time of war no elector in the actual military service of the State, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the Legislature shall have power to provide the manner in which, and the time and place at which, such absent electors may vote, and for the return and canvass of their votes in election districts in which they respectively reside[,]”...WAS ADOPTED.

4. The proposed amendment, designated section two of article two, relative to “Right of Suffrage:” [Section II]—Strike out all of the second section after the word “bribery,”... WAS ADOPTED.

**THE SPECIAL ELECTION ON
THE CONSTITUTIONAL AMENDMENTS**

5. The proposed amendment, designated paragraph three of section one, article four, relative to “Legislative:” [Article IV. Legislative. Section I]—Paragraph 3. Strike out the words “second Tuesday of October,” and insert in lieu thereof the words “first Tuesday after the first Monday in November,”... WAS ADOPTED.

6. The proposed amendment, designated paragraph seven of section four of article four, relative to “Legislative:” [Section IV]—Paragraph 7. Strike out the following words: “A compensation for their services to be ascertained by law and paid out of the treasury of the state; which compensation shall not exceed the sum of three dollars per day for the period of forty days from the commencement of the session, and shall not exceed the sum of one dollar and fifty cents per day for the remainder of the session. When convened in extra session by the Governor they shall receive such sum as shall be fixed for the first forty days of the ordinary session. They shall also receive the sum of one dollar for every ten miles they shall travel in going to and returning from their place of meeting on the most usual route,” and insert in lieu thereof the following: “Annually the sum of five hundred dollars during the time for which they shall have been elected, and while they shall hold their office, and no other allowance or emolument, directly or indirectly, for any purpose whatever.” Also, strike out the words “per diem,”... WAS ADOPTED.

7. The proposed amendment, designated paragraph four, section seven of article four, relative to “Legislative:” [Section VII]—Paragraph 4. Add to the paragraph the following: “No law shall be revived or amended by reference to its title only, but the act revived, or the section or sections amended, shall be inserted at length. No general law shall embrace any provision of a private, special or local character. No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of the act, or which shall enact that any existing law, or any part thereof, shall be applicable, except by inserting it in such act,... WAS ADOPTED.

8. The proposed amendment, designated paragraph six, section seven of article four, relative to “Legislative:”—Paragraph 6. Insert the word “free” between the word “public” and the word “schools,” and add to the paragraph the following: “The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in this State between the ages of five and eighteen years,”... WAS ADOPTED.

**THE SPECIAL ELECTION ON
THE CONSTITUTIONAL AMENDMENTS**

761

9. The proposed amendment, designated paragraph eight, section seven of article four, relative to "Legislative:"—Strike out paragraph 8, as follows: "8. The assent of three-fifths of the members elected to each House shall be requisite to the passage of every law for granting, continuing, altering, amending, or renewing charters for banks or money corporations; and all such charters shall be limited to a term not exceeding twenty years." Change the number of present paragraph 9 to 8, ... WAS ADOPTED.

10. The proposed amendment, designated paragraph nine of section seven of article four, relative to "Legislative:"—Insert as paragraph 9 a new paragraph, as follows: "[9.] No private, special or local bill shall be passed unless public notice of the intention to apply therefor, and of the general object thereof, shall have been previously given. The Legislature, at the next session after the adoption thereof, and from time to time thereafter, shall prescribe the time and mode of giving such notice, the evidence thereof, and how such evidence shall be preserved,"... WAS ADOPTED.

11. The proposed amendment, designated paragraph eleven, section seven of article four, relative to "Legislative:"—Insert as paragraph 11 a new paragraph, as follows: "11. The Legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say: Laying out, opening, altering and working roads or highways; vacating any road, town plot, street, alley or public grounds; regulating the internal affairs of towns and counties; appointing local offices or commissions to regulate municipal affairs; selecting, drawing, summoning or empaneling grand or petit jurors; creating, increasing or decreasing the percentage or allowance of public officers during the term for which said officers were elected or appointed; changing the law of descent; granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever; granting to any corporation, association or individual the right to lay down railroad tracks; providing for changes of venue in civil or criminal cases; providing for the management and support of free public schools. The Legislature shall pass general laws providing for the cases enumerated in this paragraph, and for all other cases which, in its judgment, may be provided for by general laws. The Legislature shall pass no special act conferring corporate powers, but they shall pass general laws under which corporations may be organized and corporate powers of every nature obtained, subject, nevertheless, to repeal or alteration at the will of the Legislature,"... WAS ADOPTED.

**THE SPECIAL ELECTION ON
THE CONSTITUTIONAL AMENDMENTS**

12. The proposed amendment, designated paragraph twelve, section seven of article four, relative to “Legislative:”—Insert as paragraph 12 a new paragraph, as follows: “12. Property shall be assessed for taxes under general laws and by uniform rules, according to its true value,” ... WAS ADOPTED.

13. The proposed amendment, designated paragraph two of section eight of article four, relative to “Legislative:” [Section VIII]—Insert as paragraph 2 a new paragraph, as follows: “[2.] Every officer of the Legislature shall, before he enters upon his duties, take and subscribe the following oath or affirmation: ‘I do solemnly promise and swear (or affirm) that I will faithfully, impartially and justly perform all duties of the office of —, to the best of my ability and understanding; that I will carefully preserve all records, papers, writings or property entrusted to me for safe keeping by virtue of my office, and make such disposition of the same as may be required by law,’” ... WAS ADOPTED.

14. The proposed amendment, designated paragraph six of article five, relative to “Executive:”[Article V. Executive]—Paragraph 6. After the word “Legislature,” where it occurs first in said paragraph, insert the words “or the Senate alone,” ... WAS ADOPTED.

15. The proposed amendment, designated paragraph seven of article five, relative to “Executive:”—Paragraph 7. Add to the paragraph the following: “If any bill presented to the Governor contain several items of appropriations of money, he may object to one or more of such items while approving of the other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the appropriation so objected to shall not take effect. If the Legislature be in session he shall transmit to the House in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If, on reconsideration, one or more of such items be approved by a majority of the members elected to each House, the same shall be a part of the law, notwithstanding the objections of the Governor. All the provisions of this section in relation to bills not approved by the Governor shall apply to cases in which he shall withhold his approval from any item or items contained in a bill appropriating money,”... WAS ADOPTED.

16. The proposed amendment, designated paragraph eight of article five, relative to “Executive:”—Paragraph 8. Add to the paragraph the following: “Nor shall he be elected by the Legislature to any office under the government of this State or of the United States, during the term for which he shall have been elected

**THE SPECIAL ELECTION ON
THE CONSTITUTIONAL AMENDMENTS**

763

Governor,"... WAS ADOPTED.

17. The proposed amendment, designated paragraph five of section one of article seven, relative to "Appointing Power and Tenure of Office:" [Article VII. Appointing Power and Tenure of Office. Section I. Militia Officers]—Paragraph 5. After the words "Major Generals," insert the words "the Adjutant General and Quartermaster General,"... WAS ADOPTED.

18. The proposed amendment, designated paragraph nine of section one of article seven, relative to "Appointing Power and Tenure of Office:"—Paragraph 9. Strike out the words "the adjutant general, quartermaster general and." Also, strike out the word "other,"... WAS ADOPTED.

19. The proposed amendment, designated paragraph one, section two of article seven, relative to "Appointing Power and Tenure of Office:" [Section II. Civil Officers]—Paragraph 1. Strike out the word "and" (where it occurs first) in the paragraph, and insert after the word "Appeals" the following words: "and Judges of the Inferior Court of Common Pleas,"... WAS ADOPTED.

20. The proposed amendment, designated paragraph two, section two of article seven, relative to "Appointing Power and Tenure of Office:"—Change the number of present paragraph 3 to number 2, and strike therefrom the following words: "and the Keeper and Inspectors of the State Prison," and insert in lieu thereof the words "and Comptroller." Also, strike out the words "one year," in the second clause of paragraph 2 of section 2, and insert in lieu thereof the words "three years,"... WAS ADOPTED.

21. The proposed amendment, designated paragraph three, section two of article seven, relative to "Appointing Power and Tenure of Office:"—Change the number of present paragraph 4 to number 3, and strike out the word "and" where it occurs between the word "Chancery" and the word "Secretary." Also, insert after the word "State" the words "and the Keeper of the State Prison,"... WAS ADOPTED.

22. The proposed amendment, designated paragraph four, section two of article seven, relative to "Appointing Power and Tenure of Office:"—Change the number of present paragraph 5 to number 4,... WAS ADOPTED.

23. The proposed amendment, designated paragraph five of section two of

**THE SPECIAL ELECTION ON
THE CONSTITUTIONAL AMENDMENTS**

article seven, relative to “Appointing Power and Tenure of Office:”—Change the number of present paragraph 6 to number 5,... WAS ADOPTED.

24. The proposed amendment, designated paragraph six of section two of article seven, relative to “Appointing Power and Tenure of Office:”—Change the number of present paragraph 7 to number 6, and strike therefrom the words “annually,” “annual,” and “they may be re-elected until they shall serve three years, but no longer.” Insert after the word “assembly” the following words: “and they shall hold their offices for three years;” and add to the paragraph the following words: “sheriffs shall annually renew their bonds,”... WAS ADOPTED.

25. The proposed amendment, designated paragraph seven, section two of article seven, relative to “Appointing Power and Tenure of Office:”—Change the number of present paragraph 8 to number 7,... WAS ADOPTED.

26. The proposed amendment, designated paragraph eight, section two of article seven, relative to “Appointing Power and Tenure of Office:”—Change the number of present paragraph 9 to 8,... WAS ADOPTED.

27. The proposed amendment, designated paragraph nine section two of article seven, relative to “Appointing Power and Tenure of Office:”—Change the number of present paragraph 10 to 9,... WAS ADOPTED.

28. The proposed amendment, designated paragraph ten, section two of article seven, relative to “Appointing Power and Tenure of Office:”—Change the number of present paragraph 11 to number 10,... WAS ADOPTED.

and that all of the foregoing Amendments were adopted, each of them having received a majority of all the votes cast [in the State for and against said proposed amendments severally.]

**THE SPECIAL ELECTION ON
THE CONSTITUTIONAL AMENDMENTS**

765

I DO CERTIFY that the foregoing is a true, full and correct statement of the determination [and declaration] of the Board of State Canvassers therein mentioned.

IN TESTIMONY WHEREOF, I have hereto set my hand, this twenty-eighth day of September, in the year of our Lord one thousand eight hundred and seventy-five.

J.D. Bedle

.....
Chairman of the Board of State Canvassers.

Attest:

J.D. Hall Clerk.

.....

.....

.....

I DO HEREBY CERTIFY that the foregoing is a true, full and correct statement of the result of the Election above mentioned, as the same is exhibited by the statements produced and laid before the Board of State Canvassers, according to law, and that the same exhibits the number of the names of the voters in the poll [books] of the Counties respectively, and of the ballots rejected; the whole number of the names of the voters in the poll books of the several Counties; the proposed Amendments for which any vote or votes were given; the number of votes given for and against each of said proposed Amendments [in each county], as they appear by the statements so produced and laid before the Board.

IN TESTIMONY WHEREOF, I have hereunto set my hand, this twenty-eighth day of September, in the year of our Lord one thousand eight hundred and seventy-five.

J.D. Bedle

.....
Chairman of the Board of State Canvassers.

THE SPECIAL ELECTION ON THE CONSTITUTIONAL AMENDMENTS

The Number of Votes Given For and Against Each Proposed Amendment is as follows.

COUNTIES.	1. FOR	1. AGAINST	2. FOR	2. AGAINST	3. FOR	3. AGAINST	4. FOR	4. AGAINST
ATLANTIC,	984	27	977	34	954	57	962	49
BERGEN,	2318	476	2301	493	2184	610	2302	492
BURLINGTON,	3178	512	3183	509	3028	655	3195	497
CAMDEN,	3874	660	3865	667	3862	676	3875	659
CAPE MAY,	407	24	407	24	406	27	412	19
CUMBERLAND,	2769	179	2770	178	2586	361	2770	174
ESSEX,	12977	5786	12947	5769	12953	5810	13068	5691
GLOUCESTER,	1993	110	2001	100	1831	178	1936	163
HUDSON,	6955	7153	6960	7158	6598	7492	6618	7497
HUNTERDON,	3042	602	3031	612	2824	819	2813	822
MERCER,	5550	1330	5554	1317	5509	1356	5611	1264
MIDDLESEX,	2959	1727	2971	1716	2907	1762	2934	1737
MONMOUTH,	2476	730	2479	723	2453	747	2438	762
MORRIS,	4666	1203	4660	1209	4687	1204	4771	1098
OCEAN,	561	92	560	92	535	116	541	110
PASSAIC,	3438	2283	3438	2282	3358	2363	3368	2353
SALEM,	1389	115	1391	112	1291	213	1335	170
SOMERSET,	1766	463	1771	458	1698	531	1729	500
SUSSEX,	1312	122	1310	124	1208	226	1279	154
UNION,	3994	1698	3993	1699	4002	1690	4048	1644
WARREN,	3833	819	3821	830	3790	863	3862	781
[TOTAL]	70,441	26,111	70,390	26,106	68,664	27,756	69,867	26,636

**THE SPECIAL ELECTION ON
THE CONSTITUTIONAL AMENDMENTS**

767

COUNTIES.	5. FOR	5. AGAINST	6. FOR	6. AGAINST	7. FOR	7. AGAINST	8. FOR	8. AGAINST
ATLANTIC,	991	20	981	30	983	28	978	33
BERGEN,	2304	490	2208	586	2302	492	2298	496
BURLINGTON,	3282	401	3129	564	3286	407	3051	644
CAMDEN,	4016	520	4014	523	3944	591	3830	702
CAPE MAY,	416	16	404	27	414	17	409	23
CUMBERLAND,	2819	128	2697	249	2802	145	2749	198
ESSEX,	13132	5633	13013	5751	13103	5661	12958	5802
GLOUCESTER,	1979	122	1916	198	1988	116	1982	119
HUDSON,	6611	7504	6559	7556	6576	7555	6912	7206
HUNTERDON,	2840	806	2723	920	2808	831	2802	822
MERCER,	5650	1230	5619	1247	5655	1209	5521	1334
MIDDLESEX,	2936	1736	2880	1791	2930	1748	2941	1755
MONMOUTH,	2488	712	2379	821	2416	784	2446	754
MORRIS,	4812	1057	4646	1223	4798	1071	4652	1217
OCEAN,	543	107	463	187	544	106	545	105
PASSAIC,	3387	2335	3361	2359	3375	2345	3413	2308
SALEM,	1388	113	1362	137	1378	121	1378	121
SOMERSET,	1773	456	1696	533	1762	467	1734	493
SUSSEX,	1337	97	1328	107	1336	98	1311	123
UNION,	4067	1625	4003	1689	4040	1652	3978	1713
WARREN,	3915	738	3712	940	3918	734	3786	866
[TOTAL]	70,686	25,846	69,093	27,438	70,358	26,178	69,674	26,834

**THE SPECIAL ELECTION ON
THE CONSTITUTIONAL AMENDMENTS**

COUNTIES.	9. FOR	9. AGAINST	10. FOR	10. AGAINST	11. FOR	11. AGAINST	12. FOR	12. AGAINST
ATLANTIC,	985	26	984	27	984	27	966	45
BERGEN,	2305	489	2311	483	2307	487	2129	665
BURLINGTON,	3230	460	3307	384	3145	544	3212	480
CAMDEN,	3973	564	3978	563	3874	656	3897	643
CAPE MAY,	413	18	414	16	408	23	337	94
CUMBERLAND,	2791	155	2815	130	2736	210	2443	504
ESSEX,	12945	5826	13140	5623	12875	5897	7479	11324
GLOUCESTER,	1976	128	1991	113	1971	131	1779	325
HUDSON,	6568	7558	6585	7526	6736	7373	941	13208
HUNTERDON,	2790	834	2814	810	2769	876	2732	912
MERCER,	5633	1226	5657	1211	5539	1320	5110	1758
MIDDLESEX,	2935	1737	2943	1731	2913	1780	2535	2212
MONMOUTH,	2432	768	2428	772	2399	800	2315	885
MORRIS,	4779	1090	4792	1077	4655	1214	4735	1134
OCEAN,	479	170	532	120	485	164	470	179
PASSAIC,	3376	2344	3387	2333	3395	2326	1587	4126
SALEM,	1388	112	1390	110	1384	116	1308	193
SOMERSET,	1771	458	1765	464	1762	467	1690	539
SUSSEX,	1326	108	1323	111	1308	126	1328	106
UNION,	4051	1640	4060	1631	3954	1737	833	4858
WARREN,	3889	762	3970	682	3786	857	3875	777
[TOTAL]	70,035	26,473	70,586	25,917	69,385	27,131	51,701	44,967

**THE SPECIAL ELECTION ON
THE CONSTITUTIONAL AMENDMENTS**

769

COUNTIES.	13. FOR	13. AGAINST	14. FOR	14. AGAINST	15. FOR	15. AGAINST	16. FOR	16. AGAINST
ATLANTIC,	988	23	984	27	985	26	988	23
BERGEN,	2309	485	2297	497	2302	492	2295	499
BURLINGTON,	3289	404	3273	418	3277	413	3246	423
CAMDEN,	4020	514	3976	560	4018	513	4027	509
CAPE MAY,	414	15	418	15	412	19	415	16
CUMBERLAND,	2816	129	2795	151	2828	119	2822	124
ESSEX,	13072	5692	12975	5798	13079	5743	13038	5725
GLOUCESTER,	1989	115	2001	103	2006	98	2000	104
HUDSON,	6561	7544	6479	7624	6968	7147	6573	7525
HUNTERDON,	2817	827	2787	857	2807	842	2808	839
MERCER,	5654	1214	5641	1230	5660	1207	5660	1209
MIDDLESEX,	2943	1726	2873	1794	2980	1686	2951	1716
MONMOUTH,	2487	713	2428	772	2433	767	2434	766
MORRIS,	4799	1070	4798	1071	4809	1062	4815	1056
OCEAN,	542	107	515	134	529	120	524	125
PASSAIC,	3376	2344	3371	2348	3372	2347	3369	2349
SALEM,	1387	113	1385	115	1387	113	1385	115
SOMERSET,	1774	455	1772	458	1777	452	1773	456
SUSSEX,	1333	101	1330	104	1323	111	1323	111
UNION,	4056	1635	4056	1634	4081	1610	4059	1632
WARREN,	3928	729	3912	741	3916	736	3954	697
[TOTAL]	70,554	25,955	70,066	26,451	70,949	25,623	70,459	26,019

**THE SPECIAL ELECTION ON
THE CONSTITUTIONAL AMENDMENTS**

COUNTIES.	17. FOR	17. AGAINST	18. FOR	18. AGAINST	19. FOR	19. AGAINST	20. FOR	20. AGAINST
ATLANTIC,	987	24	983	28	985	26	985	26
BERGEN,	2296	498	2298	495	2272	521	2250	543
BURLINGTON,	3232	458	3246	442	3028	666	3177	512
CAMDEN,	3966	567	3945	585	3875	658	3942	584
CAPE MAY,	414	17	415	15	415	16	415	16
CUMBERLAND,	2780	166	2816	130	2745	202	2788	159
ESSEX,	13049	5719	12991	5757	12418	6361	12509	6251
GLOUCESTER,	1998	106	1997	107	1972	132	1946	158
HUDSON,	6569	7539	6583	7528	6580	7528	6576	7545
HUNTERDON,	2786	855	2785	856	2716	925	2719	921
MERCER,	5616	1253	5615	1254	5594	1274	5630	1238
MIDDLESEX,	2849	1818	2847	1819	2842	1827	2818	1851
MONMOUTH,	2424	776	2424	776	2373	827	2428	772
MORRIS,	4805	1064	4805	1064	4798	1071	4800	1069
OCEAN,	529	120	522	127	409	240	447	202
PASSAIC,	3341	2375	3334	2384	3332	2385	3325	2391
SALEM,	1382	118	1381	119	1370	130	1352	146
SOMERSET,	1765	464	1768	461	1763	464	1761	469
SUSSEX,	1284	150	1282	152	1271	163	1267	167
UNION,	4055	1636	4051	1640	4049	1642	4050	1641
WARREN,	3899	753	3901	742	3893	748	3866	786
[TOTAL]	70,026	26,476	69,989	26,481	68,700	27,806	69,051	27,447

**THE SPECIAL ELECTION ON
THE CONSTITUTIONAL AMENDMENTS**

771

COUNTIES.	21. FOR	21. AGAINST	22. FOR	22. AGAINST	23. FOR	23. AGAINST	24. FOR	24. AGAINST
ATLANTIC,	985	26	985	26	985	26	967	44
BERGEN,	2259	534	2262	531	2275	518	2256	537
BURLINGTON,	2994	697	3233	444	3274	417	3207	483
CAMDEN,	3792	730	3941	586	3956	579	3999	524
CAPE MAY,	415	16	416	15	415	16	416	15
CUMBERLAND,	2791	156	2802	145	2801	146	2741	206
ESSEX,	12512	6252	12515	6249	12571	6193	12538	6256
GLOUCESTER,	1933	171	1950	154	1954	150	1942	162
HUDSON,	6577	7539	6595	7524	6585	7523	6621	7478
HUNTERDON,	2742	899	2727	914	2730	910	2674	966
MERCER,	5575	1304	5643	1227	5643	1224	5631	1236
MIDDLESEX,	2799	1868	2802	1868	2851	1818	2797	1901
MONMOUTH,	2425	775	2427	773	2424	776	2426	774
MORRIS,	4802	1070	4805	1064	4811	1057	4795	1074
OCEAN,	409	240	465	184	466	183	453	196
PASSAIC,	3333	2384	3348	2370	3348	2375	3320	2395
SALEM,	1349	148	1371	127	1371	130	1365	135
SOMERSET,	1762	467	1763	466	1767	462	1713	516
SUSSEX,	1261	173	1269	165	1272	162	1266	168
UNION,	4050	1641	4051	1640	4052	1639	4027	1664
WARREN,	3804	847	3875	777	3893	749	3742	900
[TOTAL]	68,569	27,937	69,245	27,249	69,444	27,053	68,896	27,630

**THE SPECIAL ELECTION ON
THE CONSTITUTIONAL AMENDMENTS**

COUNTIES.	25. FOR	25. AGAINST	26. FOR	26. AGAINST	27. FOR	27. AGAINST	28. FOR	28. AGAINST	Names on the Poll Books	Ballots Rejected
ATLANTIC,	983	28	985	26	984	27	984	27	1011	0
BERGEN,	2253	540	2279	514	2280	513	2281	512	2796	3
BURLINGTON,	3240	444	3245	443	3250	439	3250	439	3697	5
CAMDEN,	4007	518	4012	523	4009	513	4016	510	4544	6
CAPE MAY,	415	16	415	16	415	16	415	16	435	6
CUMBERLAND,	2803	144	2803	144	2802	145	2803	144	2954	6
ESSEX,	12474	6284	12568	6195	12567	6201	12577	6071	18845	41
GLOUCESTER,	1958	146	1955	149	1954	150	1948	150	2105	1
HUDSON,	6580	7526	6602	7508	6610	7498	6614	7492	14139	14
HUNTERDON,	2694	946	2722	918	2721	919	2729	911	3649	4
MERCER,	5645	1221	5648	1220	5651	1216	5653	1213	6876	9
MIDDLESEX,	2817	1852	2846	1822	2853	1816	2854	1814	4675	12
MONMOUTH,	2414	786	2427	773	2428	772	2428	772	3210	6
MORRIS,	4809	1060	4814	1055	4820	1049	4898	971	5880	4
OCEAN,	463	186	465	184	466	183	466	183	654	2
PASSAIC,	3344	2373	3345	2373	3348	2371	3342	2365	5722	8
SALEM,	1366	130	1372	125	1372	125	1372	125	1504	1
SOMERSET,	1758	471	1767	462	1769	460	1769	460	2230	2
SUSSEX,	1273	161	1272	162	1273	161	1273	161	1436	2
UNION,	4043	1648	4048	1643	4051	1640	4054	1637	5698	6
WARREN,	3858	784	3870	772	3874	768	3877	765	4655	7
[TOTAL]	69,197	27,264	69,460	27,027	69,497	26,982	69,603	26,738	96,715	145

Source: "A Statement of the Determination of the Board of State Canvassers: Relative to an Election held in the State of New Jersey on the seventh day of September, in the year of our Lord one thousand eight hundred and seventy-five, for Proposed Amendments to the Constitution of this State," document located in the New Jersey State Archives, Department of State.

**THE SPECIAL ELECTION ON
THE CONSTITUTIONAL AMENDMENTS
PROCLAMATION BY THE GOVERNOR.**

773

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

The Board of State Canvassers, having on this twenty-eighth day of September, A.D. eighteen hundred and seventy-five, filed in the office of the Secretary of State, their certificate and determination as required by the act entitled "An act to provide for submitting proposed Amendments to the Constitution of this State to the people thereof," approved April 8th, 1875, by which it appears that all of the proposed Amendments to the Constitution of this State, submitted to the people at the special election for that purpose only, held by virtue of said act, on the seventh day of September instant, have received in their favor a majority of all the votes cast in the state for and against said proposed amendments respectively by the electors qualified to vote thereon under the constitution, I, Joseph D. Bedle, Governor of the state of New Jersey, do hereby, as further provided in said act, issue this my proclamation, declaring that the same have all been adopted, approved and ratified by the people, by a majority of the electors qualified to vote for members of the legislature voting thereon, and that the same have this day become a part of the Constitution, which amendments are as follows:

ARTICLE I.

RIGHTS AND PRIVILEGES.

Insert as paragraph 19, a new paragraph, as follows:

"19. No county, city, borough, town, township or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual, association or corporation, or become security for, or be directly or indirectly the owner of any stock or bonds of any association or corporation."

Insert as paragraph 20, a new paragraph, as follows:

"20. No donation of land or appropriation of money shall be made by the state or any municipal corporation to or for the use of any society, association or corporation whatever."

Change the number of present paragraph 19, to number 21.

**THE SPECIAL ELECTION ON
THE CONSTITUTIONAL AMENDMENTS**

ARTICLE II.

RIGHT OF SUFFRAGE.

Section I.

Strike out the word “white” between the word “every” and the word “male” in the first line.

Add to the paragraph the following:

“And provided further, that in time of war no elector in the actual military service of the state, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the legislature shall have power to provide the manner in which, and the time and place at which, such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.”

Section II.

Strike out all of the second section after the word “bribery.”

ARTICLE IV.

LEGISLATIVE.

Section I.

Paragraph 3—Strike out the words “second Tuesday of October,” and insert in lieu thereof the words “first Tuesday after the first Monday in November.”

Section IV.

Paragraph 7—Strike out the following words:

“A compensation for their services, to be ascertained by law, and paid out of the treasury of the state; which compensation shall not exceed the sum of three dollars per day for the period of forty days from the commencement of the session, and shall not exceed the sum of one dollar and fifty cents per day for the remainder of the session. When convened in extra session by the governor they shall receive such sum as shall be fixed for the first forty days of the ordinary session. They

**THE SPECIAL ELECTION ON
THE CONSTITUTIONAL AMENDMENTS**

775

shall also receive the sum of one dollar for every ten miles they shall travel in going to and returning from their place of meeting on the most usual route,”

—and insert in lieu thereof the following:

“Annually the sum of five hundred dollars during the time for which they shall have been elected, and while they shall hold their office, and no other allowance or emolument, directly or indirectly, for any purpose whatever.”

Also, strike out the words “per diem.”

Section VII.

Paragraph 4—Add to the paragraph the following:

“No law shall be revived or amended by reference to its title only, but the act revived, or the section or sections amended, shall be inserted at length. No general law shall embrace any provision of a private, special or local character. No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of the act or which shall enact that any existing law, or any part thereof, shall be applicable, except by inserting it in such act.”

Paragraph 6—Insert the word “free” between the word “public” and the word “schools,” and add to the paragraph the following:

“The legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all children in this state between the ages of five and eighteen years.”

Strike out paragraph 8, as follows:

“8. The assent of three-fifths of the members elected to each house shall be requisite to the passage of every law for granting, continuing, altering, amending or renewing charters for banks or money corporations; and all such charters shall be limited to a term not exceeding twenty years.”

Change the number of present paragraph 9 to 8.

Insert as paragraph 9, a new paragraph, as follows:

“9. No private, special or local bill shall be passed unless public notice of the intention to apply therefor, and of the general object thereof, shall have been previously given. The legislature, at the next session after the adoption thereof, and from time to time thereafter, shall prescribe the time and mode of giving such notice, the evidence thereof, and how such evidence shall be preserved.”

Insert as paragraph 11, a new paragraph, as follows:

“11. The legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say:

“Laying out, opening, altering and working roads or highways.

“Vacating any road, town plot, street, alley or public grounds.

**THE SPECIAL ELECTION ON
THE CONSTITUTIONAL AMENDMENTS**

“Regulating the internal affairs of towns and counties; appointing local offices or commissions to regulate municipal affairs.

“Selecting, drawing, summoning or empanelling grand or petit jurors.

“Creating, increasing or decreasing the per centage or allowance of public officers during the term for which said officers were elected or appointed.

“Changing the law of descent.

“Granting to any corporation, association or individuals any exclusive privilege, immunity or franchise whatever.

“Granting to any corporation, association or individual the right to lay down railroad tracks.

“Providing for changes of revue in civil or criminal cases.

“Providing for the management and support of free public schools.

The legislature shall pass general laws providing for the cases enumerated in this paragraph, and for all other cases which, in its judgement, may be provided for by general laws. The legislature shall pass no special act conferring corporate powers, but they shall pass general laws under which corporations may be organized and corporate powers of every nature obtained, subject, nevertheless, to repeal or alteration at the will of the legislature.

Insert as paragraph 12, a new paragraph, as follows:

“12. Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value.”

Section VIII.

Insert as paragraph 2, a new paragraph, as follows:

“2. Every officer of the legislature shall, before he enters upon his duties take and subscribe the following oath or affirmation: ‘I do solemnly promise and swear (or affirm) that I will faithfully, impartially and justly perform all the duties of the office of —, to the best of my ability and understanding; that I will carefully preserve all records, papers, writings or property entrusted to me for safe keeping by virtue of my office, and make such disposition of the same as may be required by law.’”

ARTICLE V.

EXECUTIVE.

Paragraph 6—After the word “legislature,” where it occurs first in said

**THE SPECIAL ELECTION ON
THE CONSTITUTIONAL AMENDMENTS**

777

paragraph, insert the words “or the senate alone.”

Paragraph 7—Add to the paragraph the following:

“If any bill presented to the governor contains several items of appropriations of money, he may object to one or more of such items while approving of the other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the appropriations so objected to shall not take effect. If the legislature be in session he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If, on reconsideration, one or more of such items be approved by a majority of the members elected to each house, the same shall be a part of the law, notwithstanding the objections of the governor. All the provisions of this section in relation to bills not approved by the governor shall apply to cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.”

Paragraph 8—Add to the paragraph the following:

“Nor shall he be elected by the legislature to any office under the government of this state or of the United States, during the term for which he shall have been elected governor.”

ARTICLE VII.

APPOINTING POWER AND TENURE OF OFFICE.

Section I.

MILITIA OFFICERS.

Paragraph 5—After the words “major generals,” insert the words “the adjutant general and quartermaster-general.”

Paragraph 9—Strike out the words “the adjutant general, quartermaster-general and.”

Also strike out the word “other.”

Section II.

CIVIL OFFICERS.

Paragraph 1—Strike out the word “and” (where it occurs first) in the

**THE SPECIAL ELECTION ON
THE CONSTITUTIONAL AMENDMENTS**

paragraph, and insert after the word “appeals” the following words: “and judges of the inferior court of common pleas.”

Change the number of present paragraph 3 to number 2, and strike therefrom the following words “and the keeper and inspectors of the state prison:” and insert in lieu thereof the words “and comptroller.”

Also, strike out the words “one year” in the second clause of paragraph 2 of section 2, and insert in lieu thereof the words “three years.”

Change the number of present paragraph 4 to number 3, and strike out the word “and” where it occurs between the word “chancery” and the word “secretary.”

Also, insert after the word “state” the words: “and the keeper of the state prison.”

Change the number of present paragraph 5 to number 4.

Change the number of present paragraph 6 to number 5.

Change the number of present paragraph 7 to number 6, and strike therefrom the words “annually,” “annual” and “they may be re-elected until they shall serve three years, but no longer.” Insert after the word “assembly” the following words: “and they shall hold their offices for three years:” and add to the paragraph the following words: “sheriffs shall annually renew their bonds.”

Change the number of present paragraph 8 to number 7.

Change the number of present paragraph 9 to number 8.

Change the number of present paragraph 10 to number 9.

Change the number of present paragraph 11 to number 10.

Given under my hand and the great seal of the state of New Jersey, at Trenton,
[L.S.] this twenty-eighth of September, A.D. eighteen hundred and seventy-five.

By the Governor,

J. D. BEDLE.

HENRY C. KELSEY, *Secretary of State*.

Source: LAWS OF NEW JERSEY, 1876, p. 433-439.

PART VI: IMPLEMENTING THE CONSTITUTIONAL AMENDMENTS

Part VI contains excerpts from the Governor's 1876 Annual Message to the Legislature concerning the implementation of the newly adopted constitutional amendments. This document reflects the Governor's view of the importance of the new amendments.

**IMPLEMENTING THE
CONSTITUTIONAL AMENDMENTS**

IMPLEMENTING THE
CONSTITUTIONAL AMENDMENTS

781

FIRST ANNUAL MESSAGE

OF HIS EXCELLENCY

JOSEPH D. BEDLE,

GOVERNOR OF NEW JERSEY,

TO THE LEGISLATURE—SESSION OF 1876.

* * *

MESSAGE.

Gentlemen of the Senate and General Assembly:—

This session of the Legislature is of unusual importance in the history of the State. The amendments to the Constitution, recently adopted, have imposed upon you peculiar duties and responsibilities. To give shape and efficacy to laws intended to carry out their true purpose is no easy task, but one upon which you will, no doubt, enter fully conscious of its magnitude and with the best interests of the people in view. As a whole, the amendments will be of incalculable advantage; yet, some will need judicial construction before their meaning is definitely settled. It is our duty, however, to ascertain, as far as we are able, what seems to be their proper scope, and to enforce them by appropriate legislation. As questions of difficulty arise, the Courts alone must be depended upon for final determination. When material and radical constitutional changes such as these are made, it necessarily requires time to understand, with entire accuracy, the full force of the language used, and therefore the work of this session may be, in some respects, incomplete; but it is desirable that a system of laws, as complete as possible, in accordance with the amendments should now be adopted. If, by hearty co-operation in all suitable measures, we can secure to the people the substantial fruits of the amendments, we will be doing a great public service. It is my purpose to call attention to some of their chief provisions, and more particularly to those upon which legislation is necessary.

IMPLEMENTING THE CONSTITUTIONAL AMENDMENTS

RIGHT OF SUFFRAGE.

Section I of Article II is amended so that in time of war electors in the actual military services of the State, or of the United States, in the army or navy thereof, shall not be deprived of their votes by reason of absence from their election districts, and the Legislature is empowered to provide for the manner, time and place of taking such votes, and for the return and canvass thereof in the districts in which the electors reside. A law to this effect will be necessary.

Section 2 of the same Article having been amended so as to read as follows: "The Legislature may pass laws to deprive persons of the right of suffrage who shall be convicted of bribery"—while before it only applied to bribery at elections—I earnestly recommend the passage of a law depriving every person convicted of bribery of any kind of the right of suffrage, unless pardoned, and that to be in addition to other penalties prescribed. These are times when sharp punishments are needed for all crimes in public office or affecting the purity of the ballot box. The less respectable and more ignominious such crimes can be made the more protection there is against their commission.

NOTICE OF BILLS.

In Article IV, Section 7, is inserted a new paragraph, that "No private, special or local bill shall be passed unless public notice of the intention to apply therefor, and of the general object thereof, shall have been previously given. The Legislature, at the next session after the adoption thereof, and from time to time thereafter, shall prescribe the time and mode of giving such notice, the evidence thereof, and how such evidence shall be preserved." By referring to the amendment of paragraph 4, in Section VII, it will be seen that "No general law shall embrace any provision of a private, special or local character." The evident object is to separate the two classes of laws, thereby preventing surreptitious legislation, and then to secure to all persons interested fair notice of any bill not general. Heretofore the requirement of notice was only statutory, and that limited to a small class of special bills; but the language of this amendment is so strong that it prevents the passage of any private, special or local bill without previous notice. Whatever bills are within the scope of the existing statute concerning notices, if noticed according to its terms, could, in my judgment, be passed; and if applications have been voluntarily noticed, and the time and manner of notice are in conformity to such rule as the Legislature may adopt, applicable to such cases, although retrospective, yet, I think the notice would be in substantial compliance with the amendment, and justify legislative action. For the future, a rule should be prescribed, so that the public may know precisely how to comply. It is important, also, that a mode of perpetuating the evidence of notice, as a record, should be

provided.

GENERAL AND SPECIAL LAWS.

Private and Municipal Corporations.—It is now the settled policy of the State that legislation shall be by general laws in all cases practicable. This is the clear meaning of the new paragraph 11, in Section VII of Article IV. Special legislation has heretofore been a grievous evil. It has entailed upon the State a large expense, disturbed the harmony of laws, and encouraged corruption. Last winter relief was, to some extent, obtained, but now, by the organic law, a uniform system is secured upon many of the most important subjects of legislation. This paragraph 11 is an absolute prohibition against the passage of private, local or special laws in certain enumerated cases, and among them are these: “Regulating the internal affairs of towns and counties; appointing local offices or commissions to regulate municipal affairs;” also, “granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever;” also, “granting to any corporation, association or individual the right to lay down railroad tracks;” and also “providing for the management and support of free public schools.” In addition to this prohibition, it is enjoined upon the Legislature to pass general laws providing for the cases enumerated in this paragraph, and for all other cases which, in its judgment, may be provided for by general laws. In the latter part of the paragraph it is also provided that “the Legislature shall pass no special act conferring corporate powers; but they shall pass general laws under which corporations may be organized and corporate powers of every nature obtained, subject, nevertheless, to repeal or alteration at the will of the Legislature.” One marked feature of this paragraph is that it cuts off all right to grant exclusive corporate privileges, and prevents the Legislature from conferring, by special law, any corporate powers. This is a very sweeping change. Exclusive privileges should never be granted. They are unfair, and contrary to a sound State policy; and the policy is equally strong that no corporate powers should be granted by special law when practicable to provide for them by general laws. But the wisdom of an entire restriction, except by general laws, is not free from doubt, and can only be determined by its practical results.

In common with the large majority in favor of this amendment, I am satisfied that it was best to adopt it and try it, for gross abuses need radical remedies. The corporate powers referred to in the last clause of the paragraph are not municipal. Municipal corporations are public. They have reference to, and are a part of, the system of government, and are not generally understood as coming within the ordinary designation of *corporations*; although they are corporations, yet of a

IMPLEMENTING THE CONSTITUTIONAL AMENDMENTS

distinctive kind—that is, municipal. A critical examination of other parts of the amendments will show that this distinction has been recognize. Besides, the fitness of language in the clause in question makes it applicable, by natural construction, only to corporations of a private nature.

There are several other considerations upon this amendment proper to be referred to. It will be seen that none of its provisions are retrospective. They do not repeal existing laws upon the same subject matters. Constitutions, like statutes, must be construed prospectively, and not retrospectively, unless the intention otherwise is clear. But the duty of the Legislature cannot be discharged by leaving upon the statute book special laws affecting the public that are inimical to the true spirit of the amendments, where it is practicable and lawful to repeal them and supply their places by laws conformable thereto. A failure in this defeats, to the extent thereof, the great purpose of the amendments.

Another consideration is that constitutions of sovereign states are limitations upon legislative power, and that the inherent power of the Legislature is not abridged unless the same clearly appears. This principle is indispensable in the construction of constitutional language. There is serious difficulty in determining the exact scope of this paragraph, and particularly in reference to municipal affairs. Take the third clause of subjects concerning which no local or special laws can be passed. The commencement of the amendment is: “The Legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say:”—then follow the various cases, and among them the third: “*Regulating the internal affairs of towns and counties; appointing local offices or commissions to regulate municipal affairs.*” Now take, in the same connection, the subsequent member of the paragraph, that “the Legislature shall pass general laws providing for the cases enumerated in this paragraph, and for all other cases which, in its judgment, may be provided for by general laws,” and the question arises whether thereby the Legislature is prohibited from providing for the regulation of municipal affairs by local or special laws in any other cases than “appointing local offices or commissions?” If not, then the amendment makes no change in the power to govern cities as heretofore, by local charters, except only as to local offices and commissions. In order to hold that legislation for cities must hereafter be by general laws only, the requirement to pass general laws for the cases enumerated in the preceding part of the amendment, if construed to be imperative and not subject to the *judgment* of the Legislature, must have relation to the regulation of municipal affairs as the substantive object intended in the clause “appointing local offices or commissions to regulate municipal affairs.”

After a careful examination, and in the light of the rule that powers of the Legislature, not clearly taken away, exist, I am led to the conclusion that as to

IMPLEMENTING THE CONSTITUTIONAL AMENDMENTS

785

cities and all other municipalities, except towns and counties, the Legislature may yet pass local and special laws, save only for "appointing local offices or commissions," and wherever on particular subjects enumerated in the amendments it is prevented. The word "cities" is not in the sentence "regulating the internal affairs of towns and counties," and the object of the other sentence is to prohibit the regulation of all municipal affairs by any local or special law which provides for the appointment of local offices or commissions by the Legislature. The leading idea of the amendment, apart from the entire prohibition to grant corporate powers by special law, to my mind is this: That, in the cases enumerated, the Legislature cannot pass a local or special law; but outside of those as specified, the power remains, to be exercised, however, by general laws, whenever in its judgement it can be. Although this leaves a vast field open for local legislation, yet no one can read this amendment without being satisfied of the obligation to adopt uniform laws whenever practicable, and in no case is it more important than in the government of cities. There is no good reason why all cities should not, in the main, be regulated by the same laws. Peculiar circumstances may sometimes require special acts, and it was no doubt wise not to restrict the Legislature in this respect; but there can be no difficulty in devising and applying an effective system of government for all cities, and the time has come when the interests of the public demand it. The facility with which designing men have obtained special laws to enable them to prosecute various schemes of extravagance and fraud, under the guise of public improvement and benefit, has been the source of much of our municipal burthens. Now is the opportunity, although late, to strike a blow for the protection of property in municipalities, by sweeping away the devices in the forms of law under which these abuses have been perpetrated, and substituting plain, just and general laws alike applicable to all cities. When taxes in some of them range from two and a-half to three cents on the dollar, outside of assessments for improvements, it is expected that the thoughtful legislator will pause and consider how to correct it.

The power to make local improvements ought to be most scrupulously guarded, for in that lurks the greatest danger to private property. None of the ordinary street improvements should be made without the consent of the owners of at least three-fourths of the land along the line, and those who make the assessments for damages and benefits should be appointed by the Circuit or Common Pleas Courts. The power which determines these assessments is judicial in its nature, and there is an appropriateness, as well as safety, in leaving the selection of those who shall exercise it to the Courts.

Inasmuch as private corporations can hereafter be organized only under general acts, such acts now in force will have to be thoroughly examined and

IMPLEMENTING THE CONSTITUTIONAL AMENDMENTS

adapted to the wants of the public, and, wherein they fail to furnish all necessary corporate privileges, other general laws should be passed. The corporation act of last session was carefully considered, and may not require much, if any, change. That authorizes the formation of corporate companies for any lawful business or purpose except railroad, turnpike, or any other companies which shall need to possess the right of taking and condemning lands; also, except insurance and banking companies, savings banks and other corporations intended to derive profit from the loan or use of money. These latter interests must, for the future, in new organizations, depend alone upon laws common to each, and, wherein the present laws are insufficient, others should be supplied.

This amendment is fertile in questions which the Legislature will be obliged to settle in order to appropriately legislate. I will refer only to one more of its provisions. No local or special law can be passed “providing for the management and support of free public schools.” By the amendment to paragraph 6 of Section 7, Article IV, “the Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in this State between the ages of five and eighteen years.” This is a most important constitutional guaranty of free schools, but how is it, in connection with the clause in paragraph 11, to be carried out? The question is not free from difficulty, but my own judgment is that the words “*thorough and efficient system*” do not, necessarily, require free schools to be maintained exclusively through the State Treasury, by State tax alone. The duty is upon the Legislature to provide such a system, but it may be in whole by State taxation, or in part by that means and the rest by local taxation, and, so far as by the latter, the same must be authorized only by general laws. There must necessarily be local taxation for the erection and repair of school houses, and there is such a difference in the cost of supporting the demands of the various localities, that no equal distribution of a State fund would afford free schools to all. To illustrate: a little over one-half of the schools of the State are now exclusively supported and kept open out of their share of the State funds, while the remainder are sustained by additional moneys raised by the local authorities. To reach this difficulty, there should be a system comprehending local taxation, as well as State, when necessary to secure free schools. Local taxation by general law is very different from local or special law authorizing. The existing school law may not need much alteration to make it conformable to the amendments. The various local school acts now in force ought not to be hastily disturbed before a thorough system is devised, entirely practical in its operations, in the different localities. These observations are subject to what hereinafter follows in reference to the amendment on taxation, and as the same may be thereby qualified.

IMPLEMENTING THE CONSTITUTIONAL AMENDMENTS

787

TAXATION.

The tax amendment is as follows:—"Property shall be assessed for taxes under general laws and by uniform rules, according to its true value." Taxation is one of the most essential and absolute prerogatives of the State, and this amendment cannot be extended by any liberal construction. It is one of the inherent qualities of the power that the Legislature shall select the objects of taxation, and this amendment does not cripple it in that respect. The point of the paragraph is not that *all* property shall be taxed. It has reference only to the mode of imposing the burthen. It still remains for the Legislature to designate what classes of property shall be assessed; but, whatever is assessed shall be assessed in the manner provided by the amendment. The power to exempt necessarily follows the power to select, and the Legislature may exempt as heretofore, but all exemptions must be general, as to the same objects or subjects. No special or local law can be passed exempting any particular property. All local and special laws are abrogated by force of the amendment, so far as they are not protected by contracts, or provisions in the nature of contracts, with the State, affecting vested rights.

The amendment is imperative as to how property shall be assessed for the future, and it necessarily renders nugatory any law antagonistic to it, saving, of course, assessments already made. In the absence of any further legislation, the present general tax law would furnish the rule of assessment throughout the State, and all exemptions would be according to that. Those exemptions are now numerous, and it will be for the Legislature to determine whether they shall be restricted. Alike with other local laws, the act known as the "Five County Act," which exempts from taxation mortgages on lands in localities therein named, in the hands of inhabitants, corporations or associations of such localities, are, in my judgement, repealed. The business interests of those localities have become adapted to that system of taxation, and how best to meet the exigency is a question of sound practical judgement, upon which the public mind is greatly divided, and which will require—as it will undoubtedly receive—most careful consideration. The agencies by which the assessment is made and the tax collected are undisturbed by this amendment. Uniformity in that respect is not required. Rates will also vary, as they must inevitably, as to county, city and township taxes, and the amendment does not affect that. As a mere question of power, apart from the policy, property could be assessed in classes and at different rates, subject, of course, to this—that each class or kind must be assessed by general law and uniform rule in relation to each. The amendment is not that one uniform rule shall apply to all of the objects of taxation in common. It recognizes the principle that there may be different rules, but each rule must be uniform. It seems to me that this

IMPLEMENTING THE CONSTITUTIONAL AMENDMENTS

is merely declaratory, by constitutional provision, of what is a fundamental principle in taxation. The points gained and secured by the amendment are these: First, that taxes shall be assessed by general laws, as distinguished from those in relation to a particular locality or object; and secondly, that in all assessments on the mere basis of value, that it shall be the true value; the provision as to uniformity of rules being, as stated, only declaratory of an existing principle. What is a general law, admits of discussion. State, county, city and township taxes are necessarily distinct. Laws applying to each kind of taxes separately, would, in my judgment, be general laws, provided they made no exception in favor of any locality of the same character—that is, county taxes could be assessed throughout the State alike in all counties, and so as to cities and townships respectively, but no exception could be made in favor of any county, city or township; and so could, if thought wise, some classes of property—as mortgages—be made liable for State and county, or either, and not for other taxes. These are principles inherent in the power of taxation, and are not interfered with by the requirement of general laws. This remark is equally applicable to the subjects or objects of taxation. The prerogative of taxation cannot be limited in all its lawful modes of exercise except by clear constitutional provision.

It is hardly necessary to say that this amendment does not apply to assessments for local improvements. Although within the taxing power, they are not taxes in the sense of the amendment. Neither does the requirement that property shall be assessed at its true value interdict all other species of taxation. A poll tax can yet be assessed; and the Legislature can yet compel railroad corporations, whose property is involved in the franchises, to pay annual or other sums according to a convenient standard, whether it be capital stock, the cost of the road, equipment and appendages, or otherwise. The difficulty intended to be reached by the words *true value* was the notorious fact that property in this State has universally been assessed on reduced values, the standard depending upon the caprice of those who make the estimates in particular localities, so that in adjusting State, county and other taxes there was no fixed basis. Now the estimate must be according to true value. Such is the substantial requirement of our general tax law, but it has always been disregarded.

What I have said under this head has been mostly in relation to the powers of taxation, and not as to the policy to be adopted. The immediate representatives of the people in the Legislature can judge what is best to harmonize the various interests of the State. An equal distribution of the burthen, as far as possible, should be the leading idea of any just system. The abrogation of the “Five County Act” makes the most trouble. Where that prevailed, large amounts have been loaned on real estate mortgages, and there taxes, by reason of the cities, are the

highest. Investments are naturally made where exemptions are allowed. Now it is feared that, if mortgages are to be assessed according to the high rates in some cities, they will be foreclosed, real estate sacrificed, and money seek investment elsewhere. This is a question mutually affecting the borrower and lender, and is difficult of solution. Savings banks are particularly interested in it. It may be that a middle line can be taken to reach the difficulty. There is a strong equity in assessing all mortgages, yet the various means of investment outside the State, by which taxation is escaped, often prevent the borrower from obtaining money at his greatest need. A law should be so framed as to afford him opportunities of procuring money, and at the same time compel the mortgage holder to meet as much of his just burthen as possible. Capital should be kept in the State, yet we know that it will be taken out if it is to the interest of the owner. It may be, that if real estate mortgages are assessed for their proportionate part of State and county taxes, and exempted from other municipal taxes, and the mortgagor is allowed to claim a deduction to that extent, it will solve the problem. The details of such a plan could readily be worked out, both as to an adjustment of the ratables and rates, and I suggest it for consideration. The increase of values ought to reduce the rates of municipal taxes, and this plan would impose upon mortgages a fair proportion of the whole. It is very evident that there is a serious difference, arising from local causes, in the demands of the people of the State on the principles of taxation. In the country, where the taxes are lighter, the subjection of mortgages to all taxation may not seriously compel the diversion of capital from the State. In cities and elsewhere where assessments are very high, that result would follow. There ought to be an adjustment of the different local interests on the principle or policy of what is best under the circumstances, and I strongly incline to the opinion that the plan suggested is, for the present, advisable. Whatever is done should be done promptly, in order that the public may early understand the law, and their interests be adjusted accordingly.

COMMON PLEAS JUDGES AND SHERIFFS.

None of the changes in the appointment of certain officers need be referred to, except that in reference to Common Pleas Judges. The amendment providing for the nomination and appointment of these officers by the Governor, with the advice and consent of the Senate, necessarily supersedes the former provision for the appointment by joint meeting, although not in terms stricken out. There is a perfect antagonism between the two, and the amendment, being later, must have effect.

Sheriffs being elected for three years, are obliged to renew their bonds annually. A law compelling that is necessary.

IMPLEMENTING THE CONSTITUTIONAL AMENDMENTS

NODONATIONS.

Before closing this review of the amendments, I call attention to the paragraph against the donation or appropriation of land or money by the State, or any municipal corporation, to or for the use of any society, association or corporation whatever. It requires no legislation to enforce it. It is intended to confine the expenditures of the State to the legitimate, exclusive purposes of government, and through regular official channels, and not have the people's money absorbed by societies, associations or private corporations, of whatever kind they may be, for mixed or other objects than the clear public good in its civil aspects, although oftentimes incidentally connected with it. The true policy of the State is always to expend public funds through its own official agencies, and for definite civil objects only.

* * *

J. D. BEDLE.

EXECUTIVE DEPARTMENT,
Trenton, Jan. 11, 1876.

Sources:

DOCUMENTS OF THE NEW JERSEY LEGISLATURE, 1876, [Document 1], p. [5]-14.

SENATE JOURNAL, 1876, p. 20-30.

ASSEMBLY MINUTES, 1876, p. 36-47.

PART VII: ANALYSIS OF PROPOSED AMENDMENTS

Part VII captures, in tabular form, the consideration of the proposals of the 1873 Constitutional Commission, from introduction to final action. It lists the name of the sponsor(s), affected section of the 1844 Constitution, date of introduction, and all subsequent references to each proposal in the official proceedings of the Commission and in the official legislative proceedings of 1874 and 1875.

The numbers assigned to the proposed amendments were created by the authors according to the chronological order in which the amendments were introduced. This was for the convenience of readers in identifying discrete proposals. In the relatively rare instances where proposals were referred to by number in the official Commission or legislative proceedings, or in newspaper accounts, those numbers will *not* correspond to our numbering system. This methodology is discussed in the Introduction at pages 79-81.

The page number references in this Table, as noted at the beginning of Parts III and IV, are to the page numbers of the official proceedings of the Constitutional Commission (CC Proceedings), and to the Senate Journal (SJ) and Assembly Minutes (AM) as reproduced herein with those official page numbers in brackets.

For relevant newspaper coverage of the debates, if any, included in this volume, the reader should consult the newspaper account for that day in Part III and Part IV.

This Table can serve, in a sense, as a form of index to the materials in this volume. In fact, the Index is keyed to this Table by referring, in bold numbers, to the number of the proposed amendment covered in this Table. The reader should first consult the Index, which will act as a subject guide to each proposed amendment by number. For example, a search for “Education – Thorough and Efficient Clause” in the Index will refer the reader to **Proposed Amendment 84** in Part VII. The reader can then examine the entries under Proposed Amendment 84 in Part VII to locate all page references in the official Constitutional Commission proceedings and the Senate and Assembly journals where this proposal is discussed. For a record of debate, if any, the reader can consult the authors’ compilation of newspaper accounts.

Given the complexity and fragmentary nature of these sources, the authors exercised their best judgment to capture every reference, but it is possible that they overlooked some reference. Regardless, the authors believe that this Table, and the corresponding Index, represents the most exhaustive access tool that readers can use to penetrate the meaning and intent of the 1875 New Jersey Constitutional Amendments.

At the points in the official legislative proceedings appearing in Part IV, where either the Report of the Constitutional Commission or the 1874 Senate’s proposed amendments (“Senate Amendments to the Constitution No. 7”) were received by either house, we have not reproduced them because they appear elsewhere in this volume. For the readers’ convenience, however, this Table refers to the page number in the official legislative journals where the document was received.

PROPOSED AMENDMENT NO. 1	<i>Strikes out the word "white" in suffrage article so as to extend suffrage rights to African-American males</i>	
Sponsor	Carter	
1844 Constitution Section	Article II, [Paragraph] I	
History:		
July 22, 1873	Introduced and referred to Suffrage Committee	CC Proceedings, p. 30
October 8, 1873	Suffrage Committee reported favorably; laid on table of Committee of the Whole	CC Proceedings, p. 38
October 14, 1873	On motion of Green, Committee of the Whole agreed with Committee Report	CC Proceedings, p. 351
October 16, 1873	ADOPTED by Constitutional Commission	CC Proceedings, p. 93-94
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article II, [Paragraph] I
January 13, 1874	Senate received Report of CC	SJ 1874, p. 50
January 28, 1874	Senate considered; Taylor moved technical change [change "Paragraph" to "Section"]; agreed; Senate APPROVED	SJ 1874, p. 130
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 783, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 840
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1132
March 23, 1874	Ward moved to adopt the Constitutional Commission's proposal to strike out the word "white" and the Commission's proposal concerning suffrage residency requirements (Proposed Amendment 2); agreed	AM 1874, p. 1145
March 23, 1874	Morrow moved to substitute the Senate version of amendments to Article II for the Constitutional Commission's version; ADOPTED, 26 to 23	AM 1874, p. 1145-1146

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 1 [CONTINUED]	<i>Strikes out the word "white" in suffrage article so as to extend suffrage rights to African- American males</i>	
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 12, 1875	Mentioned in Governor's Mes- sage	SJ 1875, p. 38; AM 1875, p. 39
January 26, 1875	Senate read and APPROVED proposed amendments to Article II, 18 to 0	SJ 1875, p. 71-72
February 16, 1875	Assembly ADOPTED, 48 to 0	AM 1875, p. 355-356
September 7, 1875	APPROVED by popular vote, 68,664 to 27,756 [Note: this question was merged with Proposed Amendment 10 on the ballot]	A Statement of Determination of the Board of State Canvassers, Specified as Proposed Amend- ment No. 3 on the Ballot

PROPOSED AMENDMENT NO. 2	<i>Concerns suffrage residency requirements</i>	
Sponsor	Carter	
1844 Constitution Section	Article II, [Paragraph] 1	
History:		
July 22, 1873	Introduced and referred to Suffrage Committee	CC Proceedings, p. 30
October 8, 1873	Suffrage Committee amended; laid on table of Committee of the Whole	CC Proceedings, p. 38
October 14, 1873	Green moved that Committee of the Whole reject Committee's proposal to insert "a citizen for ten days and"; agreed, 9 to 4	CC Proceedings, p. 351
October 14, 1873	Green moved that Committee of the Whole agree with Committee's proposal to insert "and of the election district in which he may offer his vote, thirty days"; agreed, 13 to 0	CC Proceedings, p. 351
October 16, 1873	Commission ADOPTED proposal to strike out "a citizen for ten days and"	CC Proceedings, p. 94
October 16, 1873	Commission ADOPTED proposal to insert "and of the election district in which he may offer his vote, thirty days"	CC Proceedings, p. 94
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article II, [Paragraph] 1
January 13, 1874	Senate received Report of CC	SJ 1874, p. 50
January 28, 1874	Smith moved to amend, lost 1 to 16	SJ 1874, p. 131
January 28, 1874	Hopper moved to adopt Commission's proposal; lost, 7 to 10	SJ 1874, p. 131
March 23, 1874	Assembly received and read Report of CC	AM 1874, p. 1132
March 23, 1874	Ward moved to adopt the Constitutional Commission's proposal concerning suffrage residency requirements; agreed	AM 1874, p. 1145

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 2 CONTINTUED	<i>Concerns suffrage residency re- quirements</i>	
March 23, 1874	Morrow moved to substitute the Senate version of amendments to Article II for the Constitutional Commission's version; agreed, 26 to 23 (thereby rejecting this proposal)	AM 1874, p. 1145-1146
	[No further action]	

PROPOSED AMENDMENT NO. 3	<i>Deprives suffrage right from one convicted of bribery "in legislation" or who is a defaulter to state or general government; provides that the Legislature may pass laws requiring a literacy test for suffrage</i>	Note: Although this proposed amendment was rejected by the 1874 Senate, that body decided to delete the words "at elections" in the 1844 Constitution, which deletion was eventually ratified by popular vote.
Sponsor	Carter	
1844 Constitution Section	Article II, [Paragraph] II	
History:		
July 22, 1873	Introduced and referred to Suffrage Committee	CC Proceedings, p. 30
October 8, 1873	Suffrage Committee recommended that this proposal not be adopted	CC Proceedings, p. 38
November 12, 1873	Carter moved to take up his suggestion to add "or in legislation", ADOPTED	CC Proceedings, p. 149
November 12, 1873	Carter moved to take up his suggestion regarding a literacy test for suffrage; LOST, 3 to 8	CC Proceedings, p. 150
December 23, 1873	Proposed amendment, to add "or in legislation" after the word "bribery," was submitted as engrossment to 1874 Legislature	Report of CC, Article II, [Paragraph] II
January 28, 1874	Senate considered; Taylor moved technical change [to change "Paragraph" to "Section"]; agreed	SJ 1874, p. 130
January 28, 1874	Taylor moved to amend the 1844 Constitution by deleting "at elections," as well as rejecting this proposal; agreed, 17 to 0	SJ 1874, p. 130
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 783, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 841
March 23, 1874	Assembly received and read Report of CC	AM 1874, p. 1132

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 3 [CONTINUED]	<i>Deprive suffrage right from one convicted of bribery "in legislation" or who is a defaulter to state or general government; provides that the Legislature may pass laws requiring a literacy test for suffrage</i>	Note: Although this proposed amendment was rejected by the 1874 Senate, that body decided to delete the words "at elections" in the 1844 Constitution, which deletion was eventually ratified by popular vote.
March 23, 1874	Morrow moved to substitute the Senate version of amendments to Article II for the Constitutional Commission's version; ADOPTED, 26 to 23	AM 1874, p. 1145-1146
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article II, 18 to 0	SJ 1875, p. 71-72
February 16, 1875	Assembly ADOPTED, 41 to 0	AM 1875, p. 356-357
September 7, 1875	APPROVED by popular vote, 69,867 to 26,636	A Statement of Determination of the Board of State Canvassers, Specified as Proposed Amendment No. 4 on the Ballot

PROPOSED AMENDMENT NO. 4	<i>Legislative Compensation, \$550 per member; \$0.05 per mile; Legislative Leaders, \$600; no other allowance</i>	See also Proposed Amendments 39, 64
Sponsor	Carter	
1844 Constitution Section	Article IV, Section IV, Paragraph 7	
History:		
July 22, 1873	Introduced and Referred to the Legislative Committee	CC Proceedings, p. 31
October 9, 1873	Grey (Legislative Committee) does not recommend approval, and substitutes the Legislative Committee's version (See Proposed Amendment 39)	CC Proceedings, p. 48-49
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 5	<i>Legislative Oath</i>	
Sponsor	Dickinson	
1844 Constitution Section	Article IV, Section VIII	
History:		
October 7, 1873	Introduced	CC Proceedings, p. 33-34
October 7, 1873	Gregory moved it be laid on table; lost	CC Proceedings, p. 35
October 7, 1873	Dickinson moved to refer to Legislative Committee; agreed	CC Proceedings, p. 35
October 9, 1873	Grey (Legislative Committee) recommends approval;	CC Proceedings, p. 50-51
October 9, 1873	Laid on Table of Committee of the Whole	CC Proceedings, p. 52
October 15, 1873	Committee of the Whole amends "Judges" in proposal to "Justices"	CC Proceedings, p. 355
October 15, 1873	On motion of Ferry, Committee of the Whole strikes out all words after "membership" in 22nd line; agreed, 9 to 3	CC Proceedings, p. 355
October 15, 1873	On motion of Buckley, Committee of the Whole amends by reinstating "and members-elect...said oath or affirmation"	CC Proceedings, p. 355
October 16, 1873	Buckley's amendment ADOPTED	CC Proceedings, p. 92
October 16, 1873	Ferry's amendment ADOPTED	CC Proceedings, p. 92
October 16, 1873	Green moved to amend by adding "And any person...corrupt perjury." ADOPTED	CC Proceedings, p. 92-93
October 29, 1873	Green moved to reconsider vote; agreed	CC Proceedings, p. 133
October 29, 1873	Green moved to amend by striking out "to the pains... corrupt perjury" and insert "to the punishment...corrupt perjury"; agreed	CC Proceedings, p. 133

PROPOSED AMENDMENT NO. 5 [CONTINUED]	<i>Legislative Oath</i>	
November 12, 1873	Grey (Legislative Committee) reported an amendment prescribing a form of oath by officers of Legislature	CC Proceedings, p. 150
November 12, 1873	Green moved to amend by striking out "keep" and inserting "preserve"; and adding "and make...by law"; agreed	CC Proceedings, p. 150-151
November 12, 1873	ADOPTED as amended	CC Proceedings, p. 151
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article IV, Section VIII
January 13, 1874	Senate received Report of CC	SJ 1874, p. 54-55
February 18, 1874	Senate took up	SJ 1874, p. 368
February 18, 1874	Stone moved all of proposed amendment, with the exception of the paragraph concerning the oath of officers of the Legislature, be rejected; agreed	SJ 1874, p. 368-369
February 18, 1874	Senate ADOPTED the proposed amendment concerning the oath of officers of the Legislature	SJ 1874, p. 369
February 18, 1874	Stone moved to reconsider the vote which rejected the part of the proposed amendment concerning the oath of members of the Legislature; on motion of Hewitt, Stone's motion was laid on table	SJ 1874, p. 377
February 24, 1874	Hewitt moved to take up from the table for reconsideration; agreed, 8 to 1	SJ 1874, p. 456-457
February 24, 1874	Stone moved to amend by striking out the Commission's recommendation up to and including the words "honestly and"; agreed	SJ 1874, p. 457
February 24, 1874	Stone moved to amend by striking out the remainder of the Commission's recommendation that was not already agreed to on February 18, 1874; agreed 13 to 4	SJ 1874, p. 457-458
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 785, 787

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 5 [CONTINUED]	<i>Legislative Oath</i>	
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 843-844
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1137-1138
March 25, 1874	Hobart moved to substitute the Senate's version of this proposal for the Commission's proposal; agreed	AM 1874, p. 1258-1259
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article IV, 16 to 3	SJ 1875, p. 72-74
February 16, 1875	Assembly ADOPTED, 37 to 0	AM 1875, p. 363
September 7, 1875	APPROVED by popular vote, 70,554 to 25,955	A Statement of Determination of the Board of State Canvassers, Specified as Proposed Amendment No. 13 on the Ballot

PROPOSED AMENDMENT NO. 6	<i>Requires two-thirds majority of both houses of the Legislature to override Governor's veto</i>	See also Proposed Amendment 7
Sponsor	Cutler, Gregory, Carter (Executive Committee)	
1844 Constitution Section	Article V, Paragraph 7	
History:		
October 7, 1873	Introduced; laid on table of Committee of the Whole	CC Proceedings, p. 36
October 8, 1873	Committee of the Whole adopts "two-thirds" in place of "majority"	CC Proceedings, p. 350
October 14, 1873	Green moved to reconsider vote in Committee of the Whole; Committee of the Whole agrees to reconsider; amended proposal laid on table of Committee of the Whole	CC Proceedings, p. 352
October 15, 1873	In Committee of the Whole, the proposed amendment to replace "majority" with "two-thirds" was LOST, 6 to 6	CC Proceedings, p. 356
October 15, 1873	Postponed	CC Proceedings, p. 356
October 16, 1873	Report of Executive Committee to strike out "majority" and substitute "two-thirds" was not agreed to	CC Proceedings, p. 87-88
October 21, 1873	Carter moved to reconsider and make special order for October 23; agreed	CC Proceedings, p. 95
October 23, 1873	Carter moved to strike out "a majority" and replace with "two-thirds"	CC Proceedings, p. 117
October 23, 1873	Gregory moved to postpone until Tuesday next (October 28); disagreed, 4 to 6	CC Proceedings, p. 117-118
October 23, 1873	Swayze moved to postpone until next Wednesday (October 29); disagreed, 4 to 7	CC Proceedings, p. 118
October 23, 1873	Commission took up recommendation of Committee of the Whole to retain "a majority"; agreed, 6 to 5	CC Proceedings, p. 118
October 28, 1873	Thompson moved to reconsider vote; agreed, 8 to 3	CC Proceedings, p. 127

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 6 [CONTINUED]	<i>Requires two-thirds majority of both houses of the Legislature to override Governor's veto</i>	See also Proposed Amendment 7
October 28, 1873	Commission voted on whether to retain "majority" as recommended by the Committee of the Whole; lost, 5 to 7	CC Proceedings, p. 127-128
October 28, 1873	Commission voted on whether to retain "majority" as recommended by the Committee of the Whole; lost, 5 to 7	CC Proceedings, p. 127-128
October 28, 1873	Commission voted to substitute "two-thirds" for "majority"; ADOPTED, 7 to 5	CC Proceedings, p. 128
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article V, Paragraph 7
January 13, 1874	Senate received Report of CC	SJ 1874, p. 55
February 18, 1874	Senate considered; LOST, 2 to 13	SJ 1874, p. 370
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1138
March 25, 1874	Session took up Report of CC	AM 1874, p. 1259-1260
March 25, 1874	Cole moved to strike out the Commission's proposal to change "a majority" to "two-thirds;" agreed	AM 1874, p. 1261
	[No further action]	

PROPOSED AMENDMENT NO. 7	<i>Line Item Veto</i>	See also Proposed Amendment 6
Sponsor	Cutler, Gregory, Carter (Executive Committee)	
1844 Constitution Section	Article V, Paragraph 7	
History:		
October 7, 1873	Introduced and laid on table of Committee of the Whole	CC Proceedings, p. 36
October 8, 1873	Green amends in Committee of the Whole; laid on table of Commission	CC Proceedings, p. 350
October 16, 1873	Commission does not agree to proposal	CC Proceedings, p. 88
October 16, 1873	Green amended proposal again; Commission ADOPTED as amended	CC Proceedings, p. 88-89
December 23, 1873	Committee on Revision noticed an incongruity: one clause in Article V, Paragraph 7 uses "two-thirds" while another clause uses "a majority." Green moved to make consistent by using "two-thirds" in both clauses; agreed	CC Proceedings, p. 165
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article V, Paragraph 7
January 13, 1874	Senate received Report of CC	SJ 1874, p. 55-56
February 18, 1874	Stone moved to amend by striking out "two-thirds" and inserting in lieu thereof "a majority"; agreed	SJ 1874, p. 373
February 18, 1874	ADOPTED, as amended, 14 to 0	SJ 1874, p. 373
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 786, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 844
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1138-1139
March 25, 1874	Assembly took up	AM 1874, p. 1259-1260

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 7 [CONTINUED]	<i>Line Item Veto</i>	See also Proposed Amendment 6
March 25, 1874	Cole moved to adopt the Senate's proposal, which required "a majority" for a legislative override [Ed. Note: The AM erroneously states "two-thirds"]; agreed	AM 1874, p. 1261
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article V, 17 to 0	SJ 1875, p. 74-75
February 16, 1875	Assembly ADOPTED, 42 to 0	AM 1875, p. 364-365
September 7, 1875	APPROVED by popular vote, 70,949 to 25,623	A Statement of Determination of the Board of State Canvassers, Specified as Proposed Amendment No. 15 on the Ballot

PROPOSED AMENDMENT NO. 8	<i>Governor prohibited from election to any other US or NJ office during his term</i>	
Sponsor	Cutler, Gregory, Carter (Executive Committee)	
1844 Constitution Section	Article V, Paragraph 8	
History:		
October 7, 1873	Introduced; laid on table	CC Proceedings, p. 36
October 8, 1873	Carter presented an amended report which inserted “by the Legislature” after “elected”; laid on table of Committee of the Whole	CC Proceedings, p. 47
October 8, 1873	Grey, in Committee of the Whole, moved to amend by substituting “for which he shall have been elected Governor” in lieu of “of office”; laid on table	CC Proceedings, p. 350
October 16, 1873	Carter’s amendment LOST	CC Proceedings, p. 89
October 16, 1873	Green moved to adopt Grey’s amendment; AGREED	CC Proceedings, p. 89
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article V, Paragraph 8
January 13, 1874	Senate received Report of CC	SJ 1874, p. 56
February 18, 1874	Senate ADOPTED, 10 to 4	SJ 1874, p. 373-374
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 786, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 844
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1139
March 25, 1874	Cole moved to adopt the Senate’s proposal [which was identical to the Commission’s proposal]; agreed	AM 1874, p. 1260-1261
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article V, 17 to 0	SJ 1875, p. 74-75

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 8 [CONTINUED]	<i>Governor prohibited from election to any other US or NJ office during his term</i>	
February 16, 1875	Assembly ADOPTED, 40 to 0	AM 1875, p. 365
September 7, 1875	APPROVED by popular vote, 70,459 to 26,019	A Statement of Determination of the Board of State Canvassers, Specified as Proposed Amendment No. 16 on the Ballot

PROPOSED AMENDMENT NO. 9	<i>Appointment and nomination of Militia officers</i>	
Sponsor	Cutler, Gregory, Carter (Executive Committee)	
1844 Constitution Section	Article VII, Section I, Paragraphs 5, 9	
History:		
October 7, 1873	Introduced; laid on table	CC Proceedings, p. 36-37
October 16, 1873	ADOPTED	CC Proceedings, p. 89
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article VII, Section 1, Paragraphs 5, 9
January 13, 1874	Senate received Report of CC	SJ 1874, p. 57
February 18, 1874	Senate ADOPTED	SJ 1874, p. 374-375
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 786, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 844-845
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1141
March 25, 1874	Ward moved to substitute the Senate's version of this proposal for the Commission's version [both versions were identical]; agreed	AM 1874, p. 1263, 1265-1266
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article VII, 17 to 0	SJ 1875, p. 75-76
February 16, 1875	Assembly ADOPTED proposal to amend Paragraph 5, 42 to 0	AM 1875, p. 366
February 16, 1875	Assembly ADOPTED proposal to amend Paragraph 9, 41 to 0	AM 1875, p. 366-367
September 7, 1875	Proposal to amend Paragraph 5 APPROVED by popular vote, 70,026 to 26,476	A Statement of Determination of the Board of State Canvassers, Specified as Proposed Amendment No. 17 on the Ballot
September 7, 1875	Proposal to amend Paragraph 9 APPROVED by popular vote, 69,989 to 26,481	A Statement of Determination of the Board of State Canvassers, Specified as Proposed Amendment No. 18 on the Ballot

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 10	<i>Provides suffrage rights for those in military service who are out of state during time of war</i>	
Sponsor	Green, Buckley (Suffrage Committee)	
1844 Constitution Section	Article II, [Paragraph] I	
History:		
October 8, 1873	Introduced; laid on table of Committee of the Whole	CC Proceedings, p. 38-39
October 14, 1873	On motion of Green, Committee of the Whole adopted, 13 to 0	CC Proceedings, p. 351
October 16, 1873	Commission ADOPTED	CC Proceedings, p. 94
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article II, [Paragraph] 1
January 13, 1874	Senate received Report of CC	SJ 1874, p. 50
January 28, 1874	Senate considered; Taylor moved technical change [change “Paragraph” to “Section”]; agreed	SJ 1874, p. 130
January 28, 1874	Taylor moved to amend by adding the word “and” before “provided”, and the word “further” after “provided”; agreed, 15 to 2	SJ 1874, p. 132
January 28, 1874	Senate ADOPTED, 16 to 0	SJ 1874, p. 132
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 783, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 841
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1132
March 23, 1874	Morrow moved to substitute the Senate version of amendments to Article II for the Constitutional Commission’s version; ADOPTED, 26 to 23	AM 1874, p. 1145-1146
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article II, 18 to 0	SJ 1875, p. 71-72

ANALYSIS OF PROPOSED AMENDMENTS

811

PROPOSED AMENDMENT NO. 10 [CONTINUED]	<i>Provides suffrage rights for those in military service who are out of state during time of war</i>	
February 16, 1875	Assembly ADOPTED, 44 to 0	AM 1875, p. 356
September 7, 1875	APPROVED by popular vote, 68,664 to 27,756 [Note: this question was merged with Proposed Amendment 1 on the ballot]	A Statement of Determination of the Board of State Canvassers, Specified as Proposed Amendment No. 3 on the Ballot

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 11	<i>Woman's Suffrage (petition from Elizabeth Cady Stanton and others)</i>	See also Proposed Amendments 66, 67, 72
Sponsor	Buckley	
1844 Constitution Section	Article II, Paragraph 1	
History:		
October 8, 1873	Petition presented by Buckley	CC Proceedings, p. 39
October 15, 1873	Committee on Bill of Rights (Green, Buckley, Hubbell) requested to be discharged from its further consideration	CC Proceedings, p. 84
October 22, 1873	Hubbell from Committee on Bill of Rights reported without recommendation	CC Proceedings, p. 101
February 12, 1874	[See also petition from Lillie Devereux Blake, National Woman's Suffrage Association to Senate President Taylor]	SJ 1874, p. 296
	[No further action]	

PROPOSED AMENDMENT NO. 12	<i>Provides that Judges of Courts of Common Pleas be nominated by Governor with advice and consent of Senate, instead of appointed by Joint Meeting of the Legislature</i>	See also Proposed Amendment 76
Sponsors	Cutler, Gregory, Carter (Executive Committee)	
1844 Constitution Section	Article VII, Section II, paragraph 2	Note: Although this amendment was approved by the Commission, it was not incorporated in the Commission's Report to the Legislature. Moreover, the instructions in Proposed Amendment 76, that specified to strike out the existing paragraph 2, was not done, evidently due to a clerical error. As a result, the New Jersey Constitution as amended in 1875 contained contradictory provisions that provided for the appointment of Judges of the Court of Common Pleas to be both by Governor's nomination with advice and consent of the Senate, and by Joint Meeting of the Legislature. This contradiction was not corrected until the ratification of the 1947 Constitution.
History:		
October 8, 1873	Introduced	CC Proceedings, p. 39
October 16, 1873	Postponed	CC Proceedings, p. 90
October 22, 1873	ADOPTED, 6 to 2	CC Proceedings, p. 105-106
	[No further action] See note above	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 13	<i>Keeper and inspectors of State Prison are not to be appointed by Joint Meeting of the Legislature</i>	See also Proposed Amendments 14, 55
Sponsors	Cutler, Gregory, Carter (Executive Committee)	
1844 Constitution Section	Article VII, Section II, Paragraph 3 (2)	Note: The CC Proceedings do not mention the Commission's proposed technical changes (i.e., changing "they" and "their" to "he" and "his") to this amendment, although the instructions appear in the Report of CC
History:		
October 8, 1873	Introduced	CC Proceedings, p. 39
October 22, 1873	Cutler moved to strike out the words "and inspectors of the State Prison" (See Proposed Amendment 55)	CC Proceedings, p. 106
October 22, 1873	ADOPTED as amended	CC Proceedings, p. 106
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article VII, Section II, Paragraph 2
January 13, 1874	Senate received Report of CC	SJ 1874, p. 58
February 18, 1874	Senate ADOPTED	SJ 1874, p. 375
February 18, 1874	Hopper moved to amend by adding "and comptroller"; ADOPTED, 9 to 4	SJ 1874, p. 375
February 18, 1874	Stone moved to strike out the proposed technical changes (i.e. changing "they" and "their" to "he" and "his") [evidently because Hopper's amendment would have negated those changes], and to strike out "one year" and insert in lieu thereof "three years"; ADOPTED, 9 to 5	SJ 1874, p. 376
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 786-787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 845
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1142

ANALYSIS OF PROPOSED AMENDMENTS

815

PROPOSED AMENDMENT NO. 13 [CONTINUED]	<i>Keeper and inspectors of State Prison are not to be appointed by Joint Meeting of the Legislature</i>	See also Proposed Amendments 14, 55
March 25, 1874	Ward moved to substitute the Senate's version of proposed amendments to Article VII for the Commission's proposed amendments; agreed	AM 1874, p. 1263-1266
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article VII, 17 to 0	SJ 1875, p. 75-76
February 16, 1875	Assembly ADOPTED proposed amendments to strike out "and the keeper and inspectors of the state prison" and to insert in lieu thereof the words "and comptrol- ler", 41 to 0	AM 1875, p. 367-368
February 16, 1875	Assembly ADOPTED proposed amendment to strike out "one year" and insert in lieu thereof the words "three years", 41 to [0]	AM 1875, p. 368
September 7, 1875	APPROVED by popular vote, 69,051 to 27,447	A Statement of Determination of the Board of State Canvassers, Specified as Proposed Amend- ment No. 20 on the Ballot

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 14	<i>Keeper of State Prison and Surrogates of Counties to be nominated by Governor with advise and consent of the Senate</i>	See also Proposed Amendments 13, 16, 17, 55
1844 Constitution Section	Article VII, Section II, Paragraph 4 (3)	
Sponsors	Cutler, Gregory, Carter (Executive Committee)	
History:		
October 8, 1873	Introduced	CC Proceedings, p. 39-40
October 22, 1873	Ferry moved to strike out "and surrogates of counties"; agreed	CC Proceedings, p. 106
October 22, 1873	Cutler moved to insert after keeper "and inspectors"; agreed	CC Proceedings, p. 106
October 22, 1873	ADOPTED as amended	CC Proceedings, p. 106
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article VII, Section II, Paragraph 3
January 13, 1874	Senate received Report of CC	SJ 1874, p. 58
February 18, 1874	Senate agreed to strike out the word "and" between "chancery" and "secretary"	SJ 1874, p. 376
February 18, 1874	Hewitt moved to amend by striking out the words "and inspectors"; agreed	SJ 1874, p. 376
February 18, 1874	Senate ADOPTED as amended	SJ 1874, p. 376
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 845
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1142
March 25, 1874	Ward moved to substitute the Senate's version of proposed amendments to Article VII for the Commission's proposed amendments; agreed	AM 1874, p. 1263-1266
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article VII, 17 to 0	SJ 1875, p. 75-76

ANALYSIS OF PROPOSED AMENDMENTS

817

PROPOSED AMENDMENT NO. 14 [CONTINUED]	<i>Keeper of State Prison and Surrogates of Counties to be nominated by Governor with advise and consent of the Senate</i>	See also Proposed Amendments 13, 16, 17, 55
February 16, 1875	Assembly ADOPTED proposed amendment to strike out “and” between the word “chancery” and “secretary”, 41 to 0	AM 1875, p. 368
February 16, 1875	Assembly ADOPTED proposed amendment to insert after the word “state” the words “and the keeper of the state prison”, 41 to 0	AM 1875, p. 369
September 7, 1875	APPROVED by popular vote, 68,569 to 27,937	A Statement of Determination of the Board of State Canvassers, Specified as Proposed Amend- ment No. 21 on the Ballot

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 15	<i>Attorney General to have a three year term, instead of a five year term</i>	
Sponsors	Cutler, Gregory, Carter (Executive Committee)	
1844 Constitution Section	Article VII, Section II, Paragraph 4 (3)	
History:		
October 8, 1873	Introduced	CC Proceedings, p. 40
October 22, 1873	ADOPTED	CC Proceedings, p. 107
December 23, 1873	Submitted as engrossment in Report of CC to 1874 Legislature	Report of CC, Article VII, Section II, Paragraph 3
January 13, 1874	Senate received Report of CC	SJ 1874, p. 58
February 18, 1874	Senate REJECTED, 5 to 6	SJ 1874, p. 376
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1142
	[No further action]	

PROPOSED AMENDMENT NO. 16	<i>Surrogates shall not be elected</i>	See also Proposed Amendment 14
Sponsors	Cutler, Gregory, Carter (Executive Committee)	
1844 Constitution Section	Article VII, Section II, Paragraph 6	
History:		
October 8, 1873	Introduced	CC Proceedings, p. 40
October 22, 1873	Cutler moved to retain surrogates as elective officers (which effectively nullified the proposed amendment); agreed	CC Proceedings, p. 107
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 17	<i>Sheriffs and Coroners elected for three year terms</i>	See also Proposed Amendment 73
Sponsors	Cutler, Gregory, Carter (Executive Committee)	
1844 Constitution Section	Article VII, Section II, Paragraph 7 (6)	
History:		
October 8, 1873	Introduced	CC Proceedings, p. 40
October 16, 1873	Adopted	CC Proceedings, p. 89-90
October 16, 1873	Green moved to amend by adding "sheriffs shall annually renew their bonds"; agreed	CC Proceedings, p. 90
October 22, 1873	ADOPTED as amended, 7 to 3	CC Proceedings, p. 107
October 29, 1873	ADOPTED as amended, 8 to 2 (Apparently voted on twice)	CC Proceedings, p. 136-137
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article VII, Section II, Paragraph 6
January 13, 1874	Senate received Report of CC	SJ 1874, p. 58
February 18, 1874	Senate ADOPTED, 14 to 0	SJ 1874, p. 377
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 845
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1142
March 25, 1874	Ward moved to substitute the Senate's version of proposed amendments to Article VII for the Commission's proposed amendments; agreed	AM 1874, p. 1263-1266
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article VII, 17 to 0	SJ 1875, p. 75-76
February 16, 1875	Assembly ADOPTED, 41 to 0	AM 1875, p. 370
September 7, 1875	APPROVED by popular vote, 68,896 to 27,630	A Statement of Determination of the Board of State Canvassers, Specified as Proposed Amendment No. 24 on the Ballot

ANALYSIS OF PROPOSED AMENDMENTS

821

PROPOSED AMENDMENT NO. 18	<i>Legislators prohibited from receiving appointment to certain other offices</i>	
Sponsor	Buckley	
1844 Constitution Section	Article IV, Section V, Paragraph 1, 2	
History:		
October 8, 1873	Introduced and referred to Executive Committee	CC Proceedings, p. 40
November 11, 1873	Ferry moved to amend by striking out all after the words "or from the Legislature"; agreed	CC Proceedings, p. 140
November 11, 1873	ADOPTED as amended	CC Proceedings, p. 140
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article IV, Section V, Paragraph 1
January 13, 1874	Senate received Report of CC	SJ 1874, p. 51
February 3, 1874	Hopper moved to reject; agreed, 11 to 5	SJ 1874, p. 176
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1133-1134
March 25, 1874	Ward agreed to strike out the Commission's proposal; agreed	AM 1874, p. 1253
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 19	<i>Prohibits counties or municipalities to give or loan money to any individual, association or corporation; provides for local tax and debt limitations</i>	See also Proposed Amendment 33; see also Proposed Amendment 58 for similar restrictions on the state level
Sponsor	Buckley	
1844 Constitution Section	Article I, Paragraph 20 (19)	
History:		
October 8, 1873	Introduced and referred to the Committee on Bill of Rights	CC Proceedings, p. 40-41
October 21, 1873	Grey moved to amend by inserting after the word "security," the words "for, or be directly," and by inserting after the words "owner of", the word "any"; agreed	CC Proceedings, p. 97
October 21, 1873	Grey moved to substitute for the second clause of the paragraph the words "nor shall any county, city, township or village incur, or be authorized by the Legislature to incur, any indebtedness or to impose any tax, except for State, county, township, city or village purposes"; agreed	CC Proceedings, p. 97
October 21, 1873	Adopted as amended	CC Proceedings, p. 97
October 22, 1873	Hubbell moved to amend by adding the following: "and no county or borough shall contract or incur any debt by bond or otherwise exceeding two per cent. of the valuation of its taxable property, and no town or township exceeding four per cent., and no city or municipal corporation exceeding eight per cent. on a like valuation, excepting for its water supply." (See Proposed Amendment 33) [Ed. Note: Hubbell's amend was evidently agreed to, although the CC Proceedings omit this.]	CC Proceedings, p. 105
October 22, 1873	Ferry moved to postpone further consideration until October 23; agreed	CC Proceedings, p. 105
October 23, 1873	Brinkerhoff moved to strike out "or municipal corporation" in Hubbell's proposed addition; agreed (See Proposed Amendment 33)	CC Proceedings, p. 115

PROPOSED AMENDMENT NO. 19 [CONTINUED]	<i>Prohibits counties or municipalities to give or loan money to any individual, association or corporation; provides for local tax and debt limitations</i>	See also Proposed Amendment 33; see also Proposed Amendment 58 for similar restrictions on the state level
October 23, 1873	Grey moved to postpone further consideration; agreed	CC Proceedings, p. 115
October 28, 1873	Ferry moved that the paragraph be divided, for consideration, into three parts; agreed [Ed. Note: The three parts were as follows: the first part consisted of “No county... bonds of any association or corporation”; the second part consisted of “nor shall any county... village purposes.”; the third part consisted of “And no county...water supply”]	CC Proceedings, p. 124
October 28, 1873	In first part, Carter moved to insert the words “borough, town,” after the word “city”; agreed	CC Proceedings, p. 124
October 28, 1873	In second part, Carter moved to insert the words “borough, town,” after the word “city”; agreed	CC Proceedings, p. 124
October 28, 1873	In third part, Carter moved to substitute specific debt limitations (See Proposed Amendment 32) ; lost	CC Proceedings, p. 124
October 28, 1873	Ferry moved to postpone further consideration of the third part; agreed	CC Proceedings, p. 124-125
October 28, 1873	Mr. Green moved that the first and second parts of Paragraph 20, as amended, be considered as the paragraph; agreed	CC Proceedings, p. 125
October 28, 1873	Parts 1 and 2 ADOPTED as amended	CC Proceedings, p. 125
November 12, 1873	In third part, Carter moved to amend by striking out the words “or borough” after the word “county” and by inserting the word “borough” after the word “town”; agreed	CC Proceedings, p. 149
November 12, 1873	Third part of paragraph was ADOPTED as amended, 7 to 2	CC Proceedings, p. 149
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article I, Paragraph 20

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 19 [CONTINUED]	<i>Prohibits counties or municipalities to give or loan money to any individual, association or corporation; provides for local tax and debt limitations</i>	See also Proposed Amendment 33; see also Proposed Amendment 58 for similar restrictions on the state level
January 13, 1874	Senate received Report of CC	SJ 1874, p. 49
January 21, 1874	Senate read proposed amendments to Article I	SJ 1874, p. 84
February 24, 1874	Senate took up	SJ 1874, p. 455-456
February 24, 1874	Stone moved to amend by striking out the second and third parts; agreed	SJ 1874, p. 456
February 24, 1874	Senate ADOPTED as amended, 12 to 3	SJ 1874, p. 456
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 782, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 840
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1131-1132
March 23, 1874	Hobart moved to substitute the Senate version of amendments to Article I for the Constitutional Commission's version; ADOPTED	AM 1874, p. 1144
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article I, 19 to 0	SJ 1875, p. 71
January 26, 1875	Hopper moved to reconsider the vote by which this proposal was adopted; agreed, 18 to 0	SJ 1875, p. 77
January 26, 1875	Hopper moved to amend by striking out the words "individual association, or"	SJ 1875, p. 77
January 26, 1875	Abbett moved that further consideration be laid over until January 27; agreed	SJ 1875, p. 77
January 27, 1875	Senate rejected Hopper's amendment, 1 to 12	SJ 1875, p. 82
January 27, 1875	Senate ADOPTED the original proposed amendment, 18 to 0	SJ 1875, p. 82

PROPOSED AMENDMENT NO. 19 [CONTINUED]	<i>Prohibits counties or municipalities to give or loan money to any individual, association or corporation; provides for local tax and debt limitations</i>	See also Proposed Amendment 33; see also Proposed Amendment 58 for similar restrictions on the state level
February 16, 1875	Assembly ADOPTED, 33 to 0	AM 1875, p. 354
September 7, 1875	APPROVED by popular vote, 70,441 to 26,111	A Statement of Determination of the Board of State Canvassers, Specified as Proposed Amend- ment No. 1 on the Ballot

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 20	<i>Poll tax, not to exceed three dollars</i>	
Sponsor	Buckley	
1844 Constitution Section	Unspecified	
History:		
October 8, 1873	Introduced and referred to Committee on Bill of Rights	CC Proceedings, p. 41
October 15, 1873	Committee on Bill of Rights (Buckley and Hubbell only) amended from “three” to “two” dollars	CC Proceedings, p. 84
October 21, 1873	LOST, 4 to 7	CC Proceedings, p. 99
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

827

PROPOSED AMENDMENT NO. 21	<i>Three-fourths of jurors rendering a verdict has same force and effect of all jurors</i>	
Sponsor	Thompson	
1844 Constitution Section	Article I, Paragraph 7	
History:		
October 8, 1873	Introduced and referred to Committee on Bill of Rights	CC Proceedings, p. 41
October 23, 1873	LOST, 4 to 6	CC Proceedings, p. 120
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 22	<i>Provides that in cases where private land is taken by corporations, the property owner shall have the right of appeal and have damages reassessed by verdict of a jury</i>	See also Proposed Amendment 77
Sponsor	Thompson	
1844 Constitution Section	Article I, Paragraph 16	
History:		
October 8, 1873	Introduced and referred to Committee on Bill of Rights	CC Proceedings, p. 41-42
November 11, 1873	ADOPTED, 6 to 5	CC Proceedings, p. 139-140
November 11, 1873	Substituted by Proposed Amendment 77	CC Proceedings, p. 144

ANALYSIS OF PROPOSED AMENDMENTS

829

PROPOSED AMENDMENT NO. 23	<i>Biennial Legislature</i>	
Sponsor	Gregory	
1844 Constitution Section	Unspecified	
History:		
October 8, 1873	Introduced and referred to Legislative Committee	CC Proceedings, p. 42
November 11, 1873	LOST	CC Proceedings, p. 138-139
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 24	<i>Requires publication in newspapers of proposed amendments to local government charters</i>	
1844 Constitution Section	Article IV, Section VII, Paragraph 10 (9)	
Sponsor	Gregory	
History:		
October 8, 1873	Introduced and referred to Legislative Committee	CC Proceedings, p. 42
October 9, 1873	Legislative Committee recommended approval	CC Proceedings, p. 51
October 9, 1873	Laid on Table of Committee of the Whole; p. 52	CC Proceedings, p. 52
October 15, 1873	In Committee of the Whole, Ferry moved to amend the recommendation by requiring the notice to be published “ten,” instead of “thirty” days before the meeting of the Legislature; LOST, 3 to 8	CC Proceedings, p. 354
October 15, 1873	In Committee of the Whole, Buckley moved to amend by striking out “county” and inserting “city”	CC Proceedings, p. 354
October 15, 1873	In Committee of the Whole, Hubbell moved to amend by striking out “in one ... circulation” and inserting “in all newspapers in the”	CC Proceedings, p. 354
October 15, 1873	In Committee of the Whole, Green moved to amend by striking out all after “newspapers” and inserting “printed, published ... nearest thereto”; agreed	CC Proceedings, p. 354
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 784, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 842
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1135
March 25, 1874	Hobart moved to substitute the Senate’s version of this proposal for the Commission’s proposal; agreed	AM 1874, p. 1254-1255
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267

ANALYSIS OF PROPOSED AMENDMENTS

831

PROPOSED AMENDMENT NO. 24 [CONTINUED]	<i>Requires publication in newspapers of proposed amendments to local government charters</i>	
January 26, 1875	Senate read and APPROVED proposed amendments to Article IV, 16 to 3	SJ 1875, p. 72-74
February 16, 1875	Assembly ADOPTED, 40 to 1	AM 1875, p. 361
September 7, 1875	APPROVED by popular vote, 70,586 to 25,917	A Statement of Determination of the Board of State Canvassers, Specified as Proposed Amendment No. 10 on the Ballot

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 25	<i>Referendum on the sale of intoxicating liquors</i>	
Sponsor	Gregory	
1844 Constitution Section	Unspecified	
History:		
October 8, 1873	Introduced and referred to Com- mittee on Bill of Rights	
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

833

PROPOSED AMENDMENT NO. 26	<i>Prohibits tax exemption on real estate</i>	See also Proposed Amendment 27
Sponsor	Gregory	
1844 Constitution Section	Unspecified	
History:		
October 8, 1873	Introduced and referred to Committee on Bill of Rights	CC Proceedings, p. 43
October 23, 1873	Gregory moved to consider as combined with Proposed Amendment 27; postponed	CC Proceedings, p. 118
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 27	<i>Prohibits laws exempting real estate from taxes by payment of any sum to the State, county, township or city</i>	See also Proposed Amendment 26 [Ed. Note: Gregory's proposed amendment seems to address the practice by which the State exempted railroads from local property taxes.]
Sponsor	Gregory	
1844 Constitution Section	Unspecified	
History:		
October 8, 1873	Introduced and referred to Committee on Bill of Rights	CC Proceedings, p. 43
October 23, 1873	Gregory moved to consider as combined with Proposed Amendment 26; postponed	CC Proceedings, p. 118
	[No further action]	

PROPOSED AMENDMENT NO. 28	<i>Prohibits appropriations to religious corporations</i>	
Sponsor	Gregory	
1844 Constitution Section	Article I, Paragraph 21 (20)	
History:		
October 8, 1873	Introduced and referred to Committee on Bill of Rights	CC Proceedings, p. 43
October 21, 1873	Grey moved to amend by striking out "county, township, city or village" and substituting "municipal corporation"; agreed	CC Proceedings, p. 98
October 21, 1873	Carter moved to amend by striking out "or payment" and inserting "donation of land or"; agreed	CC Proceedings, p. 98
October 21, 1873	Grey moved to amend by inserting after the word "religious" the words "society or," and before the word "religious" the word "any"; agreed	CC Proceedings, p. 98
October 21, 1873	Adopted as amended	CC Proceedings, p. 99
October 22, 1873	Hubbell moved to reconsider vote; agreed	CC Proceedings, p. 104
December 23, 1873	Ferry from Committee on Revision reported recommendations to amend	CC Proceedings, p. 165
December 23, 1873	Green moved to amend by inserting the word "private" before "society"; lost	CC Proceedings, p. 165
December 23, 1873	Carter moved to insert after the word "money" the words "except such as shall be given by the general government or an individual to the State for a specific purpose"; lost	CC Proceedings, p. 165
December 23, 1873	The proposition was then amended by striking out the words "or for the use of," before the word "any"	CC Proceedings, p. 165
December 23, 1873	ADOPTED as amended, 5 to 6 (vote tally error?)	CC Proceedings, p. 165
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article I, Paragraph 21
January 13, 1874	Senate received Report of CC	SJ 1874, p. 49-50
January 21, 1874	Senate read proposed amendments to Article I	SJ 1874, p. 84

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 28 [CONTINUED]	<i>Prohibits appropriations to religious corporations</i>	
January 21, 1874	Senate read proposed amendments to Article I	SJ 1874, p. 84
February 24, 1874	Senate took up and ADOPTED	SJ 1874, p. 456
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 782, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 840
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1132
March 23, 1874	Hobart moved to substitute the Senate version of amendments to Article I for the Constitutional Commission's version; ADOPTED	AM 1874, p. 1144
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article I, 19 to 0	SJ 1875, p. 71
February 16, 1875	Assembly ADOPTED, 37 to 0	AM 1875, p. 354-355
September 7, 1875	APPROVED by popular vote, 70,390 to 26,106	A Statement of Determination of the Board of State Canvassers, Specified as Proposed Amendment No. 2 on the Ballot

ANALYSIS OF PROPOSED AMENDMENTS

837

PROPOSED AMENDMENT NO. 29	<i>School Fund appropriated exclusively for the maintenance and support of public schools</i>	
Sponsor	Gregory	
1844 Constitution Section	Unspecified	
History:		
October 8, 1873	Introduced and referred to Committee on Bill of Rights	
October 21, 1873	Carter moved that this proposed amendment be rejected; agreed	
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 30	<i>Requires that not less than two mills on the dollar of taxable values shall be raised in each county for public schools therein</i>	See Also Proposed Amendment 84
Sponsor	Gregory	
1844 Constitution Section	Article I, Paragraph 22 (21)	
History:		
October 8, 1873	Introduced and referred to Committee on Bill of Rights	CC Proceedings, p. 44
October 21, 1873	Cutler moved to amend by striking out the words "therein and not elsewhere"; lost, 5 to 6	CC Proceedings, p. 98
October 21, 1873	ADOPTED	CC Proceedings, p. 98
October 21, 1873	Green moved to reconsider vote; agreed	CC Proceedings, p. 99-100
October 21, 1873	Green moved to substitute; lost, 4 to 7	CC Proceedings, p. 100
October 21, 1873	Grey moved to postpone consideration until October 28	CC Proceedings, p. 100
October 21, 1873	Green moved to adopt the proposal as it now stands; adopted, 6 to 5	CC Proceedings, p. 100
October 22, 1873	Hubbell moved to reconsider vote; agreed	CC Proceedings, p. 104-105
October 22, 1873	Hubbell moved to substitute; postponed	CC Proceedings, p. 105
October 28, 1873	Hubbell moved to amend; lost 5 to 6	CC Proceedings, p. 125
October 28, 1873	Grey moved to amend; lost	CC Proceedings, p. 125
October 28, 1873	Green moved to substitute; lost, 4 to 8	CC Proceedings, p. 125
October 28, 1873	LOST, 2 to 10	CC Proceedings, p. 126
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

839

PROPOSED AMENDMENT NO. 31	<i>The Legislature shall pass laws to compel attendance at public schools</i>	See also Proposed Amendment 84
Sponsor	Gregory	
1844 Constitution Section	Article I, Paragraph 22 (21)	
History:		
October 8, 1873	Introduced and referred to Com- mittee on Bill of Rights	CC Proceedings, p. 44
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 32	<i>Pardons granted only where innocence of person clearly appears</i>	
Sponsor	Grey	
1844 Constitution Section	Article V, Paragraph 10	
History:		
October 8, 1873	Introduced and referred to Executive Committee	CC Proceedings, p. 44
November 11, 1873	Considered; LOST	CC Proceedings, p. 139
	[No further action]	

PROPOSED AMENDMENT NO. 33	<i>Limitation on local bonded debt</i>	See also Proposed Amendment 19; see also Proposed Amendment 58 for similar restrictions on the state level
Sponsor	Gregory	
1844 Constitution Section	Article I, Paragraph 21 (22)	
History:		
October 8, 1873	Introduced and referred to Committee on Bill of Rights	CC Proceedings, p. 44
October 8, 1873	Gregory proposed a resolution requiring the Commission secretaries to request a statement of indebtedness from each county and municipal government; agreed	CC Proceedings, p. 46
October 21, 1873	Several unspecified motions to amend were made and lost; further consideration postponed	CC Proceedings, p. 97-98
October 21, 1873	Buckley moved to substitute; lost	CC Proceedings, p. 99
October 22, 1873	Hubbell moved to amend by incorporating this proposal into Article I, Paragraph 20 (parts 2 and 3) and striking out this proposal [Ed. Note: Hubbell's amendment was evidently agreed to, although the CC Proceedings omit this. Essentially, Hubbell substituted his version of Amendment 33 to be incorporated as the third part of Article I, Paragraph 20. Amendment 33 was then rescinded.]	CC Proceedings, p. 105
October 22, 1873	Ferry moved to postpone until October 23; agreed	CC Proceedings, p. 105
October 23, 1873	Brinkerhoff moved to strike out "or municipal corporation" in Hubbell's proposed addition; agreed (See Proposed Amendment 19)	CC Proceedings, p. 115
October 23, 1873	Grey moved to postpone further consideration of Paragraphs 20, 21 and 22; agreed	CC Proceedings, p. 115
October 28, 1873	Carter moved to incorporate this proposal into the third part of proposed Article I Paragraph 20 Article specific debt limitations (See Proposed Amendment 19) ; lost	CC Proceedings, p. 124

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 33 [CONTINUED]	<i>Limitation on local bonded debt</i>	See also Proposed Amendment 19; see also Proposed Amendment 58 for similar restrictions on the state level
November 13, 1873	The Chair laid before the Commission the report of the statements sent to the secretaries, relative to the bonded debts of the various counties, townships, towns and cities of the State	CC Proceedings, p. 158
November 18, 1873	Report of statements ordered to lie on table	CC Proceedings, p. 158
November 18, 1873	Gregory moved that the returns of statements be printed; lost	CC Proceedings, p. 163
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

843

PROPOSED AMENDMENT NO. 34	<i>Jury may return verdict of “not proven” in criminal trials to allow subsequent trial</i>	
Sponsor	Grey	
1844 Constitution Section	Article I, Paragraph 10	
History:		
October 8, 1873	Introduced and referred to Committee on Bill of Rights	CC Proceedings, p. 45
October 23, 1873	Grey moved to take up proposal	CC Proceedings, p. 119
October 23, 1873	Hubbell moved to postpone; not agreed to	CC Proceedings, p. 119
October 23, 1873	Grey moved to postpone until October 28; agreed	CC Proceedings, p. 119
October 29, 1873	Buckley moved to take up proposal	CC Proceedings, p. 136
October 29, 1873	After discussion, LOST	CC Proceedings, p. 136
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 35	<i>Prohibits Legislature from passing private, local or special laws in enumerated cases</i>	See also Proposed Amendments 35.1 through 35.12
Sponsor	Green	
1844 Constitution Section	Article IV, Section VII, Paragraph 14	
History:		
October 8, 1873	Introduced and referred to Committee on Bill of Rights	CC Proceedings, p. 45-46
October 22, 1873	Commission took up	CC Proceedings, p. 109-110
October 22, 1873	Ferry proposed substitute; not agreed to	CC Proceedings, p. 110-111
	[Since each enumerated case was discussed and voted on separately, see specific Proposed Amendments 35.1 through 35.12, for further action. What follows below is further action on the entire Paragraph 14]	
February 4, 1874	Stone offered a substitute for the Commission's proposed amendments to Article IV, Section VII, Paragraph 14	SJ 1874, p. 201
February 4, 1874	Taylor moved that Stone's substitute be printed and further consideration be postponed to February 10, 1874; agreed	SJ 1874, p. 201
February 11, 1874	Senate took up Stone's substitute	SJ 1874, p. 274-275
February 11, 1874	Hopper moved to amend Stone's substitute; lost, 8 to 11	SJ 1874, p. 275
February 11, 1874	Stone moved that his proposal be substituted for the Commission's proposed Article IV, Section VII, Paragraph 14, except for proposed amendments 35.6, 35.8, and 35.9	SJ 1874, p. 275
February 11, 1874	Hopper moved to lay Stone's motion on the table; lost	SJ 1874, p. 275
February 18, 1874	Stone's substitute was lost, 3 to 5	SJ 1874, p. 360
	[For further action, see Proposed Amendments 35.1 through 35.12]	
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 784-785, 787

ANALYSIS OF PROPOSED AMENDMENTS

845

PROPOSED AMENDMENT NO. 35 [CONTINUED]	<i>Prohibits Legislature from passing private, local or special laws in enumerated cases</i>	See also Proposed Amendments 35.1 through 35.12
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 842-843
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1136-1137
March 25, 1874	Ward moved to substitute the Commission's proposal with the Senate's version; ADOPTED	AM 1874, p. 1256-1257
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article IV, 16 to 3	SJ 1875, p. 72-74
February 16, 1875	Assembly ADOPTED, 43 to 0	AM 1875, p. 361-362
September 7, 1875	APPROVED by popular vote, 69,385 to 27,131	A Statement of Determination of the Board of State Canvassers, Specified as Proposed Amendment No. 11 on the Ballot

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 35.1	<i>Prohibits Legislature from passing private, local or special laws related to laying out, opening, altering and working roads or highways</i>	
Sponsor	Green	
1844 Constitution Section	Article IV, Section VII, Paragraph 14 (Clause 1)	
History:		
October 8, 1873	Introduced and referred to Committee on Bill of Rights	CC Proceedings, p. 45-46
October 22, 1873	Commission took up	CC Proceedings, p. 109
October 22, 1873	Brinkerhoff moved to amend by adding after the word "highways" "except where a road or highway divides two municipalities"; lost	CC Proceedings, p. 111
October 22, 1873	ADOPTED	CC Proceedings, p. 111
October 29, 1873	Vote reconsidered	CC Proceedings, p. 134
October 29, 1873	Grey moved to strike out this clause; not agreed to, 3 to 7	CC Proceedings, p. 134
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article IV, Section VII, Paragraph 14
January 13, 1874	Senate received Report of CC	SJ 1874, p. 53
February 18, 1874	Senate ADOPTED, 10 to 1	SJ 1874, p. 360
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 784, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 843
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1136
March 25, 1874	Ward moved to adopt the Commission's proposal [which was identical to the Senate's version]; ADOPTED	AM 1874, p. 1256-1257
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article IV, 16 to 3	SJ 1875, p. 72-74
February 16, 1875	Assembly ADOPTED, 43 to 0	AM 1875, p. 361-362

PROPOSED AMENDMENT NO. 35.2	<i>Prohibits Legislature from passing private, local or special laws related to vacating roads, town plots, streets, alleys and public grounds</i>	
Sponsor	Green	
1844 Constitution Section	Article IV, Section VII, Paragraph 14 (Clause 2)	
History:		
October 8, 1873	Introduced and referred to Committee on Bill of Rights	CC Proceedings, p. 45-46
October 22, 1873	Commission took up	CC Proceedings, p. 109
October 22, 1873	ADOPTED	CC Proceedings, p. 111
October 29, 1873	Vote reconsidered	CC Proceedings, p. 134
October 29, 1873	Grey moved to strike out this clause; not agreed to, 2 to 9	CC Proceedings, p. 134
October 29, 1873	Carter moved to amend by striking out all after the word "roads"; not agreed to	CC Proceedings, p. 134
October 29, 1873	Green moved to amend by making to read "Vacating any road, town plot, street, alley or public grounds"; adopted	CC Proceedings, p. 134-135
October 29, 1873	ADOPTED as amended	CC Proceedings, p. 135
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article IV, Section VII, Paragraph 14
January 13, 1874	Senate received Report of CC	SJ 1874, p. 53
February 18, 1874	Senate ADOPTED, 10 to 1	SJ 1874, p. 360
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 784, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 843
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1136
March 25, 1874	Ward moved to adopt the Commission's proposal [which was identical to the Senate's version]; ADOPTED	AM 1874, p. 1256-1257
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 35.2 [CONTINUED]	<i>Prohibits Legislature from passing private, local or special laws related to vacating roads, town plots, streets, alleys and public grounds</i>	
January 26, 1875	Senate read and APPROVED proposed amendments to Article IV, 16 to 3	SJ 1875, p. 72-74
February 16, 1875	Assembly ADOPTED, 43 to 0	AM 1875, p. 361-362

ANALYSIS OF PROPOSED AMENDMENTS

849

PROPOSED AMENDMENT NO. 35.3	<i>Prohibits Legislature from passing private, local or special laws related to regulating the internal affairs of towns and counties; appointing local officers or commissioners to regulate municipal affairs</i>	[Ed. Note: Clause 3 was originally proposed by Green as two separate clauses; evidently, the Committee on Bill of Rights combined both clauses before the Commission took up on October 22]
Sponsor	Green	
1844 Constitution Section	Article IV, Section VII, Paragraph 14 (Clause 3)	
History:		
October 8, 1873	Introduced and referred to Committee on Bill of Rights	CC Proceedings, p. 45-46
October 22, 1873	Commission took up	CC Proceedings, p. 109
October 22, 1873	ADOPTED	CC Proceedings, p. 111
December 23, 1873	Cutler moved to insert "cities"; not agreed to	CC Proceedings, p. 166
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article IV, Section VII, Paragraph 14
January 13, 1874	Senate received Report of CC	SJ 1874, p. 53
February 18, 1874	Senate ADOPTED, 10 to 2	SJ 1874, p. 360-361
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 784, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 843
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1136
March 25, 1874	Ward moved to adopt the Commission's proposal [which was identical to the Senate's version]; ADOPTED	AM 1874, p. 1256-1257
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article IV, 16 to 3	SJ 1875, p. 72-74
February 16, 1875	Assembly ADOPTED, 43 to 0	AM 1875, p. 361-362

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 35.4	<i>Prohibits Legislature from passing private, local or special laws related to selecting, drawing, summoning or empaneling grand or petit juries</i>	[Ed. Note: evidently, the Committee on Bill of Rights replaced the word “juries” with “jurors” before the Commission took up on October 22]
Sponsor	Green	
1844 Constitution Section	Article IV, Section VII, Paragraph 14 (Clause 4)	
History:		
October 8, 1873	Introduced and referred to Committee on Bill of Rights	CC Proceedings, p. 45-46
October 22, 1873	Commission took up	CC Proceedings, p. 109
October 22, 1873	Brinkerhoff moved to amend by striking out this clause; not agreed to	CC Proceedings, p. 111
October 22, 1873	ADOPTED	CC Proceedings, p. 111
October 29, 1873	Vote reconsidered	CC Proceedings, p. 134
October 29, 1873	ADOPTED	CC Proceedings, p. 135
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article IV, Section VII, Paragraph 14
January 13, 1874	Senate received Report of CC	SJ 1874, p. 53
February 18, 1874	Senate ADOPTED, 9 to 4	SJ 1874, p. 361
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 785, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 843
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1136
March 25, 1874	Ward moved to adopt the Commission’s proposal [which was identical to the Senate’s version]; ADOPTED	AM 1874, p. 1256-1257
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article IV, 16 to 3	SJ 1875, p. 72-74
February 16, 1875	Assembly ADOPTED, 43 to 0	AM 1875, p. 361-362

ANALYSIS OF PROPOSED AMENDMENTS

851

PROPOSED AMENDMENT NO. 35.5	<i>Prohibits Legislature from passing private, local or special laws related to regulating the rate of interest on money</i>	
Sponsor	Green	
1844 Constitution Section	Article IV, Section VII, Paragraph 14 (Clause 5)	
History:		
October 8, 1873	Introduced and referred to Committee on Bill of Rights	CC Proceedings, p. 45-46
October 22, 1873	Commission took up	CC Proceedings, p. 109
October 22, 1873	ADOPTED	CC Proceedings, p. 111
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article IV, Section VII, Paragraph 14
January 13, 1874	Senate received Report of CC	SJ 1874, p. 53
February 18, 1874	Senate REJECTED, 5 to 9	SJ 1874, p. 361
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1136
March 25, 1874	Ward moved to strike out the Commission's proposal; agreed	AM 1874, p. 1256-1257
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 35.6	<i>Prohibits Legislature from passing private, local or special laws related to creating, increasing or decreasing fees, percentage or allowances of public officers, during the term for which said officers are elected or appointed</i>	
Sponsor	Green	
1844 Constitution Section	Article IV, Section VII, Paragraph 14 (Clause 6)	
History:		
October 8, 1873	Introduced and referred to Committee on Bill of Rights	CC Proceedings, p. 45-46
October 22, 1873	Commission took up	CC Proceedings, p. 109
October 22, 1873	ADOPTED	CC Proceedings, p. 111
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article IV, Section VII, Paragraph 14
January 13, 1874	Senate received Report of CC	SJ 1874, p. 53
February 18, 1874	Senate ADOPTED, 13 to 0	SJ 1874, p. 361-362
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 785, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 843
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1136
March 25, 1874	Ward moved to adopt the Commission's proposal [which was identical to the Senate's version]; ADOPTED	AM 1874, p. 1256-1257
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article IV, 16 to 3	SJ 1875, p. 72-74
February 16, 1875	Assembly ADOPTED, 43 to 0	AM 1875, p. 361-362

PROPOSED AMENDMENT NO. 35.7	<i>Prohibits Legislature from passing private, local or special laws related to changing the law of descent</i>	
Sponsor	Green	
1844 Constitution Section	Article IV, Section VII, Paragraph 14 (Clause 7)	
History		
October 8, 1873	Introduced and referred to Committee on Bill of Rights	CC Proceedings, p. 45-46
October 22, 1873	Commission took up	CC Proceedings, p. 109
October 22, 1873	ADOPTED	CC Proceedings, p. 111
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article IV, Section VII, Paragraph 14
January 13, 1874	Senate received Report of CC	SJ 1874, p. 53
February 18, 1874	Senate ADOPTED, 11 to 0	SJ 1874, p. 362
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 785, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 843
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1136
March 25, 1874	Ward moved to adopt the Commission's proposal [which was identical to the Senate's version]; ADOPTED	AM 1874, p. 1256-1257
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article IV, 16 to 3	SJ 1875, p. 72-74
February 16, 1875	Assembly ADOPTED, 43 to 0	AM 1875, p. 361-362

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 35.8	<i>Prohibits Legislature from passing private, local or special laws related to granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever</i>	
Sponsor	Green	
1844 Constitution Section	Article IV, Section VII, Paragraph 14 (Clause 8)	
History:		
October 8, 1873	Introduced and referred to Committee on Bill of Rights	CC Proceedings, p. 45-46
October 22, 1873	Commission took up	CC Proceedings, p. 109
October 22, 1873	Postponed	CC Proceedings, p. 111
October 22, 1873	Thompson moved to amend by adding after the word “whatever” the words “except the chartering of banks or money corporations which shall remain as at present”; withdrawn	CC Proceedings, p. 112
October 22, 1873	ADOPTED	CC Proceedings, p. 112
December 23, 1873	Submitted as engrossment in Report of CC to 1874 Legislature	Report of CC, Article IV, Section VII, Paragraph 14
January 13, 1874	Senate received Report of CC	SJ 1874, p. 53
February 18, 1874	Senate ADOPTED, 11 to 0	SJ 1874, p. 362
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 785, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 843
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1136
March 25, 1874	Ward moved to adopt the Commission’s proposal [which was identical to the Senate’s version]; ADOPTED	AM 1874, p. 1256-1257
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article IV, 16 to 3	SJ 1875, p. 72-74
February 16, 1875	Assembly ADOPTED, 43 to 0	AM 1875, p. 361-362

PROPOSED AMENDMENT NO. 35.9	<i>Prohibits Legislature from passing private, local or special laws: The Legislature shall pass general laws providing for the cases enumerated in this paragraph, and for all other cases which in its judgment may be provided for by general laws</i>	
Sponsor	Green	
1844 Constitution Section	Article IV, Section VII, Paragraph 14 (Clause 9)	
History:		
October 8, 1873	Introduced and referred to Committee on Bill of Rights	CC Proceedings, p. 45-46
October 22, 1873	Commission took up	CC Proceedings, p. 109
October 22, 1873	ADOPTED	CC Proceedings, p. 111
October 22, 1873	Ferry moved to amend; [lost]	CC Proceedings, p. 111
October 22, 1873	Buckley moved to amend; lost	CC Proceedings, p. 112
October 29, 1873	ADOPTED	CC Proceedings, p. 134
November 18, 1873	Green moved to amend by adding a new clause: "The Legislature shall pass no special act conferring corporate powers, but they shall pass general laws under which corporations may be organized and corporate powers obtained, subject, nevertheless, to repeal or alteration at the will of the Legislature"; adopted	CC Proceedings, p. 161-162
November 18, 1873	ADOPTED as last sentence of Article IV, Section VII, Paragraph [14]	CC Proceedings, p. 162
December 23, 1873	Committee on Revision recommended to strike out last sentence added on November 18; lost	CC Proceedings, p. 165
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article IV, Section VII, Paragraph 14
January 13, 1874	Senate received Report of CC	SJ 1874, p. 54
February 18, 1874	Senate ADOPTED first sentence, 12 to 2	SJ 1874, p. 363
February 18, 1874	Senate ADOPTED second sentence, 9 to 5	SJ 1874, p. 363-364

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 35.9 [CONTINUED]	<i>Prohibits Legislature from passing private, local or special laws: The Legislature shall pass general laws providing for the cases enumerated in this paragraph, and for all other cases which in its judgment may be provided for by general laws</i>	
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 785, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 843
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1136-1137
March 25, 1874	Ward moved to adopt the Commission's proposal [which was identical to the Senate's version]; ADOPTED	AM 1874, p. 1256-1257
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article IV, 16 to 3	SJ 1875, p. 72-74
February 16, 1875	Assembly ADOPTED, 43 to 0	AM 1875, p. 361-362

PROPOSED AMENDMENT NO. 35.10	<i>Prohibits Legislature from passing private, local or special laws related to the management of common schools</i>	
Sponsor	Swayze	
1844 Constitution Section	Article IV, Section VII, Paragraph 14 (unnumbered Clause)	
History:		
October 22, 1873	Introduced; adopted	CC Proceedings, p. 111
October 29, 1873	Carter moved to amend by adding "and support" after "management"; adopted	CC Proceedings, p. 133-134
December 23, 1873	Ferry moved to strike out "common" and replace with "free public"; adopted	CC Proceedings, p. 166
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article IV, Section VII, Paragraph 14
January 13, 1874	Senate received Report of CC	SJ 1874, p. 53
February 18, 1874	Senate ADOPTED, 16 to 1	SJ 1874, p. 363
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 785, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 843
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1136
March 25, 1874	Ward moved to adopt the Commission's proposal [which was identical to the Senate's version]; ADOPTED	AM 1874, p. 1256-1257
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article IV, 16 to 3	SJ 1875, p. 72-74
February 16, 1875	Assembly ADOPTED, 43 to 0	AM 1875, p. 361-362

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 35.11	<i>Prohibits Legislature from passing private, local or special laws related to granting to any corporation, association or individual the right to lay down railroad tracks</i>	
Sponsor	Cutler	
1844 Constitution Section	Article IV, Section VII, Paragraph 14 (unnumbered Clause)	
History:		
October 22, 1873	Introduced	CC Proceedings, p. 111
October 22, 1873	Swayze moved to amend by adding the words “or amending existing charters for that purpose”; agreed	CC Proceedings, p. 111
October 22, 1873	Vote was reconsidered and Swayze's motion to amend was declared lost	CC Proceedings, p. 111
October 22, 1873	Swayze moved to amend by adding the words “or extending the privileges of existing corporations”; lost 5 to 5	CC Proceedings, p. 112
October 22, 1873	Cutler's proposal, as originally presented, was ADOPTED	CC Proceedings, p. 112
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article IV, Section VII, Paragraph 14
January 13, 1874	Senate received Report of CC	SJ 1874, p. 53
February 18, 1874	Senate ADOPTED, 13 to 0	SJ 1874, p. 362-363
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 785, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 843
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1136
March 25, 1874	Ward moved to adopt the Commission's proposal [which was identical to the Senate's version]; ADOPTED	AM 1874, p. 1256-1257
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article IV, 16 to 3	SJ 1875, p. 72-74
February 16, 1875	Assembly ADOPTED, 43 to 0	AM 1875, p. 361-362

PROPOSED AMENDMENT NO. 35.12	<i>Prohibits Legislature from passing private, local or special laws related to providing for changes in venue in civil or criminal cases</i>	
Sponsor	Cutler	
1844 Constitution Section	Article IV, Section VII, Paragraph 14 (unnumbered Clause)	
History:		
October 23, 1873	Introduced; ADOPTED	CC Proceedings, p. 115
October 29, 1873	ADOPTED, 8 to 2	CC Proceedings, p. 134
December 23, 1873	Submitted as engrossment in Report of CC to 1874 Legislature	Report of CC, Article IV, Section VII, Paragraph 14
January 13, 1874	Senate received Report of CC	SJ 1874, p. 53
February 18, 1874	Senate ADOPTED, 13 to 0	SJ 1874, p. 363
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 785, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 843
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1136
March 25, 1874	Ward moved to adopt the Commission's proposal [which was identical to the Senate's version]; ADOPTED	AM 1874, p. 1256-1257
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article IV, 16 to 3	SJ 1875, p. 72-74
February 16, 1875	Assembly ADOPTED, 43 to 0	AM 1875, p. 361-362

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 36	<i>Legislative procedures:</i> <i>(1) No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of said act, or which shall enact that any existing law, or any part thereof, shall be applicable except by inserting it in such act</i> <i>(2) No law shall be revived or amended by reference to its title only, but the act revived or the section or sections amended shall be inserted at length</i> <i>(3) No general law shall embrace any provision of a private, special or local character</i>	See also Proposed Amendment 59
Sponsor	Green	
1844 Constitution Section	Article IV, Section VII, Paragraph 4	
History:		
	Suggested in Governor's Message	SJ 1873, p. 48-49 CC Proceedings, p. 9-10
October 8, 1873	Introduced and referred to the Legislative Committee	CC Proceedings, p. 47-48
October 15, 1873	In Committee of the Whole Green moved to amend; adopted	CC Proceedings, p. 355-356
October 16, 1873	ADOPTED by Constitutional Commission	CC Proceedings, p. 91-92
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article IV, Section VII, Paragraph 4
January 13, 1874	Senate received Report of CC	SJ 1874, p. 52
February 3, 1874	Read before the Senate	SJ 1874, p. 176-177
February 3, 1874	Senate ADOPTED, 15 to 2	SJ 1874, p. 177
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 784, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 842
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1134
March 25, 1874	Hobart moved to adopt Commission's proposal [which was identical to the Senate's version]; agreed	AM 1874, p. 1253-1254

PROPOSED AMENDMENT NO. 36 [CONTINUED]	<i>Legislative procedures:</i> <i>(1) No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of said act, or which shall enact that any existing law, or any part thereof, shall be applicable except by inserting it in such act</i> <i>(2) No law shall be revived or amended by reference to its title only, but the act revived or the section or sections amended shall be inserted at length</i> <i>(3) No general law shall embrace any provision of a private, special or local character</i>	See also Proposed Amendment 59
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article IV, 16 to 3	SJ 1875, p. 72-74
February 16, 1875	Assembly ADOPTED, 40 to 0	AM 1875, p. 359
September 7, 1875	APPROVED by popular vote, 70,358 to 26,178	A Statement of Determination of the Board of State Canvassers, Specified as Proposed Amendment No. 7 on the Ballot

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 37	<i>Allows paupers to vote</i>	
Sponsor	Ferry	
1844 Constitution Section	Article II	
History:		
October 8, 1873	Introduced	CC Proceedings, p. 48
October 23, 1873	LOST	CC Proceedings, p. 119-120
	[No further action]	

PROPOSED AMENDMENT NO. 38	<i>Date of legislative elections</i>	See also Proposed Amendment 68
Sponsor	Grey (Legislative Committee)	
1844 Constitution Section	Article IV, Section I, Paragraph 3	
History:		
October 9, 1873	Introduced by Legislative Committee report with recommendation for adoption	CC Proceedings, p. 49
October 9, 1873	Laid on table of Committee of the Whole	CC Proceedings, p. 52
October 14, 1873	Adopted in Committee of the Whole, 13 to 0	CC Proceedings, p. 352
October 16, 1873	ADOPTED by Constitutional Commission	CC Proceedings, p. 90
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article IV, Section I, Paragraph 3
January 13, 1874	Senate received Report of CC	SJ 1874, p. 50
January 28, 1874	Senate considered	SJ 1874, p. 132
January 28, 1874	Taylor moved to strike out; lost, 5 to 10	SJ 1874, p. 132
January 28, 1874	Senate ADOPTED, 14 to 2	SJ 1874, p. 132-133
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 783, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 841
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1132
March 23, 1874	Jones moved to adopt the Commission's proposal [which was identical to the Senate's version]; agreed	AM 1874, p. 1146
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article IV, 16 to 3	SJ 1875, p. 72-74
February 16, 1875	Assembly ADOPTED, 40 to 0	AM 1875, p. 357

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 38 [CONTINUED]	<i>Date of legislative elections</i>	See also Proposed Amendment 68
September 7, 1875	APPROVED by popular vote, 70,686 to 25,846	A Statement of Determination of the Board of State Canvassers, Specified as Proposed Amendment No. 5 on the Ballot

PROPOSED AMENDMENT NO. 39	<i>Legislative Compensation of \$750 (amended to \$500)</i>	See also Proposed Amendments 4, 64
Sponsor	Grey (Legislative Committee)	
1844 Constitution Section	Article IV, Section IV, Paragraph 7	
History		
October 9, 1873	Introduced by Legislative Committee report with recommendation for adoption [See Also Proposed Amendment 4]	CC Proceedings, p. 48-49
October 9, 1873	Laid on table of Committee of the Whole	CC Proceedings, p. 52
October 14, 1873	In Committee of the Whole, Ferry moved to amend the Committee Report by substituting "\$500" for "\$750"; after discussion, the Committee of the Whole adjourned	CC Proceedings, p. 353
October 22, 1873	Ferry's proposal to substitute "five hundred" for seven hundred and fifty" was ADOPTED, 8 to 2	CC Proceedings, p. 107
October 22, 1873	The paragraph as amended was then adopted, and the vote which it was adopted was reconsidered	CC Proceedings, p. 107-108
October 22, 1873	Carter moved to amend	CC Proceedings, p. 108
October 22, 1873	Swayze moved to amend; lost 4 to 5	CC Proceedings, p. 108
October 22, 1873	Ferry moved to amend; lost 5 to 5	CC Proceedings, p. 108
October 22, 1873	Hubbell moved to reconsider vote by which Ferry's amendment was lost; agreed	CC Proceedings, p. 108
October 22, 1873	Hubbell moved to amend by substituting the words "twenty-five dollars" for the words "fifty dollars"; adopted	CC Proceedings, p. 108-109
October 22, 1873	The paragraph as amended was then adopted	CC Proceedings, p. 109
October 22, 1873	Ferry moved to amend by striking out the word "newspaper"; adopted	CC Proceedings, p. 109
October 22, 1873	The paragraph as amended was then ADOPTED	CC Proceedings, p. 109

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 39 [CONTINUED]	<i>Legislative Compensation of \$750 (amended to \$500)</i>	See also Proposed Amendments 4, 64
December 23, 1873	Submitted as engrossment in Report of CC to 1874 Legislature	Report of CC, Article IV, Section IV, Paragraph 7
January 13, 1874	Senate received Report of CC	SJ 1874, p. 51
January 28, 1874	Stone moved to amend by striking out "and no other allowance...expenses and perquisites"; agreed	SJ 1874, p. 133
January 28, 1874	Taylor moved to strike out the Commission's proposal and to amend the 1844 Constitution by striking out "They shall receive the sum of one dollar for every ten miles...most usual route"; lost, 6 to 9	SJ 1874, p. 133
January 28, 1874	Taylor moved to amend the Commission's proposal by striking out "five" and inserting "three", thereby changing the annual legislative compensation to \$300; lost, 2 to 14	SJ 1874, p. 133-134
January 28, 1874	Senate ADOPTED as amended, 14 to 2	SJ 1874, p. 134
January 28, 1874	Stone moved to accept Commission's proposal to strike out " <i>per diem</i> " in the sentence concerning the compensation of legislative leaders; agreed	SJ 1874, p. 134
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 783-784, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 841-84
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1133
March 23, 1874	Assembly read the Commission's proposal	AM 1874, p. 1147-1148
March 23, 1874	Hobart moved to substitute the Senate version of the amendment for the Commission's version; ADOPTED	AM 1874, p. 1148
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article IV, 16 to 3	SJ 1875, p. 72-74

ANALYSIS OF PROPOSED AMENDMENTS

867

PROPOSED AMENDMENT NO. 39 [CONTINUED]	<i>Legislative Compensation of \$750 (amended to \$500)</i>	See also Proposed Amendments 4, 64
February 16, 1875	Assembly ADOPTED all of the proposed amendment except for striking out the words " <i>per diem</i> ", 34 to 7	AM 1875, p. 357-358
February 16, 1875	Assembly ADOPTED the proposed amendment striking out the words " <i>per diem</i> ", 38 to 0	AM 1875, p. 358
September 7, 1875	APPROVED by popular vote, 69,093 to 27,438	A Statement of Determination of the Board of State Canvassers, Specified as Proposed Amendment No. 6 on the Ballot

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 40	<i>Requires bills to be printed and read throughout on three days; prohibits reading of title only</i>	See also Proposed Amendment 63
Sponsor	Grey (Legislative Committee)	
1844 Constitution Section	Article IV, Section IV, Paragraph 6	
History:		
October 9, 1873	Introduced by Legislative Committee report with recommendation for adoption	CC Proceedings, p. 49-50
October 9, 1873	Laid on table of Committee of the Whole	CC Proceedings, p. 52
October 14, 1873	In Committee of the Whole, Dickinson moved to amend by striking out "received or"; withdrawn	CC Proceedings, p. 352-353
October 14, 1873	In Committee of the Whole, Buckley moved to amend by striking out "reconsidered" and inserting "read or referred"; withdrawn	CC Proceedings, p. 352-353
October 14, 1873	In Committee of the Whole, Green renewed Buckley's motion to amend; lost 4 to 8	CC Proceedings, p. 353
October 14, 1873	In Committee of the Whole, Ferry renewed Dickinson's motion to amend; lost 3 to 9	CC Proceedings, p. 353
October 14, 1873	Committee of the Whole adopted proposal as recommended by Legislative Committee	CC Proceedings, p. 353
October 14, 1873	In Committee of the Whole, Grey moved to amend by inserting the words "and provided further that ... shall be taken on the final passage thereof" after "order"; adopted	CC Proceedings, p. 353
October 16, 1873	Proposal as recommended by the Legislative Committee was adopted	CC Proceedings, p. 90-91
October 16, 1873	ADOPTED, as amended by Grey, by Constitutional Commission	CC Proceedings, p. 91
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Art. IV, Section IV, Paragraph 6
January 13, 1874	Senate received Report of CC	SJ 1874, p. 50-51
January 28, 1874	Taylor moved to strike out; agreed, 12 to 4	SJ 1874, p. 133

PROPOSED AMENDMENT NO. 40 [CONTINUED]	<i>Requires bills to be printed and read throughout on three days; prohibits reading of title only</i>	See also Proposed Amendment 63
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1133
March 23, 1874	Assembly read this proposal from the Commission's report	AM 1874, p. 1147
March 23, 1874	Morrow moved to strike out; agreed, 27 to 15	AM 1874, p. 1147
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 41	<i>Concerns Justices of the Peace</i>	See also Proposed Amendment 75
Sponsor	Buckley	
1844 Constitution Section	Article VI, Section VII, Paragraph 1	
History:		
October 9, 1873	Introduced and referred to Judiciary Committee	CC Proceedings, p. 52
October 23, 1873	Judiciary Committee reports favorably and recommends adoption; ordered printed	CC Proceedings, p. 113
October 23, 1873	Buckley moved to take up	CC Proceedings, p. 116
October 23, 1873	Swayze moved to amend; adopted	CC Proceedings, p. 116-117
October 23, 1873	Hubbell moved to amend; adopted	CC Proceedings, p. 117
October 23, 1873	Gregory moved to amend; adopted	CC Proceedings, p. 117
October 23, 1873	Grey moved to amend; lost	CC Proceedings, p. 117
October 23, 1873	Swayze moved to amend; postponed	CC Proceedings, p. 117
October 29, 1873	Swayze's amendment was taken up; lost	CC Proceedings, p. 131
October 29, 1873	Grey moved to amend; adopted	CC Proceedings, p. 131
October 29, 1873	Thompson moved to amend; lost	CC Proceedings, p. 131-132
October 29, 1873	ADOPTED as amended	CC Proceedings, p. 132

ANALYSIS OF PROPOSED AMENDMENTS

871

PROPOSED AMENDMENT NO. 42	<i>Prohibits bribery and wagering at elections</i>	
Sponsor	Swayze	
1844 Constitution Section	Unspecified	
History:		
October 9, 1873	Introduced and referred to Suffrage Committee	CC Proceedings, p. 52-53
October 29, 1873	Swayze moved to take up; agreed	CC Proceedings, p. 135
October 29, 1873	Commission considered; LOST, 1 to 10	CC Proceedings, p. 135
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 43	<i>Requires elections by numbered ballots</i>	
Sponsor	Dickinson	
1844 Constitution Section	Unspecified	
History:		
October 9, 1873	Introduced and referred to Suffrage Committee	CC Proceedings, p. 53
October 29, 1873	Dickinson moved to take up; agreed	CC Proceedings, p. 136
October 29, 1873	LOST	CC Proceedings, p. 136
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

873

PROPOSED AMENDMENT NO. 44	<i>Laws regulating elections shall be uniform throughout the State; no one shall be deprived of vote if not registered</i>	
Sponsor	Dickinson	
1844 Constitution Section	Unspecified	
History:		
October 9, 1873	Introduced and referred to Suffrage Committee	CC Proceedings, p. 53
November 11, 1873	Dickinson moved to take up; agreed	CC Proceedings, p. 138
November 11, 1873	Green moved to amend; lost	CC Proceedings, p. 138
November 11, 1873	Carter moved to amend; lost	CC Proceedings, p. 138
November 11, 1873	Green moved to amend; lost	CC Proceedings, p. 138
November 11, 1873	Dickinson's original proposal was rejected	CC Proceedings, p. 138
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 45	<i>Concerns laws passed by bribery, fraud or other corrupt means</i>	[Ed. Note: This proposal was almost certainly inspired by the Stanhope Fraud. See Introduction at pages 95-100.]
Sponsor	Dickinson	
1844 Constitution Section	Unspecified	
History:		
October 9, 1873	Introduced and referred to Judiciary Committee	CC Proceedings, p. 54-55
October 29, 1873	Dickinson moved to take up; agreed	CC Proceedings, p. 132
October 29, 1873	Grey offered substitute	CC Proceedings, p. 132-133
October 29, 1873	Dickinson proposal and Grey's substitute were referred to the Executive and Judiciary Committee	CC Proceedings, p. 133
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

875

PROPOSED AMENDMENT NO. 46	<i>Prohibits special laws creating corporations, except banks; concerns bank charters</i>	
Sponsor	Dickinson	
1844 Constitution Section	Unspecified	
History:		
October 9, 1873	Introduced and referred to General and Special Legislation Committee	CC Proceedings, p. 55
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 47	<i>No law shall extend term of a public officer, nor change his salary</i>	
Sponsor	Dickinson	
1844 Constitution Section	Article VII, Section II, Paragraph 11	
History:		
October 9, 1873	Introduced and referred to Committee on Appointing Power and Tenure of Office	CC Proceedings, p. 55
November 11, 1873	ADOPTED, 9 to 2	CC Proceedings, p. 139
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Art. VII, Section II, Paragraph 11
January 13, 1874	Senate received Report of CC	SJ 1874, p. 59
February 18, 1874	Senate REJECTED, 0 to 13	SJ 1874, p. 377
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1143
	[No further action]	

PROPOSED AMENDMENT NO. 48	<i>Prohibits Legislature from delegating to any Commission the right to govern a city, town or borough; voids any such existing Commission</i>	See also Proposed Amendment 35.3 [Ed. Note: This proposal was almost certainly inspired by the Legislature's takeover of Jersey City in 1871. The most likely reason for its defeat was the adoption of Proposed Amendment 35.3 on October 22, 1873. See Introduction at pages 107-110.]
Sponsor	Dickinson	
1844 Constitution Section	Unspecified	
History:		
October 9, 1873	Introduced and referred to Committee on Bill of Rights	CC Proceedings, p. 55-56
November 11, 1873	Taken up and considered; LOST	CC Proceedings, p. 139
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 49	<i>Requires cities, towns and boroughs to create sinking funds</i>	
Sponsor	Dickinson	
1844 Constitution Section	Unspecified	
History:		
October 9, 1873	Introduced and referred to Legislative Committee	CC Proceedings, p. 56
	[No further action]	

PROPOSED AMENDMENT NO. 50	<i>Prohibits Legislature from authorizing the investment of trust funds in any private corporation</i>	
Sponsor	Dickinson	
1844 Constitution Section	Article IV, Section VII, Paragraph 12	
History:		
October 9, 1873	Introduced and referred to Legislative Committee	CC Proceedings, p. 56
October 15, 1873	Legislative Committee favorably reports amended version	CC Proceedings, p. 80
October 21, 1873	ADOPTED, as amended	CC Proceedings, p. 96
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article IV, Section VII, Paragraph 11
January 13, 1874	Senate received Report of CC	SJ 1874, p. 52-53
February 4, 1874	Senate rejected, 8 to 10	SJ 1874, p. 200
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1135
March 25, 1874	Hobart moved to strike out the Commission's proposal; agreed	AM 1874, p. 1255-1256
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 51	<i>Railroad companies' obligations or liabilities shall not be exchanged, transferred, remitted, postponed or diminished by the Legislature</i>	
Sponsor	Dickinson	
1844 Constitution Section	Unspecified	
History:		
October 9, 1873	Introduced and referred to Executive Committee	CC Proceedings, p. 56-57
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

881

PROPOSED AMENDMENT NO. 52	<i>Concerns bribery; requires legislators to disclose whether they have a personal or private interest in pending legislation</i>	
Sponsor	Dickinson	
1844 Constitution Section	Unspecified	
History:		
October 9, 1873	Introduced and referred to Legislative Committee	CC Proceedings, p. 57-58
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 53	<i>Prohibits State from creating debt, with exceptions; provides for State debt limitations</i>	See also Proposed Amendment 58
Sponsor	Dickinson	
1844 Constitution Section	Unspecified	
History:		
October 9, 1873	Introduced and referred to Executive Committee	CC Proceedings, p. 58-59
October 23, 1873	Executive Committee reports with recommendation that this proposal not be adopted	CC Proceedings, p. 113-114
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

883

PROPOSED AMENDMENT NO. 54	<i>Concerns term of office for Supreme Court Justices</i>	
Sponsor	Dickinson	
1844 Constitution Section	Unspecified	
History:		
October 9, 1873	Introduced and referred to Judiciary Committee	CC Proceedings, p. 59
November 11, 1873	Taken up and considered; LOST	CC Proceedings, p. 139
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 55	<i>Inspectors of State Prison removed from list of officials to be appointed by Joint Meeting of the Legislature</i>	See also Proposed Amendment 13
Sponsor	Dickinson	
1844 Constitution Section	Article VII, Section II, Paragraph 3	
History:		
October 9, 1873	Introduced and referred to Committee on Tenure of Office	CC Proceedings, p. 59
October 22, 1873	ADOPTED, on motion of Cutler (See Proposed Amendment 14)	CC Proceedings, p. 106
	[For further action, see Proposed Amendment 13]	

PROPOSED AMENDMENT NO. 56	<i>Prohibits Legislature from limiting the amount to be recovered from injuries or death in suits against corporations</i>	
Sponsor	Dickinson	
1844 Constitution Section	Article IV, Section VII, Paragraph 12	
History:		
October 9, 1873	Introduced and referred to Committee on General and Special Legislation	CC Proceedings, p. 59-60
October 23, 1873	Dickinson moved to take up; agreed	CC Proceedings, p. 120-121
October 23, 1873	Swayze moved to amend by striking out "or for injuries to person or property"; agreed	CC Proceedings, p. 121
October 23, 1873	Hubbell moved to amend by inserting "different from the general act of limitation"; lost	CC Proceedings, p. 121
October 23, 1873	Grey moved to amend by striking out the words "and existing laws so limiting or prescribing are annulled and avoided"; agreed	CC Proceedings, p. 121
October 23, 1873	Swayze moved to reconsider vote by which "or for injuries to person or property" were stricken out; agreed and the words were reinstated	CC Proceedings, p. 121
October 23, 1873	ADOPTED as amended, 5 to 4	CC Proceedings, p. 121
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article IV, Section VII, Paragraph 12
January 13, 1874	Senate received Report to CC	SJ 1874, p. 53
February 4, 1874	Senate rejected, 5 to 10	SJ 1874, p. 200-201
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1135
March 25, 1874	[Hobart moved to strike out this proposal; agreed]	AM 1874, p. 1256
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 57	<i>Prohibits the division of counties without the approval of the majority of voters of such counties</i>	
Sponsor	Swayze	
1844 Constitution Section	Article I, Paragraph 19	
History:		
October 9, 1873	Introduced and referred to Committee on Limitation of Powers of Government	CC Proceedings, p. 60
October 21, 1873	Committee on Limitation of Powers of Government reports favorably	CC Proceedings, p. 96
October 21, 1873	Commission takes up; postponed	CC Proceedings, p. 96
October 28, 1873	On motion, "stricken" was replaced with "set-off" ; agreed	CC Proceedings, p. 122-123
October 28, 1873	Grey moved to amend by adding "or counties to be affected thereby" and "or counties"; agreed	CC Proceedings, p. 123
October 28, 1873	Proposal as amended was lost, 5 to 6	CC Proceedings, p. 123
October 28, 1873	Swayze moved to amend the report of the Committee by inserting the paragraph as it was originally proposed; [lost]	CC Proceedings, p. 123
October 28, 1873	Green moved to amend by inserting "proposed" before the word "county"; disagreed, 5 to 6	CC Proceedings, p. 123
October 28, 1873	ADOPTED as amended, 6 to 5	CC Proceedings, p. 123-124
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article I, Paragraph 19
January 13, 1874	Senate received Report of CC	SJ 1874, p. 49
January 21, 1874	Senate read proposed amendments to Article I	SJ 1874, p. 84
February 24, 1874	Senate REJECTED, 2 to 10	SJ 1874, p. 455
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1131
	[No further action]	

PROPOSED AMENDMENT NO. 58	<i>The State shall never pay, assume or become responsible for the debts or liabilities of, or in any manner give or extend its credit to or in aid of, any public or other corporation or association, or to individual[s]; nor shall the money of the State be given or loaned to or in aid of any association, corporation or private undertaking</i>	See also Proposed Amendment 53; See also Proposed Amendments 19, 33 for similar restrictions on the local level
Sponsor	Swayze	
1844 Constitution Section	Unspecified	
History:		
October 9, 1873	Introduced and referred to Committee on Limitation of Powers of Government	CC Proceedings, p. 60
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 59	<i>Legislative procedures: (1) No private, special or civil law shall embrace more than one subject and that shall be named in its title; (2) No law shall be revived or amended by its title only, but the text shall be inserted in new act; (3) No general law shall embrace any provision of a private, special or local character; (4) No act of the Legislature shall take effect until July 1 after date of passage</i>	See also Proposed Amendment 36
Sponsor	Swayze	
1844 Constitution Section	Unspecified	
History:		
October 9, 1873	Introduced and referred to Committee on Amendments	CC Proceedings, p. 60-61
October 23, 1873	Ferry from Committee on Amendments reported that parts (1), (2) and (3) of this proposal have already been provided for [Evidently, the Committee on Amendments decided that the one subject rule (part 1) was already provided for in the existing 1844 Constitution, Article IV, Section 7, Paragraph 4. The Committee also determined that parts (2) and (3) were already provided for in Proposed Amendment 36	CC Proceedings, p. 114-115
October 23, 1873	Ferry from Committee on Amendments recommends adoption of part (4)	CC Proceedings, p. 114-115
October 23, 1873	Part (4) ordered printed	CC Proceedings, p. 115
October 29, 1873	Grey moved to strike out "in case of emergency (which emergency shall be expressed in the preamble or body of the act)"; agreed	CC Proceedings, p. 132
October 29, 1873	Green moved to amend by changing July "first" to "fourth"; agreed	CC Proceedings, p. 132
October 29, 1873	ADOPTED as amended	CC Proceedings, p. 132
December 23, 1873	Submitted as engrossment in Report of CC to 1874 Legislature	Report of CC, Article IV, Section 7, Paragraph 13
January 13, 1874	Senate received Report of CC	SJ 1874, p. 53

PROPOSED AMENDMENT NO. 59 [CONTINUED]	<i>Legislative procedures: (1) No private, special or civil law shall embrace more than one subject and that shall be named in its title; (2) No law shall be revived or amended by its title only, but the text shall be inserted in new act; (3) No general law shall embrace any provision of a private, special or local character; (4) No act of the Legislature shall take effect until July 1 after date of passage</i>	See also Proposed Amendment 36
February 4, 1874	Senate rejected, 0 to 16	SJ 1874, p. 201
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1136
March 25, 1874	Hobart moved to strike out part (4) of proposal; agreed	AM 1874, p. 1256
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 60	<i>State purchasing of certain supplies and services (printing, binding, copying, stationery, fuel, etc.) shall be by contract to lowest bidder; no State officers shall have an interest in such contract; all contracts subject to the approval of Governor</i>	
Sponsor	Swayze	
1844 Constitution Section	Unspecified	
History:		
October 9, 1873	Introduced and referred to Committee on Amendments	CC Proceedings, p. 61-62
	[No further action]	

PROPOSED AMENDMENT NO. 61	<i>All valuations on real estate with the improvements and buildings thereon shall be assessed for the annual taxes at fifty per cent. of the saleable value thereof. Equalization of [valuations] for an annual State tax shall be made once in five years by a board composed of the Comptroller, Treasurer and Secretary of the State</i>	See also Proposed Amendments 78, 85
Sponsor	Gregory	
1844 Constitution Section	Unspecified	
History:		
October 9, 1873	Introduced and referred to Committee on Amendments	CC Proceedings, p. 62
November 18, 1873	Gregory moved to add the second clause as an additional paragraph to Proposed Amendment 78; not agreed to	CC Proceedings, p. 160
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 62	<i>Provides for an additional tax on establishments that sell liquor</i>	
Sponsor	Gregory	
1844 Constitution Section	Unspecified	
History:		
October 9, 1873	Introduced and referred to Committee on the Legislative Department	CC Proceedings, p. 62
	[No further action]	

PROPOSED AMENDMENT NO. 63	<i>Legislative procedures: (1) Requires that bills be read in entirety twice, but not on same day (2) No private, special or local bill shall be introduced after ten days from the commencement of a legislative session</i>	See also Proposed Amendment 40
Sponsor	Ten Eyck	
1844 Constitution Section	Article IV, Section IV, Paragraph 6	
History:		
October 9, 1873	Introduced and referred to Committee on General and Special Legislation	CC Proceedings, p. 63
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 64	<i>Legislative compensation: increase per diem pay from \$3.00 to \$6.00 for regular session, and \$1.50 to \$3.00 for extra session; prohibits all other allowances</i>	See also Proposed Amendment 4, 39
Sponsor	Ten Eyck	
1844 Constitution Section	Article IV, Section IV, Paragraph 7	
History:		
October 9, 1873	Introduced and referred to Committee on Legislative Department	CC Proceedings, p. 63
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

895

PROPOSED AMENDMENT NO. 65	<i>Governor shall have power to convene the Senate alone</i>	
Sponsor	Ten Eyck	
1844 Constitution Section	Article V, Paragraph 6	
History:		
October 9, 1873	Introduced and referred to Committee on Executive	CC Proceedings, p. 63
October 16, 1873	Committee on Executive amends proposal from “or the Senate” to “or the Senate alone”	CC Proceedings, p. 86
October 16, 1873	Ordered printed	CC Proceedings, p. 86
October 21, 1873	ADOPTED, as amended	CC Proceedings, p. 96
December 23, 1873	Submitted as engrossment in Report of CC to 1874 Legislature	Report of CC, Article V, Paragraph 6
January 13, 1874	Senate received Report of CC	SJ 1874, p. 55
February 18, 1874	Senate ADOPTED	SJ 1874, p. 369-370
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 785, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 844
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1138
March 25, 1874	Cole moved to substitute the Senate’s version of this proposal for the Commission’s proposal; agreed	AM 1874, p. 1260-1261
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article V, 17 to 0	SJ 1875, p. 74-75
February 16, 1875	Assembly ADOPTED, 42 to 0	AM 1875, p. 364
September 7, 1875	APPROVED by popular vote, 70,066 to 26,451	A Statement of Determination of the Board of State Canvassers, Specified as Proposed Amendment No. 14 on the Ballot

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 66	<i>Woman's Suffrage (petition from Cornelia C. Hussey and others)</i>	See also Proposed Amendments 11, 67, 72
Sponsor	Gregory	
1844 Constitution Section	Article II, Paragraph 1	
History:		
October 14, 1873	Petition presented by Gregory; [referred to Committee on Bill of Rights]	CC Proceedings, p. 64-65
October 15, 1873	Committee on Bill of Rights (Green, Buckley, Hubbell) requested to be discharged from its further consideration (See Proposed Amendment 11)	CC Proceedings, p. 84
October 22, 1873	Hubbell from Committee on Bill of Rights reported back without recommendation (See Proposed Amendment 11)	CC Proceedings, p. 101
	[See also petition from Lillie Devereux Blake, National Woman's Suffrage Association, to Senate President Taylor, SJ 1874, p. 296 (February 12, 1874)]	
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

897

PROPOSED AMENDMENT NO. 67	<i>Woman's Suffrage (unidentified petition)</i>	See also Proposed Amendments 11, 66, 72
Sponsor	Cutler	
1844 Constitution Section	Article II, Paragraph 1	
History		
October 14, 1873	Petition presented by Cutler; [referred to Committee on Bill of Rights]	CC Proceedings, p. 65
October 15, 1873	Committee on Bill of Rights (Green, Buckley, Hubbell) requested to be discharged from its further consideration (See Proposed Amendment 11)	CC Proceedings, p. 84
October 22, 1873	Hubbell from Committee on Bill of Rights reported back without recommendation (See Proposed Amendment 11)	CC Proceedings, p. 101
	[See also petition from Lillie Devereux Blake, National Woman's Suffrage Association, to Senate President Taylor, SJ 1874, p. 296 (February 12, 1874)]	
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 68	<i>Reorganization of the Legislature: (1) legislative power to be vested in the Senate and the House of Representatives; (2) concerns legislative elections and vacancies; (3) concerns legislative reapportionment, senatorial districts; (4) House of Representatives' number of members, term of office, election</i>	See also Proposed Amendment 38 for proposal regarding legislative elections; See also Proposed Amendment 74
Sponsor	Ferry	
1844 Constitution Section	Article IV	
History:		
October 14, 1873	Introduced and referred to Committee on Legislative Department	CC Proceedings, p. 65-67
October 28, 1873	Ferry moved to take up; after discussion, further consideration was postponed	CC Proceedings, p. 126
November 11, 1873	Made the special order for November 12	CC Proceedings, p. 140
November 12, 1873	Commission took up	CC Proceedings, p. 148
November 12, 1873	Brinkerhoff moved to divide the proposal; agreed	CC Proceedings, p. 148
November 12, 1873	Green moved to amend paragraphs 1 to 3; agreed	CC Proceedings, p. 148
November 12, 1873	First three paragraphs, as amended, LOST, 4 to 7	CC Proceedings, p. 148
November 12, 1873	Fourth paragraph, LOST, 2 to 9	CC Proceedings, p. 148
	[No further action]	

PROPOSED AMENDMENT NO. 69	<i>Concerns freedom of the press, libel</i>	
Sponsor	Swayze	
1844 Constitution Section	Unspecified	
History:		
October 14, 1873	Introduced and referred to Committee on Bill of Rights	CC Proceedings, p. 67
October 22, 1873	Committee on Bill of Rights (Buckley, Hubbell) deemed adoption unnecessary	CC Proceedings, p. 102
October 29, 1873	Swayze moved to take up; agreed	CC Proceedings, p. 136
October 29, 1873	LOST, 1 to 10	CC Proceedings, p. 136
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 70	<i>Concerns corporations, banks and railroads</i>	
Sponsor	Swayze	
1844 Constitution Section	(New Article)	
History:		
October 14, 1873	Introduced	CC Proceedings, p. 68-74
October 14, 1873	Swayze asked that the proposal be referred to a special committee of five, to be appointed by the Chair	CC Proceedings, p. 74
October 14, 1873	Gregory moved that proposal be laid on table; agreed	CC Proceedings, p. 74
October 16, 1873	Swayze moved to take up; agreed	CC Proceedings, p. 87
October 16, 1873	Swayze moved that the proposal be referred to a special committee of five	CC Proceedings, p. 87
October 16, 1873	Carter moved that the proposal be referred to Committee on Legislative Department; agreed	CC Proceedings, p. 87
November 13, 1873	Swayze moved that the Committee on Legislative Department be discharged from further consideration of the proposal, and that the proposal be printed; agreed	CC Proceedings, p. 158
	[No further action]	

PROPOSED AMENDMENT NO. 71	<i>Provides for future amendments to the Constitution: (1) amendment by Constitutional Convention; (2) amendment by legislative proposal and popular approval</i>	
Sponsor	Ferry	
1844 Constitution Section	Article IX	
History:		
October 14, 1873	Introduced and referred to Committee on Amendments	CC Proceedings, p. 74-76
October 22, 1873	Committee on Amendments recommended adoption; ordered printed	CC Proceedings, p. 102-104
October 23, 1873	Ferry moved to amend by substituting "Legislature" for "General Assembly"; agreed	CC Proceedings, p. 115-116
October 23, 1873	Swayze moved to amend by substituting "majority" for "two-thirds" in the first paragraph; lost, 4 to 4	CC Proceedings, p. 116
October 23, 1873	Ferry moved to postpone further consideration; agreed	CC Proceedings, p. 116
November 11, 1873	Ferry moved to amend by substituting "majority" for "two-thirds" in the first paragraph; agreed	CC Proceedings, p. 140
November 11, 1873	Green moved to amend by providing that a Constitutional Convention consist of the combined number of members of the Senate and General Assembly; agreed	CC Proceedings, p. 140
November 11, 1873	ADOPTED, as amended, 7 to 4	CC Proceedings, p. 140-141
November 11, 1873	Hubbell moved to amend second paragraph by inserting "Any specific amendment or," and strike out at the end of the paragraph "but the General Assembly ... oftener than once in four years"; lost	CC Proceedings, p. 141
November 11, 1873	Green moved to reconsider vote by which Hubbell's motion was lost; agreed and Hubbell's proposed amendment was adopted	CC Proceedings, p. 141
November 11, 1873	Carter moved to amend; lost	CC Proceedings, p. 141
November 11, 1873	Swayze moved to amend by substituting "majority" for "two-thirds" in the second paragraph; lost	CC Proceedings, p. 141

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 71 [CONTINUED]	<i>Provides for future amendments to the Constitution: (1) amendment by Constitutional Convention; (2) amendment by legislative proposal and popular approval</i>	
November 11, 1873	Carter moved to amend by adding “provided, that if more than one ... separately and distinctly”; agreed	CC Proceedings, p. 141
November 11, 1873	Green moved to substitute the second paragraph , as amended, for Article IX of the 1844 Constitution; lost, 2 to 7	CC Proceedings, p. 142
November 11, 1873	The second paragraph, as amended, was LOST, 5 to 6	CC Proceedings, p. 142
November 11, 1873	Ferry moved that the first paragraph be made Section I of Article IX of the 1844 Constitution and that the present sole section of Article IX be made Section II; agreed	CC Proceedings, p. 142
November 11, 1873	Ferry moved to amend the present sole section of Article IX; lost	CC Proceedings, p. 142-143
November 18, 1873	Carter moved to take up for final adoption; agreed	CC Proceedings, p. 162
November 18, 1873	LOST, 3 to 8	CC Proceedings, p. 162
	[No further action]	

PROPOSED AMENDMENT NO. 72	<i>Provides that the question of Woman's Suffrage shall be submitted to a separate vote at the time of the submission to the people of the proposed Constitutional Amendments</i>	See also Proposed Amendments 11, 66, 67
Sponsor	Ferry	
1844 Constitution Section	Article II, Paragraph 1	
History:		
October 14, 1873	Introduced and referred to Committee on Right of Suffrage	CC Proceedings, p. 78
November 11, 1873	Commission took up	CC Proceedings, p. 143
November 11, 1873	Brinkerhoff moved to adopt; LOST, 5 to 6	CC Proceedings, p. 143
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 73	<i>Concerns Sheriffs and Coroners</i>	See also Proposed Amendment 17
Sponsor	Ferry	
1844 Constitution Section	Article VII, Section II, Paragraph 7	
History:		
October 14, 1873	Introduced and referred to Committee on Executive and Judiciary Department	CC Proceedings, p. 78
	[No further action]	

PROPOSED AMENDMENT NO. 74	<i>Reorganization of the State Senate: (1) composition of Senate as 21-member body; 3-year terms for senators; (2) legislative redistricting into seven senatorial districts (3) concerns legislative redistricting (4) decennial redistricting (5) concerns vacancies</i>	See also Proposed Amendment 68; See also Proposed Amendment 38 for proposal regarding legislative elections
Sponsor	Buckley	
1844 Constitution Section	Article IV, Section II	
History:		
October 15, 1873	Introduced and referred to Committee on Legislative Department	CC Proceedings, p. 80-81
November 12, 1873	Green moved to take up	CC Proceedings, p. 151
November 12, 1873	Motion to make this proposal the special order for November 13; lost, 3 to 7	CC Proceedings, p. 151
November 12, 1873	LOST, 4 to 6	CC Proceedings, p. 151
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 75	<i>Concerns Justices of the Peace</i>	See also Proposed Amendment 41
Sponsor	Buckley	
1844 Constitution Section	Article VI, Section VII	
History:		
October 15, 1873	Introduced and referred to Committee on Executive and Judiciary Department	CC Proceedings, p. 81-82
October 23, 1873	Judiciary Committee reported favorably; ordered printed	CC Proceedings, p. 113
	[No further action; See Proposed Amendment 41]	

PROPOSED AMENDMENT NO. 76	<i>Concerns Judges of the Inferior Court of Common Pleas</i>	See also Proposed Amendment 12
Sponsor	Buckley	
1844 Constitution Sections	Article VI, Section VI, paragraph 1, 2; Article VII, Section II, paragraph 1, 2	Note: The instructions in Proposed Amendment 76 that specified to strike out the existing Article VII, Section II, paragraph 2, were not done, evidently due to a clerical error. As a result, the New Jersey Constitution as amended in 1875 contained contradictory provisions that provided for the appointment of Judges of the Court of Common Pleas to be both by Governor's nomination with advice and consent of the Senate, and by Joint Meeting of the Legislature. This contradiction was not corrected until the ratification of the 1947 Constitution.
History:		
October 15, 1873	Introduced [and referred to the Committee on Executive and Judiciary Department]	CC Proceedings, p. 82-83
October 28, 1873	Committee on Executive and Judiciary Department recommended approval	CC Proceedings, p. 128-130
October 28, 1873	Laid on table; ordered printed	CC Proceedings, p. 130
November 12, 1873	Commission took up	CC Proceedings, p. 145
November 12, 1873	The recommendation to strike out the word "five" and to insert the word "two" was adopted	CC Proceedings, p. 145
November 12, 1873	Grey moved to amend; lost 5 to 5	CC Proceedings, p. 145-146
November 12, 1873	Green moved to amend by inserting after the words "There shall be," in the first line, the words "besides the Justice of the Supreme Court, who may be <i>ex officio</i> the Judge of said court"; agreed	CC Proceedings, p. 146
November 12, 1873	Carter moved to amend by adding to the end of the section after the word "term" the words "and no Judge of the Court of Common Pleas shall practice in any of the courts of this State"; lost	CC Proceedings, p. 146

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 76 [CONTINUED]	<i>Concerns Judges of the Inferior Court of Common Pleas</i>	See also Proposed Amendment 12
November 12, 1873	Carter moved to amend by adding to the end of the section after the word “term” the words “and no Judge of the Court of Common Pleas shall practice in any of the courts of this State”; lost	CC Proceedings, p. 146
November 12, 1873	The proposal to insert the words “At least one of the Judges of said Court hereafter appointed shall be a Counselor-at-Law, and he shall be the President Judge of said Court in the absence of the Justice of the Supreme Court” was lost, 3 to 6	CC Proceedings, p. 146
November 12, 1873	The proposal to insert the words “vacancies shall be filled for the unexpired term” was adopted	CC Proceedings, p. 146
November 12, 1873	The proposal to strike out certain words from Article VI, Section VI, paragraph 2, was adopted	CC Proceedings, p. 146
November 12, 1873	The proposal to insert in Article VII, Section II, paragraph 1, the words “and Judges of the Inferior Court of Common Pleas,” was adopted (See Proposed Amendment 12)	CC Proceedings, p. 146-147
November 12, 1873	The proposal to insert after the word “years,” in paragraph 1, the words “and the Judges of the Inferior Court of Common Pleas for the term of five years,” was adopted	CC Proceedings, p. 147
November 12, 1873	The proposal to insert in the 5 th line before the word “diminished” the words “increased or,” was adopted	CC Proceedings, p. 147
November 12, 1873	Grey moved to amend; agreed	CC Proceedings, p. 147
November 12, 1873	ADOPTED, as amended	CC Proceedings, p. 147
December 23, 1873	Submitted as engrossment Report to 1874 Legislature	Report of CC, Article VI, Section VI, Paragraph 1, 2; Article VII, Section II, Paragraph 1, 2
January 13, 1874	Senate received Report of CC	SJ 1874, p. 57-58
February 18, 1874	On motion of Stone, postponed until after Proposed Amendment 93 was printed	SJ 1874, p. 375
March 10, 1874	On motion of Stone, made the special order for March 11, 1874	SJ 1874, p. 711

PROPOSED AMENDMENT NO. 76 [CONTINUED]	<i>Concerns Judges of the Inferior Court of Common Pleas</i>	See also Proposed Amendment 12
February 18, 1874	On motion of Stone, postponed until after Proposed Amendment 93 was printed	SJ 1874, p. 375
March 10, 1874	On motion of Stone, made the special order for March 11, 1874	SJ 1874, p. 711
March 11, 1874	On motion of Stone, the Senate REJECTED all of the Commission's proposed amendments to Article VI	SJ 1874, p. 747-748
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 845
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1139-1140; 1141-1142
March 25, 1874	Ward moved to strike out the Commission's proposal to amend Article VI; agreed [*Note: the text of the Commission's proposal is different when comparing pages 1139-1142 with pages 1261-1263 of AM 1874]	AM 1874, p. 1261-1263
March 25, 1874	Ward moved to substitute the Senate's version of proposed amendments to Article VII for the Commission's proposed amendments; agreed	AM 1874, p. 1263-1266
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article VII, 17 to 0	SJ 1875, p. 75-76
February 16, 1875	Assembly ADOPTED, 42 to 0	AM 1875, p. 367
September 7, 1875	APPROVED by popular vote, 68,700 to 27,806	A Statement of Determination of the Board of State Canvassers, Specified as Proposed Amendment No. 19 on the Ballot

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 77	<i>Concerns the protection of private property</i>	See also Proposed Amendment 22
Sponsor	Cutler	
1844 Constitution Section	Article I, Paragraph 16	
History:		
October 15, 1873	Introduced and referred to the Committee on Bill of Rights	CC Proceedings, p. 84-85
October 22, 1873	Committee on Bill of Rights (Buckley, Hubbell) report that proposal not be adopted because current Constitution sufficiently protects rights of property	CC Proceedings, p. 101
November 11, 1873	Swayze moved to amend by striking out "or private"; agreed	CC Proceedings, p. 143
November 11, 1873	Carter moved to strike out all after the word "ascertained"; agreed	CC Proceedings, p. 143
November 11, 1873	Cutler moved to amend by adding "and whenever private property shall be taken by any incorporated company, such compensation shall be assessed by a jury, without deduction for benefits to any property of the owner"; agreed, 8 to 2 [Cutler's amendment was essentially a substitute for Thompson's Proposed Amendment 22]	CC Proceedings, p. 144
November 11, 1873	ADOPTED as amended	CC Proceedings, p. 144
December 23, 1873	Ferry from Committee on Revision reported certain recommendations	CC Proceedings, p. 164
December 23, 1873	Green moved to amend the report by striking out the words "by a jury"	CC Proceedings, p. 164
December 23, 1873	Grey moved to insert "appeal to a"; accepted by Green	CC Proceedings, p. 164
December 23, 1873	On motion, the question was divided	CC Proceedings, p. 164
December 23, 1873	Second part was taken up and motion to strike out from "In all cases" to "verdict of a jury" was lost	CC Proceedings, p. 164

PROPOSED AMENDMENT NO. 77 [CONTINUED]	<i>Concerns the protection of private property</i>	See also Proposed Amendment 22
December 23, 1873	Hubbell moved to strike out “and the right to trial by jury shall be secured to every owner in order that the just compensation may be ascertained”	CC Proceedings, p. 164
December 23, 1873	Green moved to amend by transposing the sentences in the paragraph and offered a substitute; Green’s substitute was adopted	CC Proceedings, p. 164-165
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article I, Paragraph 16
January 13, 1874	Senate received Report of CC	SJ 1874, p. 49
January 21, 1874	Senate read	SJ 1874, p. 84
January 21, 1874	Stone offered a substitute	SJ 1874, p. 84
January 21, 1874	Taylor moved to amend Stone’s substitute	SJ 1874, p. 84
January 21, 1874	Stone accepted Taylor’s amendment and moved to further amend	SJ 1874, p. 84-85
January 21, 1874	Stone moved that his substituted paragraph be printed; agreed	SJ 1874, p. 85
January 21, 1874	Further consideration postponed until January 27, 1874	SJ 1874, p. 85
January 27, 1874	Stone moved to withdraw his substitute; agreed	SJ 1874, p. 109
January 27, 1874	Taylor moved to reject the Commission’s proposal	SJ 1874, p. 110
January 27, 1874	Cutler moved to substitute; lost 9 to 12	SJ 1874, p. 110.
January 27, 1874	Hopper moved to amend the] Commission’s proposal; lost 8 to 12	SJ 1874, p. 111
January 27, 1874	Taylor’s motion to reject the Commission’s proposal was agreed to, 17 to 2	SJ 1874, p. 111
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1131
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 78	<i>Requires property of every kind and description to be taxed, with no exemptions</i>	See also Proposed Amendment 85
Sponsor	Cutler	
1844 Constitution Section	Article IV, Section VII, Paragraph 16 (12)	
History:		
October 15, 1873	Introduced and referred to the Committee on Bill of Rights	CC Proceedings, p. 85
October 22, 1873	Committee on Bill of Rights (Buckley, Hubbell) reported that proposal not be adopted because it would conflict with too many existing laws and therefore cause endless litigation without any corresponding benefit	CC Proceedings, p. 102
November 12, 1873	Commission took up; suggestions offered by Brinkerhoff, Gregory, Carter and Swayze were taken up, and on motion the papers were postponed to, and made the special order for November 13 and ordered printed	CC Proceedings, p. 148
November 13, 1873	Commission took up special order relative to taxation submitted by Carter, Brinkerhoff, Swayze, Gregory and Cutler	CC Proceedings, p. 157
November 13, 1873	Grey moved to take up Cutler's proposal; agreed	CC Proceedings, p. 157
November 13, 1873	Grey moved to amend; not agreed to	CC Proceedings, p. 157
November 13, 1873	Green moved to substitute; subject postponed, then ordered printed	CC Proceedings, p. 157-158
November 18, 1873	Commission took up Green's proposal	CC Proceedings, p. 158
November 18, 1873	Green moved to amend by striking out "owned by persons natural or artificial"; agreed	CC Proceedings, p. 159
November 18, 1873	Green moved to amend by replacing the word "except" with "provided"; agreed	CC Proceedings, p. 159
November 18, 1873	Carter offered a substitute; not agreed to	CC Proceedings, p. 159

PROPOSED AMENDMENT NO. 78 [CONTINUED]	<i>Requires property of every kind and description to be taxed, with no exemptions</i>	See also Proposed Amendment 85
November 18, 1873	Hubbell moved to amend; agreed	CC Proceedings, p. 159
November 18, 1873	Green moved to amend; agreed	CC Proceedings, p. 159
November 18, 1873	Thompson moved to replace the word "shall" with "may"; agreed	CC Proceedings, p. 160
November 18, 1873	Green moved to amend by adding before the word "impaired" the word "restricted"; agreed	CC Proceedings, p. 160
November 18, 1873	Gregory moved to amend; not agreed [see Proposed Amendment 61]	CC Proceedings, p. 160
November 18, 1873	Green moved to amend; agreed	CC Proceedings, p. 160
November 18, 1873	Swayze moved to substitute proposed amendment 85; lost 1 to 9	CC Proceedings, p. 160
November 18, 1873	First Paragraph ADOPTED, 7 to 4	CC Proceedings, p. 160
November 18, 1873	Second Paragraph was ADOPTED, 8 to 0	CC Proceedings, p. 161
November 18, 1873	Third Paragraph was ADOPTED, 6 to 5	CC Proceedings, p. 161
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article IV, Section VII, Paragraph 16
January 13, 1874	Senate received Report of CC	Senate received Report of CC
February 18, 1874	Senate took up the first sentence of the proposed amendment: "Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value in money"	Senate took up the first sentence of the proposed amendment: "Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value in money"
February 18, 1874	Hopper moved to strike out "in money"; agreed	Hopper moved to strike out "in money"; agreed
February 18, 1874	Senate ADOPTED the first sentence as amended, 15 to 0	Senate ADOPTED the first sentence as amended, 15 to 0
February 18, 1874	Senate took up the second sentence of the proposed amendment, concerning properties exempted from tax	Senate took up the second sentence of the proposed amendment, concerning properties exempted from tax

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 78 [CONTINUED]	<i>Requires property of every kind and description to be taxed, with no exemptions</i>	See also Proposed Amendment 85
February 18, 1874	Wood moved to amend, by inserting “or religious societies”	Wood moved to amend, by inserting “or religious societies”
February 18, 1874	Wood moved to amend, by inserting “or religious societies”	Wood moved to amend, by inserting “or religious societies”
February 18, 1874	Hewitt moved to substitute Wood’s proposed amendment with “so much of the property belonging to religious societies as may be habitually used for the purpose of public worship”; agreed, 13 to 4	Hewitt moved to substitute Wood’s proposed amendment with “so much of the property belonging to religious societies as may be habitually used for the purpose of public worship”; agreed, 13 to 4
February 18, 1874	The second sentence, as amended, was lost, 1 to 16	SJ 1874, p. 366
February 18, 1874	Senate took up the third sentence of the proposed amendment: “No law shall be enacted or contract entered into by which the exercise of the power of taxation shall be restricted, impaired or impeded”	SJ 1874, p. 366
February 18, 1874	The third sentence was lost, 6 to 7	SJ 1874, p. 366
February 18, 1874	Senate took up the fourth sentence of the proposed amendment, which granted the Legislature the power to rescind any right of exemption from property tax	SJ 1874, p. 366-367
February 18, 1874	On motion of Taylor, the fourth sentence was rejected, 10 to 6	SJ 1874, p. 366-367
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 785, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 843
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1137
March 25, 1874	Hobart moved to substitute the Senate’s version of this proposal for the Commission’s proposal; agreed	AM 1874, p. 1257-1258
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267

PROPOSED AMENDMENT NO. 78 [CONTINUED]	Requires property of every kind and description to be taxed, with no exemptions	See also Proposed Amendment 85
January 26, 1875	Senate read and APPROVED proposed amendments to Article IV, 16 to 3	SJ 1875, p. 72-74
February 16, 1875	Assembly ADOPTED, 41 to 0	AM 1875, p. 363
September 7, 1875	APPROVED by popular vote, 51,701 to 44,967	A Statement of Determination of the Board of State Canvassers, Specified as Proposed Amend- ment No. 12 on the Ballot

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 79	<i>Concerns the protection of property of females from being taken for debts of husbands</i>	
Sponsor	Cutler	
1844 Constitution Section	Unspecified	
History:		
October 15, 1873	Introduced and referred to the Committee on Legislative Department	CC Proceedings, p. 85-86
October 23, 1873	Commission took up	CC Proceedings, p. 118
October 23, 1873	Grey moved to amend; agreed	CC Proceedings, p. 118-119
October 23, 1873	Further consideration postponed	CC Proceedings, p. 119
October 29, 1873	Commission took up; Grey's amendments were [again] agreed to	CC Proceedings, p. 135
October 29, 1873	Cutler moved to amend by inserting the words "excepting what she receives from her husband"; lost	CC Proceedings, p. 135
October 29, 1873	Proposal as amended was LOST, 1 to 10	CC Proceedings, p. 135-136
	[No further action]	

PROPOSED AMENDMENT NO. 80	<i>Conviction of felony or otherwise infamous crime shall vacate public office</i>	
Sponsor	Green	
1844 Constitution Section	Article V, Paragraph 15	
History:		
October 16, 1873	Introduced and referred to the Committee on Bill of Rights	CC Proceedings, p. 95
October 28, 1873	Green moved to substitute; agreed	CC Proceedings, p. 126
October 28, 1873	Grey moved to substitute; agreed	CC Proceedings, p. 127
October 28, 1873	Green moved to amend by adding after the word "felony," the words "or otherwise infamous crime"; agreed	CC Proceedings, p. 127
October 28, 1873	ADOPTED as amended	CC Proceedings, p. 127
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article V, Paragraph 15
January 13, 1874	Senate received Report of CC	SJ 1874, p. 56
February 18, 1874	Senate REJECTED, 7 to 8	SJ 1874, p. 374
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1139
March 25, 1874	Cole moved to strike out the Commission's proposal; agreed	AM 1874, p. 1260-1261
January 12, 1875	Mentioned in Governor's Message	SJ 1875, p. 39
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 81	<i>Petition of Charles Stokes: (1) prohibits jeopardizing the rights of minorities; (2) concerns legislative reapportionment; (3) prohibits penalizing those who prefer to educate their own children; (4) concerns the separation of church and state</i>	
Sponsor	Ten Eyck	
1844 Constitution Section	Unspecified	
History:		
October 28, 1873	Introduced and referred to the Committee on Bill of Rights	CC Proceedings, p. 122
October 28, 1873	Green from the Committee on Bill of Rights reported with a recom- mendation that it be read by the Secretary at the next meeting	CC Proceedings, p. 137
	[No further action]	

PROPOSED AMENDMENT NO. 82	<i>Creates office of Vice-Chancellor</i>	See also Proposed Amendment 83
Sponsor	Ten Eyck	
1844 Constitution Section	Article VI, Section IV	
History:		
October 28, 1873	Introduced and referred to the Committee on Executive and Judiciary	CC Proceedings, p. 122
November 12, 1873	Cutler from the Committee on Executive and Judiciary reported an amended version of Ten Eyck's proposal	CC Proceedings, p. 147
November 12, 1873	Committee report was received and ordered printed	CC Proceedings, p. 148
November 13, 1873	Commission took up Committee report	CC Proceedings, p. 152
November 13, 1873	Ferry moved to postpone temporarily; agreed	CC Proceedings, p. 152
November 13, 1873	Commission took up Committee report	CC Proceedings, p. 155
November 13, 1873	Green moved to amend by replacing "shall" with "may"; agreed	CC Proceedings, p. 155
November 13, 1873	Grey moved to amend report to require advice and consent of Senate; disagreed, 3 to 8	CC Proceedings, p. 156
November 13, 1873	Cutler moved to amend by striking out all after word "law"; disagreed	CC Proceedings, p. 156
November 13, 1873	Green moved to strike out the words "whose salary shall be provided for and fixed by law"; disagreed	CC Proceedings, p. 156
November 13, 1873	LOST, 3 to 8	CC Proceedings, p. 156
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 83	<i>Concerns the newly created office of Vice-Chancellor</i>	See also Proposed Amendment 82
Sponsor	Carter	
1844 Constitution Sections	Article VI, Section II, Paragraph 1; Article VI, Section IV, Paragraph 1; Article VII, Section II, Paragraph 1	
History:		
October 28, 1873	Introduced and referred to the Committee on the Judiciary	CC Proceedings, p. 128
	[No further action]	

PROPOSED AMENDMENT NO. 84	<i>Provides that the Legislature establish and maintain free public schools for persons between the ages of five and eighteen years (after amendment and substitution by the 1874 Senate, the “thorough and efficient” clause)</i>	See also Proposed Amendments 29, 30, 31
Sponsor	Swayze	
1844 Constitution Section	Article IV, Section VII, Paragraph 6	
History:		
[October 28, 1873]	[While discussing Proposed Amendment No. 30, Swayze “suggested that the Legislature should be directed to provide a thorough system of education of all the children in the State.”]	[Daily State Gazette, October 29, 1873]
October 29, 1873	Introduced and referred to the Committee on the Legislative Department	CC Proceedings, p. 130
November 12, 1873	Committee on the Legislative Department was relieved from further consideration of the proposal	CC Proceedings, p. 151
November 12, 1873	Ordered printed	CC Proceedings, p. 151
November 13, 1873	Commission took up	CC Proceedings, p. 152
November 13, 1873	On motion of Ferry, the Commission voted on the proposition as a whole; lost, 4 to 2	CC Proceedings, p. 152
November 13, 1873	Grey offered a substitute	CC Proceedings, p. 152-153
November 13, 1873	First paragraph of Grey’s substitute was taken up	CC Proceedings, p. 153
November 13, 1873	Carter moved to amend by striking out the word “free” in the first line and inserting “public”; not agreed to	CC Proceedings, p. 153
November 13, 1873	Carter moved to amend by adding after the word “free,” the word “public” in the first line; agreed	CC Proceedings, p. 153
November 13, 1873	Gregory moved to strike out the word “free” in the first line; not agreed to	CC Proceedings, p. 153

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 84 [CONTINUED]	<i>Provides that the Legislature establish and maintain free public schools for persons between the ages of five and eighteen years (after amendment and substitution by the 1874 Senate, the “thorough and efficient” clause)</i>	See also Proposed Amendments 29, 30, 31
November 13, 1873	Green moved to amend by adding at the end of the first paragraph the following: “The amount raised by taxes for schools in each county in each year shall be expended therein and not else where”; lost, 4 to 7	CC Proceedings, p. 153
November 13, 1873	Carter moved to amend by striking out the word “eighteen,” and inserting “sixteen”; not agreed to	CC Proceedings, p. 153
November 13, 1873	First paragraph was ADOPTED, 6 to 5	CC Proceedings, p. 153
November 13, 1873	Second paragraph of Grey’s proposal was taken up	CC Proceedings, p. 153
November 13, 1873	Cutler moved to amend by striking out the following words: “Schools designed to fit or prepare pupils to enter college, or”; lost, 5 to 6	CC Proceedings, p. 154
November 13, 1873	Hubbell moved to amend by striking out all after the word “only” in the second line of the second paragraph; lost, 5 to 5	CC Proceedings, p. 154
November 13, 1873	Second paragraph was ADOPTED, 8 to 3	CC Proceedings, p. 154
November 13, 1873	Carter moved to add a clause concerning compulsory education; LOST, 4 to 7	CC Proceedings, p. 154
November 13, 1873	Cutler moved to offer a clause that would require the proceeds of the sale of public lands be dedicated to the school fund; LOST, 5 to 6	CC Proceedings, p. 154-155
November 13, 1873	Swayze moved to add the word “free” after the word “public” where it appears in the existing Article IV, Section VII, Paragraph 6; agreed	CC Proceedings, p. 155

PROPOSED AMENDMENT NO. 84 [CONTINUED]	<i>Provides that the Legislature establish and maintain free public schools for persons between the ages of five and eighteen years (after amendment and substitution by the 1874 Senate, the “thorough and efficient” clause)</i>	See also Proposed Amendments 29, 30, 31
November 13, 1873	Carter moved to reconsider vote of Cutler's proposition that proceeds from the sale of public land be dedicated to the school fund; disagreed 5 to 6	CC Proceedings, p. 156
December 23, 1873	Carter moved to substitute “liberal” for “rudimentary”; LOST	CC Proceedings, p. 166
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article IV, Section VII, Paragraph 6
January 13, 1874	Senate received Report of CC	SJ 1874, p. 52
February 3, 1874	Insert “free” between “public” and “schools,” so as to read “maintain public free schools”	SJ 1874, p. 177
February 3, 1874	Cutler moved to amend by striking out “A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people”; agreed, 16 to 1	SJ 1874, p. 177
February 3, 1874	Cutler moved to amend by striking out “aim to give to all a rudimentary education, and not to include schools” and inserting in lieu thereof “are not”; [agreed], 11 to 5	SJ 1874, p. 177-178
February 3, 1874	Taylor moved to amend by striking out “The term ‘free schools’... denomination whatever”; agreed, 13 to 4	SJ 1874, p. 178
February 3, 1874	Cutler moved to amend by inserting “provide by general laws the means to” after “the legislature shall”; agreed, 17 to 2	SJ 1874, p. 178
February 3, 1874	Stone moved to amend by striking out the proposed amendment; lost, 3 to 13	SJ 1874, p. 178

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 84 [CONTINUED]	<i>Provides that the Legislature establish and maintain free public schools for persons between the ages of five and eighteen years (after amendment and substitution by the 1874 Senate, the “thorough and efficient” clause)</i>	See also Proposed Amendments 29, 30, 31
February 3, 1874	The proposal, as amended, [i.e., “The Legislature shall provide by general laws the means to establish and maintain public schools for the gratuitous instruction of all persons in this state between the ages of five and eighteen years”] was agreed to, 12 to 4	SJ 1874, p. 179
February 4, 1874	Cutler moved to reconsider vote; agreed and made special order for February 10, 1874	SJ 1874, p. 200
February 24, 1874	Senate took up	SJ 1874, p. 454
February 24, 1874	Taylor moved to amend as follows: “The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in this state between the ages of five and eighteen years”; ADOPTED, 15 to 0	SJ 1874, p. 454-455
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 784, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 842
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1134-1135
March 25, 1874	Hobart moved to substitute the Senate’s version of this proposal for the Commission’s proposal; agreed	AM 1874, p. 1254
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article IV, 16 to 3	SJ 1875, p. 72-74
February 16, 1875	Assembly ADOPTED, 44 to 0	AM 1875, p. 359-360
September 7, 1875	APPROVED by popular vote, 69,674 to 26,834	A Statement of Determination of the Board of State Canvassers, Specified as Proposed Amendment No. 8 on the Ballot

PROPOSED AMENDMENT NO. 85	<i>(1) Provides for uniform taxation of property, income, etc.;</i> <i>(2) Concerns exemption from property tax</i>	See also Proposed Amendment 78
Sponsor	Swayze	
1844 Constitution Section	Article IV, Section VII, Paragraph 16	
History:		
October 29, 1873	Introduced and referred to the Committee on Legislative Department	CC Proceedings, p. 130-131
November 18, 1873	Swayze moved to substitute this proposed amendment for Pro- posed Amendment 78; LOST, 1 to 9	CC Proceedings, p. 160
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 86	<i>Authorizes the Legislature to create a court to fix the value of lands condemned for public purposes</i>	
Sponsor	Green	
1844 Constitution Section	Article IV, Section VII, Paragraph 15	
History:		
October 29, 1873	Ferry moved to create a special committee to consider the expediency of creating court to fix the value of lands condemned for public purposes; agreed Ten Eyck appointed Green, Grey and Hubbell to Committee	CC Proceedings, p. 137
November 12, 1873	Green offered a proposal to establish a court with jurisdiction over cases of condemned lands; laid on table and ordered printed	CC Proceedings, p. 149-150
November 13, 1873	Special Committee (Green, Grey, and Hubbell) reported Green's proposal	CC Proceedings, p. 152
November 13, 1873	ADOPTED, 5 to 3	CC Proceedings, p. 152
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article IV, Section VII, Paragraph 15
January 13, 1874	Senate received Report of CC	SJ 1874, p. 54
February 18, 1874	Senate took up	SJ 1874, p. 364
February 18, 1874	Stone moved to amend; not agreed to 1 to 10	SJ 1874, p. 364
February 18, 1874	Senate rejected, 2 to 14	SJ 1874, p. 364-365
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1137
March 25, 1874	Hobart moved to strike out the Commission's proposal; agreed	AM 1874, p. 1257
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

927

PROPOSED AMENDMENT NO. 87	<i>Concerns the election, term of office and compensation of Justices of the Supreme Court [and Judges of the Court of Chancery]</i>	
Sponsor	Swayze	
1844 Constitution Section	Article VI	
History:		
November 11, 1873	Introduced and referred to Committee on Judiciary	CC Proceedings, p. 137
November 12, 1873	Cutler from the Committee on the Executive and Judiciary Departments reported adversely	CC Proceedings, p. 145
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 88	<i>Concerns the composition and powers of the Court of Pardons</i>	
Sponsor	Swayze	
1844 Constitution Section	Unspecified	
History:		
November 11, 1873	Introduced and referred to Committee on Executive and Judiciary	CC Proceedings, p. 138
November 12, 1873	Cutler from the Committee on the Executive and Judiciary Departments reported adversely	CC Proceedings, p. 145
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

929

PROPOSED AMENDMENT NO. 89	<i>Concerns the past or future exemption of corporations from taxes</i>	
Sponsor	Brinkerhoff	
1844 Constitution Section	Unspecified	
History:		
November 11, 1873	Introduced and referred to Committee on Bill of Rights	CC Proceedings, p. 138
November 12, 1873	Buckley from Committee on Bill of Rights reported adversely	CC Proceedings, p. 144
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 90	<i>Abolishes capital punishment</i>	
Sponsor	Swayze	
1844 Constitution Section	Unspecified	
History:		
November 18, 1873	Introduced, taken up by the Commission and LOST, 2 to 8	CC Proceedings, p. 161
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

931

PROPOSED AMENDMENT NO. 91	<i>Concerns the disposition of public lands and other property</i>	
Sponsor	Swayze	
1844 Constitution Section	Unspecified	
History:		
November 18, 1873	Introduced and, on motion of Green, indefinitely postponed, [8] to 2	CC Proceedings, p. 161
	[No further action]	

ANALYSIS OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT NO. 92	<i>Strikes out Article IV, Section VII, Paragraph 8 (concerns special legislation for banks and money corporations)</i>	
Sponsor	Ferry (Revision Committee)	
1844 Constitution Section	Article IV, Section VII, Paragraph 8	
History:		
December 23, 1873	Ferry from the Committee on Revision reported proposition; ADOPTED	CC Proceedings, p. 166
December 23, 1873	Submitted as engrossment to 1874 Legislature	Report of CC, Article IV, Section VII, Paragraph 8
January 13, 1874	Senate received Report of CC	SJ 1874, p. 52
February 4, 1874	Taylor moved to postpone until after consideration of proposal prohibiting special legislation; agreed (See Proposed Amendment 35)	SJ 1874, p. 200
February 24, 1874	Senate ADOPTED	SJ 1874, p. 455
March 12, 1874	Senate took up, read and APPROVED engrossment, 14 to 0	SJ 1874, p. 784, 787
March 16, 1874	Assembly received and read the engrossment of Senate Amendments to the Constitution	AM 1874, p. 842
March 23, 1874	Assembly received and read the Report of CC	AM 1874, p. 1135
March 25, 1874	Hobart moved to substitute the Senate's version of this proposal for the Commission's proposal [which were identical]; agreed	AM 1874, p. 1254-1255
March 25, 1874	Assembly read and APPROVED engrossment, 45 to 9	AM 1874, p. 1266-1267
January 26, 1875	Senate read and APPROVED proposed amendments to Article IV, 16 to 3	SJ 1875, p. 72-74
February 16, 1875	Assembly ADOPTED, 41 to 1	AM 1875, p. 360
September 7, 1875	APPROVED by popular vote, 70,035 to 26,473	A Statement of Determination of the Board of State Canvassers, Specified as Proposed Amendment No. 9 on the Ballot

ANALYSIS OF PROPOSED AMENDMENTS

933

PROPOSED AMENDMENT NO. 93	<i>Concerns the reorganization of the Judiciary</i>	NOTE: Senator Stone's proposal to reorganize the NJ Judiciary was the only proposed Constitutional Amendment initiated in the Legislature. All other proposed amendments (1-92) originated in the Commission.
Sponsor	Senator Stone	
1844 Constitution Sections	Article V, Paragraph 10; Article VI, Section I; Article VI, Section II Article VI, Section IV; Article VI, Section V; Article VI, Section VI; Article VII, Section II, Paragraphs 1, 2	
History:		
February 18, 1874	Introduced, read and ordered to be printed	SJ 1874, p. 370-373
February 24, 1874	Senate postponed until March 3, 1874	SJ 1874, p. 454
February 25, 1874	Discussed before the New Jersey Bar Association in Trenton	<i>Daily Public Opinion</i> , February 26, 1874; <i>Daily True American</i> , February 27, 1874
February 28, 1874	Discussed before the New Jersey Bar Association in Newark	<i>Daily State Gazette</i> , March 3, 1874; <i>Daily True American</i> , March 3, 1874
March 3, 1874	Discussed before the New Jersey Bar Association in Trenton	<i>Daily Public Opinion</i> , March 4, 1874; <i>Daily True American</i> , March 4, 1874
March 11, 1874	Senator Stone withdrew his proposed amendments	<i>Daily State Gazette</i> , March 12, 1874
	[No further action]	

PART VIII: EDITORIALS

Part VIII contains a selective set of newspaper editorials relevant to the constitutional revision processes of 1873-1875. These editorials have been selected from many more that were published at the time, but were chosen to reflect a variety of points of view from that era on a number of the topics of constitutional revision. They appear in chronological order.

The editorials represent different regions of the state and reflect different political views about state constitutional issues. The editorials are included in the Index.

**THE WORD “WHITE” IN THE
NEW JERSEY CONSTITUTION**

It is sometimes ridiculous and amusing to see what glaring inconsistencies the Democratic journals are led into in their efforts to make a point in favor of their party. The Democratic newspapers and the Democratic conventions in this State have all along insisted that they are opposed to negro suffrage, and that the issue in the approaching election is whether the colored people shall vote in New Jersey. Of course, every intelligent person knows that there is no such issue, and that the triumph or defeat of the Democratic party will have no more influence upon this question than the Pope's bull upon the comet. The adoption of the Fifteenth Amendment to the Constitution has settled this matter, and no action of any party can have any possible effect upon it. But this is the absurd and dishonest position which the party in New Jersey has chosen to assume, and we submit that we have a right to expect them to be consistent in their folly. But the *True American*, in order to make a fancied point against the Republicans, shows that the position of the New Jersey Democracy is utterly untenable. After quoting a part of the State Constitution, it says:

“Now it is obvious that the only effect of the fifteenth amendment (whether right or wrong), is to strike out the word ‘*white*’ from the above article, and leaves it to be read: ‘Every male citizen of the United States, &c.’”

Why, then, does the Democratic party of New Jersey place itself on the record as opposed to negro suffrage? And how does it propose to affect or change a measure which has thus been definitely settled by the Fifteenth Amendment? An early and explicit answer to these questions is respectfully solicited.

Source:

Daily State Gazette, October 5, 1870.

A NEEDED REFORM.

Persons who are familiar with State legislation need not be told that the proceedings of those bodies are largely controlled by the hordes of lobbyists who throng the State capitals. Huge corporations desirous of preserving intact the privilege already acquired, or of making still further encroachments upon the rights and interests of the people—individual schemers who make a business of trading upon the franchises of the State—and even the applicants for honest and legitimate legislation, all employ the agents called lobbyists to take charge of and engineer their bills. These agents are in some cases necessary and legitimate

adjuncts of legislation. For instance, when a city, or county, or corporate body, or individual desires some special legislation of an important character, it is often necessary for them to select some trustworthy person, thoroughly conversant with all the facts in the case, and whose character will inspire confidence and command attention, to come to the Legislature and explain the views of the applicants, the nature of the interests to be affected, and the effect upon the interests concerned of the proposed law. It is frequently the case that the Legislature can only act justly and intelligently on information thus acquired. But these gentlemen are generally modest and unassuming in their demeanor, make their views known to committees and a few leading members of the two Houses, and go quietly about their business. There is, however, an altogether different class from these: A set of professional lobbyists who give their services for pay: Insidious, adroit and unscrupulous corrupters of the men: men of brazen fronts, ready tongues and corrupt hearts. Insolent, domineering and intrusive, they swarm upon the floors of the Chambers, ruthlessly invade every precinct of the capital, and swaggeringly trample upon the most sacred privileges of the house. Their ranks receive accessions every year from those members who are corrupted by their arts, who imagine that they have a genius for intrigue, or who become fascinated by the allurements which are presented of large illicit gains. It is by the aid of these professional corruptionists that huge and cunning swindles, by which the people are robbed and oppressed, are so often got through the Legislature. They accomplish their purposes, partly by bribery, partly by unscrupulous lying, and sometimes by political intrigues. They taint the legislation of almost every State in the Union.

It is not generally known, however, that the same poisonous influence pervades the halls of legislation at Washington, and often corrupts the very fountainhead whence flows our national greatness and strength. Yet the debate in the House of Representatives, on Tuesday, on a resolution to exclude lobbying ex-members from the floor of the House, leaves us no doubt that precisely the same ignoble and humiliating spectacle, of legislation controlled and shaped by swarming hordes of hireling lobbyists, which has so often brought the blush of indignant shame to the cheeks of Jerseymen, is sometimes witnessed in our nation's council halls. It was divulged during that debate that two hundred and twenty ex-members of Congress were registered as applicants for and entitled to the privileges of the floor. It was declared that the intrusive presence of these gentlemen upon the floor, pressing members to support the "claims" or other measures which they had in charge, had become so intolerable a nuisance that relief from their offensive importunity has become absolutely necessary. One gentleman remarked, in his desperation at this growing annoyance: "We know

that it is a troublesome thing, an abnormal condition of legislation, to have these men on the floor of the House dictating to us, taking our seats, usurping our functions, regulating our legislation. I appreciate as much as perhaps any other member of Congress the amenities and socialities which belong to our old service together here. But I do know this, that some rule is absolutely required by which this House shall protect itself against outsiders, whether they have been members of Congress or whoever they may be." Another gentleman made the remarkable and suggestive assertion that ex-members were selected to prosecute claims and lobby measures before the House because of the facility which their privilege of the floor afforded them for so doing.

Source:

Daily State Gazette, April 26, 1872.

STATE LEGISLATURES.

The country has this spring had some pretty strong examples of what hurtful and demoralizing agencies State legislatures may become when they are prostituted from their honest, legitimate purposes. When the Legislature of New Jersey adjourned, not a single journal in the State had the hardihood to bestow upon it even the usual meaningless compliment of praise. When the legislature of Pennsylvania concluded its sessions, it was observed that no act in its life became it so well as its close, and there went up from the whole State a great sigh of infinite relief. On Tuesday last, the legislature of New York, after the longest session since 1846, adjourned *sine die*, and a shout of universal rejoicing is heard all over the State. This legislature, it will be remembered, was elected amidst the storm of indignation and awakening of the public conscience, evoked by the startling revelations of the gigantic villainies of the Tammany Ring. It was the practical expression, vent, so to speak, of that sentiment, and was known as the "Reform Legislature." The majority of the Reformers was overwhelming. And yet this authoritative aggregation of the aroused and armed public virtue of New York, after a long and turbulent session, is denounced by the press of the state as among the most venal, vacillating and inefficient legislatures that the Empire State was ever cursed with. The *Times*, which at first was loud in praise of the excellent material of which it was supposed to be composed, and exultantly hopeful of the good works which it would accomplish, calls its adjournment "a good riddance," and says, "a more incompetent, or perhaps a more corrupt legislature has never assembled." "It was elected" the *Times* continues, "to carry out vital reforms, everyone of which it has neglected." This is the spirit of the comments of the

entire press, of both parties, upon the close of the session of this disgraceful legislature. Its closing scenes are represented as having been similar to those in which such bodies usually end their bad careers. Their deportment more nearly resembled the wild orgies of dissolute bacchanals, than the grave and dignified demeanor which should characterise the completion of the most important functions of the state.

The same sense of relief, the same indignant and universal condemnation, has been expressed in every State of the Union, save one, on the completion of the labors of their legislatures. The single exception has been the State of Illinois, where the people justly congratulated themselves on the possession of a legislature, not only the best they ever had, but, if we understand their eloquent eulogies, the most able, patriotic, honest, and unselfish which ever assembled.

The secret of this almost universal corruption of state legislatures is not difficult to discover. It was a current story in Albany, that at the outset of the session A[mazian]. D. Barber, the professional briber, looking over the list of names, made this pithy comment: "I have never seen a cheaper legislature." It has come to be understood as among the most certain axioms of political science, as practised and understood by the corrupt politicians, that every man has his price, and that any measure which has sufficient unscrupulous money backing is certain of success. Upon this assumption, founded on long experience, gangs of bold, unprincipled men are found organized at the doors of every legislature, who control its action in the interest of those who will pay for it. The system of bribery as practiced by these men has been reduced to a perfect science, and the "Third House" is the most potent adjunct of the law-making power. Individuals or corporate bodies who will not pay tribute to these sharks are surprised to find their bills stuck fast in committees, treated with supreme indifference, and unaccountably delayed by all the devices which sullen enmity can invent. The consequence is, that, as none but corrupt schemers will avail themselves of this questionable system, the statute books become, to a yearly increasing extent, the mere records of villainous bargains made with the suborned and faithless guardians of the people's rights.

This evil has grown to such enormous proportions that thoughtful men are beginning to inquire whether state legislatures are not a failure, and whether some safer, wiser, better system of enacting laws, in which the rights and interests of the people shall be more effectually protected against ruthless corruptionists, cannot be devised. This inquiry will become more general, and a strong demand in its favor will begin to be heard, unless the reign of the lobbies shall be summarily ended. The obvious remedy, outside of an acknowledgment that strictly representative government is a failure, lies in the people themselves. It is in the

election to the legislature of none but thoroughly honest and trustworthy men. For years we have urged this upon the people as the only protection against a betrayal of their interests by corrupt representatives. The well understood existence of the organized bribers, the "Third House" is a powerful incentive to dishonest men to secure the nomination. The ignoble ambition of such men should everywhere be sternly rebuked, and no one elected to the responsible and important position of law-makers but the best, most reliable citizens. When it shall be clearly understood that there are no longer men in the legislature who can be bribed, the hordes of bribers will find their occupation gone, and the state capitals will very soon be free from their loathsome presence.

Source:

Daily State Gazette, May 17, 1872.

REDISTRICTING THE STATE.

There is probably no state in the Union where there is more inequality than in New Jersey in the matter of representation in the Legislature. This inequality more particularly relates to the Senate, but in effect gives the least populous counties a tremendous advantage over the more thickly settled portions of the State. We presume that there is no way of altering this Senatorial representation except through a Constitutional Convention, and no doubt the selfish spirits of the smaller counties will fight against that for years to come. But the innovation will be successful some day, and then the people of all portions of New Jersey will get their rights.

Supposing that the "good time coming" were here now, the different counties would be entitled to representation in the Legislature as follows, on the basis of twenty-one Senators and sixty Assemblymen:

<i>Counties.</i>	<i>Senate.</i>	<i>Assembly.</i>	<i>Pop.</i>
Camden,	1	3	42,975
Mercer,	1	3	46,886
Middlesex,	1	3	45,029
Union,	1	3	41,859
Morris,	1	3	43,137
Passaic,	1	3	46,416
Bergen,	1	1	30,122
Hudson,	3	8	129,067

Essex,	4	8	143,839
Burlington,	1	4	53,689
Cape May,			8,849
Atlantic,	1	1	14,093
Cumberland,	1	2	34,665
Salem,		1	23,940
Gloucester,	1	2	24,758
Hunterdon,		3	36,963
Somerset,	1	2	23,510
Warren,		3	34,336
Sussex,	1	2	28,168
Monmouth,		4	46,195
Ocean,	1	1	13,628

Source:

New Brunswick Times, January 6, 1873.

STATE CONSTITUTIONAL CONVENTION.

Much interest is now existing on the question, whether New Jersey shall soon call together a Convention for the purpose of revising the State Constitution. The general sentiment of those not personally interested to the contrary is in favor of the movement; although we must confess that there is a feeling against it of great activity among a small portion of the community. The residents of most of the least populous counties are either passively or actively in the opposition, for the very undemocratic, unrepugnant and unfair reason that they prefer retaining more than their share of political power in the State. Cape May, for example, has one member of the Legislature for every 4,174 of her inhabitants, Sussex one for every 11,584, Essex one for every 14,383, Hudson one for every 14,840, Somerset one for every 7,836, Middlesex one for 11,252, Ocean one for 6,814, etc. In the Senate, each county—large or small—has one member, thus making one man of more political importance in Cape May than five in Middlesex, six in Burlington, sixteen in Hudson, or eighteen in Essex. No logic or reason can sustain these irregularities—nothing but a spirit of injustice can rest satisfied with its continuance. Fourteen counties, containing about two-fifths of our population, control two-thirds of the Senate. Even in the Lower House of the Legislature there is considerable inequality in the ratio of representation, although of course not so much disparity as in the other House. Cape May has one for every 8,340, Bergen one for 15,061, Cumberland one for 17,333, Essex one for 15,000, Hudson one for

16,133, Hunterdon one for 18,481, Middlesex one for 15,009, Somerset one for 11,755, Sussex one for 23,108.

But there are many other respects than Legislative apportionment wherein the Constitution might be changed for the better. We think the people ought to elect more public officers than at present. There ought to be a Lieutenant Governor to be President of the Senate and to fill the position of Governor should the latter official die, or resign, or be removed from office. Should the Governor be absent from the State, or from the Capital, the Lieutenant Governor ought to be empowered to perform the duties of the absentee. The Lieutenant Governor, as well as Secretary of State, State Treasurer, Attorney General and State Auditor, ought to be elected by the people, as also the County Prosecuting Attorneys, County Treasurers, and the Members of all City Commissions. In cities, the Treasurer and Collector should be one and the same officer and be elective, and the people should elect Street Commissioner, City Attorney and Overseers of the Poor.

So far as the Judiciary is concerned we should be content to let it remain as at present. But in New York, Pennsylvania, and we believe all the Western and Northwestern States, the Judiciary is also elective.

Another matter has been from time to time suggested—that is, the division of the duties of County Clerk forming two or three distinct offices. For example, there ought to be a Register, a Clerk of the Court, and a Clerk of the County (the latter being also Clerk of the Board of Supervisors). These officers should all be salaried and not dependent upon fees, as should also the office of Surrogate.

Source:

New Brunswick Times, January 10, 1873.

A CONSTITUTIONAL CONVENTION.

In the Senate each county—large or small— has one member, thus making one man of more political importance in Cape May than five in Middlesex, six in Burlington, sixteen in Hudson, or eighteen in Essex. No logic or reason can sustain these irregularities—nothing but a spirit of injustice can rest satisfied with its continuance. Fourteen counties, containing about two-fifths of our population, control two-thirds of the Senate. Even in the Lower House of the Legislature there is considerable inequality in the ratio of representation, although of course not so much disparity as in the other House.

* * *

We have a word to say about the manner of accomplishing these reforms. The favorite method seems to be by the broad sweep of a revision of the present Constitution. We are inclined to think that this is not the best way.

The chief objection urged against the process of reform by regular amendment is in the delay. By provision of the Constitution, no amendment shall be carried into effect in less than two years and but one amendment may be made in five years, so that the whole list of reforms suggested by the *Times* would require considerable length of time for completion. The strength of this objection depends upon the necessity of immediate change. The most urgent of the reforms is the Senatorial reapportionment. The others may as well wait awhile as not, and, leaving them out for a time, a satisfactory reapportionment can be made by amending as speedily as by altering the Constitution. Probably sooner; for the natural desire of a convention of law-makers would be to elaborate the instrument and make it theoretically perfect, so that they would be quite likely to introduce new features that would not meet the approval of the people and necessitate the calling of a new convention, and a double delay. But the best argument against such a convention is the expense it would bring upon the State. While an amendment could be carried through by regular legislative process, the assembling of a Constitutional Convention would require a heavy outlay and involve the greater burden of the cost of an election. This should be a weighty consideration.

Apart from the argument of expediency there is the general principle that constitution-tinkering is a bad and unprofitable business, always to be avoided if other means can avail. The dignity and value of such an instrument is proportionate to its immunity from change. The framers of our Constitution wisely recognized this when they threw the obstacles of delay in the way of future meddlers and alterers. Only the most pressing and immediate necessity should warrant so grave a step and permit the establishment of so bad a precedent.

The minor reforms suggested by the [*New Brunswick*] *Times* [of January 10, 1873] are well worth consideration though they demand no special haste. In regard to the manner of obtaining our judiciary, we have the example of New York in testimony of the superiority of our present system. The need of more State officers is plain but not immediate. The sum of the other reforms is a rounding off of the Constitution to more perfect form, an elaboration rather than a necessity, for which the State can easily afford to wait.

Source:

Newark Daily Advertiser, January 13, 1873.

PROPOSED SALUTARY REFORM.

Governor Parker in his message proposes several reforms which may be accomplished by constitutional amendment. One of his propositions especially meets our commendation, having been first proposed by this journal a few years ago, and again urged upon the attention of the members of the Legislature by us within a few weeks past. The Governor says:

“Should it be deemed advisable not to provide for general laws, haste in legislation could be prevented by a constitutional amendment requiring the preamble of every private or special bill containing the substance of its important provisions to be published, and the bill itself filed in the office of the Secretary of State for public information on or before the first day of the session; and providing further that if a bill pass without these requirements having been observed, it shall be held void and of no effect by any court of competent jurisdiction before which its validity shall be questioned, upon certificate of the Secretary of State that the same [was not] filed as above stated in his office. This would give employment to the Legislature at the commencement of the session, enable each member to inform himself of the contents and ascertain the merits of each bill before being called upon to vote upon it, and prevent the sudden introduction of important and exciting measures near the close of the session when pressure of business necessarily prevents due consideration.”

The Governor’s proposition to require the bills to be filed in the Secretary of State’s Office is supplementary to our proposition, and is an improvement upon it. The adoption of these reforms would not only have the good results which the Governor enumerates, but as we have before urged, would enable the people who would be affected by the proposed acts to have timely notice thereof, and to take measures to avert and defeat obnoxious legislation. Much jobbing would be prevented, and the people saved from much fleecing. We have feared, hitherto, in advocating this publication of a synopsis of each bill instead of its title, that it would be uncharitably misconstrued as being instigated by selfish aims. The powerful and disinterested advocacy of the Governor places the subject above such objections.

Source:

Daily State Gazette, January 15, 1873.

GOV. PARKER’S MESSAGE.

The message of Gov. Parker, sent to the Legislature of New Jersey yesterday, contains some suggestions that deserve careful consideration. In order to put an

end to the abuses of special legislation he would have the State Constitution so changed as to forbid the enactment of all laws coming under this head, except in cases wherein the general laws could not be made applicable. Fearful, however, lest such a change from existing methods might be deemed too sweeping, he moderates his recommendation thus: "Haste in legislation could be prevented by a constitutional amendment requiring the preamble of every private or special bill, containing the substance of its important provisions to be published, and the bill itself filed in the office of the Secretary of State for public information on or before the first day of the session; and providing further that if a bill pass without these requirements having been observed, it shall be held void and of no effect by any Court of competent jurisdiction before which its validity shall be questioned, upon certificate of the Secretary of State that the same was not filed as above stated in his office." Gov. Parker thinks that the effect of an amendment of this nature would be very wholesome, for the reason that the members of the Legislature, before organizing, would have an opportunity to make themselves familiar with the merits of each bill to be acted upon during the session. There is no doubt that a proper compliance with a constitutional requirement of so just a character would be of great benefit to legislators. It would enable them to vote intelligently, and it would also interpose a barrier to the introduction of the particular kind of business from which the lobbyists have drawn their chief profits. The power for special legislation has been exercised in such a corrupt manner in the past that there is not a taxpayer in the State, free from the influence of railroad and other corporations, who would not be rejoiced to see it restricted to the utmost limit.

The pay of legislators is another subject to which Gov. Parker calls attention. The present rate of compensation is three dollars per day for forty days, and one dollar and fifty cents per day for the remainder of the session, which, altogether, lasts from twelve to fourteen weeks. It is scarcely necessary to say that the total amount thus received does not more than about half pay the hotel bills of the members; and, as many of them have no other means, it is quite natural to presume that the deficiency, if made up at all, has to be done in a dishonest manner. "Perquisites," in the shape of unnecessary stationery, have heretofore been relied upon to some extent for this purpose. Those who have attempted to describe the causes which have led to the first steps in corruption, attribute much to the influence of this "perquisite" dodge. The consciences of certain members having once been eased by the delusion that if the State does not pay them for their services, they are justified in accepting "outside" offerings. The Constitution, in which provision is made for the compensation of members of the Legislature, went into effect on the 2d of September, 1844. It was adopted by a majority of

16,750 votes—20,276 votes having been cast for and 3,526 against it. No amendments can be made to it without the approval of two successive Legislatures, and subsequently of the whole people by direct vote. First of all, it will be necessary to provide for the holding of a convention, and this is likely to be done early in the session, in spite of the opposition which is sure to come from the railroad men and others interested in keeping things as they are.

A very full report of the State finances appeared in the *Times* a few days since. On this point the message contains nothing new. It refers to the causes for unusual drafts on the Treasury, chief among which are the extension of the State House, and the purchase of a site and erection of a lunatic asylum. Gov. Parker represents the State to be in a flourishing condition, “having no debt on civil account.” He assures us “that it is within the power of the sinking fund, without increase of taxation, to pay the entire war debt in about ten years, and, with the aid of the available securities in the State fund, in less than seven years.” The State tax, it appears, is only one mill on the dollar, independent of the two-mill assessment for schools, and nearly one-half of that, the Governor says, is used to reduce the war debt.

Source:

New York Times, January 15, 1873.

LEGISLATORS...THEIR PAY.

Representative governments have their defects as well as blessings. The way your money is stolen by the thief always follows the keen sting of its loss. You at once commence the search of the ways and means to discover the “little game.” And too often, when you have locked and bolted, most effectively, the front door, the thief has stolen something by means of the back one. The ways of dishonesty are “moveable,” and take counsel from as great ingenuity, if not more, than honesty. They take fast hold of each other, now honesty and now dishonesty foremost in the race.

Respectable legislators and grave enactments, the tools worked with, are, we grieve to say, sometimes no exception to this evil practice. The little or the much of evil doing does not vary the principle. Sammy Adams’ penny involved to his stern integrity his principle as much as his millions. Forgery of a turning word in a legal or other instrument, and a fraction intentionally put on the wrong side of the ledger, is a prophecy of character and a stain almost sure to have its lines deepened in future. The little thief is father to the big one, the small forger varies and enlarges his sphere as opportunities offer.

As to legislators, secrecy, or, in the cant language of the day, silence and division are the watchwords of legislative, as of all other, rogues. All this the honest Governor of New Jersey would prevent in special legislation and by thorough ventilation in the dawn of the legislative session. Special bills he would have, certainly their substance, published to the world and filed in the office of the Secretary of State. He would make the bill void and of no effect when questioned in any competent court of jurisdiction, without the certification of the Secretary of the State.

The prevention of hasty legislation would thus be accomplished, while the members of the Legislature would have time to detect if there were any of those little animals lurking there, so trifling and meek in appearance as sometimes to almost elude the sharpest eyes, but which spread out their claws enormously when chestnuts are to be gathered in. In this way, also, a barrier would be placed against that haste and negligence, or worse, which permits the rush of bills at the end of the session.

As to the pay of the legislator, the Governor wisely thinks three dollars per day for forty days, and one dollar and fifty cents for the balance of the session, lasting from twelve to fourteen weeks, is too small. No doubt the pay is insufficient, and has no proportion to the time and labor expended by honest men. But it is not this pittance which attracts the legislator, save some Davy Crocket or other economical gentlemen we have known who carried their dinners in baskets and chewed them between sessions, to the no small mirth of more aristocratic or less conscientious members. The honor, the excitement, the *gain* (we say this in our simplicity) in the various ways open to view by greater or lesser interests, are the things which catch the imagination, the ambition and the pocket nerves of the gentlemen seeking legislative honors. We are not aware that our national legislators are any more honest, more assiduous in the discharge of their duties, or in any way take on a higher type for the increase of their pay. But, by all means, let the three dollars per diem be increased. An honest legislator ought to have more. The other sort will not be affected greatly with or without the increase. They have a way of taking care of themselves.

Source:

Jersey City Times, January 17, 1873.

CONSTITUTIONAL CONVENTION.

A bill has been introduced in one of the Houses of the New Jersey Legislature calling for a Constitutional Convention. This is all well enough, as far as it goes;

but if we properly understand the provisions of the bill, it would be about as well to have no Constitutional Convention if it is to be restricted as proposed.

A Constitutional Convention should have the power to thoroughly revise the Constitution, and the decisions of that body should be subject only to the action of the people, on the vote to adopt or reject. In case there should be any provisions upon which there was a doubt whether in accordance with the wishes of the people, such provisions might be voted upon separately from the main body of the document. This has been done in other States with satisfactory results; for it would hardly be politic to endanger the entire work of the convention merely on account of some obnoxious provisions. There is no doubt that an effort would be made to render the judiciary elective, and although we do not believe it would be successful, still, if successful, such a provision in the body of the proposed Constitution might defeat the whole matter, and thus render abortive all the pains and expense taken in the convention.

One of the most glaring defects of the present Constitution is the Senatorial apportionment—an apportionment so absurd and unjust that we have never yet heard any person seriously argue in its favor. But if the convention should properly adjust this glaring inequality, and the matter be handed over to the Legislature, it would not be difficult to decide its fate in the Senate, where a majority of the members represent but little over one-fourth the population of the State, and the inequality becomes more glaring year by year.

The system of fees for public officials should also be abolished, and a salary attached to an office in every instance. We are in favor of good paying salaries to every official where there is responsibility, in order that competent men may be willing to fill the positions; but it is a duty to the people that no one should be permitted to receive excessive salaries. We know—and most of our readers know—of county officials who are the recipients of greater compensation than either the Governor of the State or our high judicial functionaries.

Source:

New Brunswick Times, January 23, 1873.

CONSTITUTIONAL CONVENTION.

At length a defender has appeared. He is in favor of the present Senatorial representation in New Jersey—a condition of things which permits less than one-third of the people of the State to control the upper branch of our Legislature. He says he is a Democrat—we know that he has acted with the Democratic party for a period so long that the memory of man runneth not to the contrary. He is a prophet,

and greater than a prophet, for he foretold that Grant would receive ten thousand majority in New Jersey, and the result was far in advance of the prediction. He is an octogenarian—may he live a hundred years more and his shadow (now not attenuated) never grow less. And yet in despite, or rather, because of, all these beatitudes possessed by our respected contemporary, we still favor a revision of the Senatorial representation.

Our friend says that, as at present constituted, “The Senate is designed to enable the weaker counties to protect themselves against the stronger and as a protection to the minority against that worst of all tyrannies, the unbridled and unrestrained tyranny of a majority.”

“The tyranny of a majority.” Well, here is richness, and particularly as coming from an editor whose political affiliations would lead one to believe that he held to the doctrine that the *majority* should govern. We do not believe the time has ever been or will ever arrive when the Senators from Essex and Hudson have or will be inclined to tyrannize over the inhabitants of Cape May, Ocean or Atlantic. If it can be shown that the residents of the three last named counties are *wiser* or *better* than the people of this county, then we shall cease to object to 36,000 persons having three times more representation in the Senate than 45,000 have in Middlesex. But until this is shown, or even asserted, we shall continue to hold to the Democratic Republican doctrine that the majority ought to govern.

We presume that the venerable and able editor, whose remarks are above quoted, knows even better than we do the reason why “the United States Senate was constituted in order to give the States equal representation without regard to population.” The States—or emancipated colonies—were each independent sovereignties at the time of the adoption of our National Constitution, and it was necessary to offer and submit to mutual concessions in order to induce the less populous communities to consent to any sort of a consolidated government. Like many other ideas, this concession of equal representation in the Senate has been “run into the ground,” as a general rule, merely to subserve partisan purposes. And the feeling is growing stronger and stronger, day by day, that there should be a readjustment of State representation in the National Senate. Without the votes of Senators from such “rotten boroughs” as Nevada, our country would not have witnessed its recent decline in political morality. At the time of the adoption of the National Constitution, Delaware (then the least populous of the States) contained about one-sixty-ninth of the population of the Union—now it has only one-three-hundred and eighth. Had no states been admitted, it might have seemed something like a violation of the contract between the parties, to attempt to alter the ratio of representation in the Senate, but when we reflect that four new states have been admitted, the most of them created from Territories obtained by purchase or

conquest, there is no bad faith in asking for a change in Senatorial representation.

But there is no sort of analogy between an equal representation in the United States Senate and equal representation of counties in the New Jersey Senate. At the time of the adoption of the first Constitution of this State there was—with two exceptions—not over ten thousand difference between the counties, and there was little or no injustice to any part of the State in giving each county equal representation in the upper branch of the Legislature. In the year 1790 our entire State did not contain over thirty thousand more inhabitants than now reside in Essex County. Since 1830, Gloucester has been divided into three counties, and each of the two new shires given a Senator. This single fact shows the indefensibility of any attempt at argument on the score of propriety of equal representation of the counties in the Senate.

Hereafter we shall notice our contemporary's objection to salaries in lieu of fees.

Source:

New Brunswick Times, January 30, 1873.

GENERAL LAWS.

There is one reform which could be effected by a revision of the Constitution which we consider the strongest argument in favor of a Constitutional Convention. We refer to a system of general laws under which all powers now conferred by special legislation should be exercised. Reference was made to this subject by Governor Parker in his last message. He said:

The Constitution should require general laws, and forbid the enactment of all special or private laws, embracing subjects where general laws can be made applicable. This would dispense with at least nine-tenths of the business brought before the Legislature under the present system. The general public laws passed at the last session are contained in about one hundred pages of the printed volume, while the special and private laws occupy over twelve hundred and fifty pages of the same book. If made comprehensive and liberal, why should not cities, towns, corporations of all kind, and associations of individuals, organize and act under general laws? Those heretofore passed in this State have not answered the desired object because the Constitution permits special legislation on the same subjects, and so long as this is permitted there will be those who will seek such legislation.

The advantages to the State of such an amendment to the Constitution as would abolish special legislation must be patent to all. It would entirely remove all temptation to bribery and corruption. The Lobby would find its occupation

gone, and its familiar presence would be utterly and forever lost. Special enactments, giving special privileges and powers, are what demand the exercise of skilled and unscrupulous lobby talent, and what alone tempt the people's representatives to betray their constituents. Its abolition would have a more elevating and purifying effect upon our political life than anything else that could be done. From the Capitol, the fountainhead of our politics, it would flow out, carrying a newer and purer stream through every channel of our political life. Corruptionists and schemers would be less anxious to secure seats in the Legislature. The primaries would be less subject to the manipulations of packers and wire-pullers. Our elections would be untainted by the exertion of corporate influences in behalf of their selected tools.

The Constitution of Illinois was lately revised, and this principle of general laws was adopted. The result is most gratifying, and more than justifies all that we have predicted as the consequence of such a change. At the last session only about seventy acts were passed, and the session only lasted three weeks. Mr. Medill, the Mayor of Chicago, a gentleman who had justly great influence in the formation of the new Illinois Constitution, and who is one of the soundest and most practical political thinkers in the country, says, in a letter to the Honorable Erastus Brooks, a member of the New York Constitutional Commission, that the Illinois legislature "devoted more care and consideration last session to the framing of bills than the preceding ten General Assemblies all together. And it was the only Legislature in twenty years that adjourned without the taint of corruption, jobbery, blackmail, or bribery upon its skirts. It passed more well-considered and useful laws than its predecessors in a dozen years. It was the first legislature since my residence in the state that was not 'run' by the lobby."

The following text of the provision in the Illinois constitution is given by *Harpers' Weekly*. It embodies suggestions and information which will prove of value whenever our Constitution shall be revised:

The Legislature shall not pass local or special laws in any of the following enumerated cases, that is to say, for

Granting divorces.

Changing the names of persons and places.

Laying out, opening, altering, and working roads or highways.

Vacating roads, streets, alleys and public grounds.

Locating or changing county seats.

Regulating county and town affairs.

Regulating the practice in courts of justice.

Regulating the jurisdiction and duties of justices of the peace, police magistrates and constables.

Providing for changes of venue in civil and criminal cases.

Incorporating cities or villages, or changing or amending the charter of any city or village.

Providing for the election of members of the Board of Supervisors in towns or cities.

Summoning and impaneling Grand or Petit Juries.

Providing for the management of common schools.

Regulating the rate of interest on money.

The opening and conducting of any election, or designating the place of voting.

The sale or mortgage of real estate belonging to minors or others under disability.

The protection of game and fish.

Remitting fines, penalties, or forfeitures.

Creating, increasing, or decreasing fees, percentage, or allowances of public officers during the term for which said officers are elected or appointed.

Changing the law of descent.

Granting to any corporation, association, or individual the right to lay down railroad tracks, or amending existing charters for such purposes.

Granting to any corporations, association, or individual any special or exclusive privilege, immunity, or franchise whatever.

In all other cases where a general law can be made applicable, no special law shall be enacted; or in any case where a general law can be made applicable, no special law shall be enacted.

The Legislature shall pass general laws providing for the cases before enumerated in this section, and for all other cases which in its judgment may be provided by general laws.

Source:

Daily State Gazette, February 13, 1873.

CONSTITUTIONAL REFORMS.

The Commission appointed by the state of New York to revise the constitution of that state have finished their labors and made their report to the Legislature. The Commission comprised some of the purest and most eminent minds in the Empire State. It consisted of thirty-two members, equally divided between the two parties. It has been earnestly and almost continuously at work all the winter. The results of its labors, therefore, may confidently be trusted to embody as

perfect remedies for the defects of our prevailing systems of State Government as the best statesmanship of New York can produce. As such they challenge the thoughtful consideration of the people of this State, who have had grievous experience of some of the worst evils incident to State legislation. Some of the most notable reforms recommended by the Commission are those which this journal has time and again shown the necessity of in this State. Such is the provision that no bill shall be passed by the legislature unless a synopsis of the proposed act setting forth its general objects shall have been advertised. The section providing for a system of general laws, and prohibitory of special legislation, is another. This section provides that the legislature shall not pass a private, special or local bill in any of the following cases: Changing the names of persons; laying out, opening, altering, working or discontinuing roads, highways, streets or alleys, or for draining swamps, marshes or other low lands; locating or changing county seats; regulating the internal affairs of towns or counties; providing for changes of venue in civil or criminal cases; incorporating villages, or changing or amending the charter of any village; providing for the election of members of boards of supervisors; selecting, drawing, summoning or impanelling grand or petit juries; regulating the rate of interest on money; the opening and conducting of elections or designating places of voting; the sale or mortgage of real estate belonging to minors or others under disability; the protection of game or fish; remitting fines, penalties, or forfeitures; creating, decreasing or increasing fees, percentage or allowances of public officers during the term for which said officers are elected or appointed; changing the law of descent; granting to any corporation, association or individual the right to lay down railroad tracks; granting to any private corporation, association or individual any exclusive privilege, immunity or franchise whatever; providing for building bridges and chartering companies for such purpose, except on the Hudson River below Waterford, and on the East River, or over the waters forming a part of the boundaries of the State.

For all these cases the legislature is to enact general laws, which shall also cover the rights of savings banks, insurance companies, &c., for which purposes the legislature shall have the power to grant special charters.

There are other proposed reforms which will strike everyone familiar with the legislation of this State as being very apt and effectual remedies for crying evils. Of such is the section providing that no law shall be revived or amended by reference to its title only; but the act revived, or the section or sections amended, shall be inserted at length. How often has the Legislature of New Jersey been hoodwinked into reviving important laws, by a brief and innocent looking amendment referring to some old repealed statute which the members were too

careless to hunt up! Of the same character is the section on providing that no act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of said act, or which shall declare or enact that any existing law, or any part thereof, shall be applicable except by inserting it in such act. This enables every member to know precisely what he is legislating upon, which it is one of the commonest and most successful devices of the modern lobby to prevent.

The report fixes the salaries of members of the legislature at one thousand dollars per annum, which strikes us as being somewhat extravagant, although the principle is a good one.

Another important and necessary provision is one securing the credit of the state against its use for any private undertaking. Counties, cities, towns and villages are also prohibited from loaning or giving money or credit to private undertakings. Every state should emphatically adopt this policy.

A section provides that officers who receive salaries shall not also receive fees or perquisites, nor shall their salaries be increased during the term for which they were elected. We need such a reform as this in New Jersey.

In addition to the usual oath of office, the state officers and members of the Legislature are required to swear:

“And I do further solemnly swear or affirm that I have not directly or indirectly paid, offered or promised to pay, contributed, or offered or promised to contribute any money or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, and have not made any promise to influence the giving or withholding any such vote.”

It does not speak much for the state of our political morals that it should be necessary to incorporate such a test as this in the organic law, but we unfortunately all know that it is necessary.

These are the more salient features of the changes proposed by the New York Constitutional Commissioners, that strike us as particularly claiming the thoughtful consideration of the people of this State. Would it not be eminently wise to make the same reform in the Constitution of New Jersey.

Source:

Daily State Gazette, March 20, 1873.

NEW JERSEY STATE CONSTITUTION.

The late session of the New Jersey Legislature defeated the bill calling a

convention to revise the Constitution of the State, the smaller counties being opposed to it lest their representation in the State Senate might be reduced. A joint resolution, however, was adopted just at the close of the session, authorizing the appointment by the Governor of a commission of fourteen gentlemen, two from each of the seven Congressional districts, who should prepare and suggest amendments to the Constitution, to be submitted to the next Legislature for acceptance or rejection. Owing to the lateness at which the resolution was adopted, Gov. Parker had no opportunity to select them, and it is understood will shortly convene the State Senate in extra session for the purpose of ratifying such nominations.

Source:

New York Times, April 12, 1873.

THE CONSTITUTIONAL CONVENTION.

The *Morris Jerseyman* is not sanguine that much of practical value will grow out of any patchwork of our present Constitution, such as is contemplated by the new Commission. It says it has now been in existence for nearly twenty-nine years, and we have to a very considerable extent outgrown it. What is needed is not so much amendment, as thorough revision. Our whole Judicial system should be overhauled, lay Judges of the Inferior Courts abolished, and an independent Appellate Court established to be composed of Judges who do not sit at the Circuits. Senators should be chosen by Senatorial Districts based on population instead of by counties, and our lower House should have not less than three times as many members as now. The passage of special laws should be prohibited where the objects for which they are asked can be secured under a General Law, and biennial sessions of the Legislature would then be all the necessities of the State would require, except under extraordinary circumstances when the Governor could call a Special Session. The pay of the members should be increased, fixed at a stipulated sum, all "extras" cut off, and the length of the sessions limited. These, and other changes that occur to us as desirable, are so radical, affecting our fundamental law in nearly all its parts, that we do not see how they can well be accomplished short of a Constitutional Convention which shall give to it a thorough and complete revision.

Source:

Newark Daily Advertiser, April 17, 1873.

THE CONSTITUTIONAL COMMISSION.

Now that Governor Parker has called the State Senate to meet on the 24th instant to consider such nominations as he may make of Commissioners to prepare amendments to the State Constitution, the whole subject of our organic law is open for discussion. The Commission will consist of two members from each Congressional district—fourteen in all—and their duty is preparatory and suggestive, and not legislative. The function of the Commission is limited to the study of the existing Constitution and to proposing amendments to the Legislature. Any legislator has the same right already, but the intervention of a Commission is intended to secure careful and many-sided consideration before any amendment is offered. That done, the regular course is followed. The amendments, if agreed to by a majority of the members elected to each house of the Legislature, shall be entered on their journals, with the yeas and nays taken thereon and referred to the Legislature then next to be chosen. If that body agrees to the amendments, or any of them, they shall be submitted to the people at a special election, at which a majority vote confirms them as a part of the Constitution. This cautious proceeding is further guarded by provisions as to advertising, etc. Each amendment must stand on its own merits and be voted for separately. A rejected amendment cannot be proposed again to the people oftener than once in five years.

It is urged with some force that our State has in some respects outgrown its organic law and the necessity for a revision of the Constitution is based upon this belief. Granting that such a need exists, the present is as favorable a time as we can expect to have for many years to come. Any considerable change proposed in the stormy years corresponding with the adoption of the three latest amendments to the Federal Constitution would have mixed our purely local interests with the passions of national politics and have given an undue tenacity to party ties. At this moment none of these causes exist. Party lines were never so lax. A respected Democrat Governor will nominate Commissioners for the approval of a Republican Senate. A non-partisan representation is sure to result, and with it we may anticipate a high order of talent in the Commission. The next Legislature, whether Republican or Democratic, will be likely to approve or reject the report of the Commission in a spirit of calmness. The Legislature of 1875 will, it is true, be chosen in 1874 simultaneously with a new Chief Magistrate to succeed Governor Parker, but it is improbable that party lines will affect the second Legislative vote. The popular vote, finally decisive, will be taken in the quiet of 1875 and the added calm of a special election at which no other question can be presented. All these, working together, indicate the present as an opportune time for entering deliberately upon an important task. A year later, and we should [be] up in the whirl of a Presidential election.

Still another consideration arises. The New York Times of this morning argues that there “are undoubtedly many changes needed in the Constitution of that State, but the urgency for some of them is not so pressing, now that there has been an apparently honest attempt to release the commonwealth from that thralldom to a corporation which gave it the ignoble name of Camden and Amboy.” But, as events have shown, our existing Constitution was strong enough to provide fairly for all railroad controversy, and before a new instrument can be adopted the motive for interference in this regard will have perished. That it is out of the way, that it *cannot* be a seriously disturbing element, is an added reason in favor of a present remodelling of the organic law. And we venture the suggestion that had the Constitution, as it is, been loaded with special provisions on railroad charters, the General Law of which we now boast would have had no place on the statute book.

The reforms of which the Constitution of New Jersey stands in need are few but important. Among the things to be left alone stands, first, the Judiciary. No serious attempt will be offered to make the judges elective officers or to abbreviate the dignity which attaches to their high duty. There may be a movement for some other appellate court than the present Court of Errors and Appeals, but the motive is not obvious. The number of Judges of the Supreme Court ought to be increased, to enable it to forward business more rapidly. Lay Judges in the inferior courts will also be attacked. The Court of Chancery cannot be easily improved. Such changes as may be made in the Judiciary ought to be confined to matters of convenience in working.

The principal reform to be urged will be in the matter of representation. In the Senate each county—large or small—has one member, thus making one man of more political importance in Cape May than five in Middlesex, six in Burlington, sixteen in Hudson, or eighteen in Essex. A division of the State into Senatorial districts will be strenuously opposed by the southern counties but the anomaly of the present system is too plain for argument. Two-fifths of our population control two-thirds of our Senate. In the Assembly the division is more equitable. It will be proposed to largely increase the numbers of its members and there is certainly a propriety in an approach to a rotten borough system in the lower house. It is only another name for minority representation. It is often impossible for an Assemblyman to represent both of two townships or wards which may constitute his district. They differ and he stands like the ass between two bundles of hay.

There will also be advocates of an enlargement of the number of elective officers, among them a Lieutenant Governor to be President of the Senate and to fill the position of Governor should the latter official die, or resign, or be removed from office; should the Governor be absent from the State, or from the Capital, the

Lieutenant Governor to be empowered to perform the duties of the absentee; the Lieutenant Governor, as well as Secretary of State, State Treasurer, Attorney General and State Auditor to be elected by the people, as also the County Prosecuting Attorneys, County Treasurers and the members of all city commissions. Such are some of the propositions to come before the Commission. It is fortunate for the State that they represent so little of popular excitement and are almost absolutely free from partisan influence.

Source:

Newark Daily Advertiser, April 18, 1873.

NEW JERSEY CONSTITUTIONAL COMMISSION.

A special session of the New Jersey State Senate will meet at the Capitol in Trenton, on Thursday at noon, to receive from Gov. Parker the nomination of fourteen gentlemen—two from each Congressional district—to suggest and prepare amendments to the New Jersey State Constitution, for submission to and consideration by the Legislature. The existing Constitution of the State provides for its amendment by approval of two consecutive Legislatures, and final ratification by the people, such proceeding to be taken only once in five years. The present Constitution was ratified in 1846 (*sic*), and the altered circumstances since have rendered desirable a change. Among other things an effort will be made to create senatorial districts, instead of each county, whether large or small, having one Senator, as at present; and to increase the representation in the lower House from sixty members to at least one hundred, so that the townships may be more liberally represented, instead of a large proportion of the representatives, as at present, coming from the cities and large towns. This is especially so in Essex, Hudson, Passaic, Union and Middlesex Counties. In Essex, six of the nine members come from Newark; in Hudson, four of the eight from Jersey City, and a fifth from Hoboken; in Passaic, two of the three from Paterson; in Union, two of the three from Elizabeth, and one each from New Brunswick, Camden, and Trenton. The judicial system also needs revision, so that leaving the judiciary, as at present, subject to appointment by the Governor and approval by the Senate, their number may be increased and an independent Appellate Court may be established, to be composed of judges who do not sit at the Circuits. It is also proposed to prohibit the passage of special laws, where they can be secured under a general law; to provide for only biennial sessions of the Legislature unless specially convened by the executive; to increase the pay of members so as to cut off all “extras,” and to limit the length of the session. A lieutenant-governorship is

proposed to be created to be presiding officer of the Senate, and to officiate in the absence of the Governor; and an effort will be made to make more of the offices elective and to prevent the appointment by the Legislature of all commissions, but to require the same, when authorized, to be chosen by the people.

The Commission will doubtless be composed of the best men of the State, and it is understood that President Taylor, of the Senate, and Speaker Fisher, of the Assembly, will be of their number. No provision is made for payment for their services, but the Legislature having authorized their appointment will not fail to see that they are reimbursed. Their duties will be merely carefully to consider the wants of the Constitution and to recommend them to the Legislature of 1874, who, if they approve them, will refer them to the Legislature of 1875; and if again approved by that body a special election will be held, and if finally approved by the people the Governor will make proclamation to that effect and the new Constitution will go into force. Any one or more of the amendments may be rejected, so that the whole work need not fail, in case a part of it should only be acceptable.

Source:

New York Times, April 23, 1873.

[UNTITLED.]

Among the changes which are to be urged upon the New Jersey Constitutional Commission, which will soon assemble, some are of doubtful value, and others would be no improvement upon the existing Constitution. Experience has shown that State officers should be appointive instead of elective, whenever practicable; and if the New Jersey Commission accepts the suggestion to have all State Commissioners elected by the people, it will make a mistake. It is one of the chief merits of the New York Commission that it sought to remove all of the state officers, except the Governor, Lieutenant-Governor, and Controller, from the arena of partisan politics, by having them appointed by the Governor or elected by the Legislature. Whatever the New Jersey Commission may submit, we hope will meet a happier fate than have the suggestions of the New York Commission. Some admirable constitutional amendments have been some weeks before our Legislature without receiving the slightest attention. There was, indeed, an imposing committee appointed to devise some method of considering this important subject, but it has done nothing, nor do we learn that it has even attempted to do anything.

Source:

New York Times, April 23, 1873.

THE SPECIAL SESSION.

The State Senate will meet today at 12 o'clock noon, in pursuance of Governor Parker's proclamation convening it in extra session. The purpose of the special session is to act upon nominations of fourteen commissioners, two from each Congressional district in the State, to consider and propose amendments to the State Constitution, made by Governor Parker under authority of a resolution passed by the Legislature on the last day of its late session. There was a good deal of speculation about town yesterday as to whom the Governor would nominate. Nothing was known, however, as to his intentions. The commissioners who are to be appointed have simply to suggest and prepare amendments to be submitted to the Legislature next winter. The Legislature will then consider them, and if they shall be agreed to by a majority of the members of each House, they shall be entered upon their journals with the yeas and nays taken thereon, and referred to the Legislature then next to be chosen, and shall be published for three months previous to making such choice, in at least one newspaper of each county, if any be published therein; and if in the Legislature next chosen, as aforesaid, such proposed amendment or amendments, *or any of them* shall be agreed to by a majority of all the members elected to each House, then it shall be the duty of the Legislature, to submit such proposed amendment or amendments, or such of them as have been agreed to by the two Legislatures, to the people, in such manner and at such time, at least four months after the adjournment of the Legislature, as the Legislature shall prescribe; and if the people at a special election to be held for that purpose only, shall approve and ratify such amendment or amendments, or any of them, by a majority of the electors qualified to vote for members of the Legislature voting thereon, such amendment or amendments so approved and ratified shall become part of the Constitution. It is also provided that each amendment shall be voted upon separately and adopted or rejected on its merits. It will thus be seen that the method of amending our Constitution is a rather intricate one, and that none but such amendments as meet the general approval are likely successfully to run the severe gauntlet established by the wisdom and care of the founders of our State government.

Source:

Daily State Gazette, April 24, 1873.

THE CONSTITUTIONAL COMMISSION.

The nominations made by Governor Parker today to the Senate, in extra session, for members of the Constitutional Commission, have decided merit. As was to be anticipated, they are non-partisan. As might not have been foreseen, they seem to us wisely distributed among those who by age and experience are conservative, and others, of equal talent, who are younger and have brighter views of the future of the State. In both classes we find the names of men taught by experience, with none of the mere theorists in civil polity.

Source:

Newark Daily Advertiser, April 24, 1873.

THE CONSTITUTIONAL COMMISSION.

No undertaking transcends in importance the formation of an organic law for a State, or its amendment after it has been formed. It is not only a work for the present, but for the future. It is not a work for any class, sect or party, but for a whole people. The personal and the political rights as well as the right of property, of individuals have to be guaranteed; while, at the same time, public rights, the safety and welfare of society, have to be provided for. Liberty has to be preserved, license has to be restricted, and the delicate task is to draw the true line and keep to it. The task can only be successfully accomplished by men of enlarged, liberal and comprehensive views. The one ideal enthusiast or the narrow-minded fanatic who would make a State Constitution an instrument for enforcing some pet theory mistakes his vocation when he enters upon the work. This class of men are those:

“Who talk of principle, but notions prize,
And all to one loved folly sacrifice.”

All that they ever accomplish is to breed contention, and their work only last until those of opposite views acquire the force to undo it.

The present Constitution of New Jersey owes its success to the fact that it was made in the interest of no class, interest or creed, and that the powers which the people delegated by it to those who were to govern were carefully enumerated. It has worked so well that under it the State has prospered and the liberties of her people have been preserved for nearly a generation. It is thought, however, that in some respects, it needs amending in order to correct abuses in legislation which could not be foreseen, but which have since grown into practice, and to make changes which the altered condition of the State is said to require. The late Legislature might have authorized a State Convention to frame a new constitution, or it might have adopted amendments which would have gone to the

next legislature for approval before their submission to the people. But not having done either, it passed a resolution in the last hours of the session authorizing the nomination by the Governor to the Senate of two Commissioners from each Congressional District, whose duty it will be to prepare amendments to be submitted to the next Legislature for consideration. It is for the purpose of receiving and acting upon the nominations of these Commissioners that the Senate meets in extra session today.

In the selection of Commissioners for such an important duty we have no doubt that two things will be taken into consideration—first the qualifications of the men, and second the interests with which they are severally identified. It ought to be as nearly a representative body of the whole State as a convention elected by the people would probably be. Such a convention would contain members representing the manufacturing, agricultural and mineral interests, the bar, the press, the pulpit and the commerce and trade of the State. The work to be done has its practical as well as its professional and technical aspect, and in the interchange of practical and professional views the object aimed at will be best attained. That the amendments as prepared may be impartially considered by the next Legislature, it would also seem advisable that no one who will be member of that body, or who is likely to be, should be a member of the Commission. It is never the part of wisdom to allow any men to sit in judgment over his own work. An impartial Commission, able in point of mental qualification, comprehensive in the interests it represents, and comprising among its number men who have made constitutional law a study, is what is required, and such a Commission we have no doubt Governor Parker will select and nominate to the Senate.

It would be useless to anticipate at this time the amendments that will be proposed and discussed by the Commission. Unless all experience is worthless they will not be confined to those suggested by the Governor in his last annual message. And yet those suggestions seem to comprise all that are really desirable. There are those who would overturn our entire judicial system which has worked so admirably for the purpose of entering upon experiments which have [been tried] in other states and have worked badly. There are others who would change our representative system designed to protect the minority against the tyranny of the majority. Had a convention been authorized these and other sweeping changes would have probably been made, and our whole system so completely remodeled that the proposed Constitution would have in all likelihood been defeated by a combination of the influence by which it would have been opposed. The Commission will act wisely if it confine itself to correcting what experience has shown to be wrong and to establishing that which the same experience has shown to be desirable.

Source:

Daily True American, April 24, 1873.

THE CONSTITUTIONAL COMMISSION.

The Commissioners nominated by the Governor to suggest and prepare amendments to the State Constitution to be presented to the next Legislature, were promptly confirmed by the Senate yesterday, and that body adjourned *sine die*. The Commission unquestionably comprises some able men, but does not represent the highest and best talent of the State.

Benjamin F. Carter, of Gloucester, is a merchant in Woodbury, and a Judge of the Court of Common Pleas. He is a man of good common sense, but professes no special claims for the important work of revising the Constitution.

Mr. Samuel H. Grey, is a rising young lawyer of Camden, of fine abilities and culture, and will make an able and efficient commissioner.

Chief Justice Beasley is of course a strong appointment. He is a clear and deep thinker, and industrious student, and possesses a vast deal of information on a wide range of subjects. He is of a judicial conservative, non-partisan order of intellect, and is therefore eminently qualified for the duties before him.

Ex-United States Senator John C. Ten Eyck, is also one of the best nominations. He was distinguished in the Senate for spotless integrity, and for his zeal and efficiency in behalf of the best interests of the country. He is a lawyer of excellent standing, and is a highly cultured and intelligent man.

Judge Robert S. Green, is a lawyer of good standing. John F. Babcock, is the editor of the New Brunswick *Fredonian*, and has been Secretary of the Senate for the three past years. He is familiar with the wants and interests of the State, and will make one of the most useful of the Commissioners.

Martin Ryerson, of Sussex, is a lawyer, and a keen, shrewd, able man. Jacob L. Swayze is a banker at Newton, of good plain abilities. Augustus W. Carter is a lawyer, and the present Senator from Morris County. He is an astute and intelligent man, and will make a good commissioner. Benjamin Buckley, of Passaic, was for nine years a member of the New Jersey Senate, part of the time as President of that body. He is well qualified for the duties of the position to which he has been appointed. Theodore Runyon is a lawyer of first-class abilities. He was last winter appointed Chancellor by Governor Parker, in place of Mr. Zabriskie. John W. Taylor is the President of the Senate, a lawyer of first-rate standing and abilities. Abraham O. Zabriskie is well known as the late Chancellor of the State. He possesses a very powerful mind, and is one of the first men of the State. Robert Gilchrist is the Attorney General of the State.

The chief criticism that will be excited by these appointments is the great preponderance of lawyers in the Commission. It will be generally thought that the great and varied material interests of the State should have been more fully represented.

However, the only work of this Commission is to suggest amendments for the consideration of the next Legislature, and the value or worthlessness of their suggestions will be decided purely upon their merits. As to what they shall suggest, we expect to have some suggestions to make.

Source:

Daily State Gazette, April 25, 1873.

THE CONSTITUTIONAL COMMISSION.

The brief comment we made yesterday upon the names of those gentlemen selected by Governor Parker, as Commissioners to prepare and suggest amendments to the Constitution of New Jersey, was sufficient to indicate the general satisfaction with which the nominations were received. Their confirmation by the Senate without delay or dissenting voice also proves that the Governor has acted wisely and well. In a partisan view, the Commission stands seven Republicans, six Democrats and one Liberal—so that should party questions arise the elements are neutralized, which is well enough as a precaution though the personal character of the Commissioners is a safer guaranty. But it is nominally, as well as in fact, a non-partisan commission.

Of the fourteen members, the profession of law has ten, a preponderance not too large in view of the fact that outside of the bar no avocation makes the subject of constitutional law a careful study. Others may be profound scholars in civil policy, the basis of organic law, but only the lawyer has that practical familiarity of the working of ethics when carried into action which constitutes the difference between the practical man and the theorist. Moreover, many of these lawyers, aside from that acquaintance with men and motives which is acquired in litigations, have had some schooling as legislators, which cannot fail to aid their deliberations in the Commission. Of this latter element, joined to that of sound legal attainment, Senator Taylor is a good example and he has worthy associates. As to the names drawn from high judicial position, Chief Justice Beasley, Chancellor Zabriskie, Chancellor Runyon and Attorney General Gilchrist, their fitness cannot be mooted or the propriety of their selection doubted. There was a bias, we suspect, in the strong representation given by the Governor to the Court of Chancery, but as the conservation of that distinguished tribunal is peculiarly a

matter of Jersey pride, the bias will escape criticism. The appointments in this respect are a warrant that no great changes will be attempted in the organism of the courts of law and that our judiciary will not be subjected to the chances and changes of the popular whim in excited partisan contests.

The other points in the make-up of the Commission give to agriculture, manufactures, finance and journalism each a representative, while the practical element is strong throughout the whole number. Nearly all have at one time or another, or in the present, engaged actively in political controversy and have decided party affiliations. There may be those who regret this and would prefer a choice from that pleasant and respectable class of our fellow citizens who, having never taken any interest in public affairs, may be supposed to be disinterested. To our mind, that is the trouble with them. They are altogether too philosophical. They never dabble in the dirty pool of politics and it is best to keep them sweet and clean outside of all the storms of ordinary public life. He who in such an era as that through which this nation has sublimely passed has so well maintained his personal self-righteousness as to be content with silence and inaction should be allowed to remain the retired calm he has chosen for himself. Those who have felt as well as reasoned, who have acted as well as believed, and persuaded as well as dreamed are the men to be trusted with so grave and solemn a task as the remodeling of our organic law.

We anticipate, however, that the work of the Commission will be confined to an adaptation of the Constitution of 1844 to the changed conditions of the State as it finds itself in 1873. The alterations proposed and asked for do not imply that our present Constitution is in anywise radically wrong in principle or that its builders, acting by their light in their time, committed any grievous error. The underlying principles of the Bill of Rights may not be disturbed. In verbiage, the word "white," now obsolete by the fiat of a higher power, will be stricken out. The work will be one mainly of detail, and the distribution of representation will have a large share of attention. The selection of the Commission by two members from each Congressional district is, sectionally, in favor of changing the manner of electing State Senators by establishing senatorial districts in place of the election of one Senator from each county, but the scheme will be discussed upon its merits. We doubt whether as much can be said of its probable reception in the Senate itself, where the rotten borough system which offsets the pine trees of Cape May for the men of Essex and Hudson has a strong hold under the name of conservatism and prudent checking of popular freaks. It will be the duty of the Commission to place this controversy before the Legislature in a clear light.

Source:

Newark Daily Advertiser, April 25, 1873.

THE NEW JERSEY COMMISSIONERS.

The New Jersey State Senate met in extraordinary session on Thursday, to receive nominations from Gov. Parker of commissioners to prepare and suggest amendments to the New Jersey State Constitution, to be presented to the Legislature at its next regular session, in January 1874. The nominations were promptly acted upon, and all confirmed without any delay beyond the usual reference to the Judiciary Committee, which reported them after a short recess. The gentlemen selected represent the legal and lay talent of the State, comprising the present Chief Justice Beasley, of the Supreme Court, and ex-Supreme Court Judge Martin Ryerson; the retiring Chancellor Zabriskie and the new Chancellor Runyon; Mr. Robert S. Green, a prominent lawyer of Elizabeth and late Presiding Judge of the Inferior Court of Union County; ex-Judge Carter, a former lay official of Gloucester County; State Attorney General Gilchrist, of Jersey City; Samuel H. Grey, a leading lawyer of Camden County and West Jersey; ex-Senator Benjamin Buckley, formerly President of the State Senate; the present President of the Senate, John W. Taylor, Esq., a foremost member of the Essex County Bar; Senator A. W. Cutler, of the Morris County Bar; Mr. Jacob L. Swayze, Cashier of the Sussex County National Bank; Hon. John C. Ten Eyck, who was the first Republican United States Senator from New Jersey; and John F. Babcock, Esq., for several years the Secretary of the State Senate and editor of the New Brunswick *Fredonian*. Politically, seven of them are Republicans (Messrs. Grey, Ten Eyck, Babcock, Ryerson, Buckley, Taylor, and Zabriskie), six are Democrats (Messrs. Carter, Beasley, Green, Cutler, Runyon, and Gilchrist), and one is a Liberal (Mr. Swayze, of Sussex). Ten of the number are lawyers, one a farmer, one a manufacturer, one a banker, and one an editor. The appointments of Messrs. Taylor, Cutler and Babcock, who are respectively members, and an officer of the Senate, were confirmed without reference in accordance with the usual courtesy. The time for the meeting of the Commission will be fixed by the Governor. The suggestion to amend the Constitution so as to provide for Senatorial representation by districts, instead of by counties, has already excited opposition in South Jersey, whose representation would thereby be reduced—the population of the five counties in the First Congressional District barely equaling that of Essex or Hudson alone, while they have five Senators; to Essex and Hudson one each. The Commission is an eminently judicious and satisfactory one, and their action will be looked for with great interest, as it is thought that their mature

judgment will largely influence the popular vote, which is to be the final arbiter in the matter.

Source:

New York Times, April 25, 1873.

THE CONSTITUTIONAL COMMISSION.

The Governor yesterday nominated to the Senate in special session and that body confirmed the Commissioners who are to prepare amendments to the State Constitution. The proceedings of the Senate are given elsewhere, and we append a brief sketch of the Commissioners.

First District—Benjamin F. Carter, Democrat, is a gentleman of great intelligence and high character, and is a druggist, residing at Woodbury, Gloucester County. He has been Judge of the Court of Common Pleas of his county for 15 years.

Samuel H. Grey, Republican, is a rising lawyer, of Camden. He is considered one of the ablest young men in South Jersey.

Second District—Mercer Beasley, Democrat, is the present Chief Justice of the State, is an eminent jurist, and regarded by many as having no superior in the State. He resides at Trenton.

John C. Ten Eyck, Republican, resides at Mount Holly, was formerly United States Senator, is an excellent man and conservative in his views. He was a member of the Convention which framed the present Constitution of the State.

Third District—Robert S. Green, Democrat, of Elizabeth, is a son of the late James S. Green of Princeton, under whom he studied his profession as a lawyer, and from whom, as well as from subsequent experience, he has derived large knowledge of the State and her laws. He has occupied many prominent official positions, and was Law Judge of Union County.

John F. Babcock, Republican, of New Brunswick, is an editor and publisher of the *Fredonian*, and at present Secretary of the Senate. In his appointment Governor Parker has recognized the press.

Fourth District—Jacob L. Swayze, Democrat, was formerly a merchant, and is now President of a bank at Newton. He is a man of energy, of character and intelligence. Mr. Swayze was a Liberal Republican, but now acts with the Democracy.

Martin Ryerson, Republican, of Sussex, is an able man and was formerly Judge of the Supreme Court. He has not practiced his profession since he left the Bench. He was a member of the convention which framed the present

Constitution.

Fifth District—Augustus W. Cutler, Democrat, is the present Senator from Morris County. Mr. Cutler is a lawyer of fine ability and very popular in his county and throughout the State. He is connected with the mining interests, is a prominent advocate of free railroads, equal taxation and popular education. He will make a useful member of the Commission.

Benj. Buckley, Republican, of Paterson, is a manufacturer. He was a Senator for two terms, having previously represented his district in the Assembly. He is a man of strong common sense, liberal and practical in his views, and possesses great experience.

Sixth District.—Theodore Runyon, Democrat, of Essex, was appointed Chancellor during the last winter. He is a leading lawyer, a man of marked ability, excels in his knowledge of human nature, and is in sympathy with the people. The Constitution is safe in his hands.

John W. Taylor, Republican, is at present President of the State Senate, a lawyer by profession occupying a good rank at the Bar. He has held several local offices.

Seventh District.—Robert Gilchrist, Democrat, of Jersey City, is the present Attorney General. He is learned in his profession, and thoroughly versed in the science of government. He is one of the best, if not the best read man in constitutional law in the State.

Abraham O. Zabriskie, Republican, is the present Chancellor. His term will expire in a few days. He is a man of strong mind and extensive legal experience.

The duty of this Commission is not to make a Constitution, but it only suggests amendments for the consideration of the next Legislature. The Legislature may agree to the amendments or a part of them, and may add others to be submitted to the people. This Commission in fact is nothing more or less than a committee to put in proper shape and clothe with legal phraseology the proposed amendments. We have no doubt they will prepare amendments on all subjects where it is thought the people may desire a change and recommend those they deem wise, so that if the Legislature should determine to submit them to the people they will find them carefully framed so as not to clash with what may remain of the present Constitution should they be adopted. To do this work well requires men of legal learning and exactness of expression, so that the Constitution when amended will be a harmonious whole. On this account, we suppose, a majority of the Commission are lawyers.

Source:

Daily True American, April 25, 1873.

[UNTITLED.]

The Special Session of the Senate was held at Trenton on Thursday, all the Senators being present except Messrs. McPherson of Hudson and Moore of Atlantic. The Governor sent in the following nominations of Commissioners to propose and suggest amendments to the Constitution:

1st, Benjamin F. Carter, D., Gloucester; Samuel H. Gray, R., Camden.

2d, Chief Justice Mercer Beasley, D., Mercer; ex-Senator John C. Ten Eyck, R., Burlington.

3d, Robert S. Green, D., Union; John F. Babcock, R., Middlesex.

4th, Martin Ryerson, R.; J. L. Swayze, Lib.; both of Sussex.

5th, A. W. Cutler, D., Morris; Benjamin Buckley, R., Passaic.

6th, John W. Taylor, R.; Chancellor Theodore Runyon, D; [both of Essex].

7th, Ex-Chancellor Abram O. Zabriskie, R.; Attorney-General Robert Gilchrist, D; [both of Hudson].

Messrs. Cutler, Taylor and Babcock were confirmed immediately, and the others in the afternoon; when the Senate adjourned.

The Commission is composed, properly, of equal numbers of each party, and will be recognized as a very able and impartial one. It has, however, an extra conservative and antiquated preponderance, which will be hostile to anything like radical changes in any direction, and be disposed to touch lightly or not at all such questions as may provoke opposition; and, since South Jersey and some of the smaller counties seem determined to fight to the bitter end any change in Senatorial representation, we doubt if anything finally comes of its labors beyond an increase in the compensation of the members of the Legislature. The trouble is, that whatever amendments they suggest must be approved by the Legislature, and the minority of the people of the State, represented in the counties of small population, is so thoroughly entrenched in the Senate that to carry anything over their heads is impossible.

Source:

Jerseyman, April 29, 1873.

[UNTITLED.]

The snubbing which Gov. Parker gave the Democracy of the Fourth District in the appointment of the Constitutional Commission is being resented by a considerable portion of the Democratic press and the politicians, and the censures will be still sharper when the papers of that party printed in the district shall be heard from. It is claimed that, giving by far the largest Democratic majority of any

district in New Jersey, it was entitled to be recognized in one of its representative men, instead of being put off with a "Liberal" like Jacob L. Swayze, who hasn't been in the party long enough to take rank in it. And then again, the appointment of two of the Commissioners from Sussex, and the utter ignoring of the counties of Somerset, Warren and Hunterdon, the two latter of which are the most steadfast and reliable in the State and give the heaviest Democratic majorities, is regarded as an insult and an outrage entirely without excuse. We think their points well taken. Swayze has "boxed the compass" in politics pretty thoroughly for the last twenty years. He has been "everything by turns, and nothing long," and was always "a troubler in Israel" to whatever party he belonged. There is nothing in his abilities, or himself, that entitled him to precedence over the prominent men of the other counties, nor anything in the achievements of Sussex at the last or preceding elections that gave it a claim for this double honor.

It is none of our funeral, of course; but we offer this excuse for the Governor: He doubtless thought the "Liberals" entitled to something for the omnibus load of recruits they brought over to the Democracy last fall. And when he looked at the lot - Freese, Scovel, Kilpatrick, Woodruff, Swayze, *et id genus omne* - he considered Swayze the cleanest and least objectionable of any of them, and so appointed him.

A great deal of complaint is also made against the Governor for the appointment of so many lawyers upon the Commission - giving to them an undue predominance; and also to the appointment of State officers, who, it is alleged, should have been rigidly excluded from it. Judging from our exchanges thus far received, the appointments as a whole are unsatisfactory, though there is here and there among the fourteen a name that is recognized as every way commendable and proper. The mass of the complaints, however, it should be said, come from the Governor's own party.

Source:

Jerseyman, April 29, 1873.

THE CONSTITUTIONAL COMMISSION - MR. CARTER.

The Woodbury, N. J. *Constitution* speaks of the Constitutional Commission generally, and of one of the members particularly, as follows:

THE COMMISSIONERS.—The appointments made by the Governor, at the extra session of the Senate on Thursday last, have been very favorably received by the State. While not strictly a political board it represents equally both the parties. The marked feature of the Commission is the large proportion representing the

legal profession. Of the fourteen selected, eleven are lawyers. To us this does not present serious objection, as the work coming before them will to a large degree involve questions of law, and it seems but proper that subjects of this character should receive the consideration of members of that profession. They are gentlemen of ability and integrity, and will bring to the discharge of their duties the desire to act for the interests of the State.

From among the gentlemen representing the Democratic Party, the Governor has seen fit to honor our town. Casting his eye on this pleasant place, he has chosen one of the most respected citizens—an intelligent, well informed, thoroughly honest gentleman. He is at comparative ease, and in his leisure has devoted his attention to much that will fit him as an efficient, active member. Judge Carter had much to commend him to the favorable consideration of the Governor, and he has that quality and character of mind which will give him a position in the Board creditable alike to himself and the people whom he represents. We are pleased at the choice made by the Executive, and we believe that the interests of the State have not been committed to more careful, prudent keeping.

The above commentary upon the personnel of the Commission appears to us much more reasonable than the objections that have been urged against it by some of our contemporaries. If the Commission were charged with the duty of a convention—the framing of an entire constitution for submission directly to the people, so large a preponderance of the legal or any other profession would have been unadvisable. But the object of the Commission is merely to put in proper legal form certain amendments for the consideration of the next Legislature. The present Constitution of the State being in the main satisfactory, a few amendments have been proposed in relation to certain subjects. To have called a convention merely to readopt the main part of the Constitution with a few alterations and additions would have been useless. The changes that such a body would have made could not well be foreseen. Their work would have been done as a whole, and would have gone directly to the people. It would not have been an amendment of the present Constitution, but the substitution of a new one in its place, and the people would have had to choose between the “ills they already have and others they know not of.” The Commission, on the other hand, will clothe in proper phraseology certain specified changes and have them prepared for submission to the Legislature. Inasmuch as there may be a difference of opinion as to the necessity for or desirability of these changes, and as the various interests of the State are necessarily involved, it was well to appoint business men and manufacturers on the Commission, and this was done. But outside of the deliberations of the Commissioners, the principal work will be legal in its nature

and will no doubt be done by the lawyers, subject, of course, to the advice of the lay members, whose practical and business views will undoubtedly be of great value and serve to secure for the interests they represent, wherever involved, the consideration which their importance deserves.

Source:

Daily True American, May 2, 1873.

THE CONSTITUTIONAL CONVENTION.

The Bergen County *Democrat* says: The approaching convention, to suggest amendments to the State Constitution, is the prevailing topic among our thinking men at present. Upon this convention will depend, to a great extent, the future welfare of the State of New Jersey, and it behooves them to weigh carefully all amendments which are suggested. The first Constitution of this State was adopted on the 26th of June, 1776, in accordance with a resolution passed in the Provincial Congress a few days previous, "That a government be formed for regulating the internal policy of this colony, pursuant to the recommendations of the Continental Congress." The Constitution drawn up at this time was expected to be only temporary, but it continued to be acted under, and to provide the essentials of a good local government for sixty-eight years. It was indeed so popular, that it was only after several attempts that its defects could be partially remedied by the substitution of that now in force.

The defects of the State Constitution of 1776 were mostly on the popular side, and except the most palpable error of failing properly to separate the legislative, executive and judicial powers, have been very imperfectly remedied by that adopted in 1844. Instead of a tenure during good behavior, so important to secure thorough independence in judicial matters, the judges are appointed for seven years. The most important defect is that the Governor has no effective veto. A bill which has passed our Legislature by corrupt means, will be sure to come out right, notwithstanding the present veto power. If anything can be said to be established by the experience of a century, it is that in a Democratic government the legislative power is most to be feared. Our present Constitution has provided several checks to improper legislation, but the time has now come when stronger and closer bonds must be thrown around our legislative bodies.

Source:

Newark Daily Advertiser, May 3, 1873.

CONSTITUTIONAL CONVENTIONS.

What has been avoided by not calling a State Constitutional Convention in New Jersey may be learned by reading the proceeding of the Pennsylvania Convention which has been sitting for months without any prospect of an immediate conclusion of its labors. Here is a comment of a Philadelphia paper upon its work as far as it has been done:

“Instead of assuming that the Constitution of Pennsylvania is a wise and comprehensive and good instrument, under which the State has grown and prospered with an astonishing success, under which law has been maintained and honored, social progress encouraged, industrial energies stimulated, education advanced, and all great public interests fostered and protected, the convention has practically assumed from the beginning that whatever is, is wrong. And in its endeavors to set this universal wrong right, it is traveling the entire circle of legislative possibilities, and giving us, instead of a compact code of organic law, by the simple addition of half a dozen necessary additions to the existing Constitution, a great mass of small ‘directions for use,’ in a way that savors more of the apothecary than of the chemist or the physician.”

The tendency of conventions of this kind is always towards a general upsetting of things. As a rule they only ought to be resorted to as an unavoidable necessity. The debates in the Pennsylvania Convention have developed such a diversity of sentiment that it would not be surprising if its work, after it is finished and submitted to the people, should be rejected.

Source:

Daily True American, May 3, 1873.

[UNTITLED.]

The *Sussex Herald* fairly boils over with indignation anent the Governor's nominations for the Constitutional Commission. It appears to be generally mad, and says some very severe things about His Excellency, whom it charges with having got “the maggot of the Presidency into his brain,” but is particularly wrathful over the name of Judge Ryerson. The Judge, however, is accustomed to that sort of thing from that source, and as his superior “intellect” is conceded by the *Herald*, his friends can take care of the rest. He was a member of the convention that framed our present Constitution, and no man upon the Commission will bring to the discharge of its duties a riper experience, a clearer mind, a more unselfish purpose, or a more thorough familiarity with the science of government and the needs of the State than that same *Sussex Democratic* abomination, Martin Ryerson.

Source:

Jerseyman, May 6, 1873.

AMENDMENTS TO THE STATE CONSTITUTION.

In view of the approaching meeting of the Constitutional Commission, we reproduce this morning an extract from the last annual message of Governor Parker on the subject of constitutional amendment. Nearly every needed amendment to the organic law of our State will be found foreshadowed in this extract. Others have been proposed, but many of them—to which it is unnecessary to refer specially at this time—are undesirable, and will probably be ignored by the Commission.

Perhaps the most important duty devolving upon the Commission is the preparation of a provision that will work a reform in our system of legislation. There is now so much haste in legislation as to render it positively unsafe, even where improper influences are not employed. The present safeguards of the Constitution have proved inadequate. The requirement that every bill shall be read three times in each House is continually disregarded or evaded, the excuse being that the amount of legislation to be got through with in a session is so large as to give no time for a liberal observance of the prescribed formality. The greater portion of this legislation consists of special acts of incorporation. The remedy for this evil, recommended by Governor Parker, is the adoption of a system of general laws wherever they will apply and the prohibition of special legislation. The passage of general railroad law was an initiatory movement in this direction. But it was optional with the Legislature whether they would pass it, and still is optional whether the policy it inaugurates shall be adhered to or whether the law shall be repealed. To secure the one and prevent the other it is proposed that an amendment be made prohibiting the enactment of special charters. There are other subjects in relation to which general laws should be firmly established. This done, the annual legislative sessions would not only be shortened by the diminution of the amount of work to be done, but whatever was done would be done well and in accordance with the other constitutional requirements. There is no doubt that one of the dangers of the times arises from loose legislation, by which abuses of all kinds creep into government over legislation in the way of sumptuary laws and special legislation, creating too many privileges at the expense of the public. It is true that, as a general rule, these matters should be left to the discretion of the Legislature, but the office of a Constitution is to restrict as well as to define, and in creating a Legislature in which are lodged vast powers, it is well to restrict whenever prudence and foresight dictate.

The recommendation to limit the amount of debt that cities may contract is also good and important; also that which forbids the taxation of the people for subscription by cities and townships to the capital stock of corporations. This kind of legislation is undoubtedly prolific of great injustice and abuse. Another recommendation especially worthy of the attention of the Commission is that which suggests an amendment absolutely forbidding and declaring void any legislation appointing or authorizing the appointment of officials to govern cities or communities other than those chosen by the people of the localities themselves. This kind of legislation, violative of the right of local self-government, has been increasing of late years and ought to be stopped. Practically, as well as a matter of abstract principle, it is bad. Wherever it has been tried it has bred jobbery and robbery, and has entailed a load of debt upon the people. The people are grossly imposed upon by having officials placed over them who are not accountable to them, and are without power to redress their grievances. In a word, local self-government and all the advantages it secures are destroyed together.

We suppose that the Commission, which meets on Thursday of this week, will not be in session more than two or three days before adjourning over for several weeks to enable the committees, which will be appointed at the first session, to prepare the amendments on the various subjects committed to them. The Executive Department will doubtless be entrusted to one committee, the legislative to a second, and the judicial to a third, while miscellaneous matters will be referred to a fourth. By this means, when they again assemble, the amendments will be in shape for consideration. Their proceedings will be watched with interest, and we have no doubt will enure to the benefit of the State.

Source:

Daily True American, May 6, 1873.

CONSTITUTION MENDING.

The gentlemen appointed by Gov. Parker to prepare amendments to our State Constitution will meet tomorrow, at noon, in the Senate Chamber in Trenton, in accordance with the Governor's proclamation. The names of the Commissioners are Abraham O. Zabriskie, Robert Gilchrist, Theodore Runyon, John W. Taylor, Augustus W. Cutler, Benjamin Buckley, Martin Ryerson, Jacob L. Swayze, Robert S. Green, John F. Babcock, Mercer Beasley, John C. Ten Eyck, Samuel H. Grey and Benjamin F. Carter. Of these, ten are lawyers, one an editor, and three in other business.

The leading points to which their attention will be given are the equalization

of taxes; the reduction of the large judicial districts, such as Essex and Hudson; and a reapportionment of Senators, or a remodelling of districts. Some of the grievances in regard to taxation were modified or removed by the late Legislature, such as the assessment of railroad property hitherto exempt from local levies; but there are still many inequalities to be remedied, such as the undue levy on the larger cities for the school fund and other purposes.

Some relief must very soon be given to the judges of courts in the large districts, or the men will break down altogether. Judge Bedle is literally working himself to death. He is doing the labor of three men, and labor of the most exhausting kind at that. There must be a change for the better, by making smaller districts, or by the appointment of additional judges.

Our system of Senate representation is a fraud on any known theory of Republican government. Now each county has one Senator only. The result is that Cape May County, with a little over 8,000 inhabitants in 1870, has equal power in the Senate with Hudson or Essex, with 130,000 and 144,000 respectively. We need not waste words on such an absurdly unjust system. Yet there is another evil connected with it which should be remembered, and that is the temptation to create new counties mainly for the sake of the Senator. For this purpose the representatives from the thinly populated districts may combine and create, with less than one-half the population of the State, a division in which they might have fifteen Senators, while an actual majority of the people would have only six. This style of representation must be changed. It is not within reason that the hundred-and-fifty thousand residents of Hudson County should submit to equality in the Senate with Cape May's eight thousand. If that county is entitled to one Senator, we are entitled to nineteen Senators, and Essex to even more.

We have once alluded to the main points in the amendments proposed to the Constitution of New York. They are these:

The Legislature is to consist of thirty-two Senators and one hundred and twenty-eight Representatives. In choosing the Senators the state is to be divided into eight Senate districts, each to have four Senators. At the first election all the Senators in each district will be chosen, but afterwards the Senate will be classified so that one Senator will be chosen each year. The Senators will then serve for four years, and be chosen from large districts, the object being by this arrangement to secure experience and a higher grade of ability. It also enables the whole people of the state to vote for Senators every year, instead of limiting the renewal of the Senate to scattered parts of the state. Representatives are to be elected by single districts annually.

The restrictions upon legislation are possibly the most interesting point in this new constitution. Bills can only be passed in either house by a majority of the

whole number of members elected. The governor's veto can only be overruled by two-thirds of the whole number elected. The governor is to have power to veto separate items in appropriation bills without defeating the whole measure. No private, special or local bill can be introduced after the first sixty days of the session without consent, by yeas and nays, of three-fourths of the whole number of members of the House in which it is offered. Three-fifths of the whole number are required to pass a tax bill. Upon railroads, the regulation of highways, juries, changes of venue, elections, and a long list of other subjects, the Legislature is restricted to the passage of general laws only, just as the Legislature is restricted in Illinois and as the convention proposes to do for Pennsylvania.

There is also an important provision that no person holding an office under the United States or any city government is eligible to the Legislature or any state office, and the latter are not eligible to the former. Officeholders, in their oaths of office, are required to swear that they have not spent any money or given any valuable thing to secure votes. This revised Constitution has been submitted to the New York legislature for such action as that body may determine, but as yet nothing has been done with it.

Throughout the United States, it will be observed, the subject of constitutional reform is being extensively considered. Pennsylvania, New York, New Jersey, Ohio and several other states are engaged in revising their state constitutions, and although different methods of revision are adopted, in each the chief task of the revising body is to throw additional safeguards around legislation.

Source:

Jersey City Times, May 7, 1873.

THE CONSTITUTIONAL COMMISSION.

It is too hastily taken for granted that the work of the Constitutional Commission about to commence its consultations will be confined to the topics suggested in the annual message of Governor Parker. Those will undoubtedly have full attention and will be substantially approved, but there are other reforms which, from the very nature of his office, the Governor would not be willing to formally suggest. One of these is the creation of the office of Lieutenant Governor. Another is the nomination by the Governor of the higher State officers—those who may be fairly considered as his cabinet, and their confirmation by the Senate. Still another is an enlargement of the veto power. None of these does the Governor offer for consideration, possibly because they

affect, and magnify, the dignity of his office. He may be in favor of, but unwilling to advocate, the enlargement of the executive power. In fact his entire message is devoted rather to methods of legislation than to changes in the forms of administration and representation. As to the latter, he only suggests that "it would also be well to provide for the system of minority representation in the General Assembly."

Yet all must see that representation will be the chief problem of the Commission. Each county is now a Senatorial district without reference to population. The pine trees of Cape May out-number and out-vote the citizens of Essex, and of that kind of minority representation we want less than we already have. Some of the most valuable acts of the last Legislature were more than once put in peril by the pine barren vote and fair play demands a different system. It is, to be sure, urged in its behalf that it is a conservative against the tyranny of majorities, but when, as for years past, at least six Senators can always be counted upon as elected by and steadfast to one single interest, the conservatism becomes oppressive. The plan of county Senatorships does not secure that deliberation and oversight upon hasty legislation in the Assembly which is claimed for it. It only makes it a certainty that a certain class of bills once through the lower house can count upon a reliable group of backers in the Senate.

The motive of a Senate, of two houses instead of a general constituent assembly, is to assure sectional representation and with it, by longer term of office and higher consideration of rank, to bring in a calmer and more experienced class of men. Small districts are likely to lack in good material. It is urged, therefore, that the Senate should be elected by districts apportioned as to population. One plan is to give each county one Senator and allow others more for excess in population. That, it strikes us, would make the body too large, and too near to the shifting passions of the people. Nor, on the other hand, is the absolute Senatorial district free from the same objection. New York, to illustrate, has thirty-two Senators, each representing an independent district, but its Constitutional Commission, which has just made its report, recommends a new, or rather the reproduction of an old, element of conservatism in the sense of permanence and extended choice of representatives. Previous to 1846, the arrangement was: Thirty-two Senators, serving each two years, elected from eight districts at large, so that each of the eight districts had four Senators, electing two each year. At least half the Senate was thus made up of men who had served in the previous term. The Commission now propose to return to this old plan with a modification. The Legislature is to consist of thirty-two Senators and one hundred and twenty-eight Representatives. In choosing the Senators, the State is to be divided into eight Senate districts, each to have four Senators. At the first election all the Senators in

each district will be chosen, but afterwards the Senate will be classified so that one Senator will be chosen each year. The Senators will thus serve for four years, and be chosen from large districts, the object being by this arrangement to secure experience and a higher grade of ability.

To illustrate in our own case. We elect a Governor for three years and many of our terms of office are multiples of three. In New York the Governor serves only two years and two is taken as the multiple. For us three seems the more convenient integer. Suppose then that there be twenty-four Senators, elected from four districts, each district electing two annually to serve three years each. In that distribution, the whole people would have an opportunity to vote for Senators once a year, thus securing a popular verdict upon general policy, and changing, should policy require, one-third of the entire body, enough, ordinarily, to break a majority. But at the same time the Senate itself would have enough of permanence and experience.

Source:

Newark Daily Advertiser, May 7, 1873.

SPIRIT OF SOUTH JERSEY PRESS.

We clip the following paragraph from a lengthy editorial in the Woodbury *Constitution* on the Constitutional Commission:

But without extending our objections at present, it seems to have resolved itself into demand for increase of local political power, without regard to antecedents or results. It is this feature in our National Senate which makes it the pride of the country. The great battle of the strong against the weak gave us the equal representation which has since been preserved. Formed after this national body the Senate of New Jersey presents the same marked feature, and the principle which framed the one should preserve us the other. As has been fittingly remarked this contest is a quarrel with the fathers of the country. Let us guard well against granting power for ambitious designs. Let us preserve the good we have.

Upon the same subject the Burlington *Enterprise* thus discourses:

Hon. John C. Ten Eyck, who was appointed last week by the Governor as one of the Advisory Commission on the amendments to the Constitution of New Jersey, presents a record of soundness as a lawyer and citizen which our young aspirants would do well to emulate. He "dares to do right," and will bring to the exercise of his high trust, a character and reputation unsullied by any political trick or device. His experience in public wants and the requirements of private and corporate rights cannot but redound to the benefit of the whole honored

commonwealth of New Jersey. Mr. Ten Eyck's experience in the United States Senate, and other public offices of trust and distinction, warrant the high hope indulged by the residents of the second district that the excess of population in East Jersey will not be allowed to override the agricultural wealth and enterprise of West and South Jersey, which is as productive of brains as of the comfort and luxuries of true life and manhood.

Source:

West Jersey Press, May 7, 1873.

[UNTITLED.]

The Morristown *Jerseyman* concludes an article on the Constitutional Commission as follows:

"We doubt if anything finally comes of its labors beyond an increase in the compensation of the members of the Legislature. The trouble is that whatever amendments they suggest must be approved by the Legislature, and the minority of the people of the State, represented in the counties of small population, is so thoroughly intrenched in the Senate that to carry anything over their heads is impossible."

If the *Jerseyman* will give us a single instance in which the counties of small population have taken advantage of those more populous, on account of the representation they now have in the Senate, we should be glad to see it. Or, if it will show any good reason for disturbing the question of representation in the Senate, as it now exists, we should like to see that. The result of the change, such as the *Jerseyman* advocates, would be to increase the power of the thickly populated counties, a thing by no means desirable, considering their proximity to dangerous influences. Besides, it is not contended that any benefit to the State is to result from electing Senators by districts instead of by counties.

Source:

West Jersey Press, May 7, 1873.

THE CONSTITUTIONAL COMMISSION.

The Commission appointed by Governor Parker, under authority of a resolution of the Legislature, to prepare and suggest amendments to the State Constitution, will hold its first meeting in this city today. There has been a great deal of severe, and perhaps some just, criticism of the personnel of this

Commission, but we are not disposed to be of those who prejudge and condemn work which has not yet been performed. The function of this Commission is not of a Legislative, Executive or Judicial character. Its work will possess no other authority, no other claims to our approval and consideration than arises from its merits. If this Commission shall suggest amendments to the fundamental law of the State, which shall seem wise and beneficent, we may through the provided methods, adopt them. If they shall suggest amendments which shall appear unwise innovations upon present customs, or at variance with the progressive tendencies and palpable wishes of the people of the State, we may reject them. It is pretty certain that only such amendments as are wise and good will survive the trying ordeal through which the wisdom and foresight of the founders of our government have ordained they should pass. They have first to be submitted to and approved by a majority of the members elected to the two houses of the Legislature; approved by a majority of the members elected to both houses of the succeeding Legislature, and then adopted by the people in a special election. There is not much danger that an obnoxious principle, or one in defiance of the will of the people of New Jersey, will run this gauntlet successfully. There is, however, a way in which the Constitution may be radically changed to the great detriment of the interests of a portion of the State, and to the jeopardy of the welfare of the whole, through the instrumentality of this Commission. It is by the suggestion of amendments that commend themselves to sectional interests, and may be forced through their various stages by the tyrannous exertion of a sectional majority. Of such a character is the proposition to reorganize the Senatorial districts of the State on the basis of population. The only argument urged in its behalf is, that under the present system a majority of the Senators are elected by a minority of the people of the State, and this argument comes only from those crowded centres of population chiefly made up of the overflowings of New York city. This argument assumes that majorities are infallible, and that wherein any part or function of the government is not ruled by them, it departs from the genius of our Republican institutions. Our government was not modeled upon that idea, and there are numerous notable exceptions to the rule of the majority. The United States Senate was wisely ordained as a complete check upon the House of Representatives. Nine states, sending only eighteen Senators out of the seventy-four, have a majority of the people of the Union. But this seeming inequality of Senatorial representation protects the smaller states against the encroachments of the larger, and has been found to work well. Suppose Senatorial districts of the United States were apportioned on the basis of population the same as the House of Representatives, what would become of the influence of the smaller states? Where would New Jersey, that now, through her Senators, occupies so

distinguished and honorable a position, be in the councils of the Nation?

The Senate of New Jersey was wisely modeled upon the same plan as the Senate of the United States, and it works as well and as satisfactorily. Reorganize our Senate districts on the basis of population, and "the State of Essex" will become nearer a reality than ever. We have more than once felt already the despotism of sectional majorities exerted through the House of Assembly. The proposed amendments to the Constitution would give to the rapidly increasing populations of Hudson, Essex and Union counties the entire control of the legislation of the State. The manufacturing and other interests of those sections would be constantly fostered by Legislative enactments, while the sometimes adverse interests of other, and then powerless sections, would be tyrannically sacrificed. Under our present system the agricultural and various sectional interests of the State have equal power and equal protection in the Senate. The interests of the large cities opposite New York already have a large preponderance of influence in the House of Assembly, and this is enough. To give them entire control of both Houses would be to make the Legislature at Trenton an adjunct to that at Albany. For the people and interests of the great cities on both sides of the Hudson are almost identical. We trust the Commission, which meets today, will decline to suggest this proposed amendment, and thereby avoid a bone of contention that would place North and South Jersey by the ears, and result in no good to the State. We venture to offer the Commission this advice at the outset, deeming it of vital importance.

Source:

Daily State Gazette, May 8, 1873.

[UNTITLED.]

Among the other matters to which the attention of the members of the Constitutional Commission has been called, is that of a change in the number and the manner of appointment of Justices of the Peace. The suggestion comes from Hudson County, where there are swarms of these officers, of the very lowest grade of character and qualifications, but the evils incident to the present system of election are not confined to that locality. These Justices' courts are pre-eminently the courts of the poor, and so far as it is possible to secure it, they should be in the hands of men of character, responsibility, having proper qualifications, and beyond the reach of corrupting influences. The election of Justices of the Peace by the people is a failure, so far as effecting the choice of the right sort of men is concerned, and some better way of filling the office should be devised; while

some sort of examination into the character and qualifications of the person to be invested with the powers and duties should precede a Commission to execute them.

Source:

Jerseyman, May 13, 1873.

SENATORIAL REPRESENTATION.

The Newark *Courier*, speaking of the proposition to reorganize the Senatorial districts of this State, changing the basis of representation from geographical divisions to population, says:

The point of the Commission to consider is simply, whether it is just and right that a county with a population of 8,529 should have the same representation in the Senate as one having a population of 143,000; whether, in other words, under a popular system of government, a population of 143,907 in Essex should be represented by only one vote while a population of 149,058 in six other counties should be entitled to six votes on all questions of legislation—it being remembered that the more populous communities have at all times a vastly greater and more vital interest in legislative measures than those which are sparsely settled. We do not propose to argue this question; the mere statement of it is sufficient to show the propriety of the proposed change.

The argument which seems so convincing to the *Courier*, would probably appear considerably less forcible should it give something more than a mere superficial glance at the question. The *Courier* will discover, if it looks a little closer at our system of government, that geographical divisions exert almost as much influence as popular majorities. We showed a few days ago that nine states sending but eighteen Senators to the U.S. Senate have a majority of the population of the Union. In other words a minority of the people elect three-fourths of the United States Senators. Thus it appears that the highest legislative body in the government is controlled by geographical divisions, and not by popular majorities. The President of the United States is also frequently elected by a minority of the people. Jackson was, in 1824, the majority which all others had over him being 40,318. Four of our Presidents since that time have been elected despite an adverse majority; Polk, with a majority against him of 24,227; Taylor, with a majority against him of 152,204; Buchanan, with a majority against him of 317,609; and Lincoln, in 1860, with a majority against him of 953,680. So that the highest office of the government is largely controlled by geographical divisions. It might thus happen—and did in 1860—that the President and Vice President, and

three-fourths of the Senate, would represent a minority of the people. It is clear from these facts that the wise founders of this government did not recognize popular majorities as being safe depositories of power in all cases.

The question for us to consider is, whether the influence in the higher branch of the State Legislature which is now accorded to the geographical divisions called counties, conduces to the welfare of the people, and is a wise and wholesome policy. For reasons that we have already stated, we think it is. There is such a thing as the tyranny of majorities, and it behooves us to erect and maintain some safeguard for the protection of the minorities against it. If we change the basis of our Senate districts from geographical lines to population, we sweep away the only barrier against the despotism of majorities which the people of New Jersey now have.

There is another reason why the influence of the counties in our Legislature should be preserved intact. The tendency of the age is towards the concentration of political power in large cities. New York city largely controls the government of the State. Its influence at Albany is far more than commensurate with its population, and the wise policy of the State would be, not to augment, but to curb and circumscribe its power. The city of Philadelphia also exerts a similar potent influence over the legislature at Harrisburg. The influence thus wielded by these cities is anything but beneficent. The political ills which both states have suffered are largely attributable to it. Take New York and Philadelphia out of the politics of those states and there would be an instant and marvellous purification of the political atmosphere. Suppose, instead of doing this, or of limiting the power of these cities to their present bounds, the people of the state should strip themselves of an influence by which alone they are enabled to withstand the encroachments of the cities, and which would make the latter the absolute and irresistible masters of the politics and government of the state?

This is what it is proposed to do in New Jersey. The great centres of population rapidly growing up from the overflowings of New York on the west bank of the Hudson, aspire to exert the same influence at Trenton that New York and Philadelphia wield at Albany and Harrisburg. The people of the comparatively rural parts of the State possess a barrier to this in their Senatorial representation. And now these growing cities ask the people to remove this barrier by surrendering their right of county representation. If the founders of the State government had not erected this safeguard these aspiring cities would have ruled the State with a rod of iron long ago. But, fortunately, that safeguard cannot be removed save by the voluntary act of the counties themselves, represented in the Senate. Every proposed constitutional amendment has to be voted upon by the Senate, and this settles the fate of the one we are discussing.

Source:

Daily State Gazette, May 14, 1873.

THE CONSTITUTION OF NEW JERSEY.**The Legislature.**

We observe that a number of amendments to the Constitution of New Jersey are proposed: some in relation to the election of officers now appointed by the Governor and Senate; others in relation to the Governor's veto, and others of minor importance. One Lycurgus proposes to give additional Senators to counties with large cities in them, like Essex and Hudson; while several Solons would district the State into senatorial districts, with equal population. Still others propose plans for obviating the necessity of *special* legislation.

All these reforms may or may not be demanded by the people. Whatever their merits, they will not cure the great evils we now experience. Take away from the Legislature the power of special legislation, and yet the corruption and venality which taints the Legislative power will still remain. The great evil of the day is not *special* legislation, but *corrupt* legislation. Laws have become a purchasable commodity, and are bought and sold with triumphant impunity. There can be no security for property when franchises in which our citizens have invested millions, may be impaired in value and made worthless by corrupt legislation, or where vast corporations may be created with unlimited power to tax the community or infringe vested rights and interests.

The present organization of our Legislature invites corruption. It required now but a small sum of money to secure a majority of Legislative votes. The organization of the Legislature at present, is faulty in two respects:

1st. There is a want of responsibility in the members of the most numerous House, owing to their being elected by districts.

2nd. The paucity of the members of the Lower House facilitates the work of corruption.

First let us consider the election of members by districts. A district is composed of contiguous townships or wards. Its parts act together for no other purpose but the election of a member. Custom has sanctioned the selection of candidates alternately from the different townships or wards composing the district. There is a constant change of members therefore, and new men without experience are constantly chosen. The members do not feel a proper responsibility when they know that no matter how they behave they must be superseded, at furthest, in two years. Where a member represents a single township or county, he feels a direct responsibility to a *political organization*,

with which he acts all his life in relation to local matters. He does not feel the same responsibility to the constituency of his district, which is liable to be changed with each succeeding census. Time and space will not permit me further to elaborate under this head.

Second: The members should be elected by townships, and each township should be allowed to elect one member, if it should so choose. Where a township had a large population, it should be permitted to send one additional member for every ten or twenty thousand population it contained. The townships should pay their own members. The rural townships could not afford to pay their members as much as the cities would be willing to pay theirs. The rural townships would often omit to send a member, unless they had some special interest at stake.

This was the system under the first constitution of Massachusetts. The legislature of that state under that constitution seldom sat more than six weeks, and the character of its laws was better than it is now. In a large legislative body, composed of six hundred members, more or less, like the British Parliament, or under the first Massachusetts constitution, the business is generally conducted by a few members of superior knowledge and parliamentary experience. Such a Legislature in New Jersey would probably despatch business with much greater celerity than it is now disposed of. Such a Legislature could hardly be bought by the most enterprising lobby. The number of the members would generally deter corrupt attempts on their virtue.

Such a system would give the people a complete representation. Now, under the District System, a member represents only one part of it, and is often adverse to the interests and wishes of another part. Unless corruption can by some new organization, be excluded from our halls, legislation will become a farce. Money will purchase any law which the cupidity of individuals or corporations may dictate. But it is not laws and acts of incorporation only, which may be bought. The Legislature elects Senators of the United States. Eventually, if the work of corruption continues, and our Legislatures do not improve in character, no one but a millionaire will be permitted to represent New Jersey in the Senate of the United States.

S[amuel]. J. B[ayard].

Source:

West Jersey Press, May 14, 1873.

[UNTITLED.]

The Constitutional Commission made an excellent beginning last week in the selection of officers. Ex-Chancellor Zabriskie will make an admirable presiding

officer. In the choice of Secretaries the Commission was especially fortunate. Two more competent and reliable gentlemen could not be found in the State than Joseph Naar, of the Trenton *True American*, and Major E. [J.] Anderson, of the State Comptroller's office. After arranging the preliminaries for subsequent work, the Commission adjourned to meet on the 8th of July.

Source:

West Jersey Press, May 14, 1873.

LEGISLATIVE REFORMS.

Among the subjects which will demand and doubtless receive a large share of attention from the Commission to prepare amendments to the Constitution of the State, is that of legislative reforms. There is no question that will come before the Commission more important than this, nor one that more urgently calls for consideration. The evils and abuses which have crept into State legislation and have come to largely usurp the place of its original functions and purpose, has forced upon the attention of the country the imperative necessity for a sweeping reform. It is obvious to thoughtful men that reform, the abolition of Legislatures, or the final destruction of our system of government, are alternatives that must be courageously and promptly met. How the reform of our Legislatures shall be effected is the great problem. The following suggestions, made by a correspondent of the *West Jersey Press* who has evidently devoted considerable attention to the subject, are interesting and forcible:

The organization of the Legislature at present, is faulty in two respects:

1st. There is a want of responsibility in the members of the most numerous house, owing to their being elected by districts.

2d. The paucity of the members of the Lower House facilitates the work of corruption.

First let us consider the election of members by districts. A district is composed of contiguous townships or wards. Its parts act together for no other purpose but the election of a member. Custom has sanctioned the selection of candidates alternately from the different townships or wards composing the district. There is a constant change of members therefore, and new men without experience are constantly chosen. The members do not feel a proper responsibility when they know that no matter how they behave they must be superseded, at furthest, in two years. Where a member represents a single township or county, he feels a direct responsibility to a *political organization*, with which he acts all his life in relation to local matters. He does not feel the same

responsibility to the constituency of his district, which is liable to be changed with each succeeding census. Time and space will not permit me further to elaborate under this head.

Second: The members should be elected by townships, and each township should be allowed to elect one member, if it should so choose. Where a township had a large population, it should be permitted to send one additional member for every ten or twenty thousand population it contained. The townships should pay their own members. The rural townships could not afford to pay their members as much as the cities would be willing to pay theirs. The rural townships would often omit to send a member, unless they had some special interest at stake.

This was the system under the first constitution of Massachusetts. The Legislature of that state under that constitution seldom sat more than six weeks, and the character of its laws was better than it is now. In a large legislative body, composed of six hundred members, more or less, like the British Parliament, or under the first Massachusetts constitution, the business is generally conducted by a few members of superior knowledge and parliamentary experience. Such a Legislature in New Jersey would probably dispatch business with much greater celerity than it is now disposed of. Such a Legislature could hardly be bought by the most enterprising lobby. The number of the members would generally deter corrupt attempts on their virtue.

Such a system would give the people a complete representation. Now under the District System, a member represents only one part of it, and is often adverse to the interests and wishes of another part. Unless corruption can by some new organization be excluded from our halls, legislation will become a farce. Money will purchase any law which the cupidity of individuals or corporations may dictate. But it is not laws and acts of incorporation only, which may be bought. The Legislature elects Senators of the United States. Eventually if the work of the corruption continues, and our Legislatures do not improve in character, no one but a millionaire will be permitted to represent New Jersey in the Senate of the United States.

Source:

Daily State Gazette, May 16, 1873.

AMENDMENTS TO THE CONSTITUTION.

At the last meeting of the Constitutional Commission at Trenton, Attorney General Gilchrist submitted several proposed amendments to the Constitution of New Jersey, offered for consideration by J. Daggett Hunt. We have been requested

to publish them. This we shall do, with some cursory remarks on each proposition, without attempting any elaborate discussion. The first proposition is:

That the Secretary of State, Attorney General and all prosecuting attorneys be elected by the people; also the clerks of the Supreme and Chancery courts.

We think the present method of appointing these officers preferable to the change proposed. Were they elected by the people they would be nominated by a convention of delegates, in which the popularity of the candidates would be considered before either his capabilities or fitness.

In the *Nation* of the 17th of April last, the editor of that very able and excellent hebdomadal, shows that the people of the United States are beginning to have a discrete distrust of their own infallibility. In all the states which have of late modified their constitutions, the power of the masses has been restricted. The people being the sovereign, the same jealousy of their power is beginning to be entertained which our ancestors, in their long struggle with their British sovereign, manifested. Our state executives and presidents are not sovereigns, but the people *are*, and true democracy requires that whoever wields the absolute sovereignty, being not infallible, should be subjected to wholesome restraints. Our limits will not admit of further notice of the first proposition.

The second is:

The State Treasurer and Comptroller to hold office for three years, commencing simultaneously with the Governor.

It may be well to appoint these officers for three years, but it is not essential that they should hold office simultaneously with the Governor. Good reasons for a different course could be given.

THIRD.—Judges of the Court of Common Pleas to be appointed in same manner, and to serve for three years.

We think it would be better to have but one judge for each Court of Common Pleas of each county. He should be learned in the law, appointed by the Governor for five or ten years, and vested with all the powers of the present Court of Common Pleas.

FOURTH.—To create a new office—Lieutenant Governor—whose duty it shall be to preside over the Senate.

We think this amendment desirable. The President of the Senate and the Speaker of the House of Assembly are not chosen with the view to their exercise of the functions of Governor, which they may, in case of vacancy in the office of Governor, be required to do. A Lieutenant Governor would be chosen with that view, and, therefore, would more likely give satisfaction.

FIFTH.—The veto power of the Governor. Mr. Hunt pays considerable attention to this, and thinks a two-thirds vote of the Legislature should be required

to overthrow it.

We think this proposed amendment would be an improvement. At present the Governor's veto is no check on vicious legislation; but, if it should require two-thirds to overcome it, the knowledge of that fact would, in many cases, prevent the introduction of doubtful measures.

SIXTH.—The State, Mr. Hunt maintains, should hold no stock in any railroad or other corporation, and the amount of stock invested in corporations belonging to the State (New Jersey holding about 4,500,000 in Camden and Amboy) should be sold, and the money placed in the sinking fund.

SEVENTH.—Relative to the complete independence of municipalities. Commissions for local purposes should be prohibited. Furthermore, no property either ecclesiastical or corporate, shall be exempt from equal or uniform taxation.

EIGHTH.—No new county shall be erected without the consent of two-thirds of the people interested.

The three above propositions we should approve.

NINTH.—The Senatorial representation. No county, Mr. Hunt thinks, should have less than one Senator, but the larger counties, such as Essex, Passaic, Union, &c., should have a larger representation. This, he maintains, would be just and right, and in strict conformity with true democratic-republican principle.

For reasons which we have heretofore assigned, we are opposed to any such amendments. The Democracy of numbers is sufficiently represented in the Governor and House of Assembly, without subjecting the Senate to its despotism. The great sovereign (the people) must be checked, or liberty will not remain secure.

TENTH.—The sessions of the Legislature should, he thinks, be limited to forty days, and be held biennially, members to receive liberal compensation for their services.

We think it far better if the members of the Legislature were paid a liberal salary and their services not restricted as to duration. They would then, no doubt, be short enough. Biennial sessions may do well in an interior agricultural state, but would hardly work satisfactorily in New Jersey.

The rest of Mr. Hunt's suggestions are worthy of consideration, and would, we think, if adopted, improve our State Constitution.

ELEVENTH.—Bribery in any way, shape or manner is forcibly referred to and an amendment debarring parties convicted of such a crime from ever holding the right of citizenship is strongly urged.

TWELTH.—Hereafter no bills for railroad charters should be entertained. All legislation for such purposes should be supplementary to the general railroad law.

THIRTEENTH.—The term of sheriffs of the several counties should be for three

years.

FOURTEENTH.—The offices of lay judges should be abolished.

Source:

West Jersey Press, May 28, 1873.

TAXING CHURCH PROPERTY.

This subject is agitating the remodelers of constitutions in other states besides our own. It is proposed, in the convention now in session for the revision of the constitution of Ohio, to omit the provision exempting church property from taxation, and thus to render the property of churches liable to the same rate of taxes imposed upon the property of individuals and corporations. According to the United States statistics, there was \$354,483,581 worth of church property exempt from taxation in the entire Union in 1870. Of this \$18,347,150 belonged to New Jersey, and \$530,000 to the county of Camden, of which at least one-half is located in this city, \$215,000, which, if taxed at the same rate as other property last year, would have netted the city \$4,731. By this it will be seen that every taxpayer has a personal interest in taxing church property. That it is right to do so cannot be seriously questioned. If this subject should come within the province of the New Jersey Constitutional Commission it would be well for them to incorporate a provision in the amended Constitution making it impossible for future Legislatures to exempt property of any kind from taxation. The duty of maintaining the government rests alike upon all, and a portion of the means to do so should come as well from church property as from any other.

Source:

West Jersey Press, June 4, 1873.

CONSTITUTIONAL AMENDMENTS.

Any suggestions that will afford our Constitutional Commission a guide in the important labors upon which it is soon actively to enter, are now in order. It is, indeed, the duty of the press carefully to scan every thing bearing upon the subject of constitutional revision, and to glean therefrom such ideas as may appear to be of value in the proposed remodeling of the Constitution of this State. It is almost entirely from this source that such information is disseminated and availed of. The very demand for constitutional conventions has been created by the press, and they have been called into existence by its potent voice.

Mr. Charles Nordhoff, one of the most accomplished and thoughtful writers in this country, has written a letter suggesting some amendments which ought to be incorporated in the New York Constitution. **[Ed. Note: Charles Nordhoff (1830-1901) was a journalist and author who wrote for several New York newspapers, including the New York Evening Post, the New York Tribune and the New York Herald.]** These suggestions are the results of much study of the subject of state government by Mr. Nordhoff, and are entitled to consideration by constitution revisors in every state. They do not all apply with equal force and pertinency to New Jersey, but some of them relate to questions which have excited much attention in this State. One of these is the suggestion that a state Constitution ought to provide one general system for the government of cities, as it does for that of counties. He thinks the article of the Constitution relating to the government of cities should (I believe) provide, among other things, that the people should elect a Mayor once in two years. That the Mayor should appoint (and at his own will remove) the heads of the executive departments, which ought to be specified in the Constitution; that the people of the city should elect annually also a council or legislature (of one or two houses as you please) who shall legislate for the city, make municipal laws, and appropriations; and further, this part of the Constitution should contain certain guards or prohibitions—as for instance, the City Council should be forbidden by the state Constitution to give away, without proper recompense, to private corporations, any property of the citizen—as to allow a city or horse railroad company to use the streets without paying for the privilege; and the same with gas companies. He thinks that the revenue properly derivable from steam, horse railroad and gas companies ought to suffice, in any city, to keep the streets clean all the year round.

In regard to special legislation, a gross and increasing abuse which we have frequently urged the abolition of, Mr. Nordhoff says it should be rigorously prohibited by being made unconstitutional. He truly adds, that “Special legislation means special privileges granted to a few men and denied to the many. Railroads, banks, canals, manufacturing industries—all that citizens can rightly do—can be created and managed under general laws, giving equal rights and privileges to all the people; and he who asks for what he has no right to, and on the face of his demand seeks for a benefit to himself at the cost of his fellow citizens.”

Another suggestion which he makes is one that would meet the hearty approval of a majority of the temperance men of New Jersey. It is that the principle of “Local Option,” be incorporated in the Constitution. This we should rather doubt the wisdom of doing until the operation of such a system has first been thoroughly tested. If, on trial, Local Option should prove a beneficent principle of government, it might be incorporated in the Constitution at any time.

But we have no such proof at present.

Source:

Daily State Gazette, June 6, 1873.

THE NEW JERSEY CONSTITUTIONAL COMMISSION.

The subcommittee of the New Jersey Constitutional Commission met at Trenton a few days since, and after consultation adjourned until July 1. The Commission will reassemble on July 8 to hear their report, but is probable will not transact any business until late in the year. The entire work is being discussed, and new suggestions worthy of consideration are constantly being made, and from the general interest in the whole matter, valuable practicable results will no doubt accrue. One of the matters for which reform is suggested is that of the jury system and the rights of witnesses. The present method of selecting jurors is defective in important particulars, and it is also considered desirable to have some provision of modification in the system which requires a unanimous verdict for the settlement of any question, criminal or civil, submitted to a jury which tends constantly to defeat the ends of justice, and to promote expensive and vexatious litigation.

Source:

New York Times, June 9, 1873.

MINORITY REPRESENTATION.

Among the subjects which have of late years engrossed much of the attention of our statesmen is that of minority representation. It has long been apparent that the system of majority rule was defective, and that it lamentably failed as the exponent of representative government. The tyranny of majorities has been found to be as onerous and oppressive as tyranny of individual despotism. Majorities may be manipulated by the shrewd and unscrupulous devices of unconscionable demagogues. The science of controlling them has become so perfect as to subject all our dearest rights and interests to their sway. Thoughtful and patriotic men have therefore sought for some means of preserving the rights and interests of the people in the concrete. Minority representation seems to offer the surest and justest means. The following letter from Hon. Joseph Medill, the talented and patriotic Mayor of Chicago, to the President of the Ohio Constitutional Convention, sets forth in a striking light the worth and advantages of this system:

MAYOR'S OFFICE, CHICAGO, May 31, 1873.

Hon. Samuel F. Hunt, Ohio Constitutional Convention:

DEAR SIR: You ask me whether the system of minority representation adopted in Illinois operates to the satisfaction of our people?

I unhesitatingly reply in the affirmative. It proves in practice to be just what was promised and predicted in its behalf. The experiment is conceded to be quite successful, and is regarded as a great improvement on the old one-sided system of representation. It is far more popular now than it was a year ago, before the first election under it. Then there were doubts as to its practicability. Its opponents said the people would not be able to comprehend it, and that confusion would result at the polls, that bad men would slip into the Legislature by its means, that it would enable the minority to rule the majority, and that the interests of the people would be harmed or sacrificed.

Not one of these prognostications of evil has come to pass. The voters understand the new system without difficulty or much explanation, and discovered nothing abstruse or incomprehensible in it. They were quick to discern that it gave them increased power and liberty of action, and that the old and arbitrary restrictions in the freedom of the ballot were removed, and they will be slow to consent to yield back the cumulative vote or totality representation.

The new system commends itself as more democratic than the old. The whole mass of the people are now represented in the popular branch, instead of a mere majority as formerly. Every voter, whether a Democrat or Republican, has now the man of his choice in the Assembly to represent him. Neither party is now unrepresented in any district. The minority is no longer practically disfranchised, as was previously the case. The vote of the majority is not impaired or disturbed. The stronger party at the polls have control of the House, but the weaker one is represented in proportion to its strength. The unjust monopoly of representation is broken. Every Democratic district elected two Democrats and one Republican, and every Republican district two Republicans and one Democrat to the House. The exception to this rule only occurred when a candidate of the stronger party was unpopular, or that of the weaker party the fitter man to such a degree as to constrain enough of his opponents to vote for him to elect him. No party advantage was gained from these exceptional cases, because they were as numerous on one side as the other—gainer and loser balancing each other.

It was a noticeable fact that, taken as a whole, the so-called “minority members” were the ablest men. Several of the strongest and most conspicuous members were sent to the Assembly by the “plumping” vote of the minority, showing that the weaker party, as a rule, were more careful and conscientious in making selections of representatives than the majority side. This result was predicted by the friends of the new system when advocating its adoption before

the people, but was hooted at as wholly improbable by its opponents, who now confess their error and admit its verification.

Minority representation in Illinois has been demonstrated to be an actual reform—not a change, merely, but an improvement in the science of popular government, and the people are pleased with the operation of the experiment, and intend to give it a fair and thorough trial. At first many were hostile to its adoption; but few of them would not vote for its abrogation. Those who were at the outset in doubt as to its wisdom are now its supporters, or willing to await future developments.

The only opposers of this new system are of the Bourbon breed, who forget nothing and learn nothing, or the clan of courthouse partisans who believe in disfranchising their political opponents from motives of unscrupulous selfishness and narrow-minded illiberality.

It is to be hoped that your convention will at least submit this electoral and representative reform as a separate proposition to popular ratification or rejection, and let the people decide for themselves whether they want it. Ohio has generally been in the lead, and never in the rear of the column of progress.

Very respectfully,

JOSEPH MEDILL.

Patrick Henry said, in his immortal speech, that the only light by which his feet were guided, was the light of experience. Here we have the experience of one of the most populous, enterprising and progressive states, upon a problem in government of the gravest importance. We cannot afford to disregard the lesson. The demand for the reform which this system introduces is not less urgent in New Jersey than in the West. We commend these words of Mr. Medill to the Constitutional Commission.

Source:

Daily State Gazette, June 10, 1873.

TAXING CHURCH PROPERTY.

MR. EDITOR:— I see you advocate a constitutional restriction which shall require the taxing of church property. You certainly can not have weighed the question, or you would not thus go upon the record.

Churches are primarily designed to promote religion; but, incidentally, they promote a good many other things. They often reform men, and thus make good and thrifty citizens of those who were, in one way or another, a public burden. They restrain multitudes from wreck of character and thus lead them to thrift and

prosperity, when otherwise, instead of helping to support, they would help to tax the public treasury. They largely promote thoughtfulness and conscientiousness, and thus all the elements of industry, thrift, prosperity and good citizenship. By their efficiency in promoting good morals and order, churches become an element of power as a police force, and they thus favorably effect public interests in two ways—by increasing taxable property, and thereby enlarging the sources of income, and by lessening public expenses. The force of these views can only be felt by those who have seen communities where there are no churches; such a state of things can hardly be imagined by your readers. Nor is the question of expense alone involved, but also that of morals, order and safety to property and person.

Now this property and also the running expenses of the churches, by which they are rendered efficient, are furnished as an outlay of benevolence. Those who furnish it have no pecuniary advantage arising from it. By exempting this property from being taxed, this element of good government is supplied by all tax payers, and is distributed somewhat equally among them; but to require those who first contribute this property and then voluntarily meet the expense of rendering it efficient for good ends, also to pay tax upon it, and to this extent relieve non-church supporters, would not only be unequal and unfair, but a flagrant injustice. If this proposition be seriously entertained, the Christian people of the State will certainly be heard from.

QUI

Source:

West Jersey Press, June 11, 1873.

TAXING CHURCH PROPERTY.

MR. EDITOR: Your very moderate and sensible article, in your issue of the 4th inst., on the justice and propriety of "Taxing Church Property," and that it would be well to incorporate such an article in the proposed amended Constitution of our State, seems to have ruffled the temper of a certain "Qui" very much; indeed, so much so that he thinks you could not have reflected sufficiently upon what you were writing. It strikes me the reverse is the case, and that the subject has been but lightly thought over by himself, as I shall endeavor to prove from his own article.

First, then, he says, "Churches are primarily designed to promote religion." Very true, that is just exactly what they should do, promote pure and undefiled religion: but, unhappily, that is not always the case, and instead thereof engender discord and contention that require the care and protection of law, with its expensive administration. Still another reason is, that churches are becoming so costly and extravagant in their erection and maintenance, they are fast rolling up

hundreds of millions of dollars, that contribute but very moderately in lessening the expense of government, as but a limited number avail themselves for an hour or so of a *rest* in one of their luxurious seats, while the vast majority for whom our expensive machinery of government is required, are almost perfect strangers to such places, and can only be controlled by extensive police arrangements for the preservation of good order and public safety, of which the church property fully enjoys her share. Then why should she not contribute her portion of the necessary expense? But, again, as the church adds to her members and thus to her wealth, does she not hold and enjoy it? Her vast accumulations prove this, and often does she swoop down upon, and become possessed of, property that, before her acquisition, was a valuable tax-paying interest. While a church erected on such a property may to a certain extent benefit the community, it does not always enhance the value of property in its immediate vicinity or even neighborhood. If churches were a species of poor property, that required the kind, fostering care of government, then the claim for such exemption from taxation would [have] some force; but, costly as they are now getting to be, they tempt the cupidity of the evil disposed, and it becomes as necessary to guard them as the private property of the tax-paying citizen.

Secondly, he says that "If this proposition be seriously entertained, the Christian people of the State will be certainly heard from." If by this it is to be understood that a political question or issue will be raised upon it, a more unwise, unsound and injudicious step cannot possibly be conceived or taken, for if they "weary and faint when contending with horsemen, what will they do in the swellings of Jordan?"

Camden, June 14, 1873.

M.

Source:

West Jersey Press, June 18, 1873.

THE NEXT LEGISLATURE.

The disturbing element of railroad strife in the Legislature, by reason of the General Railroad Law passed at the last session, is now, it is to be hoped, forever banished from the deliberations of that body. The members will be free from the influence of a lobby, unscrupulous as to the means of effecting its object. They can legislate for the public welfare without bargaining to swap their votes for schemes of interested speculators. The next Legislature will have to act upon the constitutional amendments submitted by the Commissioners appointed for that purpose. The people ought to select their candidates for the Senate and the House

of Assembly with a view to the important subject of modifying the Constitution according to the enlightened judgment of the eminent men whose duty it will be to suggest proper amendments.

We may be well assured that the people in the eastern counties who seek to bring about organic changes, affecting the distribution of political power for their benefit, will send strong men to advocate their views. The western and southern counties should also be prepared with representatives who will be able to cope in argument with their distinguished opponents. We know what are our rights, and what our interests demand. Let us select men who can maintain and defend them. The next Legislature, owing to this peculiar duty devolving upon it, will be one of the most important legislative bodies which will have assembled for many years in New Jersey. The Commissioners will probably submit amendments to the executive, judicial and legislative departments of the State government. If they should do so, and their propositions should prevail, they will to a certain extent revolutionize the constitutional organization at present existing. The importance therefore of the character of the next Legislature cannot be too highly appreciated. It is to be hoped that the people will duly consider that importance, and select for representatives judicious, discreet and intelligent men, those who are equal to the task of coping with those intellectual giants who will most certainly find their way there from East Jersey. To be forewarned is to be forearmed.

Source:

West Jersey Press, June 25, 1873.

THE CONSTITUTIONAL COMMISSION.

The lamented death of ex-Chancellor Zabriskie, and the resignations of Chief Justice Beasley, Chancellor Runyon and ex-Judge Ryerson, have materially changed the organization of the Constitutional Commission. The complaint that it was too largely chosen from the profession of the bar is remedied. The resignations of Messrs. Beasley and Runyon, though based on the ground of their preoccupations in professional duties, was probably somewhat in deference to the feeling that those who best construe the law are not necessarily the best judges of what the law ought to be. The declination of Judge Ryerson is entirely on the ground of his health, and is in all respects to be regretted, as he has given the subjects to be handled so much study that he may be classed as an expert. The result is that four of the most prominent lawyers of the State are withdrawn and their places filled by others, representing different interests in social and political life. In place of Chancellor Runyon we have Mr. George J. Ferry of Orange, a

manufacturer of large experience and of much general intelligence combined with practical ability. He is a fair representative of the great manufacturing county of Essex. In the Second District, Mr. Philemon Dickinson, President of the Trenton Banking Company for many years and always a semi-official financial agent of the State, brings a ripe practical experience to the work of the Commission. In the Fourth District, Mr. Joseph Thompson, who has been Judge of the Pleas in Hunterdon and now holds the same office in Somerset, takes the place of Judge Ryerson. He is said to be of the substantial class and, while a lawyer, may be considered a representative of the agricultural interest. The selection of Mr. Dudley S. Gregory, vice Zabriskie, is excellent. He is strong in finance and in the liberties and restrictions which ought to be laid upon corporate interests, has a ripe scholarship and a high morale.

The report of the committee on plan for business came to grief at the hands of Mr. Taylor, who offered and carried through an entirely different plan. That by the committee strikes us as unwieldy and lacking classification and system. Mr. Taylor's scheme is simple and practical and each committee follows the other in the natural sequence of the subjects to be considered, ending in a final grouping of the results. The committees are not yet announced, but there is material enough in the Commission to produce a good scheme of amendment and it becomes a deliberative body rather than a debating society, acting more like a full bench of judges than as legislators. We have sanguine hopes of substantial success.

Source:

Newark Daily Advertiser, July 8, 1873.

[UNTITLED.]

It is stated as a remarkable fact that the President of the Constitutional Convention of this State in 1844 died before he could sign the instrument in whose formation he had taken so prominent a part; and now President Zabriskie, of the present Commission, has died before its work is done. If this rate of mortality is to become permanent it will be hard work after this to obtain distinguished men to preside over deliberations to change our organic law, and rates of life insurance for offices of this kind will go up. Let us hope, however, that we had [illegible] remarkable coincidence.

Source:

Paterson Daily Guardian, July 10, 1873.

THE CONSTITUTIONAL COMMISSION.

The selections made by Governor Parker to fill the four vacancies in the Constitutional Commission prove that he is not one of those public men who profess to be above reading the newspapers—the mouthpieces of the people. Of the four new appointees not one is a lawyer. All are representatives of the agricultural, industrial or mechanical classes. This is a positive assurance that our lawyer-Governor does not consider—as has been unkindly insinuated—that all the brains and all the talents of New Jersey are to be found in the legal profession. The Commission now stands six lawyers to eight representatives of other callings, and in this respect is a fair and proper representation of the State. We, however, are constrained to say that unless a much kindlier spirit is engendered towards it by the people than we now find, its labors will be in vain—love’s labor will be lost indeed. And we desire to assure the Commission itself that such a waste of time and of words as was made yesterday over the appointment of committees will not help to win that popular consideration it has none too much of now. *Newark Journal*

Source:

Paterson Daily Guardian, July 10, 1873.

**DEMAGOGUISM IN THE
CONSTITUTIONAL COMMISSION.**

Mr. Swayze, a member of the Commission to prepare and suggest amendments to the Constitution, during the session of that body on Tuesday gave expression to some views which might well excite alarm were it not that it is quite certain that they are shared by no other members of the Commission. In the discussion of the plan of business to be adopted by the Commission, he several times took occasion to give vent to the ideas which he evidently means to attempt to have forced upon the attention of the Commission, and, if possible, embodied in the amendments which shall be prepared. Among other remarks which he made in the course of a demagogical speech fitter for the hustings on the frontier than a body supposed to be composed of honorable and intelligent gentlemen, the best representative citizens of New Jersey, was the assertion that the right to elect the judiciary and all other State officials was inherent in the people. He intimated that an amendment making our judiciary, and the various State officials now appointed by the Governor or the Joint Meeting, elective, would be one of the “reforms” advocated in the Commission.

We are very glad to be able to say that Mr. Swayze’s views met with no

sympathetic response from any other members of the Commission, but that they were, on the contrary, obviously very unpopular and repugnant.

All Mr. Swayze's talk about the dear people and their rights is mere demagoguism, and the assumption that the right to appoint every person in the service of the State is inherent in them, is a false and mischievous doctrine that originates in a misconception of the theory and practice of our government. The *Cincinnati Gazette*, in speaking of this very subject, wisely says:

"Confidence in the people is best shown by forming a rational system of government. How is trust in the people shown by taking away from an officer elected by them that appointment of subordinates which is essential to responsibility and efficiency, and throwing all this into the election scramble? How is trust in the people shown by permitting them to elect such officers only as are stripped of the functions essential to the performance of their duties? The whole principle of the demand that every office in all the details of administration shall be made elective, is that the class of men that the people will elect cannot be trusted.

"And what is the working of this multiplication of elective offices? Instead of an intelligent and responsible authority to appoint the lesser officers, caucus steps in and appoints them. The mass of the people have no voice in their nomination, and know not whom they are voting for. This is what these small demagogues call trusting the people.

"It so multiplies officers upon the ballots in our State, county and city elections that the great majority of the voters do not even know the names of the candidates they are voting for. The greater number vote blindly as to most of the candidates. They know those for the chief offices. They do not pretend any wisdom as to the greater part of the candidates, therefore the pretence of confidence in such wisdom is a fraud. And this multiplication of elective officers increases the means for cheating voters, and making them helpless against it. The act of voting is actually made so blind by this creation of elective officers, under the pretence of trusting the people, that most of the voters can only know whether they are voting the right ticket by getting it from some one whom they think of the right party stripe.

"This demagogue system has degraded our elections to a farce, and has placed the minor offices in the power of the political bums. It has destroyed all chance of responsibility or efficiency or economy. And in addition to all this we have special elections to fill vacancies in a multitude of small offices. Does trust in the people require that they shall be incessantly drummed out to elections? A letter from a citizen states that in one ward of this city there were either nine or ten different elections in 365 consecutive days. Such a farce as this is an insult to an

intelligent people. They show by many signs that they are weary of these incessant elections.

“The talk of confidence in the people is merely the slush of demagogues. It has no relation to the question. There are rules of rational administration and of responsible organization that should govern this affair, and they can be plainly defined.

“There can be no efficiency of administration, nor safety for public trusts, without subordination and responsibility, and this requires that the minor administrative and clerical officers shall be appointed by the chief. And all offices requiring special professional training should be filled by appointment. The people at large never pretend to judge these special qualifications. They take them on somebody’s recommendation, and this is generally irresponsible. They could act much more intelligently by choosing a man of a State reputation for Governor, and giving to him and the General Assembly the appointment of officers requiring peculiar professional training. This is rational trust in the people.”

As to the proposition to make our judiciary elective, it is too absurd and preposterous to talk about. If Mr. Swayze don’t want to make himself thoroughly ridiculous he had better say no more about it.

Source:

Daily State Gazette, July 11, 1873.

From the *New York Times*.

THE JUDICIARY AND THE PARDONING POWER.

Whatever changes the New Jersey Constitutional Commission may recommend in the organic law of that State, it seems very improbable that they will interfere either with the present arrangement of the pardoning power, or with the nomination of the Judiciary by the Governor and its confirmation by the Senate. Notwithstanding recent resignations and appointments, the legal profession is still fully represented upon the Commission; and a New Jersey lawyer, as everybody knows, holds fast to that which is good, and is impatient of change for its own sake. The persistence with which the old Chancery practice has been retained is one proof of this. The pardoning power is now conferred upon a Court of Pardons, and not lodged in the Governor alone, as in our own State. We must do Jersey men the justice to say that they have a healthy horror of crime; and in these lax days, when “deliberation and premeditation” are required by the law of their great neighbor to convict of murder in the first degree, they are not likely to relax any of their present safeguards against misplaced clemency. Jersey men

are glad to get all the overflow of New York that they can entice under promise of low taxation; but they mean to make it very hot for our criminal classes. New Jersey has had for years a series of Chief Magistrates of ability and blameless repute; and yet she has never cared to subject them to the pressure which the friends of criminals, especially those who have incurred the death penalty, would inflict upon them.

It may be a question whether our own system of pardoning does not smack of the royal prerogative. Neither King nor Governor is obliged to give reasons for the exercise of clemency. A Court of Pardons occupies a different position. When it does interfere it is anxious to assign a reason for its course which will be satisfactory to the public. Broad equity rather than personal pressure is apt to sway it. One thing, at least, seems very certain: that where the pardoning power is reposed in the hands of the Executive, imprisonment for life means little more practically than for a slight term of years. Hardly have the recollections of a bloody homicide been dismissed by a more recent brutality, than the friends of the criminal begin to undermine the firmness of the Executive by an unopposed pressure. The Pennsylvania Constitutional Convention recently yielded to the force of this reasoning and have agreed upon a Court of Pardons consisting of the executive heads of departments. As this convention did its work with the greatest care, their act will not be without its weight in neighboring New Jersey, which has besides realized by experience how well the plan works.

But Jerseymen appear to be even more unanimous in sustaining their present appointed judiciary. They insist that it has worked admirably, and that an additional proof of its excellence was given in the nomination by Gov. Parker of the tried judges whose terms had expired, irrespective of politics, and their confirmation by the Senate. The New Jersey press uniformly speak well of the Bench, and the inference is that the latter deserve it; and our neighbor may well congratulate herself upon her administration of justice, which, although slow (that is in civil matters—it is rapid enough where crime is concerned), has the element of certainty about it. The judges are as far removed as possible from the atmosphere of politics, or from personal obligation to politicians for their places, and are, therefore, independent of them. The people of the State have always manifested rare self-restraint in this matter. They have made the judiciary, which interprets the Constitution and enforces the law, as independent as possible, and thereby they have shown their strongest title to self-government. They are not now likely to deprive themselves of the benefits of their sagacity.

Source:

Daily Fredonian, July 12, 1873.

NEW JERSEY AND THE PARDONING POWER.

The New York *Times* thinks the Constitutional Commission should leave the Court of Pardons undisturbed, instead of lodging executive clemency in the hands of the Governor alone. It compliments this State upon its holy horror of crime, and thinks we are not likely to relax any of our present safeguards against misplaced clemency, or even subject our chief magistrates of ability and blameless repute to the pressure which the friends of criminals would bring to bear upon them. It admits that imprisonment for life in New York means little more than confinement for a short term of years, and that hardly have the recollections of a bloody homicide been dismissed by a more recent brutality than the friends of the criminal begin to undermine the firmness of the Executive by an unopposed pressure....

Source:

Paterson Daily Guardian, July 12, 1873.

[UNTITLED.]

Mr. Jacob L. Swayze has been playing the demagogue and making a fool of himself in the Constitutional Commission. Knowing Jacob pretty well, we expected nothing else, and are therefore not at all disappointed. He is wonderfully in love with "the dear people" just at present. He thinks they are deprived of a portion of their "inherent rights" in that they are not permitted to vote for our higher Judicial officers, and he proposes to amend the Constitution so as to make the Judges elective. In this matter, however, fortunately, he will have but a slim following. Electing Judges by the people has not proved a success where the experiment has been tried. The Judiciary of no state in the Union stands higher than that of New Jersey. Nowhere is law more respected and justice more certain. And our people would far sooner submit to the deprivation of the "inherent right" to choose their Judges by popular vote, than abandon the safe path which has produced such beneficent results. The lessons of experience which New York, Pennsylvania, and more recently Illinois, have furnished, have a great deal more weight than Jacob's blatant demagoguism, and it is not probable that he will find a single member of the Commission to agree with him.

Source:

Jerseyman, July 15, 1873.

[UNTITLED.]

The Constitutional Commission held another meeting at Trenton, on Tuesday of last week. Beyond electing Mr. Ten Eyck President in place of Mr. Zabriskie, deceased, the Commission did very little worthy of especial commendation. The trouble seemed to be not what was to be done, but how to do it and, upon this point, nearly every member had a way of his own. It was finally agreed to appoint four committees, which are to be announced at the meeting on the 22d inst., when certain portions of the labor will be assigned. When these committees get fairly at work the needed amendments to the Constitution will not be long in preparation. The opinion seems to be general that very little will be accomplished by the Commission toward amending the Constitution beyond extending the terms of office of the State Treasurer and Prison Keeper, and increasing the pay of members of the Legislature. Nobody believes that the effort to change the number and method of electing Senators will succeed.

Source:

West Jersey Press, July 16, 1873.

THE JUDICIARY OF NEW JERSEY.

We see by the *State Gazette* of the 11th that a member of the Constitutional Commission declared himself in favor of an elective Judiciary. The *Gazette* very properly brands such a declaration as "mere demagoguism." The Judiciary of New Jersey stands high in public opinion. If its organization is susceptible of improvement it is in an opposite direction than that proposed by Mr. Swayze of Sussex. The people being the sovereign, they are entitled to the best possible service. This they cannot obtain from Judges who are elected for longer or shorter terms, and whose qualifications for election must, nine times out of ten, consist in their personal popularity with the dominant party. We do not want to produce a school of Judges of the stripe of the Barnards, the Cardozas, and the McCunes of New York. When that state had for Judges of the Supreme Court a Kent, an Ambrose Spencer, an Emott, and others, of like eminence, they held their offices during good behaviour, and were not nominated in primary meetings of pot-house politicians.

If there is to be any change in the organization of the Judicial Department as at present constituted, that change should be to *increase the independence* of the Judges, and not to diminish or destroy it. At present our Bench fluctuates more or less with political vicissitudes. Good Judges are removed to make way sometimes for young, aspiring lawyers who seek the positions only to augment their

reputation, and who retire after a single term and return to practice, with the prestige of judicial honors to recommend them.

When the Governor and the Senate are of different party politics, a bargain determines between them the judicial appointments. The Governor does the best he can for his party, and the Senate for theirs. From such a condition of things the most high-minded and honorable, and best qualified members of the bar revolt. They will not relinquish a lucrative practice for a judicial appointment, when in a few years, a turn of the political wheel may consign them to private life—to begin (if advanced in years) their profession again at great disadvantage. Would it not be well to have a constitutional provision requiring Judges and Chancellors to be selected from those members of the profession at least forty years of age? This would insure experience and generally learning in these positions. We would then have them hold their offices during good behaviour, removable on the address of three-fourths of the members of the Legislature, and retirable at sixty-five or seventy years of age on half salary.

When our present Constitution was adopted, few cases involving more property than twenty or fifty thousand dollars in value were ever litigated. Now cases involving property to the value of twenty or fifty millions of dollars, or more, are not unfrequently pending.

We want an absolutely independent Judiciary to insure security to interests of such magnitude. Such a Judiciary would attract capital and capitalists to our State, and would soon give us courts whose renown would be worldwide.

Source:

West Jersey Press, July 16, 1873.

AMENDMENTS TO THE CONSTITUTION.

The Commission to propose amendments to the Constitution will meet tomorrow. It is believed that they will simply receive the report of the several committees as to the classification of the different subjects to which amendments may be proposed, and then adjourn to some time in the month of October. We think it would be well to adopt this course. What we have most to dread is what was expressed by some of the members of the Commission, that we may have too much Constitution as we have too much law. This is really the difficulty, and it is a feeling that pervades all classes of people in all parts of the State. It is emphatically true as was stated by a member of the Commission that there is in New Jersey great veneration for the Constitution. It is simple and yet comprehensive. It provides for most all matters of importance, and many

intelligent people fear any attempt at amendment.

Amendments might be suggested, however, under the Legislative head, which would doubtless facilitate the business of legislation. General laws could be substituted to avoid special legislation in a great many cases, which would very materially lessen the expenses of legislation, and be a matter of accommodation to the people, who prefer a permanent and settled policy in all public matters.

The pay of members of the Legislature should be fixed upon a fair and liberal basis and the amount provided should include postage stamps, stationery, and everything else.

Perhaps it would be well to put in some additional safeguard or limitation in the expenditure of public moneys by officers or agents of the State. No expenditure should be allowed without express authority of law, and no authority should be given without limitation as to the amount. Nor should there be any creation of offices without the sanction of both Houses of the Legislature.

Some amendment is wanted in reference to the appointment of officers to govern the State Prison, and perhaps it would serve a wise purpose to provide against the removal of officers, on the change of political parties in the State, merely on political grounds.

There may be some important amendments proposed under the Judiciary head. We think the legal minds in the State will have some suggestions to make as to the manner in which some of the Courts are constituted. The Court of Errors and Appeals might be improved, and the Courts of Common Pleas might be very materially improved.

The election, jurisdiction and qualification of Justices of the Peace are matters which are very suggestive of amendment, and where great improvement might be made. So in regard to Commissioners of Deeds and the appointment of persons to test and take the acknowledgment of legal papers.

Corporations now enjoying the franchises of the State should be bound by stringent provisions to respond promptly in the payment of assessments, and some general requirement should be made by the Constitution to keep these corporations within the strict letter of the law in regard to the rights of private property. In this age of gigantic monopolies great care should be taken to guard the rights of the people, and prevent as far as possible combinations which may militate against the prosperity of the State by monopolizing the avenues of trade and commerce.

There are, doubtless, a few other matters that may require some additional checks and guards by way of amendments to the Constitution, but after all, they are very few, and will require little time to put in shape so far as to suggest them to the Legislature.

Source:

Daily State Gazette, July 21, 1873.

OUR CONSTITUTION.

The Commission appointed to patch up our Constitution met today at Trenton. It is not probable that they will do more at the present session than simply to receive the reports of the several committees as to the classification of different subjects to which amendments may be proposed, and adjourn over the hot weather. In the meantime it would be well for the Commission and for the people if a general discussion of the Constitution, its merits and defects, should spread over the State. Everything like haste should be avoided. Some states have already suffered because their organic laws have been hastily and badly constructed. In our case, let every proposition be given out publicly, long before time comes for action. A series of articles in the press, written by men of ability and experience, would be of great value. They would excite interest among the people, and draw forth much good common sense that is hidden in farmhouses and workshops, and will remain there unless gently coaxed out by familiar and neighborly discussion. The unlettered farmer who was asked by an artist what he thought of a picture representing a barnyard, said: "Mebbe its all roight, Master Painter; but who ever seen three hogs eatin outes a trough without one os un havin a foot in it?"

We desire that our amendment Commissioners should have the aid not only of judges and lawyers and merchants and doctors, but of farmers and contractors and laboring men; of women, too, for we must ere long meet their demand for equal rights. Let anybody and everybody speak out. Half the blunders made in legislation are properly attributable to want of knowledge. A bill is wanted, possibly, to remedy some especial grievance suffered by farmers, or pottery manufacturers, or oystermen. The bill is brought in and referred to a committee of lawyers and bankers, not one of whom, perhaps, knows anything about the subject presented. The object of the bill may be injurious, but the committee cannot discover it; they see no harm in it—in fact, they see nothing at all in it, and so report it to the House. Everybody knows that unless a bill is of general importance, the favorable report of a committee is tantamount to its passage. The House rely upon the committee, and vote as they indicate. Had there been brought to the case the practical knowledge of a farmer, a pottery baker, or an oysterman, the colored gentlemen secreted in each particular woodpile would have been discovered, and the "jobs" that the Legislature never suspected would have been exposed.

In reforming the organic law of a State, it is especially important that every class and calling and occupation and interest and opinion should be heard and

carefully considered. A constitution is not like a turnpike bill, that may be repealed in a year. Changes in constitutions should be made only at long intervals, and then only from absolute necessity. Of course such necessities will arise as the world progresses, but a prudent man will wear the old coat as long as it will answer his purpose. North Carolina, we believe, is still working, or was until within a year or two, under the Constitution adopted before the Federal Government was organized; New Hampshire retains in her Constitution a prohibition for many years considered unjust and in conflict with the Constitution of the United States—we mean that prohibiting Roman Catholics from filling the Governorship and other high offices.

We must work slowly and carefully at our amendments. A building run up on contract will not stand like one built by day's work. Let everybody take an interest in this work, and send suggestions to the newspapers or to the Commissioners. The recent failure in New York will be studied with profit. Whatever we do, let it be done with full deliberation and complete understanding, in the light of practical experience in our own and other states.

Source:

Jersey City Times, July 22, 1873.

THE CONSTITUTIONAL COMMISSION.

The Commission appointed by Governor Parker under a resolution adopted by the last Legislature met at the State House in Trenton yesterday...The copies of the old Constitution, adopted in 1844, which had been ordered printed for the use of members and others, and copies, together with petitions for the adoption of a section providing for "local option," lay on the table of each member.

* * *

Source:

Newark Daily Journal, July 23, 1873.

CONSTITUTIONAL COMMISSION.

This body met in the Senate Chamber yesterday. The proceedings will be found in another column. The meeting brought with it very little interest. No persons were here besides the members of the Commission, and four of them were absent. At ten o'clock there were but six members present, and that numbering less than a quorum a recess took place until 11:15 A.M. At this hour the roll

showed that there were ten members present and the body proceeded to business.

The President of the Commission made a judicious appointment of the committees, which appeared to be entirely satisfactory to all present, except, perhaps, Mr. Swayze, who intimated that he would have preferred that the committees should have been selected by ballot.

There appeared to be no significance in the adoption of the rules to govern the body, and, indeed, in no other part of the proceedings, except in the speech or "statement" of Mr. Swayze; and, if we could believe that any number of the members of the Commission favored the notions there might be some little danger that suggestions would be made, which would not give the public a very exalted opinion of this dispassionate or considerate character of the Commission. But we think we can venture the statement that he has no second to most of his suggestions among his co-Commissioners. We leave the reader at present to form his own estimate of these suggestions. Some of them will no doubt meet with approval.

Mr. Carter, a much more considerate and moderate member of the Commission, proposed some very proper amendments. The disqualification of all persons to vote who have been defaulters to the State or general government, is a new feature, and will no doubt meet with a hearty response; the pay of members at five hundred and fifty dollars per annum, and no other allowance whatever, is a fair compensation for three months' services, and will not be objected to by even the members of the Legislature themselves.

It seems that we will not be at loss for "suggestions." The first day of work gives us some idea as to what we may expect before the labor of the Commission comes to an end. But we think we can assure our readers that the majority of the Commission is composed of moderate men, who will not be willing to adopt any new and doubtful experiments in the delicate work assigned to them.

As we have before intimated, there is force in the idea of protecting the State from any undue influence from monopolies. The people do not want and will not submit that the avenues of trade and commerce shall be opened or closed at the will of any combination of men; that the prices of grain or coal, or the cost of transportation shall be controlled by corporations brought into existence by legislative sanction; and, therefore, special legislation or favoritism of any kind should be provided against.

A free and untrammelled Constitution is a blessing to any people, and leads to the growth of a State and the prosperity of its people. What we want to avoid are the radical experiments of inconsiderate men on the one hand and the grasping and insidious approaches of monopoly on the other. The people of New Jersey have lived prosperously under the old Constitution, and what they want now are such changes as the advance of civilization and the new developments of the State may

demand.

Source:

Daily State Gazette, July 23, 1873.

OUR CONSTITUTION.

The ink was not dry, yesterday, in our article of suggestions to the members of the Constitutional Amendment Commission, before a member of that Commission had embodied our ideas in a resolution, adding some that were not our ideas, and to which we have nothing to say. Mr. Swayze moved the appointment of a committee to prepare a circular inviting citizens to send to the members suggestions as to the proposed amendments. Mr. Gregory seconded Mr. Swayze[’s] ideas. The resolution was adopted in spirit, if not in express terms, and it is in order for the people to inflict upon their representatives whatever suggestions they think proper.

Perhaps the most brilliant thing done at this first session was the gracious condescension of Mr. Carter, that the word “white,” so far as it relates to suffrage, be stricken out of our Constitution. The Constitution of the United States did that job for us some years ago; but still it was kind in Brother Carter to propose to “re-enact the laws of God.”

Some of Mr. Swayze’s suggestions are good. Particularly the proposition to secure greater equality in taxation, with no exemption for schools, churches, &c. That is the true ground, and on that ground of exemption sooner or later we must stand or fall. It is too early to discuss other suggestions made at the first meeting, but the general spirit appears to have been healthful, and the promise of good work at least fair.

But look out for crochets. That ancient axiom, “Old men for counsel,” is no doubt as wise as most old saws. We have already advised that the Commissioners should sack the State for the views of its people—old and young, male and female, white and black; we insist that all shall be heard if ever so feeble a note be piped. We are not glad to read that Mr. Dickinson was not in favor of Mr. Swayze’s idea, and was a little snarly in trying to choke Mr. Swayze off. We presume Mr. Dickinson has or will have an elaborate speech on some subject; and how will he like to have Mr. Swayze snub him just as he is about to launch his felicitous quotation from Ovid or Blackstone, and tell him that “the discussion that had been precipitated upon them was not germane to the question?”

We hope to learn that this Commission will be as free as the air. We deprecate any attempt to fix times and days for discussion. There are s[t]upid martinets

everywhere, your line-and-plummet men, who would hold a watch in sight and cut off the Sermon on the Mount when the second hand touched twelve. That will not do in this case. We must have free discussion, free in every sense; free as to time, free as to scope. Rules of order must give way for once to rules of sense. Red tape is not as strong as it was, and in this country it will not do at all. *The People* of New Jersey expect to have something to do with this Constitution, and certainly something to say, and they must not be debarred by the cast-iron rules laid down in Cushing's Manual.

Let us undertake this great work in a spirit of unbounded liberality. Hear everybody. Even the humblest may have a valuable suggestion. It was a mouse, a poor little weak thing, that liberated the lion from his net. Not one of the Honorable Commissioners has ever been in State Prison (as a convict), and we are morally certain never will be; but other men have been there, as convicts and keepers, and from these men much valuable information can be obtained. It is worthwhile to listen to a man who can truly say, "All of which I saw, and part of which I was."

The general sentiment of the Commission is healthy and hopeful, and they have only to throw wide the doors and invite the cooperation of every Jersey man or woman from Port Jervis to Cape May, to lay sure and strong the foundations of their everlasting hereafter.

Of the various propositions that have been and will be made, we shall speak as occasion offers. For the present we desire only to re-enunciate our idea that the members should consider themselves to be merely the agents of the people of the State; that they should sound public opinion with anxious observation; accept chaff and without alike; listen to—nay, seek—the humblest kind and profit by his wisdom or his folly, as it may turn out. Furthermore, let the Commissioners remember the extent and power of the foreign-born element. Large in numbers and influential in social position, they must not be passed by. The freedom of which we boast demands that the stranger within our gates shall be properly cared for. Let us confer with the representatives of the various nationalities, and learn what may properly be done for their interests.

And the Woman Suffrage question. But of that hereafter. The commission stands in one danger that must be guarded against. That is the danger of personalism. Probably a majority of the members have already prepared outlines of a Constitution, and every one of them hopes to go down the ringing grooves of Time as the "author of the Constitution of New Jersey," as Jefferson did concerning the Declaration of Independence. A large proportion of the members are pretty well down in the vale of years; they are wedded to notions long entertained; they know very little of the new creation that has arisen since their

honorable locks were brown, or black or red; they but dimly comprehend the strange vigor of the age; they linger in fond regret over the good old times, and stare at the dash and devilism of the present with dazed and bewildered eyes. They must rise above the Past; must realize the Present, and foresee the Future. Traditions and the musty volumes of ancient laws may be food for the recluse; but the men who are to map out our future destiny must be of *today*. They must learn to unlearn what they have learned, and take a new departure. Their A B C begins with the great War of the Rebellion. That struggle reconstructed the social map of the world. From the close of that struggle the nation dates its new birth. All that was before is naught. So, to a great extent "the old" must pass away in our State. Constitutions are made for the future; the past is of worth only for its record of successes and failures. It is sometimes said that such or such a man is ahead of his age. That should be in some degree true of the men who are to propose amendments to our Constitution.

Source:

Jersey City Times, July 23, 1873.

[UNTITLED.]

Our fellow townsman, Jacob L. Swayze, Esq., at the last session of the Constitutional Commission intimated that among the amendments that he should propose, would be one making the judiciary and other officers now appointed by the Governor or Joint Meeting elective. The announcement created scarcely a ripple in the Convention, none of the members approving of it, and we made no note of the fact, thinking that the idea would [be] dropped. Some of our exchanges, however, which seem to be moved most by hostility to Mr. Swayze, have given the project editorial notice, considering it both mischievous and revolutionary. We cannot imagine that the better class of people in New Jersey would be willing to give up the present system, under which the Courts of our State have become a dread to evil doers, taking in exchange such Courts as those of New York City, for example, where the politicians who elected the Judges have actually owned them and influenced their decisions. The very ends of justice are defeated where, as in Ohio, a man is elected Judge or defeated because he has announced in advance what his decision would be if a certain question were brought up before him. The Courts should be untrammelled.

Source:

Sussex Register, July 24, 1873.

[UNTITLED.]

Jacob L. Swayze, of Newton, has a seat in the Constitutional Commission, and it must be a weariness to the flesh to follow him through all his wanderings. What there is in this individual that gave him such prominence but few could state. Bodies of this character generally have some such plague, but that our Commission should be so inflicted is most lamentable. What no one else would hazard, it is reserved for this one to suggest, and judging from the reports of the debates of the Commission we would suppose he favored a general overturning of our present State Constitution. His speech betrayeth him, and marks him as unfit to revise and dispassionately consider our broad law of government. His manner impresses one with the feeling that too great a duty has been imposed. He thinks more highly of himself than he ought to think, and recalls to us the instruction which Hamlet gave to the players:

“O, there be players that I have seen play, and heard others praise, and that highly, not to speak it profanely, that, neither having the accent of Christians nor the gate of Christian, pagan, nor man, have so strutted and bellowed that I have thought Nature’s journeyman had made men and not made them well, they imitated humanity so abominably.”

Source:

Woodbury Constitution, July 30, 1873.

[UNTITLED.]

The newspapers of the State seem considerably puzzled over Mr. Jacob L. Swayze, whose performances in the Constitutional Commission have excited some comment. They don’t know exactly what to make of him. A prominent Democratic politician here, who knows him well, insists that he is a lunatic, and has been for years, and says he so told one of the Governor’s intimate friends at the time of his appointment. And this makes the mystery of his appointment still more perplexing. Jacob’s lunacy, however, fortunately, is not of the dangerous sort.

Source:

Jerseyman, August 5, 1873.

[UNTITLED.]

The proposition to limit the sessions of the Legislature to forty days by Constitutional provision is one that will not commend itself to those having

legislative experience. The members should be paid a fixed, liberal salary in lieu of perquisites of every sort, and their desire to transact the business before them as speedily as is consistent with honest legislation, should be left to govern the length of the session. If the work can be done in forty days, so much the better, but if a longer period is required it will be wisdom to use it. Men who work for a stipulated salary will not be anxious to protract the session.

Source:

West Jersey Press, August 6, 1873.

HIGHER EDUCATION.

The Common School system of New Jersey and every other state is limited to instruction of youth in what are called the "common branches" of knowledge, thus rendering it necessary for those who design entering college to secure preparatory training in the higher branches in private schools mainly devoted to this object. It is the idea of Dr. McCosh, the thoughtful and erudite President of Princeton College, that a system of these higher preparatory schools should be endowed and maintained by the State, the same as the common or elementary schools. This idea is a favorite one with the Doctor, and he is seeking to impress it upon the country with all the resolute energy, enthusiasm and ability which are the leading traits of his character. He sought to awaken an interest in the subject in our Legislature, and so far succeeded as to have a committee appointed to investigate the subject. In the addresses which he makes in various parts of the country before educational and literary bodies, he never fails to try to awaken interest in his plan, and to make converts to his way of thinking. In his masterly address before the National Education Convention at Elmira, last Tuesday, this was his principal and most earnest theme. In the course of his remarks he said: "The grand educational want of America at this present time is a judiciously scattered body of Secondary Schools to carry on our brighter youths from what has been so well commenced in the Primary Schools, and may be so well completed in the better colleges. How are our young men to mount from the lower to the higher platform. Every one has heard of the man who built a very fine house, of two stories, each large and commodious, but who neglected to put a stair between. It appears to me that there has been a like mistake committed in most of the states of the Union. We need a set of intermediate schools to enable the abler youths of America to take advantage of the education provided in the colleges."

The speaker then proceeded to give a brief sketch of some of the more famous systems of Secondary Education in the Old World, a subject with which no man is

more thoroughly and intelligently familiar than Dr. McCosh. He referred to the schools of this character in Germany, the endowed schools of England, the Irish Upper schools and the Parochial and Burgh Schools of Scotland, and described the beneficent influence of these upon the educational interests of those countries.

For the establishment of a system of secondary or high schools, Dr. McCosh proposes two plans: First, private endowments; second, State and city endowments. In regard to the first, he would seek to interest wealthy and generous individuals, such as often make munificent gifts to colleges. To this end he thinks pains must be taken by the press and by persons of influence, such as ministers of religion, to convince benevolent men that they can accomplish far more good by planting a thoroughly equipped academy, giving instruction in varied departments of ancient and modern learning, than by setting up in the Eastern or Middle States a new college to weaken the other colleges and bring down their standard of scholarship in the competition for students.

But the main reliance, he believes, for the endowment and maintenance of these schools must be placed upon the State and local municipalities. He says, "Many cities are already alive to this work of improving the rising generation. I know that there may be difficulties in persuading the states to establish such schools. But if the known friends of education will do their duty, and press the need on public notice, if this association will only give an impulse to the movement, I am sure that there are states which would begin the good work." The Doctor also advocates the devotion of the proceeds of the sale of public lands to this object, instead of to the endowment of Agricultural Colleges, of the practical advantages of which he is more than doubtful. He says:

"I venture to propose that in these the unappropriated lands be devoted to the encouragement of secondary schools. Let each state obtain its share, and the money be handed over to it under certain rigid rules and restrictions to prevent the abuse of the public money. In particular, to secure that upper schools be endowed only where needed, I suggest that money be allocated only when a district, or it may be a combination of two or more districts, has raised a certain portion, say one-half, of the necessary funds. By this means the money may be made to stimulate the erection of high schools all over America. These schools would aid colleges far more powerfully than a direct grant to them, as in fact the grand difficulty which colleges have to contend against arises from there being so few schools fitted to prepare young men for them with their rising standard of excellence. But I plead for these schools not merely as a means of feeding colleges, but as a competent to give a high education in varied branches, literary and scientific, to a far greater number who do not go on to anything higher. These schools, like the elementary schools, should be open to all children, of the poor as

well as the rich. They should be set up like the German gymnasium in convenient localities, so that all the population may have access to them. They should embrace every useful branch suited to young men and women under sixteen or eighteen years of age. English composition, English language, history, classics, modern language and elementary science. The best scholars in our primary schools would be drafted up to these higher schools, and thus the young talent of the country would be turned to good account while the teachers in the common schools would be encouraged by seeing their best pupils advance.”

The idea of Dr. McCosh appears to us to be replete with wisdom, and to be destined to inevitable accomplishment—sooner or later. Why should not New Jersey be the first state, as she is now the first in intelligence, wealth, and public virtue, to realize this idea? There is no want so sorely felt by poor, intelligent and aspiring people—aspiring after the elevation of their progeny to higher things—than of some means of giving their children a better education than the common schools afford. They can not send their children to the private academies and institutes because it is beyond their means. A good system of higher education endowed by the State and local governments would supply this want. And thousands of bright children now thirsting for knowledge and dwarfed and crippled through life for want of it, would have their native powers expanded, and carry into society a liberalizing, purifying, and blessed influence.

Source:

Daily State Gazette, August 11, 1873.

REPRESENTATION IN THE LEGISLATURE.

It is the duty of a virtuous and enlightened people to secure an honest and incorruptible Legislature.

The large majority of the people of New Jersey are virtuous. They are sufficiently enlightened to construct a Constitution which will insure virtuous legislation. If old organizations have proved inadequate for this purpose, it is the duty of our people to substitute others. If the people tolerate Legislatures which are corrupt, neither liberty, persons, or property are secure. If the fountain of laws be corrupt, corruption will flow from it.

Under the first constitution of Massachusetts, every township was permitted to send, or not, a member of Assembly. The more populous towns were authorized to send more according to their population. Usually the House of Assembly then, in that state, was composed of from 500 to 600 members. The townships paid their

own members. Under this constitution, the sessions were very short and the character of the legislation much better than it is now, or in any other state.

If our New Jersey House of Assembly were elected according to the Massachusetts plan, giving each township the privilege of one member, and each ward in a city a member also, it would consist of about 275 members. But, as many of the rural townships might not choose to send a member, except occasionally, as local legislation might be required—the average attendance of members of the House of Assembly would probably not exceed 250.

The number of Senators might be increased to three from each county, to be paid from the county treasury. That would make the Senate consist numerically of not far from one-fourth of the members of the House of Assembly. I do not pretend to believe that such an organization of the Legislature would do away entirely with corruption; but it would render it vastly less frequent, and much more difficult. To corrupt a majority of 250 members and 63 Senators would be a very costly job.

The payment of members of Assembly out of the township treasury, and Senators from the county treasury, would enable the local constituent body to exert a much more effective control of the representative than at present. By the increase of members, representation would be much more republican and perfect. Now, a member of Assembly, on an average, represents about sixteen thousand, six hundred and sixty-six people; supposing the population of the State to be one million. But, were there 275 members, each member then would represent about three thousand, six hundred people. In a population of sixteen thousand, six hundred and sixty-six, there are about two thousand seven hundred and seventy-seven voters; but three thousand, six hundred people will have only six hundred votes.

The responsibility of the representative to his constituents diminishes in a direct ratio to their numbers. A British Lord who returns from a rotten borough, a member of Parliament can always rely with certainty on the vote of that member.

The Legislatures of Massachusetts and Vermont are more free from corruption than those of any other state. The Legislatures of New York and Pennsylvania have the reputation of being the most corrupt.

In the former states, a member of Assembly represents between one and two thousand people—in the latter, he represents about twenty-five thousand.

The compensation of members of the Senate and Assembly being dependent on the counties and townships, they would be strongly interested in the dispatch of business and short sessions. This method would enable the counties and townships, by paying for it adequately, to command the best talent in the State.

It would require talents of a high order to lead in a House of Assembly of 250

or 275 members. But they would be forthcoming to supply the demand. A superior order of public men would be thus produced, who could educate themselves to conduct wisely not only state affairs, but to shine more conspicuously in the councils of the nation.

As at present organized, the Legislature is an easy prey to rings of speculators and conspiring politicians. At present, the people do not protect the Legislature from the control of these foes of honest and pure legislation.

I see no other *possible practical* way of giving the Legislature the capacity to resist the blandishments and seductions of corrupt men, than by increasing the number of members.

Oaths—the terrors of expulsion, or of the Grand Jury, will not deter men from offering or accepting bribes; but, make the members so numerous that bribery becomes too expensive, and you have an effectual safe-guard for purity.

The capacity of the Legislature to resist bribery would be largely increased, while the power of those who bribe would be diminished. The people would enjoy more complete representation consistently with Republican institutions and principles.

S[amuel].J.B[ayard].

Source:

West Jersey Press, August 13, 1873.

[UNTITLED.]

We ask the attention of those interested in the work of the Constitutional Commission to a communication in another part of this paper from the pen of Samuel J. Bayard, Esq., of this city. Few men are better capable of making suggestions than Mr. B. He has witnessed the operations of both the previous and the present Constitution, and, from his large experience and intimate acquaintance with the subject, is especially qualified to point out remedies for such defects as the organic law of this State may be thought to contain.

Source:

West Jersey Press, August 13, 1873.

SOMETHING FOR EDUCATORS.

We find every now and then a criticism on the system of education running through our exchanges. The general complaint appears to be a want of

thoroughness in the elementary branches, and we are of the opinion that the charge is not altogether without truth. The common school system in our country is a noble example not only of the generosity but of the intelligence of the age, and we are, therefore, slow to admit anything to its disparagement. But still it will do no harm to stir up the pure minds of our educators occasionally, by way of remembrance. The report of the West Point Board of Visitors recently made, directs public attention to some facts which bear on this point, and which should be well considered. The report states that out of 134 appointees for the position of cadet examined during the year, forty-nine, or rather more than one-third, were rejected on the literary examination. The Board attributes this rather surprising result to want of thoroughness in the primary education of the country, and very properly urges it upon the attention of the school boards, superintendents, and teachers. The preliminary examination of candidates for admission to the Military Academy is of the most elementary kind, and it shows the existence of very serious defects in the educational system, on which the country spends so much, that thirty-five per cent. of the young men selected for cadets should be so glaringly deficient in the simple rudiments of knowledge. In speaking of this matter the *New York Times* justly remarks: "The common school system is subject to incessant attacks in many of the states of this Union, and it is to be regretted that its enemies should be furnished with so good grounds for questioning its efficiency."

Source:

Daily State Gazette, August 25, 1873.

[UNTITLED.]

The Editor of the *New Jersey Republican* has addressed a letter to the Constitutional Commission on the subject of compulsory education, which contains some important suggestions and valuable statistics. No state, except it be California, pays her female teachers as liberally as New Jersey; and in no state, except, it may be in California, Massachusetts and Connecticut, do male teachers receive such high salaries as in ours. The number of school children of school age in the State is 269,149, while the total number within the same age attending any school, public or private, is but 134,749. The average attendance of those enrolled is but fifty-six per cent. The writer assumes the right of the State to enforce the attendance of children upon school, and urges upon the Commission the adoption of such an amendment.

Source:

Jerseyman, August 26, 1873.

[UNTITLED.]

Very little is said of the Constitutional Commission now at work on proposed reforms in the Constitution of this State—perhaps because it performs its labors so slowly that nobody knows it is making progress—but what it does may be vitally connected with the highest interests of New Jersey. Of course, the people will be called to vote upon any proposed amendments to the Constitution before they can be adopted as the law, but the recommendations of this body will have much to do with that vote. We are glad that the members do work slowly, if by it they secure more deliberated results. The labors of a similar commission in Pennsylvania, which have been protracted and cautious, will afford many hints to our Commission from which it is hoped it will profit. Precisely what changes are proposed cannot be stated at this time; but it is quite certain that the existence of the Court of Chancery and the Court of Pardons, and the present system of appointing Judges, will be threatened. Of the merits and utility of a Court of Chancery there may be much doubt. Not many States in the Union, besides New Jersey, have it. But our Jersey lawyers are of a slow turn of mind, in the way of radical reforms in modes of practice, and it will hardly be swept away this time. And, besides, it has advantages well understood by every lawyer, which are not to be overlooked. But there is not such question among sensible people as to the propriety of the pardoning power being lodged in the hands of the Court of Pardons, consisting of the Governor, Chancellor, and Supreme Court Judges, instead of in the Governor alone. It is not only more democratic, but more reasonable that this power should remain just as it is. That a jury of twelve men can, with all the solemnities of their oaths, and all the paraphernalia of Judges, lawyers, witnesses, sheriff, etc., try and condemn a criminal, and a Supreme Court declare the finding according to law, and the still higher Court of Errors and Appeals confirm the finding of the Supreme Court as well as that of the Oyer and Terminer, and that *then* a single man, the Governor, of his own, momentous free-will, for which he need give no reason, could freely pardon that criminal and give him perfect liberty, is a monstrous travestie on modern justice handed down to us from the ages of kings and tyrants. Happily for New Jersey, she has long ceased to countenance such a one man prerogative. Other States, however—Pennsylvania heretofore has been one—have stuck hard to this kingly prerogative. Now when the Keystone State is about to drop this relic of the Dark Ages, don't let us in New Jersey take it up. But we will not! Neither will we get to the New York and

Pennsylvania system of electing Judges, if we are wise. Everywhere that method has been weighed in the balances and found wanting. In New York City particularly, its evils have been visible for years. Its Judges have been men corrupt legally and corrupt morally. In New Jersey our Judiciary has always been our pride; the direct result, we take it, of a wise system of appointment based on merit and past good conduct, rather than on personal favoritism or party.

There are Constitutional changes, however, which may be made in wisdom. An increase in the pay of members of the Legislature, so as to secure better men, and the prevention of the present evils of special legislation, are subjects in point. Others will suggest themselves to every thinking man, and, doubtless, nothing worthy of consideration will escape the notice of the Commission. There is one matter for regret, however, viz.: the *morale* of the Commission. It does not have throughout our first-class lawyers and men. Those of that stamp who were selected have refused to act; those who remain may do well, and will work faithfully, perhaps, but cannot give the same general satisfaction that Courtlandt Parker, Judge Depue, Ex-Chancellor Williamson, and others of that stamp at the Bar, and more laymen like Dudley S. Gregory would. Of course, we find no fault with Gov. Parker about this, because he first tendered the nomination to such men; we do think, however, that those who refused to serve, should have willingly done the State the service of accepting the trust of giving their abilities to this Constitutional Commission, even as a matter of State patriotism.

Source:

Our Home: A Monthly Magazine of Original Articles, Vol. I, No. 8, August 1873, p. 377-378.

AMENDMENTS TO THE STATE CONSTITUTION.

It will be seen by the report given elsewhere that the Constitutional Commission got fairly to work yesterday, and that several important amendments to the State Constitution were proposed and referred.

The amendment offered by Mr. Dickinson is commendable both in spirit and purpose, and though its adoption might not entirely cure the evil at which it is leveled, it would certainly mitigate it. On the proposition submitted by Mr. Cutler, that two-thirds of each house shall be necessary to pass a bill over a veto of a Governor, there will probably be differences of opinion. The argument in its favor is that, as the Constitution now reads, the veto amounts practically to nothing. The other proposition introduced by the same gentleman, providing that certain items in an appropriation bill may be vetoed without defeating the entire bill, is an

excellent one. Its adoption will do away with the necessity which often occurs of sanctioning bills containing improper appropriations, in order to avoid the embarrassment that would ensue from the loss of the whole bill.

We shall recur to these amendments again. In the meanwhile we may say that we think the Commission did well in rejecting the resolution by which it was proposed to abandon the work for which it was organized. Let it complete the work devolving upon it, and submitting the results of its labors to the Legislature, leave it to that body to determine whether the amendments that may be suggested shall be submitted to the people.

Source:

Daily True American, October 8, 1873.

THE CONSTITUTIONAL COMMISSION.

The Commission met today under somewhat inauspicious circumstances. The resignations of several of its ablest members, the numerous and protracted adjournments, and the apparent indisposition to earnestly take hold of the work in hand, have created a widespread impression that this attempt to revise our State Constitution was destined to fizzle out, and that the members of the Commission, seeing this, were paving the way by their procrastinations and indifference. Whatever might be the intentions of the remaining members of the Commission, this undoubtedly was the impression that had gone abroad. When the Commission met this morning only four members were present, and the prospect looked blue enough. But shortly after 12 o'clock, to which hour the Commission had adjourned, [ten] gentlemen put in an appearance.

* * *

Source:

Newark Daily Advertiser, October 8, 1873.

AMENDING THE CONSTITUTION.

The work of amending the Constitution does not involve much labor of a manual character. The present Constitution is a very admirable instrument, and needs amending in but very few particulars. Time, the growth of new and powerful interests, and our experience under it, have shown wherein it is defective or omissive. These defects and omissions are few, and the amendments to remedy and supply them will not cover a dozen printed pages. The principal work of the

Commission, therefore, will be of a deliberative, thoughtful, digestive character. There can be no rush in this kind of work—none of that feverish haste that is often seen in our legislative halls. The amendments to be considered are very brief in compass, but supremely important in character, and it is the chief business of the intelligent gentlemen appointed to prepare them, to think over and study them; to compare them with the work of other Constitution-revising bodies; to scrutinize them in the light of the experience of other states, and our own peculiar necessities; to thoroughly discuss and digest them, and to reduce them as nearly as possible to such shape as will secure the unanimous approval of the Commission. The deliberations of the Commission cannot, therefore, ever present a scene of bustling routine work, and scarcely of animation. The discussions will necessarily be of a grave and unimpassioned nature, as befits the highly important character of the work in hand. The interest in their labors will consequently mainly be confined to their results.

Source:

Daily State Gazette, October 9, 1873.

THE CONSTITUTIONAL COMMISSION.

Among the proposed amendments to our State Constitution offered to the Commission yesterday, in its session at Trenton, were the following:

To strike the word “white” out of the Constitution; the time of residence of a citizen in any election district changed to ten days; the Legislature may provide for the voting of persons who may be in the army or navy in time of war; to appoint the Judge of the Common Pleas and the Keeper of the State Prison for five years, the Attorney General three years, and Surrogates for five years, by the Governor and Senate; the Sheriffs and Coroners to be elected for three years; no county, city, township, or village to give any money or loan its credit to aid individuals or corporations; to incur no indebtedness except for municipal purposes; no member of the Legislature to receive any civil appointment to the Senate of the United States or from the Governor and Senate, or from any city government during his term as such member; a State poll tax of \$3 is recommended; the Legislature to meet once in two years, except called by the Governor; all amendments to the charters of cities or counties to be published in the newspapers for thirty days before they are made by the Legislature; the people to vote in cities and townships every five years on the question of a license or no license for the sale of intoxicating liquors; not less than two mills on the dollar of the rateables in the State to be raised for schools; children may be compelled to attend school by

legislative enactment, and several other amendments to protect the school system were offered; no private or special laws to be passed. A number of other amendments of a less important character were proposed. The Commission adopted a resolution to collect information from the counties, townships, cities and villages as to the amount of their indebtedness, how and for what purpose created, with the view of introducing an amendment preventing the increase of the indebtedness of these municipal bodies by the Legislature.

Some of these will strike the people favorably, especially the proposal to extend terms of office in positions connected with judicial power or the execution of the laws. Another, forbidding the loan of public credit to corporations or individuals is healthy doctrine. That to prevent any members of the Legislature from receiving "any civil appointment to the Senate of the United States or from the Governor, the Governor and Senate, or from any city government during his term as such member" is simply an act of class legislation, the ostracism of those whom the people have chosen to positions of trust. It is a libel on the first principle of republican government.

In the convention which framed the present Constitution of the State of New York a committee reported that no person should be eligible to the office of Governor unless he was born within the State and was not less than thirty years of age. These are in themselves reasonable qualifications, or would be did they not assume that the people are fools enough to elect on ordinary occasions foreigners and minors to the highest executive office, and that in no emergency of the State can it be necessary to select the most competent man, of whatever age or nationality, to discharge a certain duty. Lafayette was only a boy. Kosciusko and Steuben were youngsters and all three were of foreign birth, but they were good enough men in their way. A delegate in the Convention, who had more faith than some others in the capacity of the people to select, burlesqued the whole thing and killed the report of the Committee by an amendment providing that no man should be Governor unless he were forty-seven years of age, stood six feet two in his stockings and was born in Windham, Greene County, in the year 1800. He was himself the only man in the State who could comply with the conditions, but his amendment was quite as sensible as the report of the Committee. We are strong in the faith that we can trust the people in these matters and that a "government of the people, by the people and for the people" can better vindicate itself with free hands than with manacled wrists.

The danger in our Constitutional Commission is that it will give us statute rather than organic law—ordinances instead of principles. It is all very nice and gives a man a comfortable feeling of wisdom to dictate to coming generations that they shall not choose the best man in the State for United States Senator if he

happens to be a member of the Legislature, and to put such a member into a little worse position of ostracism than a convict in the State Prison, for the latter would be eligible to any office provided only that he were pardoned out the day before the expiration of his term. But then it might happen that a self-respecting man, with a reasonable ambition for higher usefulness, would refuse to accept a legislative position on the understanding that he is necessarily dishonest from the hour when he takes his oath of office, and that men less thoughtful of their oaths and duty would be the sole occupants of our legislative halls.

A curious illustration of these unwise restrictions upon public officers occurred in this city quite recently. An estimable Judge of the Common Pleas had the strongest reasons for resigning his office, but he found that he could only do so by the process of death or removal from the county. To die was neither pleasant nor convenient. Removal was possible and so he fled his county and established a residence in Monmouth, losing the vote he would otherwise have cast for Horace Greeley. But he got rid of his office and received permission to return to Newark with liberty to earn his living in his own way. At the bottom of every constitution should lie the thought that "strict construction" should mean liberal and generous construction wherever it touches the individual rights of the citizen, that in no instance should he be cornered down and forbidden to do this, that or the other thing which is lawful for his neighbor; and that the people, the Governor and the Legislature should be allowed the full latitude of selecting for any place the best man for the place.

Source:

Newark Daily Advertiser, October 9, 1873.

A WORD OF ADVICE.

We would respectfully advise the Constitutional Commission to make haste slowly and not to attempt too much. During the short time that they have been in session this week a perfect avalanche of proposed amendments to the Constitution have been offered. In order to convince the public that they mean business they have commenced tearing the Constitution to shreds with a rush. Steady! gentlemen, steady. The people would much rather see you manifest a hesitancy and reluctance to rudely interfere with that instrument under which they have enjoyed many years of peaceful and prosperous government, than a disposition presumptuously to tear it to pieces. The Constitution needs no radical reconstruction. In fact, so far as the material, moral and political interests of the State are concerned, the necessity of its amendment in but very few particulars

indeed have been demonstrated. There is always danger in disturbing established institutions, that the spirit of innovation will go too far. Such a disposition is manifested, not perhaps, by the Commission as a body—of that we have as yet no means of judging—but certainly by several of its individual members. If all the amendments which have been proposed were adopted our Constitution would be a queer instrument. There is this to be said, however, that the principal amendments to the Constitution which the Commission will propose have now already been submitted, and that the chief future business of the Commission will be their consideration and digestion.

In the discharge of this, the most important of their functions, we trust the Commission[er]s will be careful and in no hurry. We also trust that they will bear constantly in mind the fact that the fundamental principle of Republican government is the supremacy of the will of the people. They should in all their deliberations and actions be guided by the assumption that the enforcement of this will is the chief province of our government. The people will jealously watch the actions of the Commission to see whether their rights in this respect are properly recognized and guarded. Several amendments have already been introduced before the Commission which propose to take power from the people, or their popular representatives, and vest it in the Governor and Senate. This will not be approved. The theory of our government is that it is of the people, for the people, and by the people. When gentlemen concede that the people are not safe depositories of the power, that it is detrimental to the public interests that they should be intrusted with the power of electing by popular vote their various representatives in the government—it is acknowledged that representative government is a failure, and that, for safety, we are driven to a more restricted, aristocratic form. We are convinced that the people of New Jersey are neither ready to acknowledge any such doctrine as this, nor under the necessity of so doing by anything in their experience. The will of the people expressed through a majority has so far worked most admirably and satisfactorily in this State, and the people want no change. The Commission would do well to make no innovations in this respect. We are persuaded that they will make a grave mistake if they seek to widen the distance between the people and the government. It should be as close and intimate as possible. The responsibility of the servants to their masters is then more direct, and the evils of faithless service can more easily and speedily be remedied.

Source:

Daily State Gazette, October 10, 1873.

THE CONSTITUTIONAL COMMISSION.

The Commission reassembled this morning with eight members present – just a quorum. Another avalanche of amendments was poured in and the Commission adjourned to next Tuesday at 11 A.M. It is not expected nor even hoped by the members introducing these proposed amendments that they will all be adopted. They simply submit them all to the Commission as the suggestions which have come to them from various sources since the organization of the Commission. They lay them before the Commission for digestion, believing that some are good, others probably good, some only possibly good, while others, after discussion of their merits and the ascertaining from their treatment by the press of the views of the public, may be unanimously rejected as bad. The future meetings of the Commission will mainly be devoted to the consideration of the merits of the numerous amendments now before it, and the preparation of such as it may be determined to adopt for submission to the Legislature.

Source:

Newark Daily Advertiser, October 10, 1873.

THE CONSTITUTIONAL COMMISSION.

This body has been in session most of the week in Trenton, and some important suggestions have been made. Among the most noticeable, is that which places more stringent guards against bribery and corruption. The telegraphic report was incomplete, and left us under the conviction that there were defects by which the law could be evaded; but looking at the report of the *True American*, we find that nothing short of perjury can succeed in corrupting or bribing the constituency, or the member, after his election. Here is the proposed amendment:

Mr. Dickinson submitted to the Commission the following, which he proposed as an amendment to the Constitution, and which he stated he had copied from the proceedings of the Pennsylvania State Constitutional Convention.

Every member of the Legislature, before he enters on his duties, shall take and subscribe to the following oath or affirmation:

“I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of this State, and will honestly discharge the duties of Senator (or member of the House of Assembly) according to the best of my ability; and I solemnly swear (or affirm) that I have not paid or contributed anything, or made any promise in the nature of a bribe, to corruptly influence, directly or indirectly, any vote at the election at which I was chosen a member of the Senate or House of Assembly; and I do further solemnly swear (or affirm) that

I have not accepted or received, and I will not accept or receive, directly or indirectly, any money or other valuable thing from any corporation, company or person for any vote or influence I may give or withhold on any bill, resolution or appropriation, or for any other act, as a member of the Senate or General Assembly of this State.”

The foregoing oath or affirmation shall be administered by one of the Judges of the Supreme Court, or a President Judge of the Court of Common Pleas in the hall of the house to which the member is elected, and the Secretary of State shall read and file the oath or affirmation subscribed by such member.

Any member who shall refuse to take such oath or affirmation shall forfeit his membership and be disqualified thereafter from holding any office of profit or trust in this State.

Amendments were also offered requiring a two-thirds vote to override the Governor’s veto, and that he shall have power to veto separate items in the appropriation bill without defeating the whole, and the houses shall only reconsider the item or items objected to. There is a proviso forbidding the election of the Governor to any office under the United States or the State during his term of office. Some construe this last clause as designed to “head off” Gov. Parker, in case his friends should press him for U.S. Senator.

Source:

Camden Democrat, October 11, 1873.

[UNTITLED.]

The Constitutional Commission is at last fairly at work, and “mean business.” The vacancies will doubtless be filled this week, and the work of revising the present Constitution vigorously prosecuted, so far as the Commission is concerned. Some people seem to have an idea that the work of the Commission is entirely independent of the Legislature, and that the amendments it may adopt will be submitted directly to the people, but this is a mistake. The fact is that the Commission occupies about the same position as a legislative committee which is authorized to work during a recess. The result of its labors will be reported to the Legislature, and will be acted on by two succeeding sessions of that body, which may or may not adopt the report as a whole or in part, or reject it altogether, before it is submitted to the people. No doubt the amendments reported by the Commission will be altered and amended, sections dropped out and other added, by the Legislature, until, possibly, the Commission will hardly be able to find anything left of its work. The work of the Commission will not bind the

Legislature to anything. If it does its work well, does not attempt too many extreme or radical things, does not “tinker” too much with the Constitution, its work will undoubtedly be better received by the Legislature and the people, and the traces of its labors be more easily discovered by future generations. Our present Constitution is, in the main, an excellent document, and but little change is really needed or demanded, and the general sentiment of the people is, “let well enough alone.” When the Legislature has done with the amendments, the people will have a chance at them at the ballot-box, article by article, and if there is anything left of the work of the Commission by the time it has passed through that ordeal, the members of that body may set themselves down as more than ordinarily wise men!

Source:

Daily Fredonian, October 13, 1873.

THE VETO POWER.

Among the many important amendments to the State Constitution submitted to the Constitutional Commission, there is probably no one of greater importance, nor one deserving more careful consideration, than the proposition to increase the power of the Governor in the exercise of the right of veto. The Constitution now simply provides that upon the return of a bill by the Governor, with his objections, the Houses shall each, in turn, proceed to reconsider it and that the same number of votes originally required to pass it shall be sufficient to pass it again, notwithstanding the objections of the Governor, should the Legislature not deem the objections well founded. The proposition now is to require a vote of *two-thirds* of the members of each house to re-enact a bill which the Governor shall have objected to and returned. The arguments in favor of this change are few and weak, while the objections to it are many and strong; indeed, the advocates of the proposed amendment do not seem to have a very clear idea *why* there should be a change in this respect, and their advocacy seems to be based less upon a profound conviction of its necessity or utility than upon the fact that the two-thirds rule is in force in the Constitution of the United States and of some of our sister states. But it becomes us, in amending our Constitution, to examine well and thoroughly every proposed change, and not to adopt new provisions merely because they have been adapted by others.

The present provisions of our Constitution concerning the veto power have been found to operate well for nearly thirty years; the cases being very rare in which the Governor’s veto has been overruled by the Legislature.

Usually his objections are carefully considered, due weight is given them, and the bill objected to by him generally fails to become a law, excepting where it is of a purely partisan character, and his reasons for returning it are known to be founded upon his political opposition to the majority which passed it. But constitutions are not made for parties; they are for the whole people, and in making or amending them all considerations of party politics should be carefully excluded. An increase or extension of the veto power is in opposition to the spirit and theory of our form of government. The Constitution divides the government into three principal departments, the Legislative, the Judicial, and the Executive, the duty of the first being to make laws, of the second to interpret them, and of the third to execute them, and the greatest care should be exercised to prevent the possibility of any one of these departments exercising the functions belonging to either of the others. But the proposed amendment practically invests the Executive with legislative function, for, although it does not permit him to actually legislate, it gives him the power to defeat legislation, and thus gives him a weight in the law-making department of the government which the very system upon which our government is founded seems to forbid, and which we believe would not only be contrary to the will of the people, but would open the door to a fearful abuse of power. The functions of the Governor, with respect to the making of laws, are wholly advisory. When a bill has passed the Legislature and been sent to him, he is supposed to calmly consider it in all its bearings, free from any external or improper influences which may have been brought to bear to influence its passage. Should he consider it inconsistent with existing laws, or with the Constitution, should he deem it inimical to the interests of the people of the whole or any portion of the State, or should he find in it evidences of unwise or hasty legislation, he states his objections and sends it back for the Legislature to "reconsider." But the presumption is that the Legislature desires to enact wise and beneficent laws, and is ready to correct errors into which it may have fallen. If it has hastily passed an unconstitutional law, it is fair to presume that a mere statement of the fact will be sufficient to prevent the act which would perpetuate the evil; but if the objections of the Executive are based upon the opinion that the law is unwise or unnecessary, then the question becomes one of judgment between the Legislature and the Governor. But the Legislature directly represents the people and reflects the popular will, and should the objections of the Executive not seem well founded, it is obviously unjust that the majority which originally enacted the law should not be competent, upon sober second thought and careful reconsideration, to confirm it.

An adoption of the two-thirds provision would render it possible, in certain contingencies, for the Governor in combination with the minority to defeat the

will of the majority, and wholly block the wheels of legislation. It has frequently happened in our State, and may frequently happen again, that the Governor is politically opposed to the majority in the Legislature. Should the minority at any time exceed, by one vote, one-third of the number in either house, it would be possible for them to combine with the Executive and completely suspend the operation of the vital principle which is the very cornerstone of our form of government—the principle that the majority shall rule. It may be urged that such a state of affairs is not probable, but in framing or amending a constitution it is not sufficient to guard against probable evils; all *possible* harm must be averted, so far as our wisdom permits us to see it, or our experience teaches us where the danger lies.

In the convention which framed our present Constitution, the adoption of this two-thirds principle was strongly advocated by the Democrats, while the Whigs were led to an equally strenuous opposition by the then recent experience of the country of President Jackson's arbitrary exercise of his veto power. The arguments against the principle which were then waged, and which happily prevailed, are equally good today, and it is to be hoped that the Commission will not recommend to the Legislature the abandonment of so important a safeguard of the rights of the people, and the adoption of a provision which may so seriously interfere with the expression of the popular will.

Source:

Daily State Gazette, October 14, 1873.

THE CONSTITUTIONAL COMMISSION.

The Commission is certainly laying out for itself a Herculean task. Today another voluminous mass of amendments, virtually amounting to a thorough reconstruction of the present Constitution, were submitted. The interest in the work in hand also seems to be increasing, there being twelve members present today.

* * *

Source:

Newark Daily Advertiser, October 15, 1873.

**POPULATION AND WEALTH VS.
TERRITORY AND PINE BARRENS.**

The present Constitution of New Jersey is in the main so excellent, and has

worked so smoothly, that with very few amendments it will be an acceptable compact for the people of this commonwealth for at least a score of years to come. One of the most important reforms demanded is the equalization of representation in the Senate. The law now is a relic of a custom two hundred years old that every county shall be represented alike in the Senate by one representative, whether the county have 143,000 inhabitants and \$100,000,000 of taxable property, as in Essex, or 8,500 inhabitants and \$5,000,000 of taxable property, as in Cape May. To remedy this glaring injustice, which has made the people of the more populous counties restive for many years, ex-Senator Buckley has prepared and submitted to the Constitutional Commission now sitting at Trenton, the following important amendment:

Amend Article IV, Section II, so as to read as follows:

1. The Senate shall be composed of twenty-one members, each elected for three years.
2. The Legislature shall divide the State into seven Senatorial districts, composed of contiguous territory, and as nearly equal in population as may be. The legal voters of each district shall elect a Senator yearly, to serve for three years.
3. The Senators in office from the various counties at the time of the adoption of this Amendment shall be entitled to hold their office for the full term for which they were elected, notwithstanding any Senatorial district may have more or less than three members; but as soon as the terms of office expire of members from the district having more than three members, the Legislature shall provide for the distribution of the surplus to such district or districts as may have less than three Senators, until each district shall have three members; and when the foregoing provisions of this clause shall have been carried into effect, the Legislature shall provide for the classification of the members from each district so that the term of office of one member from each district shall expire annually.
4. The Legislature, at its first session after the adoption of this Amendment, shall apportion the State in accordance herewith, and such apportionment shall be altered only at the first session of the Legislature after the next and each subsequent census of the United States.
5. Vacancies in the office of Senator shall be filled only for the unexpired term.

Senator Buckley has submitted to the Commission a statement of the practical operation of this amendment, if carried into effect, which we summarize herewith. If this Amendment be adopted, the Legislature sitting in 1876 will have to carry it into effect, and we will suppose that as a matter of convenience they divide the State into seven Senatorial districts, identical in boundaries with the seven

Congressional districts. The following table classifies the Senate of 1876 into districts on the basis proposed, and shows when their terms will expire, and the population and wealth of each county:

FIRST DISTRICT.

<i>Counties.</i>	<i>Population.</i>	<i>Wealth.*</i>	<i>Terms of Senators Expire.</i>
Camden.....	46,206	\$ 27,300,000	1875
Cape May.....	8,529	4,618,000	1876
Cumberland.....	34,688	18,330,000	1877
Gloucester.....	21,527	16,958,000	1878
Salem.....	23,951	28,415,000	1878
	134,901	\$95,621,000	

SECOND DISTRICT.

Atlantic.....	14,163	\$ 5,880,000	1877
Burlington.....	53,774	42,400,000	1876
Ocean.....	12,658	6,670,000	1877
Mercer.....	46,470	49,380,000	1877
	127,065	\$104,330,000	

THIRD DISTRICT.

Middlesex.....	45,057	\$ 45,000,000	1876
Monmouth.....	46,316	43,360,000	1878
Union.....	41,891	38,266,000	1878
	132,264 (<i>sic</i>)	\$ 126,626,000	

FOURTH DISTRICT.

Hunterdon.....	36,961	\$ 44,000,000	1876

1036

Somerset.....	23,514	27,000,000	1878
Sussex.....	23,168	20,700,000	1876
Warren.....	34,419	33,400,000	1878
	118,062	\$ 125,100,000	

FIFTH DISTRICT.

Bergen.....	31,033	\$ 33,900,000	1877
Morris.....	43,161	34,000,000	1877
Passaic.....	46,468	35,200,000	1876
	120,662	\$ 103,100,000	

SIXTH DISTRICT.

Essex.....	143,907	\$ 140,740,000	1878

SEVENTH DISTRICT.

Hudson.....	129,288	\$ 117,650,000	1877

*U.S. census of 1870.

This table shows the glaring inequalities in the present plan of Senatorial representation. Five counties in the First District, with 9,000 less population than Essex, and only about two-thirds as much wealth, have *five* members in the Senate to her one. Cape May, with less population and wealth than either of the 3d, 4th, 5th or 8th wards of Paterson, has a Senator.

The Amendment quoted would work thus: in 1876 there would be no Senatorial election in Cape May, her Senator (a Republican) being assigned to Essex (Republican). Instead of Hunterdon and Sussex each electing a Senator, that district would elect but one, and the other (a Democrat) would be assigned to Hudson (Democratic). In 1877, Atlantic and Cumberland would lose Senators, one being allotted to Essex and the other to Hudson, so that the Republicans would lose but one, for which they would make up by having Bergen County placed in a Republican district. Thus, the Republicans need fear nothing from the change,

while the Democrats have a somewhat better chance. In the manner mentioned, the Legislature of 1878 would find every district equally represented, by three members. The classification of the terms of members would be a simple matter.

Under the plan sketched out above, West Jersey would not lose her unnatural preponderance for five years, which is certainly long enough to wait. The arguments in favor of the plan are briefly these:

1st.—The Senators will represent population and wealth, instead of mere territory.

2d.—The Senators being chosen from larger districts will be expected to be men of larger abilities.

Senator Buckley's amendment seems to be comprehensive, and at the same time conservative, and we are sure it represents the views of the people of all East Jersey, at any rate. We trust it will be adopted.

Source:

Paterson Daily Press, October 15, 1873.

[UNTITLED.]

The *Philadelphia Age* thus comments upon one of the amendments reported to the New Jersey Constitutional Commission:

An amendment to the Constitution of New Jersey, providing that during the term of office of the Governor he shall not be elected to any office under the United States or State, was recently presented to the Constitutional Commission of that State and defeated. This section was aimed at a practice which is becoming far too common in our country. In scores of cases, governors of states have used their position to secure a seat in the Senate of the United States, thus making an improper and dangerous use of the gubernatorial prerogatives—a use totally at variance with the spirit of a republican form of government. Such practices should be stopped, and it would have been a feather in the caps of Jersey men to have led the column of reform in regard to this matter.

The *Age* is mistaken in saying that the amendment referred to was defeated. It was referred, and has yet to be acted upon.

Source:

Monmouth Democrat, October 16, 1873.

THE CONSTITUTIONAL COMMISSION.

The Commission to suggest and offer amendments to our State Constitution had several meetings at Trenton during the week. Since its meeting in July last, Hon. John W. Taylor of Essex and Attorney General Gilchrist of Hudson have resigned, and Governor Parker has appointed A. S. Hubbell of Newark and William Brinkerhoff of Jersey City, respectively, to fill the vacancies. The labors of the Commission, so far, seem to be confined to personal confabs, weak suggestions, and general rejections. A good proposal offered, to so amend the Constitution that it will require a two-thirds vote to overcome the Governor's veto, was rejected. So it will remain that any one member of the Legislature, from whatever motive, can, by his single vote, overcome the weight and force of the veto of the Chief Magistrate of the State. Here is some of the more important work of the Commission thus far:

The amendment to authorize the Governor to call an extra session of the Senate, as well as the two Houses, was adopted. The amendment to enable the Governor to vote separate items of an incidental bill without defeating the whole bill, was adopted. An amendment was adopted that no member of Congress or Federal officeholder can exercise the office of Governor while holding any of those positions, nor can the Governor be elected to any office of the United States, or to the United States Senate, while holding the office of Governor; also, that sheriffs and coroners are to be elected for three years, but to renew their bonds annually. Amendments were also adopted requiring bills to have three readings on three several days, and that all supplements must contain the section of a law proposed to be amended. The clause disqualifying members who refuse to take the oath was stricken out, but a section was inserted putting a violation of the oath under the law respecting frauds and perjuries. A conviction of crime in a public officer shall vacate his office, and the record thereof shall authorize the filling of the vacancy. An amendment passed that no alteration of a city charter or municipal corporation shall take place unless the intention to apply for such alteration, and the wording of such alteration, shall have been published for four weeks in papers having a large circulation in the municipality where such alterations are to take effect. The special legislation which has caused so much evil in Jersey City came in for its share of rebuke, and Mr. Gregory, in a desponding speech, said that they knew not, at present, where the evil there would cease.

Source:

Jersey City Herald, October 18, 1873.

THE CONSTITUTIONAL COMMISSION.

This body has already adopted and agreed to recommend to the Legislature several important but not radical changes in our State Constitution. The policy of their procedure seems to be to dispose first of those topics which are at once most essential and can be settled with the least discussion or likelihood of disagreement, leaving the vexed questions to take the risks of disagreement for want of time. A summary review of what the Commission has thus far accomplished will be interesting to all who recognize that the safety of a State lies in its organic law.

The amendment to authorize the Governor to call an extra session of the Senate as well as the two houses is an adoption of the plan of the Constitution of the United States, by which the President may convene the Senate alone in special session in emergencies such as the appointing of important officers, the discussion of treaties with foreign powers, and in which the House of Representatives has no legislative power. It may often happen in this State that the Governor may need the "advice and consent of the Senate," and at the same time deem it injudicious to call together the whole Legislature. It is only nominally a new power placed in his hands, for it affords him an opportunity for dividing responsibility with the Senate, and in a State like this, where every Senator can reach the Capital at a days notice, the amendment proposed commends itself to common sense.

Another amendment, that to enable the Governor to veto the separate items of an incidental bill without defeating the whole bill, is a great safeguard against improper legislation. We will suppose an appropriation bill with a hundred items of expenditure, ninety-nine of them absolutely necessary to the working of the government, the remaining one a scoundrelism slipped in at the last moment in the hurry and confusion of stormy outcry which is miscalled debate. The thing may be thoroughly bad and corrupt, but the Governor has only the alternative of signing the whole or none, and he must yield to the pressure of the State's necessities. Moreover, given that the bulk of a bill is demanded by the best interests of the State, there is not sufficient motive for the Executive to scan it closely for tricks of legislation and when he vetoes such an one the question comes up, not on the details, but "Shall the bill pass notwithstanding the objections of the Governor?" The bulk of good overrules the individual wrong.

An amendment was adopted that no member of Congress or Federal office-holder can exercise the office of Governor while holding any of these positions, nor can the Governor be elected to any office of the United States, or to the United States Senate, while holding the office of Governor. This hardly requires argument. There should be no intermingling of functions, both Federal and State,

in any one person. He must not serve two masters, nor ought the Governor to employ the influence or patronage of his office to promote his ambition for the Presidency or a seat in Congress, as he would at least be accused of doing were he to accept such a candidacy. He should be satisfied either to serve out the time to which he has been assigned in his State office, or else to resign it when he accepts a nomination to another.

The amendment giving three years term to the office of Sheriff and Coroner, but requiring them to renew their bonds annually, if adopted, as it doubtless will be, would rid our county elections of an annoyance which now occurs every year. Courtesy and sound policy established the rule that a Sheriff once elected should have no opposition for a second and third term of one year each, but the rule is one which requires more of courtesy and more of sound policy than can be expected from the average modern political convention. We are to have a taste of this in Essex this fall, in which a concededly excellent officer is to go through the racket of a second canvass before he is fairly familiar with the duties of his office.

To remedy the evil of haste in legislation, an amendment was adopted requiring bills to have three readings on three separate days. This gives time, and not too much time, for careful consideration of bills, while it does not impede the rapid progress of business. The plan is now to have a first reading, say in the morning, and a reference to committee. In the afternoon the bill is reported back, yet upon its second reading, by title, the rules are suspended and the third reading, often nothing but a succession of skips, is had immediately and the bill passed. The bill may be a good one and its passage be much advanced by this haste, but no member has time for judgment, and other bills are kept waiting while it is crowded through.

The other amendments are of less importance. In the main, the work of the Commission thus far goes on prosperously. It makes no change in the principles which govern our present organic law, but simply adopts the modern conveniences to the old house. The body of the fundamental law, with all its conservatism—in the just sense of the word—remains, and the amendments proposed are rather in the line of progress than of change. By and by, when we get into the aesthetics of politics, where every sciolist will have his scheme for making everybody else a political saint either by voluntary or compulsory laws, we shall have something more exciting and less edifying.

Source:

Newark Daily Advertiser, October 20, 1873.

[UNTITLED.]

The Commission met this morning at 10:30, with less than a dozen members present. It finds itself considerably embarrassed by the vexatious absence of its members, and could proceed with its work much more rapidly if all would be present during the three days of each week that they remain in session. The Commission is reluctant to adopt or even take important action on any proposed amendment radically changing the present Constitution, or vitally affecting the interests of the people of the State, with little more than a bare quorum present. The consequence is that questions of importance are constantly delayed. It is believed that the Commission will complete its labors in three or four weeks from now.

Source:

Newark Daily Advertiser, October 22, 1873

CONSTITUTIONAL COMMISSION.

It must not be presumed that the great mass of amendments noticed in our last issue contained the suggestions of members of the Commission. Very many of them are presented by friends and by no means reflect the opinions of individual members of the Board. A great number were offered when the Commission resumed its sittings on yesterday, which will be reported by the committees and considered.

Source:

The Woodbury Constitution, October 22, 1873.

THE VETO.

In the *State Gazette* of the 17th inst., is published the speech of Mr. Ten Eyck, President of the Constitutional Commission, on the veto power.

The reputation of Mr. Ten Eyck gives importance and influence to any views he entertains and expresses upon constitutional questions. It is therefore with reluctance that we feel constrained to differ with him respecting the extent of the veto power with which the Governor should be invested.

It was proposed in the Commission, to amend the Constitution so as to require the votes of two-thirds of the members of the Legislature, instead of a majority, to overcome the objections of the Governor to any proposed law.

One ground of Ten Eyck's opposition to this amendment is on account of its

novelty in New Jersey. Neither in colonial times, he says, nor since, has any such power been conferred on our Governor.

This surely is no valid objection to the amendment, more than it would be to any amendment of any description whatever. The object of the Commission over which Mr. Ten Eyck presides is to put into the Constitution many new provisions not found in the present or any previous Constitution of New Jersey.

Although under the Proprietary government, and after the surrender to Queen Ann, there was no gubernatorial veto other than that frequently exerted by dissolving or proroguing the Legislature, there was an absolute veto under the Royal prerogative frequently exercised. It is therefore not historically correct to say that previous to the Revolution there was no existing veto power on legislative proceedings in New Jersey. It was this exercise of the veto by the British Crown, often unjust and erroneous, which probably led the Convention of 1844 to give to the Governor no power of vetoing the acts of a legislative majority. The veto of Gen. Jackson on the bank of the United States, a few years before, had its influence, no doubt, with the Whig members of the Convention in rendering them hostile to an efficient veto. Yet the Convention sanctioned the present mockery of a veto, only by the casting vote of their president.

Mr. Ten Eyck says, "nothing has occurred since that time justifying the adoption of the proposed amendment." Here we are at issue with Mr. Ten Eyck. It is because of many things "which have occurred since that time," that we think the people of New Jersey demand this change.

Within the last twenty-five years it will hardly be denied that much demoralization has taken place, more or less affecting legislative action. It is notorious that the use of money in elections has increased. It is well known that many members of the Legislature are indebted for their election to the profuse use of money. If a majority happen to be made up of one, two or more who thus buy their way into the Legislature—if this is perfectly notorious—*it would of itself alone* be a sufficient reason for conferring on the Governor the proposed veto power.

It is too well known that there are Legislatures of several states which are managed by lobby rings, who procure legislation for private gain regardless of the public welfare. In those states the people would be benefitted and the sway of corruption curtailed if such governors as [John Adams] Dix[, Governor of New York] and [John] Hartranft [, Governor of Pennsylvania] were invested with a veto power, to overcome [that] which the votes of four-fifths of the members should be required. The venality of some legislatures make their acts the mere bargain and sale of interested parties.

The constitutional convention of which Mr. Ten Eyck is President has been engaged in discussing the propriety of imposing oaths of purgation on the

members of the Legislature to protect its purity. If the present oaths which members take will not secure their virtue, neither will any other sort of oaths. But a chief magistrate who would fearlessly exercise an efficient veto conferred on him, would do more to prevent the introduction and consummation of corrupt measures than any amount of oaths.

We hope that Commission will not stultify themselves, by refusing to recommend an effectual veto, while they insist on the imposition of new oaths.

When the present Constitution of New Jersey was adopted there was but one great railroad corporation in the State of much magnitude. Now there are half a dozen such corporations with capitals ten times greater than that of the Camden and Amboy in 1844. It is well known that all these corporations to a greater or less extent help to elect a large proportion of the members of every Legislature; that is, they *cause them to be elected*. Let it be supposed that this is done legitimately and without corruption. The Assembly districts and the counties interested in particular railroads would generally elect representatives who would protect their interests.

It is obvious therefore that the friends of the railroads in the Legislature may very often, by combination, procure legislation which a majority of the people would not approve. The only protection against such or any bad legislation which can be devised, is to arm the Governor with an efficient veto. That might not always be effectual, but it would afford the popular majority in the State some better chance than they now enjoy to escape unjust legislation.

The progress of liberty in Europe was measured by successful efforts to curb the sovereign power. Here the sovereign power, which is the people, should also be restrained, to insure the security of persons and property.

The Governor's veto, where it exists in any practical force, is one means of restraining popular excesses or vicious legislation. When exercised with integrity and courage, it is a bulwark against sectional, corrupt or injurious legislation.

Our Republican system is a system of checks and balances, for the protection of the many against the few. The Senate is a check on the House of Assembly and the latter on the former, and the Governor should be a check on both. The judiciary is a check on the combined action of the three, to a limited extent.

Arguments against an effectual gubernatorial veto on legislative acts are, equally, arguments against any check whatever. They would, if they could prevail, lead legitimately to the abolition of Senate, Governor and judiciary.

If every member of the Legislature were presumed to be incorruptible, then indeed the veto would be unnecessary. But laws and constitutional provisions are formed to guard against the machinations of corrupt men. Mr. Ten Eyck says, "this is a government of the people and for the people. This power is not needed

to protect the people from themselves.” But it is needed to protect the people from bad men who make merchandise of the votes of the people’s members of the Legislature. A majority of the Legislature are not the people, nor do they always truly represent the people. But the Governor is the representative of the whole people. He is responsible to the whole people. The responsibility of a member of the Legislature to his constituents cannot be compared with that of a Governor to the whole people. The conduct of a member cannot always be traced. But the eyes of the whole people and a vigilant press are always fixed on the conduct of their Governor.

If the Governor’s veto could be nullified only by two-thirds of the members of the Legislature, it would have a tendency to make the people more cautious in the selection of their governors. It would elevate the standard of their qualifications. Great integrity, firmness of character, independence and moral courage would then be considered indispensable to every aspirant to the post of chief magistrate of New Jersey.

Mr. Ten Eyck says the veto is no longer used in Great Britain. The reason for the disuse of this part of the Royal prerogative there is obviously because when parliament and the ministry (who speaks of the crown) disagree, parliament is dissolved or the ministry is changed. Another sufficient reason is that the House of Commons, as representatives of the people, are so powerful that King or Queen shrink from collision with it. The incumbent of the throne is not recognized as the representative of the people as our Governor is. If the British chief magistrate was elected for a short term, then he would exercise the veto power without fear of producing a revolution.

S[amuel]. J. B[ayard].

Source:

West Jersey Press, October 22, 1873.

UNGENEROUS AND UNWISE POLICY.

The Constitutional Commission on Tuesday adopted a provision that the two mill school tax should be expended in each county where assessed and paid, and not elsewhere. We think, with Mr. Dickinson, that in adopting such measures as this the Commission is entrenching upon the province of the Legislature. At all events, this policy, which is proposed to incorporate in the fundamental law, is ungenerous and unwise, and we feel perfectly confident that this amendment will never be adopted by the Legislature or the people. What is called the two mill act was passed in 1871, and was designated in the title “An act to *make free the public schools of the State*.” It provides “that for the purpose of maintaining free public

schools there shall be assessed, levied and collected annually on the *inhabitants of this State*, and upon the taxable, real and personal property therein, a State school tax of two mills on each dollar," &c. The act further provides that the Comptroller shall apportion the tax among the several counties, and that the State Superintendent of Public Schools shall apportion the moneys received from this tax among the counties in proportion to the number of school children in each.

This law is an act of beneficence and wisdom on the part of the Commonwealth of New Jersey. It is an embodiment of the progressive and enlightened spirit of our State. It has been highly commended by prominent friends of education all over the country as one of the most liberal and praiseworthy acts upon the statute books of the states. It was an act of State policy, broad and general in its application. It was not the design to limit its beneficent effects to particular sections—to compel the wealthy portions of the State to support their public schools, and to allow the poorer sections to do the best they could. Its design was by a general act to make an assessment upon the property of the State sufficiently large to give every child in the State—irrespective of where he lived, or the circumstances of his parents—nine months schooling every year. The amendment adopted by the Commission will defeat this object, and largely circumscribe the generous catholicism of the act. For at present, thirteen out of the twenty-one counties receive more money than they are assessed, and several of them would obtain but very little benefit from the law if they only received the amount they are assessed under it. For instance, Atlantic County is assessed \$8,851.34 and is apportioned \$20,835.19; Cumberland is assessed \$23,206, and receives \$43,520.54; Ocean is assessed \$8,841.70, and receives \$19,749.70.

Are the children in these counties, because they unfortunately happen to be poor, to have thrust upon them the additional misfortune of enforced ignorance? Is the State to say to these poor children—that do most abound where the gifts of fortune are rarest—"Educate yourselves out of your limited means, or live in ignorance"? Is this niggardly policy to be engrafted in the fundamental law of New Jersey? Never. It is the policy of liberal and progressive New Jersey to assess the abundant means of her inhabitants to educate all her children. To say that the taxes of the rich shall be expended only for the benefit of the rich, and that the poor must support themselves, is to strike at the very foundation of the free school system. If such a principle might be applied to counties, it might to townships and wards, to school districts, and even to individuals. It means nothing more nor less than that no part of the taxes of the rich shall be taken to educate children of the poor, a principle at variance with the policy and practice of enlightened government.

Source:

Daily State Gazette, October 23, 1873.

[UNTITLED.]

The Constitutional Commission is somewhat embarrassed in its work by the non-attendance of its members. Inasmuch as the Commission only sits on three days in the week, it would seem as though gentlemen might so arrange their business engagements as to be always in attendance. When only a bare quorum is present, there is very properly a disinclination to adopt important changes to the Constitution. The absent members are thus only prolonging their own labors. The Commission ought easily to complete its work in three or four more weeks. The Convention which formed our present Constitution met and organized on the 14th of May [1844], and finally adjourned on the 29th day of June [1844].

* * *

Source:

Daily State Gazette, October 23, 1873.

[UNTITLED.]

The Pennsylvania Constitutional Convention has set an example which it would be well for our Commission to follow. By a vote of 76 to 20, they have cut off legislative dead-heading on the railroads of that state, and thus paved the way for purer and more independent legislation. Our Commission has decided to give the members of the Legislature \$500 per session, and are preparing to cut off special legislation as far as practicable, so that the sessions will not need to be as long as they now are. This compensation will be ample for the service, and they should now go a step farther and prohibit the receiving or use of free passes over any of the railroads in the state. The Legislatures will always be more or less the tools and servants of the railroads so long as the present system is continued.

Source:

Jerseyman, October 23, 1873.

THE CONSTITUTIONAL COMMISSION.

* * *

The Commission in its session on Tuesday adopted several important

amendments. First in intrinsic value, though not in order of debate, was one declaring that no gift of land or money shall be made by the State or by municipal corporations to religious corporations. This supplements a proposition previously adopted that no city or county, township or village shall give any money or property or loan its credit to any individual or corporation, or incur any indebtedness or impose any tax, except for municipal purposes. The two together have a far-reaching effect in imposing a healthful restraint upon local legislation and curing some evils we already suffer while they prevent others we have reason to dread.

The clause forbidding the voting of money or land to any religious corporation is a declaration of the entire separation between Church and State, and asserts the doctrine we have often urged, that no denomination should draw upon the public at large for the support of schools or charities intended to propagate its special creed. Church schools and church charities are to be considered as channels of private benevolence exclusively. There is not and ought not to be the slightest objection to the establishment of parochial schools in which distinctive creeds and rituals are taught. They stand in the position of commercial colleges, private schools and academies. Any person, dissatisfied with the State system of education, can confide his children to a tutor, a governess, or to any other of the numerous self-sustaining forms of teaching the young. But he cannot call upon the public treasury to pay his preacher, and he must pay his quota to the support of the public schools, which are avowedly secular in their purpose, teaching no religious doctrine other than that of reverence to God and honor among men. These latter are strictly within the province of the public school teacher, and there should be more "heart culture" than there is in many schools, whether public or private.

We believe that the only serious difficulty in protecting the public school moneys from diversion to sectarian purposes which has occurred in New Jersey came a few years ago from the Quakers, who asked a special exemption from the operation of the school laws. It was not granted, for had it been every other sect would have put in a similar plea. The policy adopted was that the State shall provide for the secular education of its children as a matter of police in the prevention of crime, depriving them of the excuse of ignorance, teaching them a sound morality, but leaving all religious dogmas to be inculcated in the church or at the fireside. In New York this plain principle has been violated in numerous instances. Lands have been given away profusely by the cities, and moneys have been regularly voted at every session of the Legislature for the maintenance of sectarian schools, orphan asylums, house of correction and hospitals, nine-tenths of which were and are under the control of a single church, and are devoted to the

propagation of a special faith which has almost become the State Church. Two years ago the Young Men's Christian Association of New York refused to accept a large appropriation offered them in order to silence their opposition to any perversion of the school and charity funds.

The other proposition, forbidding any municipality to grant lands or money or loan its credit to any private corporation, is a well-directed blow at the system of bonding cities and townships in the aid of railway and other projects of public improvement. There is really no more reason why a township should vote money to a railway than to a cotton factory or rolling mill. The latter indeed would probably be the more decided help to the town, for these projected railroads are frequently not constructed at all, or if built they fall into new hands, local representation is denied, the bonds are exchanged for stock, the stock speedily becomes worthless and the whole investment is lost. Such has been the almost universal experience in the matter of bonding townships, and it is well that the amended Constitution should assert the broad principle that money raised by taxation shall be devoted exclusively to municipal purposes, and that all commercial, charitable and religious enterprises shall be self-sustaining. This is the point reached by the amendment adopted on Tuesday and we believe it will commend itself to every good citizen. If not, let us select some one church as the educator of our children, for it would be impossible to make a fair division of the public funds among thirty or forty contending sects of all ages and sizes.

A further provision adopted involves a substantial change in the distribution of moneys resulting from the school fund proper and the two-mill tax. At present a two-mill tax is levied upon all the rateables in the State and the proceeds are apportioned among the counties according to the ratio of their school population. The result of this is that some counties pay much more than they get back again. The City of Newark last year, besides supporting its own magnificent system of public schools, paid other counties considerable more than \$50,000. Part of it went to the townships in Essex, but only a small portion. The last report of the State Superintendent shows that the total school tax raised in Essex County for the State was \$44,000 in excess of the amount actually expended in our own schools. We regard this as unfair, but not exactly as an outrage. So long as the support of the schools rests upon a changeable legislation, and so long as such support is a prime duty of the State, such an inequality must be tolerated, or otherwise common school education would be distributed in patches and the public schools would become too nearly voluntary in their character and so drop into subjection to private local or denominational influences.

This danger the Commission proposes to avoid by making not less than a two-mill tax for school purposes compulsory on all the counties "to be expended on

public schools *therein and not elsewhere.*” This seems to cover the ground. It compels a reasonably sufficient school tax everywhere, but it does not assess one county to the help of another. For instance, under the two-mill tax Essex pays so much more than it gets back from the State that it is only a high public spirit and devotion to a cause which enables it to endure the wrong. The amendment strikes us favorably and is only a substitution of the principle that the property of each county shall educate its children, for the present rule that the property of the State shall maintain the schools.

Sources:

Daily Fredonian, October 24, 1873.

Sentinel of Freedom, October 28, 1873.

THE TWO MILL TAX.

Speaking of the provisions adopted by the Constitutional Commission, that the two mill school tax should be expended in the county where levied and not elsewhere, the *Newark Advertiser* says:

“This seems to cover the ground. It compels a reasonably sufficient school tax everywhere, but it does not assess one county to the help of another. For instance, under the two mill tax, Essex pays so much more than it gets back from the State, that it is only a high public spirit and devotion to a cause which enables it to endure the wrong.”

The mistake is in assuming that this two mill tax is a county tax. It is nothing of the sort. It is limited neither in its assessment and disbursement, except as a matter of convenience in the use of county officers, by geographical lines within the State. It is a State tax, for a State purpose. It is not the county of Essex, as a county, that contributes this excess of tax, of which the *Advertiser* complains. It is the property of the inhabitants of New Jersey that pays the tax, a large proportion of which happens to be located in Essex County. The property of Essex is not assessed any higher than the property of Atlantic or Ocean. It is two mills in all parts of the State. It is assessed and collected by the State, and paid into the State Treasury. Then the State uses it for a specific purpose. That purpose is to make free the public schools of the State. To accomplish this object the State apportions the money in proportion to the number of school children. That is, it divides the money up equally among the school children of the State. It [doesn't] give the children of the rich the greater share because their parents paid the most tax. It was raised, not for the benefit of the parents of the children, but for the education of the children themselves, and the State shows no partiality in the dispensing of its

enlightened bounty. If the plan of the Commission should prevail in our Constitution, the poorer counties would have to raise two or three times as much tax to accomplish the purpose of which is now achieved under the present law. And those poor counties are scarcely able to raise the tax they now pay.

Source:

Daily State Gazette, October 24, 1873.

THE COMMISSION STEADILY AT WORK.

The Commission made a mistake on the start in not adopting a systematised plan of procedure. It neglected to do this, and the consequence is that it is greatly embarrassed and impeded in its deliberations, and has been more than once almost inextricably involved in a maze of difficulties. When it is desired to call up some specific amendment, it often happens that they do not know what stage it has reached, or where to find it. They do not know how many amendments have been adopted, what have been rejected, nor how many are yet under consideration. For instance, today they wasted nearly an hour in discussing and voting upon a proposition to substitute two-thirds for a majority vote to overcome the Governor's veto. This proposition had been discussed, finally voted upon and lost on Wednesday of last week. The process was repeated today.

* * *

Source:

Newark Daily Advertiser, October 24, 1873.

[UNTITLED.]

Our Constitutional Commission are agreeing upon some very wise amendments, but they are also agreeing upon some that are very decidedly otherwise. Among the most important, perhaps, of the latter class, was one that the two-mill tax for educational purposes shall be expended upon the public schools in the counties in which it is raised. Nothing could be more absurd; and its fallacy is so thoroughly exposed in an article in the *Trenton State Gazette*, in reply to a *quasi* endorsement of it in the *Newark Advertiser*, that we quote: —

“The mistake is in assuming that this two-mill tax is a County tax. It is nothing of the sort. It is limited neither in its assessment nor disbursement, except as a matter of convenience in the use of county officers, by geographical lines within the State. It is a State tax, for a State purpose. It is not the county of Essex, as a

county, that contributes this excess of tax, of which the *Advertiser* complains. It is the property of the inhabitants of New Jersey that pays the tax, a large proportion of which happens to be located in Essex County. The property of Essex is not assessed any higher than the property of Atlantic or Ocean. It is two mills in all parts of the State. It is assessed and collected by the State, and paid into the State Treasury. Then the State uses it for a specific purpose. That purpose is to make free the public schools of the State. To accomplish this object the State apportions the money in proportion to the number of school children. That is, it divides the money up equally among the school children of the State. It [doesn't] give the children of the rich the greater share because their parents paid the most tax. It was raised, not for the benefit of the parents of the children, but for the education of the children themselves, and the State shows no partiality in the dispensing of its enlightened bounty. If the plan of the Commission should prevail in our Constitution, the poorer counties would have to raise two or three times as much tax to accomplish the purpose which is now achieved under the present law. And those poor counties are scarcely able to raise the tax they now pay."

We state with pleasure that Senator Cutler vigorously opposed this amendment in the Commission, holding substantially the same views as those embodied in the *Gazette's* article. And we feel very certain that there is not the slightest danger that the proposed amendment will receive the sanction of the Legislature.

Source:

Jerseyman, October 28, 1873.

[UNTITLED.]

The Constitutional Commission worked industriously last week. Among the amendments agreed upon was one making the pay of members of the Legislature \$500 per session and allowing them \$25 for stationery and postage stamps. The proposition not to permit any tax exemptions whatever was debated at length. Some of the members thought it too sweeping, but the people do not think so, they can rest assured. The only just and equitable mode of assessing taxes is to assess every kind and species of property, and every individual according to his worth. When this is done many causes of complaint will be removed. It is not possible to make a perfect tax law; but it is incumbent upon those charged with the duty to make it as perfect as possible. Its provisions should be so simple and comprehensive and fair on their face, as to commend them to all who believe in the justice of contributing by taxation to the support of the government.

Source:

West Jersey Press, October 29, 1873.

[UNTITLED.]

The efforts of the Constitutional Commission to “elevate the standard” for Justices of the Peace is a move in the right direction. Many of these administrators of the law out-dogberry Dogberry himself, and have as little idea and care for the principles of law and even-handed justice as many of those who are brought before them for trial. If it is at all practical to introduce some sort of civil service examination for persons aspiring to be justices, it could not but act beneficially, and would result in giving us a higher order of men for this too generally despised, but really important, office.

Source:

West Jersey Press, October 29, 1873.

[UNTITLED.]

The Constitutional Commission has adjourned over until Tuesday next, the 11th inst. The principal amendment agreed upon last week was one with reference to the election of Justices of the Peace, which provides for the election of two in each township and one in each ward, who shall possess certain qualifications that the Legislature may prescribe, or their commissions shall be withheld. We have very serious doubts whether much will be accomplished in the way of improvement by this process. The mischievous part of our present system is the manner of the election of these officers. They should be appointed, either by the Governor, the Legislature, or the higher courts, instead of being the creation of caucuses and a popular vote. Then a standard of intelligence, independence and good judgment may be set up which will have a practical value. But to have people elected justices as now, and then afterwards to fail to pass such an examination as required or come short of the qualifications demanded, would be to make necessary special elections to fill vacancies thus created, or leave many townships entirely without these officers—for we assume that about the same sort of Justices of the Peace will continue to be elected so long as they are chosen in the manner they now are.

Source:

Jerseyman, November 4, 1873.

THE VETO POWER.

In another portion of the *Constitution*, we publish the remarks of our friend and fellow townsman, Benj. F. Carter, Esq., on the subject of increasing the power of the Executive respecting the veto. We regret that we cannot agree with the gentlemen who have seen proper to extend this prerogative of the Governor.

To us this change appears contrary to the spirit of our Republican institutions—at war with the very principle that controls and secures all legislation.

It is in opposition to the long respected practice of our State government.

It is an arbitrary power.

It is an encroachment upon the functions of the Legislature.

It may prevent or delay legislation that may be necessary or desirable.

Government is founded upon the will of the majority, and any encroachment upon the doctrine that this will directs, strikes at the fundamental principle of individual and State authority. The doctrine that majorities form law and can compel submission becomes, by this change, valueless, and we establish a principle at variance with good, sound and safe government. If the will of the people, as expressed by a majority, is attended with danger and oppression, then it is time that the boasted rights of an independent, free people should have a different significance than they at present imply. This measure that requires more than a majority to secure legislation, under any circumstances, establishes a doctrine that we have heretofore asserted formed no part of our State policy. It confers upon a minority the power to impede or prevent legislation. It clothes a lesser number with authority, checks the will of the greater. Are we prepared for this? Do we endorse the principle at the ballot box? Do we say at the polls that a majority shall be the ruling power, and in the halls of legislation deny that very principle? And yet this is the practical result.

For nearly forty years we have been content that this feature of Executive authority shall be part of our Constitution. Has the State received detriment because of it? The legislation of New Jersey will stand by comparison with that of any other Commonwealth. It is as pure, as popular, as beneficial and as safe as that of our sister states. What emergency has arisen that a change must now be made? How have the rights of the people been denied or abridged? Unless the change can produce more beneficial or purer and safer legislation, we are unwilling to grant that, *per se*, it is desirable.

The purpose of the veto power is more that the errors of hasty, ill-advised legislation should be pointed out than that it should be corrective or arbitrary in its character. It grants to the Governor certain privileges whose tendency is to make the Legislature more considerate and prudent, to make it more responsible in the

manner and character of its work. To concede to the Executive the use of a two-thirds veto power is to confer, at times, an almost illimitable exercise of power that a majority of the people may not be able to overcome. It opens a broad avenue of abuse and provides opportunities in which the Governor may thwart the will of the people as expressed through their representatives. Our Executives may be pure and incorruptible, but must we assume that the Legislature is the seat of venality and fraud? Will not the people who look to the purity of the one be equally anxious to secure the other? It may be possible that this arbitrary power may be placed in the hands of an Executive who will exercise it unjustly. Where is the protection of the majority in such an emergency? If it be true that there is no power more tyrannical than that of majorities, would not this innovation in our State Constitution confer opportunities for equally as great oppression? Is not the Executive as liable to become as arbitrary and overbearing as legislative majorities? Is it unnatural to believe that the ambition of our chief rulers may prompt measures that may be equally dangerous? In the Executive the power for evil is concentrated, in the Legislature it is divided.

A veto that requires a two-thirds vote to overcome practically constitutes the Governor an agent in the enactment of laws, virtually destroys the distinctive difference between the Executive and Legislative departments, and makes the assent of the Governor equivalent to a vote exceeding a majority. It forms a combination between the two separate departments, increasing the power of the one while it diminishes the rights of the other.

Upon questions of State policy the two branches of government may differ very materially—legislation may be called for by one which may be disputed by the other. Suppose a majority shall declare that certain measures are necessary and proceed to their enactment. Here intervenes the enlarged veto power of the Executive. Legislation becomes blocked, and wise, beneficial laws are denied. It is no answer that the people may send men in accord with their views to the next Legislature. They may secure a majority, but that is not sufficient. A policy that would further the interests and advance the prosperity of the State must be abandoned. And even if the sentiment of the people should support the legislative policy after a year's delay, is not the fact demonstrated thereby that a better, safer practice lies in the government by a majority than by a two-thirds rule? Does it not prove that a year's delay has been occasioned by the practice of an erroneous principle? A change would make a certain character of legislation dependent upon a two-thirds vote, while a majority would be sufficient to secure legislation of a different character.

The argument for a change, it seems to us, is based on the claim that the people must be protected against their representatives by the introduction of a foreign and

hitherto not accepted principle. Whether the prohibition of special legislation and the enactment of general laws will not make this new provision less called for, is a fair question for consideration. The incorporation of such a radical change we do not believe is demanded by public or private interests. It is a confession that the people are not to be permitted to govern themselves on the principle that majorities shall rule, and that public safety requires the abridgement of rights hitherto respected and guaranteed. This we are not willing to concede. For these reasons we hope that this enlarged power may not be conferred.

Source:

The Woodbury Constitution, November 5, 1873.

[UNTITLED.]

The Constitutional Commission have so far progressed with their work that it is thought they will be able to close their labors about the middle of the present month. That they have labored earnestly to suggest such a revision of the present Constitution as to materially improve it, no one who is acquainted with the character of the gentlemen composing the Commission will pretend to dispute; but just how far the two succeeding Legislatures may regard their work is a problem which it would be hazardous to attempt to solve. That good will result from their labors is generally conceded.

Source:

West Jersey Press, November 5, 1873.

RESPONSIBLE REPRESENTATION.

The shameless bribery and corruption developed during the last decade of American politics have caused many a patriot to despair in contemplating the future of the Republic. Every remedy that seemed plausible has been discussed, and it is safe to say that the constitutional commissions sitting at the time in different states, find in this problem more difficulty than in all others combined. The plan which we here suggest is not original, but was adopted many years ago in Switzerland, and has worked so excellently well as to commend it to attention. Briefly illustrated, it is as follows:

In New Jersey our State Senators are each elected for three years. Suppose, for instance, that the member from one of the counties is chosen upon a distinct and unequivocal free railroad platform, and during his first year he remains loyal

to his pledges, but during the interim between that and the succeeding session of the Legislature, he is "seen," is in fact purchased, and his second winter in the capital is marked by the most barefaced betrayal of his constituency. Under the present Constitution there is no remedy for such a state of affairs, which has been frequent and exasperating. The member must be allowed to complete his term, when he returns home with his nest well feathered and with no permanent taint upon him. The remedy that we propose is this:

So soon as it becomes evident that one of our representatives is playing false, one-third of his constituency have the power to meet in mass meeting and demand that a new election shall be held. The sheriff of the county, upon proper notification of this demand, shall order an election within thirty days. The impeached candidate has the right to run again, and during the period mentioned has full opportunity to explain his vote to those who have called him to account. If they are satisfied, they have only to re-elect him, and he retains his seat. If defeated, his mantle falls upon his more worthy opponent. It is understood, of course, that at this new election only his constituency are entitled to vote.

The obvious objection to this plan is that it is cumbersome and difficult of application. Were it likely to be called very frequently into use, the objection would indeed be serious, but in Switzerland, only four such elections has been held during the past seventy years. The probability of a representative being called to account in such a peremptory manner is a rod constantly held over him, and will do more to keep him within the line of duty than any other means that can be devised. The disgrace of being driven ignominiously from the halls of legislation, branded by one's own constituency as a recreant, will deter the average American representative from clutching the bribes that are shoved into his face, so long as he can be of any use to designing men and combinations of men. The scheme suggested is as applicable to our national as to our State representatives.

Dr. Hines, in Switzerland, after being elected six times in succession, was nominated a seventh time against his own protest. He gave formal notice that if re-elected he would not serve, and made a vigorous canvas against himself, despite of which he received a large majority. He resolutely refused to serve, and finally was called to account, and still refusing, was formally accused, tried and sentenced to transportation. He appealed to the Council for protection, and the probability is that he will not be called upon to undergo what is certainly a singular and unjust sentence.

It is hardly possible that such a contingency as this ever could occur in American politics.

Source:

Daily State Gazette, November 13, 1873.

THE VETO POWER.

We had intended to extend our remarks last week in review of Judge Carter's remarks upon the veto power, but having read them carefully, we came to the conclusion that he had well sustained his position by the most incontrovertible argument. We noticed, however, that the Woodbury *Constitution* attempts a controversion by picturing dangerous contingencies which may arise, by establishing this "one man power" in our State Constitution. The historical precedents set forth by Judge Carter are sufficient in themselves to meet all the objections raised by the *Constitution*, since no calamity has followed the exercise of the veto power in those States where it has long existed, and frequently resorted to.

In our opinion, where it simply requires a majority to pass a bill, after the Governor has sent in his objections, there is no veto power at all. It exists only in name. The whole proceeding of submitting a bill to the Governor in our State, is simply to procure his signature, or to obtain his reasons for refusing to sign it. The bill is passed with or without his signature. He is powerless to check the evils of legislation. We regard it as a useful check to partisan excesses, and that species of revengeful or retaliatory legislation which too often spring from the violence of contending parties. As an example we might point to the ruinous system of gerrymandering, in which county lines are moved and again set back, as parties alternate in power—townships bandied about like a foot ball—the line of legislative districts changed and again restored—to say nothing of other political bills designed to benefit or prolong the power of the dominant party. For our part, we had rather trust to the mercy of the "one man power," than to run the risk of meeting the tyranny of legislative majorities, particularly when such majorities have been obtained through a bitter contest. In the former case, there is a limit to either the perverseness or tyranny of the Governor, because two-thirds can render him harmless. Any grave error on his part cannot be committed with this check upon him. But, in the latter case, the most monstrous bills—pregnant with enormities—may be passed, and the Governor is helpless for resistance.

Need we point to the many instances recorded in the history of our national legislature, where the country was saved from calamities by the exercise of the veto power? We will not say that it has always been wisely asserted; but if not, when the want of executive judgement became too apparent, he has often been overruled by the aid of his own partisan members. We can look back as far as

1828, and remember from that time to the present, the frequent exercise of this power by the different Presidents, and cannot remember one from which followed disaster to the country. How many have been overruled by the two-third majority is well known. But, in every instance, there was more or less of condemnation or approval, governed to a great extent by party predilections. For instance, the vetoes of Andrew Jackson we regarded as blessings, while our neighbor may have looked upon them as curses. So with those of Andrew Johnson. We viewed his resistance to a radical majority as evidence of the purest patriotism, and a noble exhibition of moral courage. While a fanatical majority disarmed him, he was none the less faithful in his efforts to protect the people against an assumption of power which abridged their liberties, by robbing the states of their prerogatives and centralizing power in Congress in violation of the Constitution.

The framers of our government will ever be gratefully remembered for the guards they threw around the three great branches they constructed. The history of the world can point to no experiment which culminated in such perfect success. With pure intentions, and a jealous watchfulness of our liberties, they seemed to anticipate every danger which might beset the republic in the future, and left no weak point of attack from foes within or without. In providing for a check upon a reckless majority of Congress, time has attested their wisdom. In guarding against the whims or caprice of a perverse President by the two-third vote, they were equally sagacious. Therefore, we cannot see why the veto power should not be the same in the states as that existing in the general government. True, the people of each state have the power to accept or reject this feature in their local government; but when it has worked so well at the head, we do not think it would be less beneficial to the branches; and we think that Judge Carter merits great praise from his constituents for his able efforts to erect this necessary guard against hasty, if not reckless, legislation.

Source:

Camden Democrat, November 15, 1873.

CONSTITUTIONAL COMMISSION.

This body, appointed for the revision of the State Constitution, has been applying itself closely to the work committed to its hands in the hope of an early completion. It will probably close during the present week. Whether its work has been too general, whether it has undertaken more than was anticipated, gives rise to various opinions. We apprehend that the result of its labors will be generally approved by the people, the proposed amendments embodying changes desirable

and called for.

Source:

The Woodbury Constitution, November 19, 1873.

THE VETO.

In a recent issue we expressed our dissent to the change in the veto power of the Governor, believing it was not called for by the interests of the State, and that it was against the principles upon which our government was founded, that a majority was the ruling power. We are still of the same mind, but we are not so illiberal as to claim that those who differ with us are not entitled to the same respect that we would desire. We concede to Judge Carter an honest difference of opinion, *without any reference to political association*, we would remind our neighbor of the Camden *Democrat*. Our position had not the most remote connection to party interests, and we regret that our neighbor has seen fit to drag this feature into it. The proposed change was, to us, a matter outside party influence, resting on its own particular merits for acceptance or rejection. So understand us, Mr. *Democrat*, for as a Republican we have naught to say either for or against.

Source:

The Woodbury Constitution, November 19, 1873.

A SHORT SESSION.

From all that appears now, the ensuing session of the Legislature promises to be neither a long nor exciting one. There is less legislation to be asked for from this session than for many years, and this is in part true of other portions of the State, if the number of published applications for special charters is to be regarded as a criterion. The strong determination which the passage of the general railroad law developed last winter, to insist upon the enactment of general laws, seems to have had a salutary influence. That law itself, removing, as it is hoped, those exciting and protracted contests between rival corporations which has made the office of a legislator a degraded one, will tend greatly to shorten the session. We see nothing then at this time to keep the Legislature together longer than sixty days at the farthest. The amendments to the Constitution, suggested by the Commission which has been sitting during the past summer, will be presented in such a succinct form and so complete in themselves as to leave little or no occasion

for elaborate debate. They will come up for adoption or rejection, and stand or fall upon their merits. There is every reason to believe, therefore, that the members of the ninety-eighth Legislature will not be called upon to act upon more than a thousand bills, or anything like that number. If it should turn out that we are correct in our conjectures, there will be no occasion for more than a two month's session.

Source:

West Jersey Press, November 26, 1873.

TAX EXEMPTIONS.

The Constitutional Commission propose, among the amendments to the Constitution, to exempt from taxation only burying grounds not owned by stock companies. None of the proposed amendments meet with greater favor. Several millions of real estate in New Jersey, owned by companies, are untaxed every year, because in their charters are clauses exempting them from the operations of the tax law. We trust we shall have no plea set up that in granting charters to companies already incorporated, the State entered into a contract with them, and therefore their property cannot be taxed. This should be looked after especially. Let the people have the full benefit of this most excellent provision in the revised organic law of the State.

Source:

West Jersey Press, November 26, 1873.

LEGISLATIVE SESSION.

The session of 1874, commencing on the 13th of January next, will be remarkable, it is thought, both for its shortness and the absence of exciting legislation. The amount of legislation from West Jersey is comparatively small, and it seems to be regarded that less will be sought from the northern section of the State than heretofore. If this be so, the length of the session may be shortened fully a month, making its duration but two months. The interests to be subserved will be less conflicting, and contesting claimants will be few. The amendments suggested by the Constitutional Commission may engage considerable time, but the debate will not be greatly protracted. It is a consummation devoutly to be wished that our sessions may be shortened, but we can see no such end certainly attained until the privilege of special legislation shall be prohibited. This would mark a new era in

our State politics.

Source:

The Woodbury Constitution, December 3, 1873.

PERSONAL.

A review of the work of the Constitutional Commission will be found on the opposite page. The members of the Board, to whose supervision this important matter was submitted, have acted with judgment and prudence. A delicate duty has been discharged with fidelity. Of the members, we desire to make particular mention of our townsman, Benj. F. Carter, Esq. During the frequent sessions of the Commission he was always present, evincing the deepest interest in the proceedings, and acting in an honorable and conscientious way. Realizing the important trust committed to him, he had regard alone to the perfecting of the great State instrument, advising such modifications and changes as would strengthen it and make it more in accord with just demands. The people are to be congratulated in having had such a faithful and careful member on the Board.

Source:

The Woodbury Constitution, December 10, 1873.

[UNTITLED.]

The twenty-third of the month is Tuesday, on which the Constitutional Commission will meet, in this city, to examine the report of the Committee on Revision, simply to see whether the work of the Commission has been properly arranged. Having done this, the next business will be to present their work to the Legislature, at its next session, for them to pass upon.

We understand that petitions are [being prepared] by the religious denominations calling upon the Legislature to strike out that clause in the amendments which forbids the Legislature from passing any law exempting church property from taxation. In this matter there will be union of the several denominations. Some of them have already expressed themselves against it, and others are preparing to do so.

Source:

Daily State Gazette, December 20, 1873.

THE TAXATION OF CHURCH PROPERTY.

This subject was discussed at the M. E. Preachers' meeting yesterday. Rev. Mr. Hitchins presented some strong views against the taxation of this species of property. He took Princeton College as an illustration, and he showed that most of the money that erected this institution came from other parts of the country, and but a small moiety from New Jersey. The location of the College has brought around it a very large amount of taxable property. Besides this, it was the glory of the State, and brought to it mere honor than any other thing in the State. New Jersey was, therefore, honored and advantaged by the location, and it was therefore mean to tax it.

The following was offered, and created considerable amusement. It treats the subject in an ironical and exceeding sharp manner:

Whereas, (in the opinion of many), the Constitution of the United States acknowledges no God, and recognizes no religion; and whereas, in direct violation of the Infidel principles of our Government, not only have church edifices been exempted from taxation in New Jersey, whereby the rates of general taxation have been increased, and thereby Infidels have been indirectly compelled to support Christianity; but also upon her statute books are laws enjoining the observance of the Christian Sabbath, and many of the peculiar requirements of Christian morality; and thereby infringing upon the natural rights of those who have no sense of religious obligation; therefore,

Resolved, That a committee consisting of all who are in sympathy with oppressed infidelity be appointed to wait upon the honored Chairman of the illustrious Commission appointed by the Legislature to revise the Constitution of our State, and urge him to call a special meeting of its members for the purpose of so amending the revised Constitution before its submission to the Legislature for approval as to forever free the infidels of New Jersey from all oppressive Christian legislation—and from all those restraints upon their liberties which Christian morality imposes. When all this shall be accomplished, then will Paris be delivered from her disturbing element, [and the] Immaculate Communists will find New Jersey a more congenial clime.

G[EORGE]. HITCHENS

Source:

Daily State Gazette, December 23, 1873.

[UNTITLED.]

The Constitutional Commission were to assemble in Trenton today to examine their work, and see that it is properly prepared for presentation to the

Legislature. It is probable that a considerable portion of the time of the next session will be devoted to the consideration of the recommendations of the Commission, and it is also more than probable, we suspect, that very few of them will receive favorable action. What the Constitution of the State needs, if it needs anything, is not patchwork, but a thorough overhauling; and as many of the changes most earnestly desired by the people are such as it is not likely will ever command the assent of the Legislature, the only way to accomplish anything really valuable is through a Constitutional Convention, whose work shall be submitted directly to the people without the intervention of the Legislature.

In connection with this subject, it is stated that petitions are being prepared by the religious denominations calling upon the Legislature to strike out that clause in the amendments which forbids the Legislature from passing any law exempting church property from taxation. In this matter there will be a union of the several denominations. Some of them have already expressed themselves against it, and others are preparing to do so. Yet it is difficult to see upon what sound principle of law or justice exemptions of this character can be defended. The property of a church is but the property of an aggregation of individuals. It seeks and receives protection from the State, and why should it not bear its proportion of the taxes which such protection occasions, the same as other property, or if held by the several individuals composing the church organization? Indeed, we are becoming very much of the opinion of Senator Cutler, embodied in a proposition submitted by him to the Commission during its sessions, though it was finally voted down, that no property of any character, whether State, county, municipal, or belonging to corporations of any sort whatever, should be relieved from its fair share of the burdens of taxation. We shall never have "equal taxation," or anything really approaching it, until that principle is recognized.

Source:

Jerseyman, December 23, 1873.

LAW JUDGE.

Among the amendments proposed by the Constitutional Commission is one providing that the number of Lay Judges in our local courts shall be reduced to two, and that in each county a Law Judge shall be chosen. We have before spoken in advocacy of this measure, and we still insist that the principle which underlies such an amendment is eminently safe, wise and economical. The constitution of such a court for local jurisdiction would still retain a preponderance of that element which so many consider essential to the administration of *justice*, without

looking too severely at the *legal* aspect of a case. The very element that is presumably the chiefest in the organization of our Judiciary, is in our Common Pleas Court entirely abolished. The interpretation and administration of law are referred to those whose mind and study have not, in many instances, qualified them for the discharge of the delicate and important duties pertaining to the Bench. The satisfactory administration, we believe, can better be secured through those who have made the science of law the object and purpose of life. A court organized with such a member upon the Bench, co-operating with the lay element, would guarantee all that the most zealous admirers of a controlling popular element could desire, while the presence of a Presiding Judge, versed in the practice, rulings and decisions of our courts, would answer the demands of those who contend that the law and lay elements of society should unite for the satisfactory and safe discharge of these official duties. When this question is regarded by our people, as we think it should be, the day must not be far distant when they will be of one mind in endorsing a recommendation, that *of our local courts a law judge should form a part.*

Source:

The Woodbury Constitution, December 24, 1873.

NEW COUNTIES.

There are several applications, it is said, to come before the next Legislature for the creation of new counties. One is for the formation of a new district with Millville as the local capital, while four applications come from the other end of the State. We do not apprehend that the Legislature will grant either of these claims. We are of those who do not see the necessity of new counties, either to secure better legislation for the State because of the extended area of country, or because of political needs or policy. In more than half the instances where this character of legislation is asked for, it is done by parties who have their own selfish purposes to subserve. Among the amendments proposed by the Constitutional Commission is one prohibiting the division of any county for the purpose of creating new territorial districts, unless the people shall, by an affirmative vote, so determine. We believe that the principle of this amendment is safe, and that its operation is safe too.

Source:

The Woodbury Constitution, December 24, 1873.

TAXING CHURCH PROPERTY.

Petitions are [being prepared] by religious denominations calling upon the Legislature to strike out that clause in the amendment which forbids the Legislature from passing any law exempting church property from taxation. In this matter there will be a union of the several denominations. Some of them have already expressed themselves against it, and others are preparing to do so. We trust the prayers of the petitioners will not be granted. Let all kinds of property be taxed and let us have no exemptions. When this is done, and every citizen is taxed according to his worth, we shall have approached as nearly as possible to a just system of taxation.

Source:

West Jersey Press, December 24, 1873.

TAXATION IN NEW JERSEY.

The question of taxation is one of the most difficult our legislators have to deal with, mainly because of the very loose notions people generally have of the matter, and the complications which have grown out of our manner of dealing with it in the past. Property-holders of every kind and degree try to escape from the burden, and resort to all kinds of methods, ingenious and otherwise, to do so—some for one reason, and some from another. Some are in favor of throwing the burden upon real estate, and others upon personal property—some upon bonds, mortgages, stocks and cash in hand, while others are in favor of their total exemption. Some seem to think that all religious and benevolent associations should not be taxed at all, while others would have them bear their true proportion of taxation. Every year our Legislature is beset with applications from all sorts and combinations of people to exempt this or that interest from taxation—or at least their fair proportion—under one excuse or another. Legislators, desirous of obliging their constituents, do all they can to enact these home demands, and too often succeed in their efforts. As there is no restriction upon this matter in our present Constitution, the list of exempted property in this State is enormous—over a hundred millions of dollars in amount—and in some places this exemption has become positively burdensome to the tax-paying citizens. In some localities the exempted property equals, respectively, one-sixth, one-fifth, one-fourth, and even over one-third of the entire amount. The list of exempted property provided for in our general laws is very large, and includes the:

—“property and the bonds and other securities of the United States, the bonds and securities of this State,.....the property of the counties, townships, cities and

boroughs of this State, and stocks and other personal estate owned by citizens of this State, situate and lying out of this State,.....colleges, academies or seminaries of learning, public libraries, school houses, buildings erected and used for religious worship, and whereon the same are situate,.....the furniture thereof and the personal property therein, the endowment or fund of any religious society, college, academy, seminary of learning, or public library,.....the stock of any corporation of this State, the capital whereof is by this act made taxable to and against said corporation, pews in churches, graveyards not exceeding ten acres of ground, cemeteries and all buildings erected thereon, and all buildings used for charitable purposes, with the land whereon the same are erected,.....and the furniture and personal property used therein, the funds of all charitable institutions and associations collected and held exclusively for the sick or disabled members thereof, or for the widows of deceased members, or for the education, support or maintenance of the children of deceased members.”– *See Nixon’s Digest, page 951.*

But the above does not include the half of the property which has been exempted by special legislation. Under the plea of benevolence a great deal of property belonging to secret societies, such as Odd Fellows, Knights of Pythias, Good Samaritans, Sons of Temperance, Free Masons, etc., is exempted in certain places; many private schools and seminaries; private corporations of various kinds and descriptions; most of the savings institutions; saying nothing about the vast amount of railroad property which pays but a small percentage of tax, and some nothing at all. Those who have time to examine the special acts enacted during the past thirty years, will be astonished at the vast amount of property in this State from which little or no revenue is derived by the State and communities affected. The door has been thrown so wide open in the past that the Legislature finds it exceedingly difficult to close it again, without being charged with partiality, or denying one set of applicants privileges granted to others. The fault is not, therefore, so much in our modern Legislatures as in the system, or rather lack of system, which has prevailed in the past. There are no lack of precedents for almost any kind of exemptions that may be applied for, and the Legislature finds it easier to grant than to deny such applications. They all feel that such exemptions are wrong in principle, but the difficulty is to know just where to begin to amend the matter, and do no injustice to any one.

The Constitutional Commission, which has just concluded its sessions, gave this matter a great deal of attention. They were embarrassed with the precedents, and the rights and privileges which have grown out of our loose legislation, and there seemed to be but one solution to this difficulty, and that to permit NO EXEMPTION FROM TAXATION WHATEVER, and therefore agreed upon the

following as an amendment to Article IV., Section 7, paragraph 17, of the Constitution:

17. Property shall be as used for taxes under general laws, and by uniform rules, according to its true value in money. No property of any kind, protected by law, except that owned by the United States, the State, counties, townships, cities, towns or boroughs, shall be exempt by law from its full share of all State, county, township and city taxes and assessments, except burying grounds and cemeteries not held by stock companies. No law shall be enacted or contract entered into by which the exercise of the power of taxation shall be restricted, impaired or impeded. The Legislature may provide by law for taking away from any person or persons, natural or artificial, now possessing or entitled to the same, any right of exemption from taxation which cannot be revoked without compensation, and for paying to such person or persons a just compensation for the right so taken away.

The main fault with the above is that it does not go quite far enough, and forbid even the exemption of State, county, township and city property. If there was no exemption at all, all communities, associations, corporations and individuals would be placed on an entire equality, and consequently the rate of general taxation would be very much lessened thereby. If communities choose to erect expensive buildings, let them be taxed therefor, and not throw any portion of the burden upon those communities which do not enjoy such privileges. We trust, therefore, the Legislature, when it comes to consider the question, will correct this deficiency in what we regard one of the best suggestions offered by the Constitutional Commission. Perfect equality, and no privileged persons or classes, is the true principle in our government. If the above proposed amendment is incorporated into our Constitution, a great advance will have been made towards this end.

As we understand opposition will be made by certain religious denominations of this State to the above proposition, we propose to have something to say on this point hereafter.

Source:

Daily Fredonian, December 27, 1873.

THE CONSTITUTIONAL AMENDMENTS.

The Constitutional Commission closed its labors on Tuesday, having completed the work of preparing amendments to the State Constitution, a comprehensive synopsis of which we publish in another column. In itself the Commission has no power beyond that of recommending amendments, which

two successive Legislatures must agree to before they can become laws, as well as ratified by a majority vote of the people. A glance at the amendments will show that the Commission has performed its work in a thorough and highly intelligent manner. Whether or not it will be approved is another matter. It is not probable that the clause repealing the existing law which exempts church property from taxation will be adopted without a hard struggle, as strong influences will be brought to bear to have it remain as it now stands.

We are not disappointed to observe that the Commission took no action whatever on the petition of the women for the right of suffrage on equal terms with the men, as at the present time public sentiment is not sufficiently developed in favor of the reform to warrant the taking of such a step. Although committed to the belief that it is the right of women to express their voice in the matters pertaining to their government, if they so desire, still, we do not believe that a majority of women are desirous of obtaining the right, and therefore consider it impracticable to take any important steps until the public mind is ripe for the reform. Agitation will ere long bring about that state of affairs, when it will be time to take decided action.

An important amendment is that which requires that a voter shall have been a resident for thirty days of the polling district in which he offers his vote, as well as of the State one year and the county five months.

Source:

Orange Chronicle, December 27, 1873.

THE CONSTITUTIONAL COMMISSION.

The *State Gazette* says— “One thing may be said of the members of the Constitutional Commission, which has just closed its labors, that they gave to the subject matter submitted to them a great deal of labor and careful thought. Mr. Gregory, notwithstanding his age and the distance he resided from the Capital, was seldom absent, and bestowed much careful attention to the duties. Judge Green and Mr. Grey, the younger members of the Commission, were generally in their places, and presented their views with remarkable clearness, which were sound, and were so regarded by their fellow members. The President, Mr. Ten Eyck, presided with a great deal of dignity and impartiality. Having been a member of the Convention of 1844, his suggestions were of great utility. Indeed, all the members labored hard to present suggestions which, in their judgment, would make our present excellent Constitution still better, and we think they

succeeded in doing so.”

Just previous to the adjournment, a resolution of thanks to Hon. John C. Ten Eyck was unanimously adopted, “for the courteous, dignified and impartial manner in which he has presided over the deliberations of this body.” Mr. Ten Eyck responded as follows:—

GENTLEMEN—I return my sincere thanks for this last and I fear undeserved act of your courtesy. I have received nothing but courtesy at your hands. I have presided solely through courtesy. I have been aided and assisted by courtesy. Courtesy has been the law of our action and government. Amongst gentlemen it is the highest law! During our sittings, this law, I am happy to say, *has never once been violated*.

We submit our work to the Legislature and the people of the State, with the hope that the proposed amendments to our excellent Constitution may prove valuable. They are such as, it is believed, time and experience have rendered desirable. These, with one or two exceptions, have been reached with considerable unanimity. There have been differences of opinion, it is true, but diversity of opinion produces harmony in action. In nature, even, discordant forces woke the music of the spheres. The tendency to fly off, and the tendency to fall in, keep large bodies in their orbits; radicalism and conservatism bring about conciliation and compromise, and secure the golden mean. All government is a compromise between rights absolute and rights restrictive. What we have done we commend to the Legislature and the people for their consideration.

Gentlemen, we are now about to separate. Permit me to say that I part with each one of you with the liveliest feelings of respect and esteem. I trust that we may often meet again as individuals, and that we may all long live to see the efforts we have here made prove beneficial to the State we so much love. I am sure they were designed solely with that view, and for no other purposes.

Gentlemen, in bidding you farewell you have my best wishes for your welfare and happiness.

Source:

Daily Fredonian, December 29, 1873.

[UNTITLED.]

We alluded briefly last week to the efforts being made in some directions to defeat that clause of the amendments recommended by the Constitutional Commission which prohibits the exemption of church property from taxation, and stated that we felt very much disposed to agree with Senator Cutler that all the

property in the State, by whomsoever held, should bear its proper proportion of the public burdens. Subsequent reflection, and more perfect information, has confirmed this view, and we are gratified to learn that the whole subject will be brought up in the next Legislature and thoroughly ventilated. It was news to us until recently, and we apprehend it is to most of our readers, that all the mortgages held by the Commissioners of the Sinking Fund of the State and the Trustees of the School Fund (and it is a very large amount) upon property in the several Counties, pay no tax whatever. All other mortgaged property is required to pay tax—either in the hands of the holder of the mortgage, or, as in case of Savings' Banks, in the hands of the owner of the property. But if a man is so fortunate as to secure his loan from the State, the mortgaged property immediately becomes exempt from taxation; and we understand there is quite a little amount in Morris County and some in Morristown in this fortunate situation. This Sinking Fund will in time amount to several millions of dollars; and the Commissioners, if so disposed, with a little judicious management in investing the amount, might exempt half the property in a county from any sort of taxation, throwing all the burdens upon the remainder. This flagrant injustice should be remedied, and it can only be done by requiring all the property of the State to pay its proportion of taxation the same as the property of individuals, wherever it is situated.

And so there seems to be gross inequality in exempting the property of counties. It will be found upon examination, we apprehend, that there are some counties in the State that own more property which is thus exempt than the whole taxable valuation in some of our smaller and poorer counties.

Bringing it down nearer home, we estimate that there is nearly three-quarters of a million dollars of county, municipal, educational and church property in Morristown that is exempt from taxation, and we judge that in Chatham Township there must be *over a million*, or about 33 per cent. of the entire property of the township, that is thus exempt. And of course, these exemptions make the burdens of taxation fall all the more heavily upon other property, and especially upon the poorer classes—those whose accumulations are small, and who are struggling to free themselves from debt.

In view of these facts, it becomes a very serious question whether our system of taxation is either fair or just, and the next Legislature will do well to give to the subject a most thorough and careful consideration.

Source:

Jerseyman, December 30, 1873.

THE TAXATION OF CHURCH PROPERTY.

Among the amendments prepared and suggested by the Constitutional Commission of this State is one prohibiting the exemption of church property from taxation. We are opposed to this proposition. The community has a deep and common interest in the Christian religion. Even those who abjure all part in, and affect to disbelieve its sublime teachings, derive advantage from its fostering of moral sentiments. It teaches and promotes all those beneficent principles upon which the integrity and well being of society depend. It advocates and fosters nothing at variance with the highest and best interests of the human family. If every human being should strictly and conscientiously observe its precepts we should need no governments, no legislatures, no courts, no prisons, *no taxation*. If every church should be demolished, and religion banished from the earth, crime and wickedness would immeasurably increase, and we should need more elaborate and costly machinery of government, and taxes would have to be more than doubled. We therefore hold that it is to the interest of every person to foster and encourage the spread of Christianity merely from a secular utilitarian point of view, and that it is wise policy in the State to exempt church property from taxation.

The taxation of church property would impose additional, onerous and unjust burdens upon those who already voluntarily give most of their substance for the propagation of those principles whose enforcement the law chiefly contemplates. Church property is, almost without exception, the gift of the religious and moral portion of the community. Every church in this city is a monument of the liberality and philanthropy and morality of our citizens. The investment is one in whose benefits the whole community share. All the people are invited to attend these sacred edifices free of charge. Instead of being a source of profit the investment is a source of continual expense to the purchasers of a church property. The building has to be repaired, painted, reupholstered, heated, &c., all for the free enjoyment and direct and indirect advantages of the public. But now, not satisfied with this generosity, it is proposed that the public shall impose an [illegible] burden in the form of taxation upon this gift. This is taking away a man's cloak as well as his coat with a vengeance. It would be unjust, impolite, and almost outrageous.

Source:

Daily State Gazette, January 5, 1874.

STATE TAXATION.

Of the several amendments proposed by the Constitutional Commission none

will provoke greater interest than the subject of taxation. It has always been a bone of contention—a question surrounded with difficulties—a law under which much injustice and wrong were practiced. Not upon the general subject of taxation do we now propose to speak, but only that feature of the law which bears upon the church property of the State. The present Constitution places no restriction upon the Legislature in its power to exempt property from taxation, and in consequence a very large amount of property has been exempted by special legislation, and that abuses have grown up under this (as they must of necessity under all special legislation), we do not deny. But to the proposition that forms part of the recommendation of the late Commission, we dissent so far as it makes all property liable to taxation. There is such a thing as instituting a policy too restrictive and severe. Such, we believe, framed that proposition which will make church property subject to taxation. The principle that will lay a severe encumbrance upon this species of property is wrong both *per se* and in its operation. There is no property more essentially public than that belonging to the church. It is in no sense remunerative, but rather the reverse—heavily expensive. Its benefits are more general than those from any other source—the influences that these institutions exert upon the body politic, the universal interest that is had in them, should secure them from the burdens of taxation. The *State Gazette* in an able argument against the suggestion of the Commission on this question says:

“We are opposed to this proposition. The community has a deep and common interest in the Christian religion. Even those who adjure all part in, and affect to disbelieve its sublime teachings, derive advantage from its fostering of moral sentiments. It teaches and promotes all those beneficent principles upon which the integrity and well being of society depend. It advocates and fosters nothing at variance with the highest and best interests of the human family. If every human being should strictly and conscientiously observe its precepts we should need no governments, no legislatures, no courts, no prisons, *no taxation*. If every church should be demolished, and religion banished from the earth, crime and wickedness would immeasurably increase, and we should need more elaborate and costly machinery of government, and taxes would have to be more than doubled. We therefore hold that it is to the interest of every person to foster and encourage the spread of Christianity merely from a secular utilitarian point of view, and that it is wise policy in the State to exempt church property from taxation.”

The attempt to change the present relation of church property to the tax law seems to have been made because a deficiency may exist in the amount of revenue that the State should receive from its real property. If such be the case, this is not a proper corrective agent. It is burdening the very source of all moral

improvement, obstructing the flow of that benign influence which purifies and improves the mass of the people, it taxes the structure consecrated to God's holy service equally with the vilest habitation of debauchery and lust; the place of worship stands on the same plane with the haunts of vice and crime. We do not pretend that this comparison, in itself, would constitute the determining cause against the proposed change, but that the bearing of the argument goes to prove the inequality and injustice that the people, as a body, would feel if church property shall be placed in the list of assessed values.

There are feeble churches that would be crushed by this additional burden—churches that have struggled, and are still, against every adversity. It cannot be that the State will adopt a policy, and endorse a principle, that threaten to destroy the strongest influence for her own protection and material and moral prosperity. It cannot be that in the effort to increase her revenues the State must collect a tax from those institutions that contribute so much in all that gives dignity and power to her laws, that make her own statutes more binding and effective. It cannot be that she will strike at the foundation of her greatness or throw embarrassments in the way of moral and religious progress, the surest and strongest evidence of the wealth of the State.

But if this principle shall be made to apply, let a fair exemption be made in favor of those weaker churches—let a certain amount of church property be free from taxation—let the estate of the church to the value of \$10,000 be freed from the burdens of State or other tax. Those religious institutions which are continually in distress the State should not further oppress. It should encourage the growth of a pure sentiment by refusing to lay increased burdens on an association whose purposes add strength to its own power and a hundred fold more wealth to its development than all else that could be devised. As well might the school be taxed, as the church. The former is the State's intellectual teacher, the latter is not less its moral instructor, and an equal deference should be shown to the one as to the other. We trust that our legislators will refuse to place a tax on the species of church values.

Source:

The Woodbury Constitution, January 7, 1874.

THE CONSTITUTIONAL AMENDMENTS.

A study by comparison of the new Constitution of the state of Pennsylvania, just adopted by a heavy popular majority, with the amendments to the Constitution of the State of New Jersey, proposed by the Commission appointed

for that purpose, leaves us with the feeling that if our amendments are adopted, we shall have the better organic law of the two. The New Jersey scheme is better in this wise: Its propositions relate strictly to organic law, to the general principles which should govern legislation and omit a vast amount of legislative detail, of actual statute law, which the Pennsylvanians have deemed it necessary to make irrevocable. The secret of this is that in Pennsylvania the Constitutional Convention was called under a great sense of wrong and of the need of sweeping reforms, in the advocacy of which mere theorists were able to make serious blunders. In New Jersey, the Commission was a small and dispassionate body, with no deep-lying dissatisfaction with existing provisions, but fully recognizing that the changed conditions of the State required a clearer and fuller statement of principles controlling statute law.

One result of this is that the New Jersey programme is terse and compact, with fewer passages capable of doubtful construction than we find in the Pennsylvania charter. Yet the two run upon the same theory—that of the protection of the citizens from the tyranny of the State, the municipality or the corporation. The points upon which they most nearly agree are first the inviolability of private property. The New Jersey Bill of Rights is amended so that while private property may be taken for public use, it must be done in subservience to the general good and paid for, with a right of appeal to the courts. The article is brief, emphatic and capable of only one construction. That of Pennsylvania, reaching the same result, is long, diffuse and somewhat obscure, though its intent is evident. In the matter of the Judiciary, the Pennsylvania Constitution legislates too much and is full of detail which ought to be left the Legislature, which latter presumably respectable body is vetoed in advance or has a chain and ball tied to the leg of each article. The New Jersey project of a Judiciary simplifies by the omission of certain clauses and the substitution of an easy scheme reducing the number of “side judges” and of Justices of the Peace. Nothing is added to or subtracted from the ancient power of the courts.

In dealing with municipalities, counties come first. New Jersey forbids the division of any county except by a majority vote of all the voters thereof. Pennsylvania fixes an arbitrary and not very comprehensible rule that no new county shall be established which shall reduce any other county to less than four hundred square miles or to less than 20,000 inhabitants, nor shall any new county line pass within ten miles of any county seat of a county proposed to be divided; all of which seems arbitrary, technical and assumes a wisdom of the future in which we lack confidence. If the people of a county want it divided, let them make the separation. On the other hand, in the matter of incurring debt, New Jersey is of the two more stringent. It forbids the loan of municipal credit or money to any

association or corporation, and even for public works no county may contract a debt exceeding two per cent. of its assessed valuation, no town shall exceed four per cent. and no city exceed eight per cent., except for water supply. The bonding of townships or counties for railroad or like enterprise is absolutely forbidden. Such debts as are incurred must be for works to be done of the public good under regular official control.

Both instruments confer the suffrage upon soldiers absent in service. Both fix the same general election day—the first Tuesday after the first Monday in November. Both also require the printing of all bills and joint resolutions before they are taken up or considered, and their reacting in full on three several days in each house before their passage. Both also have practically the same provision forbidding members to accept civil appointments or to be elected to the United States Senate. Both states have the same provision that no law shall be revived or amended by reference to its title only. It must be re-enacted and published at length.

In the matter of education, both states exclude sectarian schools, but New Jersey limits the definition of a free school as not to those which are designed to fit pupils to enter college. Pennsylvania has no such limit. The remaining differences, some of them of much importance, must be left to another day.

Source:

Newark Daily Advertiser, January 19, 1874.

[UNTITLED.]

In the Senate, Mr. Stone offered a resolution to print the amendments made by the Constitution[al] Commission for the use of the Senate. This is the most farcical of all that has taken place here, and when they have to have consideration my prediction will be verified. The whole affair was a job, set up by interested parties to get rid of their constituents who were clamoring for a convention; and a trap set for the Governor, that I am sorry to say, he fell into, a matter that all of his appointees, or the most of them, got tired of, as the most of them resigned and left the business at its first blush. It will amount to nothing in the end, and the people will be compelled to meet in convention where all interests can be represented before a Constitution can be made for the State. The fact is the State wants a new Constitution, not amendments to the present, and to follow the existing wants we must have a Constitution. Let the Legislature therefore throw the pattern work aside and prepare for a new one, by convention.

Source:

American Standard, January 20, 1874.

[UNTITLED.]

In the House and Senate next week will come up the report of the Constitutional Commission, and I predict it will be the farce of the session. It was commenced in a trap for the Democratic party and will end in the same, if not checked by the Democrats of the Legislature. What the State and people of the State want is a new Constitution, only to be made as it has been made in other states by a convention representing all classes of the people and all parties, and the mere amendments substituted will not do this: all the small [t]inkering will not do, the times and the people demand radical changes, and these they must have, and if their representatives know their own interests they will live up to the occasion and pass such a bill; the three years delay to take place before any of the amendments can be acted on, finally makes this their imperative duty.

Source:

American Standard, January 21, 1874.

THE CONSTITUTIONAL AMENDMENTS.

The Senate has agreed to take up the amendments to the Constitution adopted by the Commission, and has ordered them printed for the convenience of the Senators. The House has also done the same. A move was made in the House to fix upon Tuesday, January 27th, as the day upon which these amendments were to be taken up and to agree that nothing else should be taken up until they were disposed of. This, of course, led to discussion and the resolution was tabled for the present. It seems really doubtful whether the House will be willing, when the time comes, to settle down quietly to the consideration of these weighty matters without a few bills being sandwiched in to give variety and cheer up the hearts of members who have more bills on hand than they can possibly get through. Just now they talk seriously of devoting a whole week specially to the amendments, but this idea comes rather from the new members than from those who have had some experience in legislation and know how valuable to them is the time, when bills are pressing upon them and constituents urgent for speedy action on their pet schemes.

Source:

Newark Daily Advertiser, January 21, 1874.

**SENATE DISCUSSION ON
THE CONSTITUTIONAL AMENDMENT.**

In the Senate this A.M. a number of bills were introduced, some reported and one passed. Unlike the members of the "lower house," the Senators remained this afternoon and commenced the discussion of the proposed amendments of the Constitution. Whether the arguments which will be made during the consideration of the several changes will be so much empty talk remains to be seen. There is great dissatisfaction with the manner in which they were prepared. The people think they have been left out, with no voice in the matter, and consequently will use considerable opposition. What they really desire is a Constitutional Convention which shall consist of delegates from the Assembly districts of the State. The debate this afternoon was somewhat dull, but as a matter of history I append a report of what was said.

Source:

Newark Daily Journal, January 22, 1874.

LEGISLATIVE PROCEEDINGS.

The prominent feature of today's entertainment, if I may dare to use such a word in connection with the labors of our most worthy legislators, was the very exciting and interesting debate in the Senate this afternoon over the amendments to the Constitution as proposed by the Commission, or rather the first one of those, for only after two afternoons of steady application to the first amendment has the Senate discovered that perhaps, after all, that part of the old Constitution was the best after all, and could not be doctored up to much advantage. During the debate the Senate Chamber was filled with spectators, the members coming in from the House to see the war among the aged and venerable seniors.

Source:

Jersey City Evening Journal, January 28, 1874.

[UNTITLED.]

A special session was held on Wednesday afternoon to consider the amendments suggested by the Commission. Such a diversity of opinion prevails among the members in regard to the report of the [Commission], that nothing can confidently be stated as to the specific recommendations. On the whole, however, it is believed that the report will be severely and critically considered, and that the

Legislature will materially modify the same. It is evident, from the opinions advanced, that the feature which makes church and educational property liable to taxation will meet with strong opposition. It will be found to be the most difficult question to be determined, while the increase of the veto power by the Governor is not universally accepted as good doctrine. The Senate determined to hold special sessions on Tuesday and Wednesday afternoons of each week for the purpose of considering the amendments. They will be taken up separately.

Source:

Woodbury Constitution, January 28, 1874.

TAXING CHURCH PROPERTY.

This subject appears to be claiming a large share of public attention. Since the action of our able Commission, to whom was entrusted the subject of suggesting amendments to our Organic Law, their proposal to restrict the Legislature from exempting such property from taxation has developed quite a feeling of opposition to the measure, and I have been waiting and hoping for an abler pen to defend the action of our Commissioners, but none appearing, I venture, with some diffidence, a few remarks on the subject.

I consider the action of the Commissioners as eminently proper and strictly [d]emocratic in the broadest sense of the term, and that it looks toward a faithful observance of a wise provision of our present excellent State Constitution, which provides in Section 5, Article 1st, that "nor shall any person be obliged to pay taxes or other rates for building or repairing any church or churches, place of places or worship, or for maintenance of any minister or ministry contrary to what he believes to be right or has deliberately and voluntarily engaged to perform."

Now it must be obvious that though we are not, in so many words, required to pay taxes for the maintenance of churches or ministers, yet if churches or parsonages (which latter are a part of the emoluments or pay of ministers) are exempted from the burden of taxation, just so far the other taxable property of the State is saddled with the burden, and the increase of tax so exacted from any man as consequence of church property being exempted is (unless he be a member of said church) just so much exacted from him for the "maintenance of a church or minister other than what he has deliberately and voluntarily engaged to perform." Now, I would ask what have we who are members of religious societies to gain from any such exemption as our secular property has just so much more to pay, unless it be that in direct violation of the above provision of our Constitution we desire to extort it from those whose sympathies are not with us, on the plea that

churches and parsonages are for the general good and consequently should be supported by all taxpayers, including many who are conscientious in regard to a paid ministry.

An argument nearly allied to the maxims of European states in taxing all to maintain churches and ministers of some dominant persuasion. I sincerely hope this tendency will not prevail, but that we as religious professors will be willing and liberal enough to support our own institutions, and thus manifest our faith in them without thus seeking to enforce aid from those who do not feel interested in them. Surely the lessons taught us by the history of the past should induce us to stand firmly for an absolute separation of church and state, and rally to the support of the proper restrictions.

J.

Source:

The Woodbury Constitution, January 28, 1874.

A CONSTITUTIONAL AMENDMENT REJECTED.

The fate of Constitutional Amendment No. 1 is not very flattering to the work of the Commission. After two days' debate upon it, the Senate has come to the conclusion that the paragraph in the present Constitution, which it was proposed to supplant by it, is fully as good, if not a great deal better, and voted by a vote of 17 to 2 to reject the proposed amendment. It was mainly a matter of phraseology and form, and the Commission have thus been convicted of careless and slovenly work. The question was upon that part of the amendment referring to the award of damages for lands "taken by an incorporated company," which award, the amendment provided, should be made "without deduction for benefits." The point urged against this, chiefly by Senator Stone, of Union, was that it was unfair that when a street was opened for the benefit of property through which it ran, the land owners should receive full pay for what was taken away, and yet pay nothing for the great benefit which was done to the residue of the land. Senator Taylor showed that there was really little or nothing in that point, as the amendment evidently meant that when the assessment is made the owner must be paid in full, without any deduction at that time for benefits; but afterwards, when the costs of the improvements are to be made, the balance of the property taken shall be liable with surrounding property for the benefits which are done to it. But Stone then urged that to adopt words of doubtful meaning would be but to involve the people of the State in constant litigation until the meaning is to be settled by judicial decisions. The rest of the members soon came to the conclusion of Senator Taylor that there was no need of the amendment, because the Legislature always

provided the assessment of benefits and award of damages, and for juries to take cognizance of appeals, and agreed by the vote above mentioned to have paragraph 18, Article I, as it now is, viz: "Private property shall not be taken without just compensation; but land may be taken for public highways, as heretofore, until the Legislature shall direct compensation to be made." It seems certain enough to the lay understanding that this terse paragraph covers the whole ground.

It is fortunate that the business of the session is so light this year as to permit the most thorough and painstaking discussion during this grave business of passing upon the proposed changes of our organic law. It seems, however, to have been a "lavish waste of words" to take two days to debate this matter, certainly one of comparatively minor consequence. At the same rate of talk the amendment on the Judiciary will take two months and that on the Legislature two years. It will be remembered that the process of amending the Constitution of New Jersey is a slow and protracted one without the delay of talk. Any amendment must first be agreed to by a majority of the members elected to each of the two houses; then referred to the next Legislature, again agreed to by a majority of all the members elected to each house; then submitted to the people at a special election to be held for that purpose only, and if by the people approved and ratified, then to become a part of the Constitution. It is manifest that it must be [a] good amendment that can run this extended gauntlet without falling, and that the best amendment or any amendment stands an even chance of getting "talked to death" in one of the two Houses, of one of the two Legislatures through which it has to pass. When the able and practiced speakers of the Senate must talk two days to find out that they don't want to amend a minor paragraph, the prospect looks dusky for any dispatch in the constitutional business in the "popular" debating club.

Source:

Newark Morning Register, January 29, 1874.

[UNTITLED.]

We were not among those who believed that much would be accomplished through the labors of the Constitutional Commission. It did not seem to us as wisely made up as it should have been, and it took hold of the Constitution with a purpose to do as little with it as possible and partially, at least, satisfy a popular demand. Our view of the matter, as expressed at the time, was that the Constitution needed thorough overhauling rather than patchwork. There are some things in it, notably with reference to the constitution of some of the courts, our basis of Senatorial representation, the number of members in the popular

branch of the Legislature, &c., which we have entirely outgrown or experience has shown to be defective, that the Commission was indisposed to touch, and which, if they had done anything with, the Legislature was pretty certain to fail to approve. So our remedy and our plan would have been to have a Constitutional Convention instead of the Commission work.

But the Commission really did their work in the main, so far as they attempted to do it at all, well; and now we have the first Legislature to which it is submitted, passing upon it. And what is the result, so far? Why, everything that has been considered up to this time has been rejected, except the striking of the word "white" from the Constitution, which is a mere formal matter anyhow, as it is in violation of the Constitution of the United States and therefore null and void; and the increase of their own salaries to \$500 per year. From the temper shown in the Senate, it is altogether unlikely that scarcely any other of the recommendations of the Commission will safely run the gauntlet of the House and the next Legislature, and we shall finally have the people of the State brought to the polls at a special election for the main and almost only purpose of voting upon a proposition to give our solons \$500 per annum for about 20 days' actual work at Trenton! Perhaps the people of the State will take all that trouble, and rush up to the polls *en masse* for the purpose of expressing their approval of that great and important change in our fundamental law, and then perhaps they won't. As at present advised, we are very much inclined to suspect the latter.

Source:

Jerseyman, February 3, 1874.

NO PROPERTY SHALL BE EXEMPT FROM TAXATION.

According to the proposed amendment to our State Constitution, our Legislature shall be restricted from passing any law to exempt any property of any kind from taxation, except public property and burying grounds. By embodying this prohibition in the Constitution, and thereby placing it beyond the reach of legislation, we infer that, in the opinion of the framers of that instrument, in the future there can be no conceivable circumstances in which such exemption from taxation would be beneficial to the community, for if otherwise, it should be left to the discretion of the Legislature. Now, it appears to me, that it requires far more wisdom than ordinarily falls to the lot of men to arrive at such a conclusion. It is something vastly different from the question, whether church property shall or shall not be taxed? That question dwindles into comparative insignificance. No property now or hereafter shall be exempt, except burying grounds. Why? The

only reason given by your correspondent is, that such exemption increases the burden of taxation upon other property. Suppose it does; what then? May there not be circumstances where it is both right and expedient to lay such an additional burden? I purchase an imported article. I pay a heavy tax upon it, not for the sake of revenue, but for the benefit of the domestic manufacturer. This is what is called a protective tariff. Is it unjust, and, if not, why? It is answered, the welfare of the entire community requires that home manufactures should be encouraged. Well, it is laying an additional tax upon the consumer for the benefit of the public at large. Again, I send my children to a private school. Now, I ask, is it just that I should be taxed in order to pay for the education of my neighbor's children, a man, who is better able than I am to pay for it? If all who are able to pay would send to private schools, as I do, the expenses of maintaining our public schools would be greatly diminished. It is answered: it is expedient; public schools are a public benefit. So be it; still a childless citizen is taxed for that, from which he derives no personal benefit. I admit then, that exemption on one part is equivalent to taxation on the other. I also assume that it will be admitted that the great consideration with the legislator ought to be, what will conduce to the welfare of the entire community, and moreover, that private interests should give way to public utility. Consequently, no exemption can be justified unless on the ground of public utility. Is it then expedient to tax charitable institutions (the words, "no property of any kind," include personal property as well as real estate) and charitable endowments? This will be necessary according to the proposed amendment. This Constitution is to be submitted to the people for ratification. Let us before doing so reflect upon what it implies. Shall New Jersey tax the alms given to the poor? This would be not Jersey thrift, but Jersey meanness. Shall our noble State, first in war, first in peace and first in the hearts of her citizens, tax the crust of the beggar, and the rags of the pauper! If it be done let us place upon our escutcheon the motto "Penny wise and pound foolish."

F. D. H.

Source:

Woodbury Constitution, February 4, 1874.

[UNTITLED.]

Mr. Folwell, of the Mount Holly *Mirror*, carries a level head and is not blind to the sophistries of the times concerning the taxation of church property. He says:

The good people who are getting up such a commotion over the proposition to tax all species of property alike, and who mean, if possible, to frighten the

Legislature out of so much of the provision as requires the taxation of churches, should bear in mind that if one class of exemptions is to slip out of the Constitutional net that is designed to catch all alike, there will be little use trying further to save the proposition. Exempt your churches, and a dozen other parties will demand with equal justice the exemption of their pet institutions. Unless we are willing to sacrifice something in this matter there is no hope of reform in the direction aimed at by the Constitutional Commission.

Source:

West Jersey Press, February 4, 1874.

[UNTITLED.]

The Senators at Trenton continue their destructive work with the constitutional amendments. The paragraph relating to public education has been rejected as slovenly work, ridiculously verbose, as well as seriously ambiguous and indefinite. The Commission amendment read as follows:

“A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the Legislature shall establish and maintain public schools for the gratuitous instruction of all persons in this State, between the ages of five and eighteen years. The term ‘free schools’ used in this Constitution shall be construed to mean schools that aim to give to all a rudimentary education, and not to include schools designed to fit or prepare pupils to enter college, or schools controlled by or under the influence of any creed, religious society or denomination whatever.”

It is evident at a glance the substitute for this adopted by the Senate is greatly to be preferred, as not limiting the scope of public education by ideas at present prevalent in some parts of New Jersey, and as not allowing the questions of creed to enter into the matter at all. The amended section is as follows:

“The Legislature shall by general laws provide the means to establish and maintain public schools for the gratuitous instruction of all persons in this State between the ages of five and eighteen years.”

Source:

Newark Morning Register, February 5, 1874.

THE CONSTITUTIONAL AMENDMENTS.

The amendments proposed to the Constitution of the State by the

Commission appointed by the Governor for that purpose, will we fear come to naught at the hands of the Legislature. The Commission was composed of some of the most conservative and best legal minds in the State and they gave the subject very mature and careful consideration, producing some most excellent amendments, which would undoubtedly have been endorsed by the people if submitted for their approval. But the Senate with an unseemly haste, has already stricken out some of the very best amendments, those most productive of good to the general welfare of the State. The amendment proposed in Article I, paragraph 16, relating to lands being taken by incorporated companies, &c., was stricken out, evidently at the instigation of the railroad companies. The amendment in Article [III], requiring a voter to be a resident of the election district in which he may offer his vote thirty days next before election, met with the same fate as politicians would find it more difficult to colonize voters on the eve of an election. The proposition providing that all bills should be printed before they are received or considered, and shall be read throughout section by section on three several days, &c., was also rejected by our profound Senators. The clause striking out of the Constitution the word *white* and the one increasing the pay of the members of the Legislature, were approved. Thus it will be seen that the Senate ignores the action of the Commission; and by the time the two Legislatures get through with the amendments there will be nothing of importance to submit to the people for approval.

Source:

The Mount Holly Herald, February 7, 1874.

[UNTITLED.]

By the time the two Houses of the Legislature are done with the amendments to the Constitution suggested by the Commission charged with that duty, there will be very little of the work of the last named body left. Jersey men are proverbially careful, and they prefer to err upon the ground of prudence to being caught in a snare by taking a false step. The amendments are undergoing most careful consideration by the Senate and where that body has a doubt they take the benefit of it by adhering to the "Constitution as it is." After the Senate shall have passed upon and pruned the work of the Commission, as they seem now to be doing so thoroughly, the House will have an opportunity to consider and perfect the labor of both, and it does appear that the three should be able to prepare a code of amendments which will be passed upon by the people without any serious opposition.

Source:

West Jersey Press, February 11, 1874.

CHURCH TAXATION.

There is no subject that is engrossing so much of public interest as that which has reference to taxation, and more particularly that feature of the report of the Constitutional Commission which disallows the exemption of church property from assessment. The advocates of this theory are urging their views with so much earnestness and enthusiasm that we would almost be led to believe that the State had been suffering some grievous wrong which the people were determined to no longer endure, and that they sought to be relieved from rank oppression. While we are willing to admit that very much escapes taxation that ought to yield the State a revenue, we are unwilling to grant that the building erected by private contributions for holy worship is to be classed therewith. We have before expressed our views against church taxation and now reiterate our objection to the policy.

This change is not asked for by the people. We do not believe that any movement, whose tendency is to embarrass or impair the usefulness of the church, has the endorsement of the people. The wealthy churches in New Jersey are the exception, not the rule. Now let the principle of no exemption be applied, and how would it operate. The membership of a church is voluntary, and if in the event of taxation it should neglect or refuse to pay the assessment against the property, the same is levied upon by the State and sold. Certainly the State is not prepared to endorse a policy that strikes at one of its surest and strongest protectors; certainly the people are not now ready to ask for the adoption of a policy that will prove fatal to the maintenance of any church.

Church property is unproductive. The principle of taxation, we believe, is based on the right of the State to assess values that are productive, and that it should realize a revenue from that property in proportion to the benefits accruing. Now if we apply this principle to churches, does it operate justly? Churches are constructed and maintained by voluntary contribution—a free-will offering of the people—and are not a source of any pecuniary interest. Let us suppose that an association of gentlemen contribute a thousand dollars each toward the erection of a church edifice. They do it with the conviction that they will not realize a farthing on the money placed in the building. Yet the operation of the proposed change would impose a tax on property that had become financially thoroughly unproductive. If church buildings should become remunerative we believe it would be just and right to compel them to share in the expense of government.

It imposes a burden on one of the chief stays of government and supports of law. The establishment of a church in any community should be protected against a change in law that will operate in any sense to its detriment. It is a class of property that does not need the protection of law-it is its own protector; it is more, even, than this-its charities and aids relieve the State, in numberless ways, from expense. The membership of a church never becomes the wards of the State, and the church receives none of the public bounty. Its teachings permeate the great mass of the people, restraining in a large degree the evil that would otherwise be developed; it creates a purer and better sentiment which always manifests itself *within* the law, not outside; it increases the value of surrounding property, and adds in manifold ways to the moral and material wealth of the State. A community where no church exists-if there be such in our State-is one where but little respect is had for law, where the better elements of society are not found, where all that adds to development and advancement is crushed or oppressed. No society can afford to be long without its church. If this be true, will that State now inaugurate a policy that seems to place difficulties in the way of the growth of a sentiment that creates and strengthens a restraint and reverence for law and pure government?

Exemption does not unite the State with the church in the sense that the people thereby support an object with which they are not in unison. If it does, why, with the same argument, is it not claimed that the taxation of the law-abiding portion of society, for the purpose of defraying the expenses incident to the execution of law and the maintenance of courts, commits it to wrong and lawlessness? The whole people are taxed to pay the cost of pauperism and the evils of intemperance, yet it will not be asserted that the good and honest elements of society are in the leastwise responsible.

Exemption is constitutional. We believe there is no law higher than the will of the people, and that a power that creates has the right to change, establish and modify to suit its necessities and wishes. The entire body politic is interested in the growth of a sentiment that is restraining and law-abiding. The people do not feel the oppression that some would have us believe, nor do they ask for this change in our organic law, and if they demand that no church property shall be taxed we believe they are perfectly competent to make the act constitutional.

We should regret to believe that the Treasury of the State of New Jersey stood in need of revenue obtained from such a source, and we would sincerely regret to believe that public servants would, in the face of an adverse public opinion, place any restriction or burden on the work of the church. It would be an outrage on public sentiment-an insult that would be repelled.

It is an innovation, yet no reform. Change, unless it be made for the correction of wrong, is not always called for. Now, we believe that the principle of church

taxation has no just and wise foundation, and that it is at variance with an established practice of our State that has been no detriment to her interests. Expediency and public policy call for no change. The safeguards of the State are morality and reverence for law, and that which has a tendency to paralyze or weaken the agents which promote these should not be sanctioned by the State. It imposes a burden that will be oppressively felt.

If the Legislature shall see fit to establish a new principle, and place a tax on the property of the church, we trust that the liberality of the State may extend to the reservation of so much thereof as is used exclusively for God's worship, and that the membership of a church shall not be taxed for the privilege of thus worshipping in a building dedicated to the teaching of these truths which are the rule and guide of our faith and practice. Let the sanctuary itself be free-let not the temple become the money changers' profit.

Source:

Woodbury Constitution, February 12, 1874.

SPECIAL LEGISLATION.

Senator Taylor, in a recent debate on the Constitutional Amendments, struck the keynote of the popular will when he said that what is most needed and essential for pure government in our State today is a barrier against the evils of special legislation. There is no wrong that has so invested our system of legislation and so tenaciously clings to it. Its debauching and corrupting influences are everywhere felt. It has grown until it has assumed hideous proportions, and the people now demand that this opportunity shall be made available to rid the State of this blight. Of the wrongs inflicted on municipalities, of the extraordinary franchises that are hereby secured, of the oppression, injustice, and excessive privileges that have had the sanctions of law, columns might be written. The benefits that have accrued to the State by the enactment of the General Railroad Law, are a sure indication of what would follow if the whole system of special legislation should be abolished. Once deny the right of the Legislature to pass special laws and our seat of government will become purged of a large class who infest the halls of the capitol. But the corrupt Lobby is the least of the evils that attend legislation. The right to pass special laws renders every community insecure, and too often a people rest in ignorance of an attempt to fasten an obnoxious law upon them. While the right to enact special laws is permitted, it is almost impossible to avoid the passage of bills that are bad and hurtful in their influence. The principle that framed the amendment proposed by the Commission does not need the endorsement of a

particular political party—it should be sanctioned by the whole Legislature, as it reflects the views of the honest people of the State. No modification of the Constitution is more called for in the interest of pure government, more essential to public security, or more in accordance with popular demands than the one now under consideration. It may not be that the amendment, as proposed by the Commission, is just what is needed; but what is expected by the people is that the Legislature shall embody in its fundamental law the prohibition of special legislation. All recognize its necessity—all should unite in perfecting it.

Source:

The Woodbury Constitution, February 12, 1874.

MONEY AND TAXATION.

The annual attack in the Legislature by rural demagogues, and their prejudiced or ignorant constituencies, on the Five County Act, so called, or act by which mortgages are exempted from taxation in Hudson, Union and Essex counties, and in designated parts of Passaic, Middlesex and Mercer counties, is urged with a constantly diminishing force, as the untold benefit of the exemption to borrowers, as well as lenders of money come to be better appreciated with the growth of intelligent public opinion. The usual bill for repeal is before the Legislature this year, but the probability of its being acted upon is so slight, and its electioneering purpose, to gratify the narrow-minded jealousy of the county districts against the moneyed institutions of the cities, so well understood, that little concern is excited. Everybody here understands that the marvelous development of real estate in New Jersey, and especially in the counties named, is due mainly to this Five County Act.

Our New York neighbors have been casting longing eyes upon the Jersey law. They have seen their capital irresistibly attracted hither by its escape from the double taxation of the old system of taxing mortgages. New York governors have urged the New Jersey example in their messages, and the Albany legislature annually endeavors to enact the exemption of mortgages, just as the “farmers” in this State annually move for its repeal. This year the exemption is thought to be nearer to passage in the New York legislature than ever before. A pretty spectacle New Jersey would make of herself undoing the enactment which has built up the eastern counties of New Jersey into almost one city, and mostly out of New York capital. The agitation of the subject at Albany has been conducted very largely by reference to the successful operation of the law in New Jersey. Some account of the origin and development of this famous law of our State will be of interest to our

readers. The first bill on this subject went into force on the 9th of April, 1867, and was as follows, extending, as it will be seen, to one moneyed institution:

“A supplement to an act entitled ‘An act to incorporate the Elizabethtown Savings Institution.’

“Be it enacted by the Senate and General Assembly of the State of New Jersey, that it shall and may be lawful for the said “the Elizabethtown Savings Institution,” and the borrowers or lenders of any money, secured by mortgage or other security, upon real or personal estate, to enter into a contract or agreement, whereby the borrower shall pay any part or all of national, State, county, or city taxes, which may be assessed upon the money so lent, or to be loaned, and the securities for the payment thereof; and all such contracts or agreements are hereby made and declared to be valid and effectual in law, and no such mortgage or other security shall be held, deemed or taken in any court of this State, to be usurious or invalidated by reason of such contracts or agreements, anything in any existing law of this State to the contrary notwithstanding.”

Upon the passage of this act the entire army of borrowers rushed to the Elizabethtown Savings Institution, and the result was that a cry came up from the people for other such acts. In accordance with this demand the Legislature of 1868 passed the following bill, which took effect on the 8th day of April, 1868:

“All taxes hereafter to be assessed and raised in the counties of Passaic, Morris, Hudson, Union, the city of New Brunswick, in the counties of Middlesex and Essex, for State, county, township and city purposes, over and above the amount to be named by a poll tax, shall be assessed and raised by such per centum upon all real estate and chattels situate in said counties, both of residents and non-residents, by valuing the same at the true, full and fair value thereof, as shall be necessary to make the amount required for such taxes, and not otherwise, and the assessors shall designate in the assessments the number or general description of lots or parcels of land, and the value of chattels which they assess to each person or party; and all mortgages upon real or personal property within said counties shall be exempt from taxation in the hand of any inhabitant of this State, and no act shall be deemed to repeal or modify this act unless so expressed therein.”

This was the second step. After the people had had a full understanding of the working of the first act they sanctioned the passage of the second, and in 1869 a third act, more carefully worded, was passed, and is now on the statute books of the State of New Jersey as the will of the people regarding the taxation of mortgages in the counties named in it. It is as follows:

“Be it enacted by the Senate and General Assembly of New Jersey, That all taxes hereafter to be assessed in the counties of Hudson, Union and Essex, and in the city of New Brunswick, Middlesex County, and in the county of Passaic,

except in the townships of West Milford, Pompton and Wayne, for State, county, township and city purposes, over and above the amount to be raised by a poll tax, shall be assessed and raised upon such a per centum upon all real estate, chattels, and all personal property taxable by law, except mortgages situated in said counties and city, both of residents and non-residents, by valuing the same at the true, full and fair value thereof, as shall be necessary to make the amount required for such taxes, and not otherwise; and the assessors shall designate in their assessments the numbers or general description of lots or parcels of land, and the value of chattels and all personal property which they assess to each person, corporation, association or party; and all real and personal estate shall be assessed in the townships and wards and cities where found without any deduction for mortgages thereon; and all mortgages upon real estate, chattels, or personal property taxable by law within said counties and cities shall be exempt from taxation when they are in the hands of any inhabitant, corporation or association residing or located in said counties or city; but such mortgages shall not be so exempt when in the hands of any inhabitant, corporation or association residing or located in any county or place in this State not named in this act."

The wondrous growth of the sections affected by this act is sufficient testimony of [its] wisdom. The beneficent effect of the still further removal of ignorant and prejudiced restrictions upon free trade in money, are getting to be appreciated in the light of our experience with the Five County Act. Yet the name of self-blinding jealousy on the part of the back counties of the State that would repeal this act has proposed this winter to re-enact the old usury law, repealed in 1864. Well did our practical Newark manufacturing representative in the Assembly raise his voice there against this bill and declare that the law even as it stood now was a relic of barbarous times, and that the restoration of the old law would create a financial panic in the State which would ruin not only business but hundreds of poor borrowers who needed money to build homes with or with which to start business.

Source:

Newark Morning Register, February 16, 1874.

NO GENERAL LEGISLATION.

The Senate is leaving very little of the wreck of the constitutional amendments proposed by Governor Parker's Commission of last summer. Some of them have been rejected simply because they had been bunglingly drawn, others because they were tautological and superfluous, and many others because

they were really inexpedient and ill-advised. As to those rejected for the last reason, if any general tendency is discoverable in the summary proceedings in which they have been dispatched, it is a tendency to stick to the old-fashioned special legislation in preference to adopting general laws—a tendency which will be recognized as peculiarly Jerseyitish and directly contrariwise to the tendency to set limits to the law-making business of the Legislature, exhibited in other states which have recently undertaken constitutional revision.

The Senate has now added to the heap of rejected amendments that proposing to make taxation uniform and general, and do away with the thousand and one special pleas for exemptions, which have already, under one pretext and another, secured exemption for (it is estimated) over one hundred millions of property, and by just so much, of course, increased the burdens on other property in the State. The respect for religious, and the tenderness for educational institutions, which would have lost their present tax exemption, were the cause of the failure of this attempt at general legislation, though doubtless the sensitiveness to popular prejudices of the candidates in the Senate for higher political position (and these embrace the whole membership) had not a little to do with it. But that the determination to rely on special legislation and the distaste for general laws justified to the Senators their manner of dealing with the subject, is shown by the remarks of Senator Stone, which immediately preceded the rejection of the amendment by an almost unanimous vote. He said:

So far as educational institutions were concerned, he would exempt them because they are and always were the wards of the State. “So far as religious societies were concerned, theoretically, they should be taxed, because while educational societies were the avowed wards of the State, it has been the avowed purpose and principle of the State government to separate the influences of the Church from the government of the State.” Practically, he thought they should be exempted, because they, all of them, were of benefit to the people and to the State. “Taxation should not be governed strictly by the mere question of property. We should consider what is best for the interests of the State. If it should be for the interest of the State to exempt manufactories, they should exempt them.” He thought the matter should be left to the Legislature, and if they considered it best for the State to exempt any particular interest, they should be able to do so.

It is evident that Senator Stone is not one who sees any necessity for narrowing the field and scope of the Legislature. He would leave the whole matter open, to be settled by the diligence of button-holers and log-rollers, as each church, and hospital, and benevolent society appears in the lobby from time to time. This is made still further evident by the action on the rest of the paragraph under consideration. The clause providing in effect that no more exemptions shall

be granted, was next, by an apparent abjuration of the spirit of the preceding clause, adopted. The remainder of the paragraph is as follows:

“The Legislature may provide by law for taking away from any person or persons, natural or artificial, now possessing or entitled to the same, any right or exemption from taxation which cannot be revoked without compensation, and for paying to such person or persons a just compensation for the right so taken away.”

Mr. Taylor moved to strike out the clause.

Mr. Stone said the proposition was a good one. If the people adopt what the Senate has already adopted, there will be no more exclusive privileges granted, and if the Legislature should think it best to make the laws uniform, and appeal contracts already entered into, this clause would give them the right.

Mr. Taylor thought this clause was unnecessary, because the Legislature now had the right to condemn the franchise granted by a previous Legislature.

The proposition was adopted, 10 to 6.

Here again, the Legislature is left supreme, and is to be called on to settle a question which ought to be determined in the organic law, if anything ought. It is evident that the millennium of general legislation is [over] in New Jersey.

Source:

Newark Morning Register, February 20, 1874.

LET THE PEOPLE GOVERN THEMSELVES.

The proposed amendment to our State Constitution to prohibit legislation inimical to the right of local self government attracts attention elsewhere and is very generally commended. We quote what is said by two of our exchanges:

From the *N. Y. Tribune*.

There is not among the many good amendments to the State Constitution which the New Jersey Legislature is now considering any which is more important than that which forbids interference by the Legislature in the local government of towns and cities. Under the present law, any municipality is at the mercy of unscrupulous politicians who may form a clique and besiege the Legislature for some special act authorizing the building of a road which is not needed, or the appointment of a commission which its citizens do not want and would never elect by a popular vote. Jersey City is a melancholy example of the extent to which this abuse can be carried. At every session of the Legislature there are from one to a dozen applications for new charters, or amendments to old ones, providing for new and useless commissions which only plunder the people whom

they misrule. It is time for this business to come to an end. Let the cities govern themselves, and let the Legislature attend to the affairs of the State. The [Senate] has already shown a thorough appreciation of the merits of the amendment by passing it. There seems to be no reason to fear that the Assembly will be less wise.

From Phila. *Ledger*.

The amendments proposed to the Constitution of New Jersey, which are now before the Legislature, include a prohibition of interference by the Legislature in the local affairs of towns and cities. This is one of the best provisions of our new Constitution, from which it is copied, and our neighbors will be greatly the gainers from the enactment. Jersey City has been the chief sufferer from Legislative interference, but all the larger New Jersey towns have been more or less affected. The New Jersey Senate has approved this amendment, and the Assembly is expected to do the same.

It is to be hoped that the predictions of our contemporaries will be verified. The principle embodied in the amendment was recognized by the Senate by the unanimous adoption of the amendment, and there cannot be a man in the House who will seriously deny the right of the people to govern themselves in their local affairs. It ought not to be necessary to impose such a restriction upon the Legislature. A due regard for the rights of communities should prevent, as it forbids, that which the amendment is designed to prohibit. But a bitter experience has shown that the restriction is necessary, and we venture, on our part, to predict that if the people are even given an opportunity to vote upon the amendment, it will be overwhelmingly adopted.

But two years must elapse before the amendment can be made a part of our Constitution. After its adoption by the present Legislature, it must run the gauntlet of another Legislature before it can reach the people. Now, we submit that while the Legislature endorses this amendment and the just principle it involves, consistency requires that it should remove from the statute book all enactments which violate its spirit. Every community in the State which does not enjoy the full right of local self-government should have that privilege at once restored. If it is right to provide that two years hence it shall be wrong to interfere with local self-government, the Legislature ought not to wait until then to recognize the doctrine, and leave large communities under the government of officials in whose choice they had no voice or vote. Therefore, while we trust the amendment will be adopted, we also hope that the present Legislature will rise to a recognition of the sacred principle it is designed to protect, and relieve Jersey City of the injustice she suffers in consequence of its violation. There is no time like the present for

doing that which is right.

Source:

Daily True American, February 28, 1874.

CONSTITUTIONAL CONVENTION.

A bill was introduced in the House of Assembly on Tuesday, by Mr. Lonan, for a convention to revise and amend the Constitution of the State. The act provides that at the annual election in November next, delegates shall be elected to revise and amend the Constitution, equal in number to the members of the General Assembly, to assemble at the State House, on the third Tuesday in November, at 12 o'clock, and proceed to qualify themselves as a convention; the Secretary of State to call the convention, and swear the members; provision is made for the reassembling of the convention, should it fail to complete its labors by the first of January 1875.

We trust that the Legislature will not pass this act. We do not need a Constitutional Convention, and the people do not want to be subjected to the heavy needless expense which it would entail. The State has already been to some expense in the matter of revising its Constitution, and there seems to be a general and well-founded belief that the changes suggested by the Commission, and those now under consideration in regard to the judiciary prepared by Senator Stone, embrace all the amendments to our Constitution that are needed. Some of the most important and essential of these suggested changes have been passed upon and adopted by the Senate, and will doubtless be approved by the House. The section in regard to special legislation, which has been passed by the Senate, and that in regard to the judiciary, now being elaborated by the best legal minds in the State, are the most important amendments proposed, and their adoption, which is assured, will accomplish the chief purposes aimed at or desirable in amending the Constitution. There seems to be no doubt that after the present Legislature has adopted such proposed amendments as shall commend themselves to its approval, there will be but little room for further revision. Certainly not enough to warrant the State in going to the large expense of calling a Constitutional Convention.

Nor have we any reason to believe that a large, promiscuous convention would amend the Constitution so wisely and satisfactorily as the process that has been adopted. The Constitutional Commission was composed of a few men of practical minds, chosen with special reference to their fitness for the duties that devolved upon them. Their deliberations were not distracted and obstructed by the clamors and dissensions and jealousies always characteristic of a large

assemblage, nor vitiated by the quirks of visionaries and the follies of ignorance and mediocrity. They considered the questions before them calmly, and intelligently, and did their work as for themselves, and wisely and well. A large convention, such as that contemplated in the bill introduced by Mr. Lonan, might not, it is possible, embrace a single man eminently qualified for the position, and would be certain to contain a large number of narrow-minded, visionary, and easily corrupted men. We should watch, with much solicitude and misgiving, the deliberations of such a body. Its work would not be subject to the crucial ordeal through which the present suggested amendments have to pass, but would go directly to the people. We conclude that it would be a useless expense, and a dangerous matter, to call a convention to revise the constitution, and we are persuaded that the people are generally of the same opinion.

Source:

Daily State Gazette, March 6, 1874.

CONSTITUTIONAL CONVENTION.

Strange as it may appear to many, in view of the action of the Senate on the report of the Constitutional Commission, a bill has been introduced in the House which provides for calling a convention to amend the Constitution. The delegates to the Convention shall be elected in November next, equal in number to the members of the General Assembly, and shall assemble at the State House on the third Tuesday in November, and proceed to qualify themselves as a convention. If the labors of the convention are not completed by the first of January following, that body may reassemble. One of the strongest and most frequent arguments urged against the adoption of amendments proposed by the Commission was that the present Constitution needed but little change, that it was good enough as it is, and that the amendments which were necessary would be accepted by the present Legislature. Why is not the same argument applicable to the bill calling for a Constitutional Convention? Why, if the Constitution needs amendment, are not such modifications made to the fundamental law by the present Legislature? Has it been found, since the Senate's partial action on the report of the Commission, that there are necessary amendments which can only be suggested by a popular convention? Is not the Legislature as qualified to submit amendments as to consider such as may be proposed by an expensive and costly assembly? If it has been found, immediately after the adjournment of a board selected for that purpose, that certain changes are needed in our organic law, why not let the present Legislature assume the responsibility, in connection with its unfinished work,

rather than incur the expense and suffer the delay that will necessarily follow the election of a large popular body? The people don't ask for such a convention, and it is to be hoped that the proposed bill will be defeated.

Source:

Woodbury Constitution, March 11, 1874.

[UNTITLED.]

There are more friends of compulsory education in the present Legislature than have been in any previous one since that subject has been agitated. Two bills providing that parents shall under a penalty, send their children to school, have been introduced in the House, and, were it not that the session is so near its close, a compulsory bill in some form would undoubtedly pass. Where such laws have been enacted they have been found to work well. New Jersey has been making rapid progress in all that pertains to providing a thorough and efficient public school system, and it would appear that very little is yet needed to elevate the masses except some plan by which negligent parents shall be forced to give their children the advantages offered them.

Source:

West Jersey Press, March 11, 1874.

THE CONSTITUTIONAL AMENDMENTS.

The Senate finished the consideration of the amendments today. On Monday evening they will be sent to the House, or so much thereof as the Senate has accepted. Whether the Senate has shown proper courtesy or acted justly with the other branch of the Legislature in dealing with these amendments is a question which is frequently asked. That body has taken seven or eight weeks to do its part of the work, and now, in this the last week of the session, the House is expected to give proper consideration to the Senate's message. Of course the House will not take up any of the rejected report, as that would be useless, but there is scarcely any fairness in the course of the Senate toward the House. It would not be surprising if the latter body should decline at this late stage of the session, and thus leave the Senate's action as the only result of the whole winter's work.

Source:

Woodbury Constitution, March 18, 1874.

WOMAN SUFFRAGE.

There is no disputing the fact that woman suffrage is making steady progress all over the country. In nearly every state legislature the cause has friends. The Iowa Senate has agreed by a decided vote to submit an amendment to the state constitution giving women the right to vote. The Rhode Island House of Representatives has taken like action. The vote in both cases was overwhelmingly in favor of the measure. Yesterday evening the hall of the House of Assembly at Trenton was granted to a Mrs. Evans to advocate in the hearing of the members of the New Jersey Legislature the granting this boon to the daughters of our own State. The justice of this principle commended itself to our judgment long ago. Where the experiment has been tried it has proven itself worthy of public confidence, and established its right to be made universal. We can see no good reason for enfranchising four millions of ignorant black men and then withholding the right to vote from twice as many free, intelligent and cultivated American women.

Source:

West Jersey Press, March 18, 1874.

THE CONSTITUTIONAL AMENDMENTS.

That the Legislature will finally adjourn this week we have no doubt. The disposition of the Senate to "cut it short" last week was evident enough, but the opposition of the House to that was so strong and based on such sound reasons that the Senate had to yield and stay a week. For the proper consideration and completion of some of the most important business before the Legislature, a much longer stay than this present week is necessary. It is simply impossible that the Assembly should give pending constitutional amendments due or even decent consideration within the brief period of one week, and only a part of that actually devoted to the subject. Nobody believes that the members of the House can intelligently act on these amendments before next Friday; nobody expects them to do it. Yet the judgement of the Assemblymen on many of these matters is just as valuable and just as important as that of the Senators who have taken two months to consider them, and, after all, have not reached conclusions amounting to much. The Assembly will perforce have to do one of two things. Practically it must either "go it blind" and endorse what the Senate has done in a lump, or it must, in very much the same fashion, reject the whole "kit and boodle" of the work of the Constitutional Commission, patched, amended and tinkered as that work has been by the Senate. The latter is much the wiser and the safer course now, and we hope the Assembly will adopt it. We never regarded the Constitution[al] Commission

plan of proceeding with favor, nor thought it worthy of much attention. Some of the ablest members originally named in that Commission did not serve on it. Many of the best propositions made while it was in session were rejected, and the reforms most needed were either omitted by the Commission or were subsequently killed by the action of the Senate. What is left of the work done is worth little when compared with what was left undone of what was desirable. There is very little probability, if the present Assembly should concur in the action of the Senate, in whole or part, that another Legislature or a popular vote would endorse such action, and so the whole work would have to be done over again. The right way to amend the State Constitution is the old way: let the work be, in its inception, the work of a Constitutional Convention, selected by the people for that specific purpose. It would then be done by men representing all the people, and no doubt by men competent to do that sort of work. We hope, therefore, that the Assembly will "cut it short," refuse to accept the job and refer the whole subject back to the people. Let us take a fresh start, and start right next time.

Source:

Jersey City Evening Journal, March 25, 1874.

CONSTITUTIONAL AMENDMENTS.

The House has not yet commenced the consideration of the amendments, and it is patent to almost everyone that if it be possible to prevent the adoption of any, it will be done. There is no reason why the amendments rejected by the Senate should be considered by the House, unless it be for the very purpose of killing the entire report, through a disagreement of the two Houses. The report will come up on Monday night, when the real purpose of some of the members will be fully disclosed.

Source:

Woodbury Constitution, March 25, 1874.

THE CONSTITUTIONAL AMENDMENTS.

By a resolution of Mr. Ward, the House of Assembly was on Monday evening to begin the consideration of the Constitutional Amendments. It is not pretended that the House can give to these amendments anything like that mature deliberation which they would seem to require, more especially since the committee appointed to suggest a plan for their consideration insist that they shall

be taken up as they come from the Commission, and not as they come from the Senate. The plan of Speaker Hobart was much the better one. He wanted those received from the Senate passed upon first, and, if then, there was anything good in that portion which the Senate had rejected, he was willing that that should be taken up. It is boldly charged that there are members of both Houses who would prefer to see the entire batch of Constitutional Amendments rejected. They want a Constitutional Convention, the members of which shall come directly from the people, and by this they hope to change the mode of representation in both Houses of the Legislature, particularly in the Senate, so that, instead of having one Senator from each county, the number shall be determined by population. The effect of this would be to reduce the number of Senators from West Jersey one-half, and give the control of the State to those counties in which the large cities are located. We have discussed this subject at length and do not intend to refer to it now, further than to show that, if what is charged is true concerning the Constitutional Amendments, it is better that they should be finally acted upon at the present session, than for any such reason as the one assigned they should be allowed to go by default.

Source:

West Jersey Press, March 25, 1874.

ADJOURNMENT OF THE LEGISLATURE.

* * *

The more important work of the session was the action upon the proposed constitutional amendments. The discussion was too didactic and involved too few questions of fundamental liberty to attract great public attention. In the House the debate was a formalism, hardly worthy of mention, while in the Senate several members, notably Messrs. Taylor and Stone, approached the subject with the compactness and brevity which is the result of intelligent and thorough study. The argument lacked eloquence and excitement, but it was full of business and deliberation. The result reached by the Senate, though not fully in accord with that of the Constitutional Commission of last summer, was unanimously endorsed by the Assembly. Perhaps this apparent indifference is due to the fact that the action is not final. The work of the Commission was only preliminary. That of the recent Legislature lies over for a year and if the Legislature of 1875 chooses, it can reject the whole or adopt any part. The full rejection closes the business, but if the

proposed amendments, or any of them, shall be agreed to by a majority of all the members of each house next year, then the matter is referred to the people at a special election, a separate ballot to be cast on each amendment. That done, the Constitution cannot be changed during the next five years.

Source:

Newark Daily Advertiser, March 28, 1874.

THE LEGISLATURE.

The Legislature prior to closing yesterday adopted the usual complimentary resolutions to President Taylor and Speaker Hobart. That to Mr. Taylor declares that by the faithful and conscientious manner in which he has performed the duties devolved upon him; by his resolute and impartial enforcement of the rules of order, his uniform respect for and protection of the rights of the minority, his intelligent recognition of the interests and his watchful solicitude for the good name of the State, and his personal courtesy and kindness to all his associates, he has furnished a fresh exhibition of his peculiar qualifications as a presiding officer, and established a renewed claim upon our respect and appreciation, and that as a body we desire in the most emphatic and positive manner to tender to him the assurance of our esteem and our best wishes for his prosperity and happiness through all the years of his future life.

Concerning Mr. Hobart, Mr. Jones said a subscription had been made to procure his portrait as a token of respect.

The Trenton opinion says:

Senator John W. Taylor, in his position as President of the Senate, has displayed the same high-bred courtesy that distinguished him last session. He is a thorough parliamentarian, clear headed, impartial and faithfully devoted to the interests of his constituency and of the State. He carries with him the good will of his brother Senators, irrespective of party, and is acknowledged as one of the most upright and cultured Presidents with which the Senate has been favored. Samuel Morrow, Jr., as the Chairman of the Judiciary Committee, did excellent service. He is the fatal enemy of bad bills, and is wonderfully quick to detect any tricks of legislation. He has succeeded, we believe, in all his bills, with a single exception.

Source:

Newark Daily Advertiser, March 28, 1874.

CONSTITUTIONAL AMENDMENTS.

The House has acted in good faith in disposing of the report of the Constitutional Commission, much to the surprise of those who had watched the action of the two Houses in respect to this important matter. It was a prevalent opinion that through a disagreement of the Senate and House the proposed amendments would fail of acceptance and that thus the work of the Commission would go for naught. The House took up the report as it was submitted to the Legislature, notwithstanding the Senate had sent the result of its deliberations. The Senate amendments are adopted throughout, not one having been rejected by the House. The amendments now are filed with the Secretary of State until the convening of the next Legislature, when it will be handed in for a second consideration. There is cause for much satisfaction that this important matter has not suffered through a division of opinion, and that so much progress has been made toward securing the adoption of such changes in the organic law as will tend to purge our legislation of some of the corrupting features.

Source:

Woodbury Constitution, April 1, 1874.

WORK OF THE LAST SESSION.

A great deal of the time of the late Legislature was spent in very frivolous business, such as passing acts to prevent geese running at large in certain townships, authorizing the erection of a partition fence, legalizing a gate across a turnpike road, and similar work, all of which should come under general laws, and will come there when the proposed amendments to the Constitution are adopted. Fully one-fourth of the legislation was on supplements to operating and non-operating charters of all kinds. Supplements as a rule are dangerous legislation. In the absence of the original act, it is easy to deceive members of the Legislature by a few apparently simple sentences to be inserted somewhere in the original text. It is notorious that persons come before the Legislature year after year and have bills passed, and the time of their operation extended two years, so that the owners of the franchise can come again to the Legislature, and on the plea that they have lost money by the charter on account of the absence of a few lines in it, get a supplement granted that could not possibly pass if the entire bill was on the members' desks. One of the amendments offered to the Constitution provides against this kind of legerdemain by requiring the full bill to be printed where a supplement is asked for. A large number of the supplements passed during the last session were to charters for insurance companies.

Source:

True Democratic Banner, April 2, 1874.

A PUBLIC NEED.

The last session of the Legislature afforded a striking example of what may be accomplished if the proposed amendments, prohibiting special legislation, shall become part of the organic law of the State. Not only was the session shorter than before, but the legislation was marked by almost a thorough absence of corrupting influences. The number of public laws bears an unfair proportion to those of a private character. Of the six hundred and seventeen bills that were passed, only three hundred and fifty-three were public in their character, the remaining two hundred and sixty-four being private. This number could be reduced by the passage of general law, as provided by the amendment, at least ninety per cent. The cost of securing this amount of private legislation, if thrown into the Treasury of the State, would materially strengthen her financial condition. But the strongest argument in favor of the adoption of the amendment is that no necessity exists for the enjoyment of rights or franchises secured through special application, while it presents many and almost continued opportunities for corruption and demoralization. Remove the cause and no evil effects will follow. It is the duty and policy of the State to rid its legislative departments-as far as it can be accomplished-of every demoralizing agent, and as special legislation is the most prolific of evil, every consideration of public interest calls for the adoption of the proposed measure. The people should see to it that this great boon is secured.

Source:

Woodbury Constitution, April 15, 1874.

A VERY IMPORTANT QUESTION.

The publication of the proposed amendments to the Constitution will enable the public to see how much of the work of the Constitutional Commission of 1873 was approved by the Legislature of 1874, and also just what changes in the organic law are to be submitted to the Legislature of 1875 for their approval or disapproval. The publication is made in obedience to an existing provision of the Constitution requiring that any amendments proposed by one Legislature be "referred to the Legislature then next to be chosen, and shall be published for three months previous to making such choice, in at least one newspaper in each county."

We do not propose at the present time to discuss the merits of the amendments adopted by the Legislature, as they were all thoroughly discussed during the sessions of the Commission and the Legislature, but we desire to call attention to a rather remarkable oversight on the part of the Legislature, or perhaps a clerical error, it is difficult to tell which. The amendment to Section 2 of Article VII reads thus:

Paragraph 1.—Strike out the word “and” (where it occurs first) in the paragraph, and insert after the word “appeals” the following words: “and Judges of the Inferior Court of Common Pleas.”

The effect of this will be to make the paragraph read as follows:

1. Justices of the Supreme Court, Chancellor, Judges of the Court of Errors and Appeals, *and Judges of the Inferior Court of Common Pleas*, shall be nominated by the Governor and appointed by him, with the advice and consent of the Senate.

By reference to the records of the Commission it will be seen that it was their intention to propose an amendment which would alter the mode of appointing Common Pleas judges, for they proposed to strike out paragraph 2 of the same section, which provides that such Judges shall be appointed in Joint Meeting of the Legislature and insert the necessary words in paragraph 1, to provide for their appointment by the Governor. The intention of the Legislature to approve this amendment is indicated by the fact that they retained the words proposed to be inserted in paragraph 1; but to carry out this intention it would have been necessary to provide for striking out paragraph 2, or at least that portion of it which provides for the appointment of judges in joint meetings; and this they have failed to do, so that the Constitution, if amended as proposed by the Legislature, will provide two distinct modes of appointing judges of the Court of Common Pleas. That it was the intention of the Legislature to strike out paragraph 2, is further indicated by the proposition to “change the number of paragraph 3 to number 2, &c;” but if this be taken as meaning that they propose striking out the paragraph, what then becomes of the provision as to the term of office of common pleas judges? The Commission met this difficulty by inserting the necessary words in the second clause of paragraph 1, making it read thus: “The Justices of the Supreme Court and Chancellor shall hold their offices for the term of seven years, *and the Judges of the Inferior Court of Common Pleas for the term of five years; they &c.*” But the Legislature failed to adopt this latter change and the result is the insertion in paragraph 1 of a provision for the appointment of the judges by the Governor, and the retention of paragraph 2, which provides for their appointment by the Legislature. What they probably intended was to adopt the amendment as proposed by the Commission, but, if the printed report of their action be correct,

they have left out a very important part of it, and as the next Legislature cannot propose amendments, nor change those referred to it by the last Legislature, it can only disapprove of the proposed change in paragraph 1, and also the proposed changes in the numbers of the nine other paragraphs in the section, and leave the mode of appointing common pleas judges as now provided by the Constitution, unless it should appear from an examination of the minutes that the error is a clerical one, and that the Legislature did really adopt the whole of the proposed change and not only so much of it as would, if ratified, lead to confusion. Should the error be in the report it ought to be discovered at once, so that the publication can be made for three months before the election as required by the Constitution; otherwise the amendment must fail for want of the necessary legal publication.

Source:

Daily State Gazette, July 31, 1874.

THE CONSTITUTIONAL AMENDMENTS.

The Trenton *American* favors a Constitutional Convention, and says: "The last session of the Legislature demonstrated one fact clearly and positively. And that is, that a Legislature pressed with ordinary business and composed of average legislative material is no place for the consideration of a subject so lasting and so important as a State Constitution. The Senate last winter treated the amendments from a very low plane of observation and in a narrow, bigoted spirit. Amendments proposed by the Commission were rejected because they were supposed to reflect upon the personal character of some of the members; others were opposed in a spirit of sophistry and ridicule by men who affected to desire the object sought, but objected to the manner in which it was reached; others were rejected at the command of one Senator whose lead others blindly followed, and others still because a vote for them was believed to affect the political popularity of those who should cast it.

Taken to the House the treatment was still worse. There, no consideration or thought was given to the subject at all, and the only object sought was to get them through their three readings, as soon as possible, entirely regardless of what they did or did not provide for.

In this course of treatment there were eliminated from the recommendations of the Constitutional Commission several wise and proper provisions; provisions which would have been, if adopted, of great benefit to the people of the State.

The incoming Legislature is limited in its action to the adoption or rejection of only such matter as comes to them from the last Legislature. They can insert

nothing; they can correct nothing; because if they change one of these amendments the action of the last Legislature on it becomes void and the amendment would have to be submitted in its revised condition to a second Legislature, just as if it had originated with, instead of being corrected by, this Legislature.

Some subjects, and very important ones too, were not fully considered even by the Commission: The constitution of the Judiciary was not touched upon, and the anomaly of a Chancellor revising the opinions of the Vice Chancellor remains uncorrected; and so in other matters. The matter of the veto power was not fairly considered. The Commission acted with the knowledge that their action was to be revised by the Legislature, and therefore omitted to do certain things which were proper, because they felt that the Legislature might not assent to them.

Considering this hesitancy on the part of the Commission, the extraordinary manner in which their suggestions were curtailed and cut down by the Senate, the absolute lack of consideration with which they were treated in the Assembly, and the fact that no additions or corrections can be made to these amendments in the new Legislature, the question arises whether it is not the part of wisdom, economy and statesmanship to abandon what has been done and start afresh.

We are the opinion that it would. Let there be appointed, not a powerless Legislative Commission, as was the last, but a Constitutional Convention with power to frame a new Constitution. Let that convention be composed of the most able, earnest and honest men of the State, impressed with the importance of the acts and their own responsibility therefor, and then let the result of their labors be submitted directly to the people for their adoption or rejection. In this way, and in this way alone, can we have such amendments as the changed condition of circumstances demand.

Source:

Newark Daily Advertiser, November 10, 1874.

CONSTITUTIONAL AMENDMENTS IN NEW JERSEY.

Among the important measures to come before the Legislature of the State of New Jersey at its next session will be the consideration of the amendments to the Constitution of that State. These amendments were prepared by a commission of leading gentlemen, who met in 1873, and such of them as were approved by the Legislature at its last session have been published the required legal time, and are to be considered by the next Legislature. Those which receive favorable action are to be finally acted upon by the people at an election next year, and then such as

may pass through all these ordeals are to become the organic law of the State. The proceedings are similar to that pursued in this State upon the amendments just acted upon, and some of the propositions are of a similar character, viz.: Forbidding gifts of money or property to any association or corporation; authorizing the Governor to veto items of an appropriation bill; and increasing the pay of legislators from \$3 per diem to \$500 annually.

Some of the New Jersey journals, however, oppose this proceeding, and advocate a regular Constitutional Convention, which instead of amending the present instrument shall make a new one, retaining such portions of the old as may be desirable, and adding whatever new may be needed by the changed condition of public affairs. The reason assigned for this is that in the consideration of the amendments by the last Legislature the action was hasty, and some really excellent ones were rejected, and the next Legislature has no option except to indorse or disapprove such as come before them. It is claimed that new sections are needed concerning the Judiciary and the veto-power and other matters of importance, and that it would be wisdom, economy, and statesmanship to abandon what has been done and start afresh. One journal says: "Let there be appointed, not a powerless Legislative Commission, as was the last, but a Constitutional Convention, with power to frame a new Constitution. Let that convention be composed of the most able, earnest, and honest men of the State, impressed with the importance of the acts and their own responsibility therefor, and then let the result of their labors be submitted directly to the people for their adoption or rejection. In this way, and in this way alone, can we have such amendments as the changed condition of circumstances demand."

Source:

New York Times, November 11, 1874.

CONSTITUTIONAL AMENDMENTS.

While the proposed amendments to the Constitution of New Jersey are pending, having been framed by a Commission and adopted, with some amendments, by the Legislature of 1874, and yet await the action of the Legislature of 1875, and still again the final decision of the people at the poll next November, we have a deep interest in the question as to how far any amendment made by the incoming Legislature to the action taken by the last may or may not invalidate the work of last winter. Must each and every amendment proposed and adopted last winter-the first step in the process-be reaffirmed this winter without change, or may it be amended and then sent out to the people for confirmation as

the deliberate judgement of two successive Legislatures? It is certainly within the power of the incoming Legislature to annul and refuse to submit to the popular vote any one or all of the amendments agreed to last winter. But can it amend them as they come up for the second action?

The Constitution prescribes in effect that amendments to the organic law may be proposed in any Legislature. If they are agreed to, they are to be submitted again to the succeeding Legislature and then, "if in the Legislature next chosen as aforesaid, such proposed amendment or amendments, or any of them, shall be agreed to by a majority of all the members elected to each House, then it shall be the duty of the Legislature to submit such proposed amendment or amendments, or such of them as may have been agreed to by the two Legislatures, to the people, etc., at a special election." The technical reading of this clause would seem to imply that the proposed amendment must stand or fall as it was first agreed to by the Legislature and that in the second trial there can be no amendment to the amendment. A broader reading may lead to a different conclusion.

In our case, the second Legislature may doubtlessly throw out any or all of the propositions made by the first, without invalidating the rest. In New York, owing to a different working of the constitutional provision for amendments, it was held by some very honest thinkers that the whole body of amendments must live or die together and that any tinkering on the second consideration broke the whole transaction. That dilemma does not present itself in New Jersey. The action of this winter may, beyond question, repeal that of last winter on any amendment without interfering with the validity of the rest. But can it amend the amendment itself?

Mr. Charles O'Connor, in an able, terse and learned opinion in this morning's *Tribune*, goes over the whole subject, which, as has been already shown, is more difficult in New York than in New Jersey, and he comes to the conclusion that amendments proposed and adopted in one Legislature and then materially changed or amended in the next, and so sent to the people, are in effect a full compliance with the requirements, and that even if they are open to verbal or technical objections they are still good, on the broad ground that no written Constitution of a free people can make itself irrepealable. The court of final appeal is the people and they, rising supreme above all other authorities, may amend, subvert or enact constitutions in any peaceful and orderly manner. He says:

"Concurrent resolutions of the legislative bodies in two different years, and a final approval by the people, constitute the process. The instrument does not prohibit the employment of different means unless such a negative can be implied from its having thus made provision for a method which is undeniably convenient and suitable. I think it is not maintainable by any fair reasoning that a State

Constitution which so provides a means for its own amendment cannot be altered or varied from in any other manner. Certainly such a negative implication is not admissible in New York, for its present state government came into being and exists on precisely an opposite basis. Its constitution was formed and adopted in 1846 by means entirely different from those prescribed for its own amendment by the then pre-existing fundamental law. Were there not-as there in fact are-other ample precedents and controlling authorities to the same effect, this circumstance alone should compel an acknowledgment here that there is no such implied prohibition."

And again he says of the power of the people:

"When enacting a constitution, they are responsible to their own consciences only, and are subject to no limitation or restraint from any human institution, or from anything coming within the notion of law, save and except only such as may be imposed by the terms or import of the Federal Union. It follows as a necessary consequence that, whenever they see fit, the people of a state can alter their written constitution. The power of the whole body so to do by the voice of a simple majority is inherent, and incapable of being restrained by law. They cannot meet in one place, or proceed without organization; and this forms the only impediment to their action under the preeminent power at any instant. The restraint named is not imposed by law; but arising from the nature of the thing, it exists in fact. To meet the necessity of organization, an authority to convoke the people for the purpose of making changes in their fundamental law or considering proposals to that end must exist in some official department. Otherwise the principal power could not be said to exist. It would be annulled by its own impracticability. It would be a stillborn product of the vain imagination in which it was conceived."

According to this opinion of one of the oldest and the ablest jurists in the land, the recently adopted amendments to the constitution of New York rest upon an authority supreme to the constitution itself. The same reasoning would permit any amendments in our next Legislature to [correct] the propositions agreed to by the last. We do not know that any such are necessary. The amendments offered seem to us to be very nearly right, but we like to feel that they are not beyond correction, should faults be made to appear in their subsequent discussion.

Source:

Newark Daily Advertiser, December 22, 1874.

[UNTITLED.]

The Constitutional Amendments were all passed by the Senate yesterday,

although the first was laid over until today on a motion to amend. We do not think this motion should or will prevail, and believe the amendments will be finally disposed of by the Senate today by their adoption. The House would do well to act upon them with equal promptitude. Their final incorporation in the Constitution then being assured beyond reasonable doubt, the Legislature could, the present session, in many ways, act in harmony with their provisions. Above all, general laws should be adopted in place of the multitudinous unimportant little bills which now mainly comprise the work of the two Houses.

Source:

Daily State Gazette, January 26, 1875.

[UNTITLED.]

The amendments to the Constitution of New Jersey finally passed the Senate yesterday without any change in any respect. They will now go to the House of Assembly, and if passed there will go to the people to be voted on at a special election to be held at some time not later than four months after the adjournment of the Legislature. The proposed amendments are to be voted on separately, and those ratified will then become a part of the Constitution.

Source:

Daily State Gazette, January 28, 1875.

[UNTITLED.]

The amendments to the Constitution were taken up on Tuesday as the special order, and were accepted by the Senate by an almost unanimous vote. The only article which was attempted to be amended was that which prohibited any municipality from giving or loaning its credit to any individual, association or corporation, or being directly or indirectly the owner of any stock or bonds of such association or corporation. The amendment was resisted on the ground that its adoption at this stage would defeat the ends to be attained through the amendment as it was submitted from the last Legislature. The tendency of the times has been too largely in the direction of the loaning of the credit of towns and municipalities in aid of private corporations and enterprises, as a consequence of which great evils and financial embarrassments have resulted. The question was discussed very ably, and the proposed change in the original amendment was rejected. They now go to the House, when the members may conceive their province to be to

closely scrutinize. The general impression is that the essential features will be retained. A change in the amendments as they were passed at the last session would be a bar to their being submitted to the people next fall.

Source:

Woodbury Constitution, February 3, 1875.

THE CONSTITUTIONAL AMENDMENTS.

There were many honest, conscientious voters who, by cooperating with the Democracy, confidently looked for what are styled “reforms” in political management. A strong desire for change possessed and actuated them, and they constrained themselves to abjure forever party relations. The effect is becoming painfully obvious, in the present Legislature, that there were promises made to the ear to be broken to the hope. We were among those who mistrusted the safety of the pending amendments to the Constitution of the State if the Democracy obtained control of the Legislature, and it will be more than surprising if our fears are not realized. The organ of the Democracy at the Capital struck the key note in favor of their rejection immediately after the election, and the purpose of the leaders seems thus to have been foreshadowed. It is now stated that since the amendments were sent to the House, the policy of their acceptance has been secretly canvassed, and it is given out that their defeat has been virtually agreed upon. Of this the *Paterson Press* gives the following information, which cannot but be startling to the friends of the measure:

“We learn from Trenton and from a creditable source that there is a very strong probability that the constitutional amendments—which have been discussed with such care and patience and passed by the Senate, and to whose adoption the people of the State have been looking so eagerly as the inauguration of the greatest reform in our State legislation ever secured— will be indefinitely postponed by the Democratic Assembly. The amendments have been made the special order for the 16th inst., and it is reported that the Democratic leaders in the Assembly have determined to have them postponed, and to caucus on them the night of the 16th, and that they will try to supersede them with a proposition for the Constitutional Convention. We have only to say that, if the Democrats of the Assembly take this step, they will take one which will be fatal to their party in this State. But not even in view of the certainty with which such a step would insure the speedy overthrow of the Democracy in New Jersey, had we desire to see the constitutional amendments killed at their hands; and we hope that this crazy policy will not be carried out, but that wiser counsels will prevail.”

Such a course must be deprecated by all sincere friends of reform and good government. It simply is an invitation to the Republicans on the part of the Democracy to throw away all the work that has been done for the past two years. Certain it is that the Republican Party should set its face determinedly against such a policy of obstruction, and a party that gives its adherence to such a course will, and should receive, the condemnation of the people who look for advance, rather than retrogression, in the government of the State.

Source:

Woodbury Constitution, February 17, 1875.

THE CONSTITUTION OF NEW JERSEY.

The State Constitution of New Jersey, after thirty-one years' service, is to be amended in several material points. The work has been slow, having been proposed in the Legislature of that State some ten years ago, and delayed or postponed from year to year till the winter of 1873. A law was then enacted for the appointment of a Constitutional Commission, which included some of the leading men of the State. Among them were the late ex-Chancellor Zabriskie and D. S. Gregory, of Jersey City; Senators Taylor, Cutter, and Hopper; ex-United States Senator Ten Eyck, and other gentlemen familiar with the legislation of this State. They met in the summer of 1873, and after a long deliberation and the discussion of many proposed amendments, rejected nearly all of them, but finally agreed upon five (*sic*) amendments. These were reported to the Governor, and by him transmitted to the Legislature at its session last year. The present Constitution of the State provides that all amendments must be adopted by two successive Legislatures, and finally indorsed by the people at a special election, within four months thereafter, before they shall become valid. The Legislature of 1874 accordingly gave the amendment[s] additional consideration, adopted, altered, or rejected such as they chose, and returned to the Governor those they had adopted. These were published throughout the State three months prior to the convening of the present Legislature, and have just been adopted by that body. They encountered but little opposition, for even the alteration of any one of them was regarded as equivalent to its defeat, as it would not then have been adopted by two Legislatures. In the Senate one member wished to strike out the words, "individual, association, or," from the amendment which forbids the loaning of the public credit of any county, city, borough, township, or village to any individual, association, or corporation. The reasons given therefor were that, while the intention evidently was to prevent any municipal government from

loaning its credit to railroad or other corporations, it might be construed to cut off the giving of money for the poor or benevolent purposes. This view, however, was not entertained by others. The motion was lost, and the clause was adopted. The only other objections were to striking out the word "white" from those entitled to suffrage, a bitter pill for some Democrats, rendered necessary by the national amendment; and fixing the pay of members of the Legislature at \$500. Both, however, were adopted, and the amendments as a whole were approved. They now go to the people for final action.

Source:

New York Times, February 22, 1875.

[UNTITLED.]

There certainly was a disposition on the part of many of the Democratic members to defeat these amendments, and the leading Democratic newspaper of the State, the *True American*, of this city, has openly opposed them; but the popular approval of the amendments was too evident for the Democracy to act in the interest of the lobby as much as they desired.

The precise form of submitting the amendments to the popular vote will be presented by bill or joint resolution, which will be introduced in the Senate shortly.

Source:

Woodbury Constitution, February 24, 1875.

**THE CONSTITUTIONAL AMENDMENTS.
(Die Constitutionellen Amendments.)**

[Translated from the German by Thomas Koenig, Office of Legislative Services.]

On September 7, the people will vote on the constitutional amendments. The *State Gazette* in Trenton publishes the following instructions:

The act that calls for a referendum on those amendments provides that on September 7, a special election shall take place in all the townships and wards of this State to vote on the amendments. The polling places will be the ones in which the last gubernatorial election took place. The electoral officials on duty on September 7 shall be the judges of this election.

The announcement made for the referendum shall be the same as the announcement made for legislative elections.

Voters are not required to register.

The Secretary of State has to send the ballots in a sufficient number to the county clerks, who will have to redirect those ballots to the various election officials of each district. The county clerks must have received the ballots two weeks prior to the election.

The act requires further that this Act shall be published in the legal newspapers along with the proposed amendments four weeks prior to the election. The Secretary of State has to supply each newspaper with a copy of the law.

Source:

Carlstadt Freie Presse, July 24, 1875.

[UNTITLED.]

The trouble about the ratification of the constitutional amendments *en masse*, we beg leave to submit to our friend of the Mt. Holly *Mirror* and others who think with him, is that when that is done, the people *cannot* “easily command the call” for a convention to do the necessary work which the Commission has left undone. We shall then be met with the protestation, “The Constitution is good enough now; it has just been amended; it is bad policy to be eternally tinkering at it; we have just expended a large sum on the Commission and can’t afford a convention,” &c., &c. And as the members of the Legislature will have their compensation increased to a satisfactory amount, they will have no motive in the direction of their pockets to do anything farther. We can accomplish nothing without their concurrence, and we very much fear it will be found extremely difficult to get a Constitutional Convention for many years to come.

As the Commission that framed the amendments was chiefly remarkable for the absence of the strong men of the State whose ability and experience especially fitted them for the service, so the work of their hands is more unsatisfactory for what is omitted than for what was really done. An amended Constitution in this year of our Lord that hangs on to the “rotten borough” system of Senatorial representation, discarded in every other prosperous and enterprising State in the Union and so utterly unjust as to be without defense, is not entitled to very much consideration or respect. This is one of the grave defects of our fundamental law that should now have been remedied. But there are others of equal and, perhaps in some respects, of even greater importance, a few of which, as they occur to us at this moment, we will indicate.

A just and equal system of taxation should have been provided for, and the Legislature deprived of power to exempt from its proper share of the public

burdens any property whatever that claims and receives the protection of the State.

Our Judicial system needs thorough revision. As matters now are, the Supreme Court Judge holding the Circuit is also a member of the court to which an appeal from his rulings is taken, and is also a member of the court of last resort where the final hearing is had. Nothing can be plainer than that this is wholly wrong. For while as a matter of courtesy he may not sit in the courts above in cases he has heard at the Circuit, the fact that he is a member of the court makes the other judges oftentimes a little tender about overruling his decisions through the apprehension that a similar fate may befall some of their decisions by means of his vote. Judges after all are merely mortals, fallible like the rest of us, and an unconscious log-rolling is one of the most natural and necessary outgrowths of such a system.

The lay judges of our inferior courts are entirely useless and should be abolished, and all the courts in which they sit held by a single judge whose legal attainments fit him for the position.

Justices of the Peace should be largely reduced in number, and be appointed with reference to their qualifications, instead of being elected, as now, by the people. Scarcely one in a dozen of them, take the State over, are fit for the position, and their administration of law is a simple mockery of justice and a plunder of the people - most of them the poorest and most defenseless class - who have business before them.

The number of members of the House of Assembly should be increased to correspond somewhat with our increase of population since it was fixed in 1844; and with the cutting off of a large portion of the business of the Legislature by forbidding the passage of special laws where general laws can be made applicable, only biennial sessions would be required and should be provided for.

The compensation of members of the Legislature being increased to a fair amount, the whole system of dead-heading themselves over all the railroads of the State should be prohibited. It is a tax upon the roads which the people have ultimately to pay, and its influence in our legislation is corrupting, demoralizing and discreditable.

And as we might go on, enumerating defects which the light of experience has made manifest in our present Constitution, that a convention composed, as it would almost of necessity be, of our ablest and best men from all the counties of the State would certainly rectify that which the late Commission failed to touch. They have given us some good things for which we may be thankful, and which we should certainly ratify at the special election in September. But we wish it distinctly understood that for one, at least, we do not regard the work of revision as

anywhere near complete, and we do not intend to be concluded, by accepting the “half loaf”, from agitating and striving for the remaining half.

Source:

Jerseyman, August 3, 1875.

[UNTITLED.]

We anticipate a week, the time for the publication of the Constitutional Amendments to be voted on at the Special Election in September, to give our readers abundant opportunity for their study. To form any sort of an intelligent idea of what they are to vote for or against in many particulars, they will need to have at hand a copy of the Constitution for comparison with the amendments proposed, and even then it will be found not altogether freed from difficulty. However, if they go at it in season, they may get a tolerable conception of what “For the proposed amendment designated paragraph nineteen to article one, relative to ‘Rights and Privileges,’” &c., &c., means, as printed upon their ballots, by the time the election is held, though it will hardly be safe to think about it too long before making a commencement. For a thing commended to us as being very simple and easily understood, it is about as complicated and intricate a piece of legislative and Commission patchwork as has ever fallen under our notice.

And then, when the amendments are adopted, are incorporated in the Constitution and printed in subsequent editions in the body and as a part of it, that instrument will provide that “this Constitution” (with the amendments included) “shall take effect and go into operation on the second day of September in the year of our Lord one thousand eight hundred and *forty-four*,” just thirty-one years before they were ratified by the people - no provision being made in the amendments for a change of the date!

Source:

Jerseyman, August 3, 1875.

THE CONSTITUTIONAL AMENDMENTS.

One of the most important elections ever held in the State of New Jersey will be that of the seventh of September next, on the proposed Constitutional Amendments. The ballot to be polled covers no less than twenty-eight distinct propositions, to each of which the intelligent voter should give something of that same careful consideration which was required in the first place by the

Constitutional Commission and subsequently by two separate sessions of the Legislature. The gravity with which these changes in the organic law were considered by the Commission, and the debate which they demanded from the Legislature ought to be appreciated, deliberated and acted upon by the people at the polls. In this September election there is nothing of personal appeal. There is no backing of any man or party. As between Republicans and Democrats, it is doubtful as to which side the majority may take on either rank. Except in the great and solid interests, no citizen has any special care. It is organic law that we are called upon to consider, long-running and permanent issues. No candidates are up. We cannot take into account the personal character of the men to whom we may look for action. It is simply a settling down into a theory of government, a statement of general principles, that we are called upon to make. If men are foolish, wilful or wrong, the action will be bad. Our action is to be permanent and the election of the seventh of September calls for the calmest and most impersonal consideration.

We are anxious to be a little in advance of the proposed amendments. They are supremely important. Counting twenty-eight in all, they prescribe, first, that "no county, city, borough, town, township or village shall hereafter give any money or property, or loan its money or credit, to or in aid of any individual, association or corporation, or become security for, or be directly or indirectly the owner of any stock or bonds of any association or incorporation." And right after that comes a provision that "no donation of land or appropriation of money shall be made by the State or municipal corporation to or for the use of any society, association or corporation whatever." It will be seen that the provision shuts out all association of State and Church, that the one cannot depend on the other, and that each Church or denomination must maintain its own hospitals, schools, protectories or whatever forms of denominational teaching it may choose to assert. The real question involved is whether any one form of faith shall be compelled to support the beliefs and doctrines of another, or whether some special denomination shall be permitted to withdraw itself from the general body politic and hand in a general account, or statement, more or less correct, of the children it educates in well-doing and the criminals it furnishes to jails and reform schools. We will suppose that the Methodists support seventy-five per cent. in their church schools, ten per cent. in jails and reformatories and the rest in private schools, good, bad or indifferent unknown. Under the claim that has recently been set up the Methodists would be entitled to seventy-five per cent. of all the school money they pay, and ten per cent. of the general tax for the criminals they graduate. When we come to add to them the Presbyterians, Baptists, Swedenborgians, Catholics, Episcopalians and all the rest of the distinction of doctrines, we shall have the

most complex system of education the world has ever known, and it may as well be distinctly understood that the State theory is only that of a common school education sufficient to deprive a youngster of the excuse of ignorance. To this first clause of the proposed amendments to the Constitution we ask a vigilant attention.

Many of the amendments are merely clerical, helpful things in their way, but not essential. Among them is, perhaps, that of Section VII, paragraph 12, which provides that "property shall be assessed for taxes under general laws, and by uniform rules, according to its true value." How far this may affect the "Five Counties Act," under which large investments of foreign moneys are made in the eastern counties of New Jersey, is a matter to be seriously considered. As the matter rests now there is an open bid for foreign capital to seek investment here. The same law, extended to the whole State would be, we think, with some hesitation, constitutional, but it is a clause which should be closely considered and openly discussed. It is thought by some that it will act as a repealer of the "Five County Act," and all other laws exempting mortgages from taxation in the counties of Hudson, Essex, Passaic, Bergen and Union. The result of thus taxing the mortgages in these, the largest and most thrifty counties of the State, will be to withdraw money from that class of investment, and to cause those who now hold overdue mortgages to call in their money.

We shall speak from time to time of the whole and general effect of these proposed amendments. There is enough in them to provoke the study of all good citizens. The vote upon them will be distinctively a test of the fidelity of the voter, of his care for organic as distinguished from executive law, of how much he regards the system of his government as separated from the agencies through which it operates. Above all it will show how, in an election when there are no candidates, no campaign parade, no bands of music or sensational eloquence, the real bottom facts of popular government are regarded. We beg our readers to look over the whole ground and come to a deliberate opinion.

Source:

Newark Daily Advertiser, August 5, 1875.

[UNTITLED.]

Among the proposed amendments to the Constitution, and the one to the ratification of which it is supposed the opposition of the entire body of the Catholic Church will be arrayed, is the following:

"No donation of land, or appropriation of money, shall be made by the State or any municipal corporation to or for the use of any society, association or

corporation whatever.”

We hear very serious doubts expressed whether this amendment, if adopted, will accomplish all that seems to be expected of it. The main point intended, doubtless, was to prevent the Legislature or any municipal corporation from making appropriations to sectarian schools. But will this amendment do it? According to the ordinary acceptance of words, a school is neither a “society,” an “association,” or a “corporation.” Schools are nowhere so described that we are aware of, either in our organic or statute law. And if not, and there is fair ground for controversy on that subject, we shall have nothing at all settled with reference to the sacredness and indivisibility of our school funds by the adoption of this amendment, and the Legislature or any municipal corporation cannot be prevented by it, if they shall choose to do so, from making appropriations for sectarian schools. The matter, it seems to us, is worthy of a little more careful attention than it has yet received.

Source:

Jerseyman, August 10, 1875.

[UNTITLED.]

The inhabitants of the counties specially interested are considerably stirred up with reference to one of the pending Constitutional Amendments which it is feared, if adopted, will render nugatory what is known as the Five County Act, exempting mortgages from taxation in the counties of Essex, Hudson, Bergen, Union and Passaic. The language of the amendment is that “property shall be assessed for taxes under general laws, and by uniform rules, according to its true value.” The *Jersey City Journal* thinks, too, that if adopting this provision will make the Legislature incompetent to exempt mortgages from taxation, and will repeal all previous legislation of that character, it will also repeal all acts exempting church, private school, society or corporation property from taxation, and render any exemption by legislation in future unconstitutional.

This may or may not be so. But the Five County Act, in so far as it gave special privileges to the counties interested and proved a benefit to them, was and is a detriment and an injustice to the other counties of the State. And if it is the fact that these special privileges will be destroyed by this amendment, and the voters of those counties unanimously oppose it, as suggested, for that reason, then it is certainly the interest of the people in all the other counties to support it unanimously, and thus secure its [incomplete paragraph].

Source:

Jerseyman, August 10, 1875.

THE CONSTITUTIONAL AMENDMENTS.

The first duty—or rather interest—of the citizen is to read the proposed Amendments to the Constitution, as they appeared in our paper last Saturday, and to compare them with the Constitution as it is. There is no man, from the highest to the lowest, who has not a vested right involved and, he may think, endangered. There is no principle of civil policy which is not in some way included in the argument. Affairs of religion, of education and taxation come in one after the other, each affecting the individual rights of the citizen, full of hurt if they are wrong. We may patiently rest on the judgment of the Commission and two successive Legislatures, or we may rely upon the hypothesis that people who know nothing about questions of this class may neglect to act. It would be safer to hold that the reason of a General is the act of an army, and that leadership never neglects an opportunity. There are great powers, religious, financial and political, who know the ins and outs of every step in the proposed amendments and will act in accordance with their faith, their finance and their party association. But there are no candidates to spend money, no torchlight processions to call out the popular feeling, no appeals to the greed of office. Nobody is to be elected. Only necessary and prescribed expenses are to be borne—and those by the State.

Now, to those who will think, there are sundry considerations to be offered. As it ought to be, there is no mention of any special religion which is either to be tolerated or suppressed. Each is left to have its chance. The Catholics and the Presbyterians may hold the schools and teach the doctrines that suit them. Neither of them can have a dollar of the money of the State. But the State shall all the time look to its own authority. It must insist that when a denomination cannot care for its flock, when from the verge of its altars and the smoke of its incense come criminals; when from its plain communion table with its white cloth and modest service the deacons walk down the aisles with the bit of bread and sip of wine, come scoundrels, the State must take charge of the failures of the Church. What other resource is there! All churches are subject to human fallacy and perhaps inherent sinfulness. There is no succession of the virtues. Nothing comes of authority so far as our souls may see. Out of any single church, no matter what its name or profession, no matter how high its purpose, how ennobling its teachings, there comes a debris of shame and crime, in so much of which its teachers are a failure, saddened by failure, but still only a failure.

Now what the new Constitution proposes is that when the liberty of the child,

which is a part of the liberty of the parent, and the liberty of the teacher, which is part of the liberty of the State, shall have failed, the State shall stand in, take the job off the original hands and protect itself. In all this it proposes to deal with criminals only, not with troublesome boys or careless runaways from school. It does not propose to meddle with church, family, or the reasonable freedom of the child or man. It is only a change of captain and pilot. We have seen the pilot come aboard and assume command, and, sharp afterward, the captain resumed his command and sent the pilot down to the forward deck, so saving the ship. Of religion, education is a part. One is pilot and the other captain. The captain faces the storm and assumes the danger. The pilot leads the way into port at the last moment, perhaps the instant of supreme danger, perhaps the laziest hour of the voyage.

And so in taxation. It cannot be divorced from personal right. It is an inherent exercise of power which if it be not rightly exercised becomes an injustice. The proposed Constitution provides that all laws for taxation shall be general. Mr. Leon Abbett has construed this as applying to the Five County Act—an act which is general over two-thirds of the population of the State and to which the whole State is welcome so far as the Five Counties are concerned. It is pointed out, and very justly, that a general act does not imply that each citizen, family, borough, village, county or section shall be governed and taxed alike, but that the payment of interest is a contract and its rate can be regulated by the Legislature at any time. The dealing between the mortgagor and mortgagee is essentially a personal contract. It is as broad as it is long. We buy a property with its encumbrances. We find that we must pay tax on the whole property and that no encumbrance by mortgage or otherwise will escape the tax. And then we fix the price on the actual value, less the interest on the encumbrances. This seems to be a general act in regard to the people of a section, as a charter of a village or city is general in reference to whether or not it treats all its citizens alike. So it is held, and so, we conceive, the provision in the proposed Constitution does not affect materially county and city acts, and certainly does not apply to contracts made previously. The last are saved by the Constitution of the United States.

But while we have dealt thus hastily with certain leading features of the proposed amendments to the Constitution, our deeper motive has been to call attention to the coming election, to the fact that it is more important in permanent result than the one to succeed, and to beg our audience to read the advertised amendments and study their meaning. We shall not be slow in the intervening weeks to express our wishes and opinions. We have to them the right of a citizen. We feel in them a deep interest of personal welfare, of hurt or help that may come to us from their fate. And so we leave it to our friends—leaving it only for the

moment—and solicit a wider explanation of the amendments and a more generous discussion of their intent, from correspondents who ought to be anxious for the result. We only care to awaken the public attention. Having opinions of our own, deeming it best that the amendments proposed should all be adopted, we are not averse to adverse opinions from those who may differ, and any courteous word of difference shall have place in our columns for what it is worth. This is an affair of measures and not men.

Source:

Newark Daily Advertiser, August 10, 1875.

THE CONSTITUTIONAL AMENDMENTS.

We publish today, on the first page, each article of the Constitution of the State of New Jersey which it is proposed to amend, omitting the publication of articles which it is not proposed to amend and which are therefore not under consideration. The single exception to this is Article III, which is brief and forms a connecting link between Articles II and IV. Articles VI, VIII, IX and X are not involved in the proposed amendments. In order to make the amendments, either by erasure or addition, intelligible, we have been compelled to resort to typographical distinctions.

All of the Constitution as it is, which is omitted from our compend, remains as it was. All articles which are in any particular amended are published in full. All erasures or repeals of the present Constitution are printed in *italics* and the *italic* means repeal. All additional paragraphs, all new matter introduced, is printed in SMALL CAPITALS and must be regarded in the nature of an amendment. All matter printed in the ordinary Roman type, except in occasional instances of the word *provided*, is a copy from the present Constitution. *Italics* mean to obliterate, SMALL CAPITALS to enact, and Roman to stand unchanged.

We have endeavored to be absolutely accurate in this presentation of the proposed changes. It is extremely important that they should be plainly placed before the eyes of the people, and while the advertisement from the office of the Secretary of State is perspicuous, it is only so after more study than the majority of voters are likely to bestow, and requires a careful comparison of the present with the proposed text, which requires many hours of preparation before either can be carefully considered. We have tried to obviate that evil, and put the thing in a shape in which the reader can distinguish at once that which is new, that which is obsolete, and that which remains.

These proposed amendments were prepared by a special commission under

State authority. They have been considered at two successive sessions of the Legislature, approved, and now go to the people for their final verdict. The election will be held in the several townships and wards of the State, at the place or places in each township or ward where the last election for Governor was held, to enable the electors qualified to vote for members of the Legislature, to vote for or against each of such proposed amendments to the Constitution. The judges of election in the several townships and wards who shall be in office on the seventh day of September next, shall be the judges of said election, and the polls shall be opened and closed at the times now fixed by law for opening and closing the polls at the annual election in this State, and the said election shall be conducted by the same officers and in the same manner now required by law in conducting the annual elections in this State, unless otherwise directed in this act.

Source:

Newark Daily Advertiser, August 12, 1875.

THE CONSTITUTIONAL AMENDMENTS—THE TAX CLAUSE.

We recently published a letter from Hon. Jon. C. Ten Eyck expressing the opinion that the proposed amendment to the Constitution in regard to taxation would have the effect of nullifying the "Five County Act." There is no doubt that this opinion is correct. But it is now asserted by good authority that it will not only do this, but will go a great deal farther. An accomplished young lawyer, Mr. J. Frank Fort, writing to a Newark paper declares that the amendment in question would have the effect of repealing all special tax laws and of subjecting all kinds of property, personal and real, churches, public school houses, charitable institutions, colleges &c.—to taxation without any deductions whatever. Mr. Fort is sustained in this opinion by some of the best constitutional lawyers in Newark, and no one dissents from his conclusion. The following is Mr. Fort's argument:

"Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value." We will consider this by answering the following question: "What effect will the adoption of this amendment have upon the present tax laws of the State, and what will be the plan of taxation under it?" If adopted, it will annul all special tax laws, and all provisions in the General Tax law inconsistent with or repugnant to its terms.

The last General Tax law is entitled "A further supplement to the act concerning taxes," approved April 11, 1866. By this act all the tax laws strung along the books from 1846 are gathered together systematically. There had only been slight change since 1866 in this law. The revised statutes of 1874 enact

nothing concerning taxation.

By the provisions of this act of 1866, property is taxed at its full value, except such property as by its provisions is exempt from taxation, viz: Bonds and other securities of the United States and this State; all securities of municipalities exempt by special enactment; all colleges, &c., of learning, public libraries, school houses and places of religious worship, and the endowment fund of any of these; all buildings for charitable purposes, stock of any corporation which by its charter or contract with the State is expressly exempt.

The 20th section of this act provides also for deductions "from the value of the real or personal estate, or both of any *debt or debts bona fide* due and owing from the party assessed to creditors residing *within* this State."

It will therefore be seen that by the tax law of April 11, 1866, exemptions are provided for and indebtedness can be set off. (Nix. Dig., 951.)

By the act entitled "An act relative to taxes in certain counties in this State," approved April 2, 1869, the provisions of the act of 1866 were repealed so far as relates to the mode of assessments and deductions for debts (mortgage debts) in the counties of Passaic, Hudson, Union and Essex, and the city of New Brunswick, Middlesex. This act still applies, and has since been extended in its operation to Bergen County, the city of Trenton, and Raritan, Middlesex County. This is the act commonly known as the "Five County Act," the act under which taxes are assessed in Newark (Laws of 1869, page 1225). This act, being a special act, would undoubtedly become void by the amendment. The act of 1866 is a general act, and could only be so far annulled as its provisions conflict. Let us see to what extent that is.

The mode of assessing under this act (1866) is "according to the full (true) value." It will remain the same under the amendment. But upon what property, under the amendment? *Upon all property*. The exemption clause in the act of 1866 will be annulled. The word "property" includes both real and personal. Under this amendment, property would have to be assessed where found. *Nothing exempt*. No church, public school house, charitable institution, college—none of those institutions which are exempt under the act of 1866. Nor could the Legislature pass an act exempting them; and further, the property is to be assessed according to its "*true value*." No deductions for debt. The virtual result of the amendment is, while it makes void the act of 1869 (Five County Act), to so modify the act of 1866 as to accomplish just what the special act of 1869 now does where it applies. And if under this amendment the Legislature adopts a statute to regulate taxation, it must be a general law and must provide "uniform rules" under which property will have to be assessed wherever found, *without exemption and without any deductions for debts*, taxing all property, to whomsoever belonging. Neither

judgments, mortgage[s], nor personal debts can be deducted, but tax must be paid on the “true value” of the property, and the true value of property when mortgaged is the equity and the incumbrances included.

If this interpretation of the proposed amendment is correct, and there seems to be no reason to doubt that it is, the importance of the paragraph can scarcely be overestimated. It certainly behooves the people to thoughtfully consider the matter, and without expressing any opinion of our own at this time, we urgently direct the attention of the people to this proposed radical change of the tax law of the State.

Source:

Daily State Gazette, August 20, 1875.

THE CONSTITUTIONAL AMENDMENTS.

We publish today the full text of the present Constitution of the State, with the proposed amendments prepared by the Constitutional Commission in 1873, and approved by the Legislatures of 1874 and 1875, inserted in brackets. This will enable our readers to readily see for themselves precisely where each proposed amendment comes in, and precisely what changes are effected thereby in the present instrument. We would advise our readers to preserve this paper for reference. It will be very useful, especially after the proposed amendments have been voted upon. Should they all be adopted they will then possess the new Constitution of the State.

Source:

Daily State Gazette, August 20, 1875.

FREE SCHOOLS.

The public school system of New Jersey has within the past ten years made great progress, until it is now among the best in the country. This is the unanimous testimony of all intelligent educators. Two amendments are proposed to the State Constitution, which, if adopted, will insure the preservation and perpetuity of the chief and most cherished of these excellencies by embodying them in the fundamental laws. They are as follows:

In Article I:

Insert as paragraph 20 a new paragraph, as follows:

“20. No donation of land or appropriation of money shall be made by the State

or any municipal corporation to or for the use of any society, association or corporation whatever.”

In Article II, Section 7, paragraph 6:

Insert the word “free” between the word “public” and the word “schools,” and add to the paragraph the following:

“The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in this State between the ages of five and eighteen years.”

It is clear that the effect of the adoption of these amendments would be to preserve the freedom and undivided support of our public schools. No law could thereafter be passed circumscribing the generous and beneficent catholicity of our school system, nor diverting a dollar of its fund, or of any other public money, to the support of sectarian schools. This is just what the people of New Jersey want. These amendments admirably meet a public necessity—they firmly establish, beyond the reach of chicanery, or cunning, or the faithlessness of politicians, the excellent free school system of the State.

We therefore earnestly advise the people of New Jersey to turn out on the 7th of September and vote for these amendments. It will be necessary to their adoption that the friends of our free public school system should take an interest in the matter and poll a strong vote. For the determined foes of free schools, the Roman Catholics, are everywhere organizing for their defeat. The Catholic organs are rallying their forces for the fight, and Catholic leagues have been formed mainly for this object. The Romanists are opposed to both of the propositions. They never have liked free schools, because—they allege—they are the nurseries of Protestantism. They do not like the other amendment because among their most cherished and firmly held designs is a diversion of some of the public money to the support of their parochial schools. It will not do to permit the Catholics to mould our fundamental law for us in these particulars. It was bad enough that they should year after year enter our legislative halls as a sect, and seek to control the law making power of the State in the distinctive interest of their denomination, and against Protestantism and free schools; but their attempt to step in as a church and frame the Constitution of our State to suit their designs exceeds the bounds of patience. But the people will have to be alive to prevent the consummation of their design. The Catholics generally go into such a contest with quiet but tremendous energy, and the adverse vote on these amendments will probably be astonishing. We advise the friends of free schools throughout the State to rally to the support of these amendments.

Source:

Daily State Gazette, August 24, 1875.

[UNTITLED.]

It is very evident that unless some special effort is speedily made to stir up and inform the people in the way of circulars or public addresses, the vote upon the constitutional amendments next month will be a remarkably light one, in this section of the State at least, if not everywhere else. We have conversed within the past few days with a number of prominent gentlemen belonging to both parties from different parts of our county, and the testimony is uniform that people generally do not understand the amendments, do not feel enough interest in the matter to take the trouble to inform themselves in regard to them, and are indisposed to vote either for or against them. The feeling is that a new Constitution should have been framed, rather than in this awkward and unsatisfactory way to have attempted to patch up the old one; and if they vote at all, the disposition would be to vote against the whole thing.

We cannot say that this feeling is unnatural. We had something of it when these amendments were first presented for our consideration. And even now, if we could believe that a convention would probably result from a defeat of the amendments within a year or two, we should certainly favor that course. But we have no such faith. All the indications are against it. The Legislature is in the way, and will continue in the way until driven otherwise by a public sentiment that it will take a dozen years to crystallize and make effective. So it is wiser, every way, to accept what is offered, than to reject it in the hope of getting something better in the dim and uncertain future. And as there are none of the amendments to which any fair-minded, unprejudiced man, who has not some special interest at stake with which they are in conflict, can reasonably object, we urge our readers to support the whole.

The two proposed amendments that are in most danger, and indeed the only two to which there is an appearance of formidable opposition, are those prohibiting appropriations of land or money "for the use of any society, association or corporation whatever," and providing for an equal system of taxation. These are designated on the tickets furnished to be voted by the numbers "2" and "12." We call attention to them thus specifically in the hope that whatever else may be erased by any of our readers, these may be retained; and in the further hope that if any are undecided or hesitating about voting at all, they may be induced for the sake of saving these to go to the polls and vote for them. Let us put an end to all raids upon the Treasury for the benefit of denominational institutions of whatever sort or character, and let there be no more of this special legislation by which property that is taxed its full value in one county is totally exempted in another. The other amendments will probably carry themselves because there is no particular opposition to them; but these two will probably need all the votes

that can be obtained for them.

Source:

Jerseyman, August 24, 1875.

THE TAXATION AMENDMENT.

The opposition in the eastern section of the State to the amendment guaranteeing an equitable basis of taxation seems to be very decided, and unless the friends of the measure elsewhere shall come up strongly to its aid, defeat becomes almost inevitable. The purpose of the residents of these favored localities is to cause the rejection of whatever can possibly interrupt the operation of the Five County Act. We have before spoken against the principle contained in this act, believing it inimical to the general interests of the State, and only become more confirmed in our conviction. While we do not believe in provoking sectional feeling regarding this question, yet we do believe that the eastern or any other section of the State should not enjoy exclusive privileges at the expense of another, and the true interest of South and West Jersey earnestly calls for the adoption of the proposed amendment.

Source:

Woodbury Constitution, August 25, 1875.

MORE ABOUT UNIFORM TAXATION.

We are glad to notice that the press of the State are becoming aroused to the importance of the adoption of that one Constitutional Amendment which insures uniform taxation. There are a few who oppose this amendment but their arguments have failed to convince us they were right, and, if we required further proof of the righteousness of the amendment, that is supplied by the fact that the principal opposition comes from those who have been in the habit of having their taxes paid by other people, and do not wish to have this rule disturbed. The Mount Holly *Mirror* strongly endorses the amendment in question, closing with this paragraph:

“Uniformly, equality in bearing the burdens of government, are what common justice requires, are what this amendment is designed to secure. It is the interest of a certain class of capitalists to defeat such a measure and they have commenced their warfare upon this amendment. It becomes the duty of those who believe that all alike should pay taxes according to their possessions—that a

thousand dollars exempt from taxation in Essex should be alike exempt in Burlington—that we should not have one rule for Camden, another for Mercer, and still another for Monmouth—to come up to the polls on the 7th of September and vote for the amendment under consideration.”

The Morristown *Jerseyman* seconds this amendment with equal emphasis, and its remarks upon the Five County Act are as forcible as they are truthful. This act it stigmatizes as “a piece of special legislation entirely indefensible, and the amendment is founded upon a correct principle. The rules of taxation should be uniform throughout the State. What is proper and for the interest of Essex, and the other counties named in the act, ought to be equally proper and beneficial for Morris, and the former should have no special privileges in this matter that the latter does not enjoy.”

The only argument we ever heard urged in favor of the Five County Act was that of might over right. But none of its advocates have ever had the boldness to defend it upon the grounds of justice and equality. But let the amendment be adopted and this monstrosity vanishes, and we shall hail its departure as one more relic of oppression gone to oblivion.

Source:

West Jersey Press, August 25, 1875.

[UNTITLED.]

Judging by the slight amount of popular interest manifested in the proposed constitutional amendments, we can safely say that their passage, if successful, will not have been the voice of the people. It is probable that a very light vote will be cast, a large part of which will be from the hands of the ignorant who vote for the sake of voting, and with no idea of the questions at issue. The result therefore, whether for or against the amendments, will not prove their influence on the public mind, but rather show which side by accident cast the greater number of ballots.

The amendments, as presented to the people, are too vague, requiring a vast amount of study, and even then we find that some of the most eminent jurists disagree in the constructions placed upon them, or are opposed to them in whole or in part. The tickets to be voted are even more clumsy than the published amendments, and considered as a whole, the affair has proved too complicated for mid-summer study.

Among the changes that it is said the passage of the amendments will effect, is that of subjecting to taxation property now exempt from tax. We hardly think

this is the intention, but the fact that it is open to dispute is a significant one. The amendments were published, it will be remembered, last winter, and discussed to a slight degree at that time, but it is only lately that it was discovered that one of the amendments operates in wiping out the Five County Act. Senator Ten Eyck, President of the Commission, says that this is the design of the amendment, but the counties interested in that act did not discover it until months after the proposed amendments were made public. And then when the idea was conceived by those interested, it was for a long time held to be a mooted point whether the Five County Act was in jeopardy or not. The fact that it is, is a matter of congratulation.

A correspondent in another column gives his views on the provision for allowing Sheriffs to be candidates for that office a second term, after holding it three years. The amendment provides for cutting off the words "but no longer" from the old Constitution, and does not embody them in the new. Our correspondent's point is well taken.

Again, the provision requiring the Sheriff to renew his bond every year, while intended to be very careful and guarded, it is said may in reality be productive of much mischief. In the event of difficulty where the bondsmen become responsible, the introduction of technical points may tend to throw the responsibility from one year to another, and thus the very end sought would be frustrated.

Were there a possibility of securing a Constitutional Convention it is probable a united effort would be made to defeat the present plans for amendment.

Clerks of the several townships are reminded that it is their duty to give the required notice of this election, just as they would of the regular annual elections.

Source:

True Democratic Banner, August 26, 1875.

[UNTITLED.]

So it seems we have an opposition to the proposed amendment from still another quarter. The Jersey City *Argus* says that a secret meeting was recently held by Republicans of that city for the purpose of devising ways and means to defeat the proposed amendments to the Constitution, or at least that particular one which, by preventing special legislation, will undo the work of a partisan Legislature and abolish the commissions by which Jersey City is governed. We apprehend that outside of the Republican ring of Jersey City the opposition to the amendment will be very light. In the promiscuous scratching and general confusion of voting, the section may be defeated, but not by any regular

organization. The clause providing for the passage of this amendment is known as "paragraph 11, of Section VII, of Article IV," and on the ticket is section No. 11.

Source:

True Democratic Banner, August 26, 1875.

THE CONSTITUTIONAL AMENDMENTS.

The tickets to be voted at the election for the ratification or rejection of the proposed constitutional amendments, on Tuesday, the 7th of September, have been received by the County Clerk. They are just a foot long by five inches wide and are divided into twenty-eight sections, each one of which refers to one of the amendments as published. If you have had time to compare and study the amendments with the Constitution, and can still further devote the election day to the study of the ticket and amendments, you may vote intelligently. To vote against an amendment, the section on the ticket referring to is must be scratched.

Mr. McCarty will distribute the tickets to the township clerks, and judging the quantity of tickets by the interest manifested in the amendments, we should say the clerks will have a large amount of waste paper to sell after election.

Source:

True Democratic Banner, August 26, 1875.

THE CATHOLICS VS. THE PUBLIC SCHOOLS.

The ultimate object which the Roman Catholic Church appears to have resolved to bend every energy to accomplish, is to use the reformatory and educational functions of the government as propagandists of their faith. It is not the public schools alone which they aim to capture, but every penal, and reformatory and charitable institution endowed and controlled by the State. A glance at this feature of the present canvass in Ohio, described by recent trustworthy correspondents, will be of interest to our citizens as affording a striking proof of the similarity of the objects sought to be accomplished by the Catholics in different parts of the country. Our readers are familiar with their projects in this State. Let them mark the closeness of their resemblance to the projects and mode of warfare of the Catholics of Ohio. In both states they use the Democratic party as the instruments for carrying their purposes into effect. The Democratic organs in Ohio affect, with obsequious and contemptible writhings before their priestly masters, to deny this, but the facts are eloquent and

convincing enough. A bill was introduced in the last Ohio Legislature which was very similar to the Abbett bill rejected in the New Jersey Senate last winter. It provided that the clergy of all denominations should have the right to minister in their own way to the inmates of all state institutions of their own faith. Had the bill been passed upon its merits much less feeling would have been excited, but the Priests and other Papistical leaders took the occasion to evince their sectarian arrogance and intolerance in the most conspicuous and offensive manner. As though conscious of having the dominant party entirely in their power, they not only took no pains to conceal, but actually thrust unnecessarily into the foreground, their implacable hostility to American institutions. The introducer of the bill, Mr. Geghan, in a letter which was published, called upon the Catholics throughout the state to demand the passage of the bill as an act of justice due *from the Democratic party* to Catholics. *The Catholic Telegraph* said of the Democratic party, "Withdraw the support which Catholics have given to it, and it will fall in this city, county, and State as speedily as it has risen to its long lost position and power. That party is now on trial. Mr. Geghan's bill will test the sincerity of its professions." Other declarations of like character from that and other organs of that church, served to secure the passage of the bill with the vote of every Democratic member of the Legislature except one. Thereupon *The Catholic Telegraph* said, and its declaration was echoed by other papers, "The unbroken, solid vote of the Catholic citizens of the State will be given to the Democracy at the Fall election." Coexistent with these events was the growing manifestation of an irreconcilable hostility to the most cherished features of our free government. In former years the Catholic opposition to our public school system was only partial and passive. Since the church took position authoritatively against it, a wonderful change in Catholic sentiment everywhere became manifest, and there is no longer room to doubt that the church all over America is firmly resolved to carry out, if possible, the decrees of the Vatican. This outspoken hostility to free schools, their arrogant threats when the Democratic party was "on trial" in the Legislature, and their patronizing boasts of assuring the success of that party this fall as a reward for its obsequiousness, has naturally aroused a profound feeling throughout the whole state of Ohio. A correspondent says: "But no one who travels about this State can fail to see that the feeling is very strong and deep. At every meeting, if a speaker touches upon that question, the intense interest shown and the quick and hearty responses given betray a spirit the effects of which cannot be measured. Democrats in unusual numbers attend all Republican meetings this year, and it is noticed everywhere that the greater part of them are Protestants."

A fact that will at once strike the attentive reader of these features of the Ohio

campaign is the wonderful similarity they bear to the attitude of the Catholics and their Democratic allies in this State. The Catholics put the Democracy on trial in this State in the attempted passage of the Protectory and the Abbett bills. As in Ohio, their ally stood the test, and it was only the Republican Senate which preserved the State from surrender to Jesuitical machinations. This fall the Catholics will try to sweep out of their path this obstacle to the success of their plans, and at the same time reward the fidelity of their Democratic friends. It is not a party question, and the Catholic church is deeply culpable for having forced it into our politics, but the friends of free schools, the Protestant faith and American institutions will not shrink from meeting it.

Source:

Daily State Gazette, August 27, 1875.

[UNTITLED.]

The proposed amendments to the Constitution of the State of New Jersey will be submitted to the people on the 7th of September for their decision. Among the amendments is one somewhat similar to that adopted by this State at the last election, which prohibits the granting of pecuniary aid to public corporations, or the appropriation of State or local funds for the benefit of charitable institutions of a private character. The majority of the Democratic Party will, no doubt, oppose the amendment. They will, as in Ohio, endeavor to retain the power to use the people's money for political purposes. Appropriations for the support of institutions over which the State has no control are unwise, and are opposed to a true regard for the interests of the tax-payers. We hope that New Jersey will follow the example of New York, and adopt the proposed amendments to the Constitution, and thus deprive either political party from offering a bribe to any church for its support at elections.

Source:

New York Times, August 30, 1875.

[UNTITLED.]

With a view of creating prejudice against the proposed amendment to the Constitution relative to taxation, and securing its defeat, some of the parties interested in the Five County Act are circulating the story that the amendment, if adopted, will require the taxation of all church property and that devoted to educational purposes. In our estimation that would be an objection to the

amendment if it were true, for we have not yet been able to see why all sorts of property asking and receiving the protection of the State should not bear a fair proportion of the burdens of taxation. But the fact is that the amendment will do nothing of the sort. It will leave that question just where it is now, in the hands of the Legislature. What the amendment really will secure is briefly and pointedly set forth in an article in the Mount Holly *Mirror*, which we quote:

“A common sense view of the meaning and design of the amendment is that it prohibits special legislation in regard to taxation, requiring that all statutes upon the subject shall be general, applicable alike to all parts of the State and to all the people of the State. For instance, if churches and school houses are exempted by law in one locality they shall not be taxed in another; if mortgages are taxed in one county they shall be taxed in all, or if to be exempted they shall be exempt throughout the State; that assessments shall be made upon the same basis in every county, and not upon half valuation in one place, two-thirds in another, and full value in another; that exemption for debt shall be the same in all the counties; in short, that no section or individual shall have, through special legislation, any advantage over other sections or individuals, but that all shall fare alike under the tax laws of the State.”

This is just the law which every fair-minded man should desire to see enacted, and we trust that every reader of this paragraph who believes in the justice of [the] proposition will go the polls on the 7th proximo and vote for the amendment designed to secure it. It is numbered “12” on the ticket to be voted.

Source:

Jerseyman, August 31, 1875.

**THE CONSTITUTIONAL AMENDMENTS –
THE FIVE COUNTY ACT.**

Paragraph 12 of Section 7, Article IV, of the proposed amendments to the Constitution is a new paragraph, which is in effect a repealer of the Five County Act and reads:

“PROPERTY SHALL BE ASSESSED FOR TAXES UNDER AND BY UNIFORM RULES, ACCORDING TO THE TRUE VALUATION.” The effect of the passage of this amendment would be to change the entire system of permanent loans on real estate in the counties of Hudson, Essex, Union, Passaic and Middlesex. The special law now existing, as it applies to them, exempts mortgages from taxation, and the amendment would place them back where they were and in the same position as the other sixteen counties in the State in which the

mortgagor now pays only on the value of his real estate, less the encumbrance. Let us see what would be the effect of the change.

The effect of the Five County Act has been three-fold. 1. It has brought in large amounts of money from the capitalists of adjoining states for investment in New Jersey mortgages at 7 per cent. interest. These investments are usually made through the savings banks or by the insurance companies, which are glad to find the opportunity to invest, having almost always a surplus which they cannot afford to let lie idle.

2. The savings banks, paying no tax on the mortgages held by them and realizing 7 per cent. in entire safety from risk, as they deal only in the first mortgages at careful valuations, have been able to pay 5 and 6 per cent. interest to depositors without violating any of the rules of safe finance, so that the class most directly benefitted is the army of small depositors within the five counties—a host—the interest of which are now both accommodated and protected. Remove the law and subject mortgages to a taxation of say 3 per cent.—not an over-estimate—and the Savings Banks could not pay more than 3 per cent. interest to depositors.

3. The capacity of the savings banks and insurance institutions to lend being thus diminished, the person compelled to borrow on mortgage, being the borrower and therefore at the mercy of the lender, would be compelled to sell his mortgage at a shave and mostly to greedy individual lenders and incur a loss which would certainly over-balance the apparent disadvantage of paying the entire tax. He borrows now at 7 per cent. on the par value, putting his land as collateral. Under the amendment, he would sell his mortgage at such price as he could get and sell it, too, in a floating and uncertain market. The borrower pays tax now on the full valuation of real estate. He would pay the same under the proposed plan, and the mortgage would be taxed in the hands of the lender. Property worth \$10,000 and mortgaged for \$5,000 would thus pay tax on \$15,000, the real loss falling entirely on the borrower, for the lender could find other investments for his money.

These are considerations which ought to defeat the amendment, the obvious result of which would be the foreclosure of mortgages. Mr. Leon Abbett, of Jersey City, when asked, delivered his views without any reservation and summed up by saying: "All the amendments ought to be passed except that one." He stated that the reason why the "Five County Act," exempting mortgages from taxation, was passed, was because merchants and manufacturers in the large cities could not build or make improvements, because savings banks and moneyed corporations would not loan money on mortgages on which they were taxed, since they have to allow depositors six per cent., while they only received five per cent. on their loans. If the amendment be passed all the money loaned on mortgages in the

counties named would be called in, and great distress and suffering would be the result. Capital would then seek an investment elsewhere. This was not a political question, but one which affects private interests. Mr. Abbett thought that Democratic and Republican committees should meet and have tickets so framed that the obnoxious amendment would be defeated. The counties not included in the act are in favor of the amendment, and it will require the united efforts of both political parties throughout the five counties to defeat it.

Not to occasion too serious alarm, it should be mentioned that it is quite possible that under the amendment the Five County Act might be made general, and we believe that it might be wisely extended to the entire State. But is it just as well to avoid the disturbance and perils attending such a chance. And it is not well to over-estimate the practical value of general laws, *per se*. They can be evaded and out generated, as in the case of Cincinnati, which wanted a special law and could not have it under the Constitution of Ohio, and so made a general law, which answered every purpose, by enacting that: All cities in the State of Ohio which had at the census of 1870 a population of 216,239, and a street therein named Eggleston Street, may, under the following conditions, etc., etc. It was a general law, but it applied to only one city. No other could by any possibility fulfill the conditions. How the trick, for such it was, would hold in the courts we cannot say, but we are not informed that any objection arose in the tribunals of justice.

Source:

Newark Daily Advertiser, August 31, 1875.

THE CONSTITUTIONAL AMENDMENTS.

So little attention—popular attention—have the proposed Constitutional Amendments excited, that it is safe to say that only a small minority of the voters have studied them or can be induced, if they could find the time, to give them the careful overlook they need. They are abstruse in all their meanings and difficult in their relations to the existing Constitution. Still the citizen may vote intelligently upon them, if he reflects that the people themselves ordered them to be prepared and entrusted the work to men of high merit, whose propositions have since passed through two successive Legislatures and received their approval. The process was as follows:

It was necessary to amend the Constitution in order to make it comply with the Constitution of the United States, and there were other amendments proposed which were strongly advocated. Necessity and the popular will were combined. One method was to call a Constitutional Convention. That failed. The only other

method was to propose amendments to two successive Legislatures, each of which should adopt them in the same words, and then they should be submitted to the people, but the people have the right to vote yes or no on any one paragraph. They cannot amend a paragraph.

To prepare the work for the action of the Legislature, a Constitutional Commission was appointed under Governor Parker, made up of distinguished men representing the several interests of society and of both political parties. They were such men as ex-U.S. Senator Ten Eyck, ex-Chancellor Zabriskie, Hon. Dudley S. Gregory, Senator John W. Taylor, Hon. Augustus Cutler, now M. C., and others, certainly a very able and honest representation of both political parties.

In the Fall of 1873, this Commission, after long deliberation, completed its labors and made their report to the Legislature of 1874. That body in its turn considered them and made considerable changes, and it, also, was composed of capable men and leaders. As they had altered it, it was laid by for one year and then taken up by the Legislature of 1875, and sent to the people to be voted on by them on the 7th of September, occurring next week. Thus all the precautions prescribed against hasty and partisan legislation have been carefully observed. We have employed the best lawyers with two successive legislatures as the jury.

The people are in the position of one who has at great pains and cost engaged legal advice, *because* he did not feel competent to manage his own case, and for that reason he ought to follow the advice given him. He is not expected to dictate a new policy at the last moment and the act of wisdom is to trust his legal adviser. On that principle the proposed Constitution may be accepted in general terms.

But if a client finds his lawyer advising him to sacrifice his whole property for a batch of theories, however good, he has a right to refuse that portion of the plan. He understands that as well as any lawyer can inform him, and on that principle we shall vote against paragraph 12, Section 7, Article IV, which we believe repeals the law on mortgages as it now exists in this section of the State. Such a repeal, as we showed yesterday, would cause the most terrible financial distress among the debtor class. It is a horrible blunder which defaces the whole work, defaces it so badly that the whole had better fall with it than that it should become law. In some counties, in order to consolidate opposition, the Republican and Democratic Committees have met together to defeat it. Why not have such action here in Essex?

Source:

Newark Daily Advertiser, September 1, 1875.

CONSTITUTIONAL AMENDMENTS.

Attention is directed to the paper prepared by B. F. Carter, Esq., which embodies the constitutional amendments to be voted on at the special election on Tuesday next. The discussion of these amendments has been carried on by the press of the State for some time past and are generally regarded as proper subjects to be incorporated in the organic law. The only ones that will meet with the opposition will be the clause relative to the securing of an equal basis of taxation (resisted because it abolished exceptional privileges enjoyed in five counties of the State), and the clause prohibiting the distribution of public moneys for sectarian purposes, yet both of these are of so much importance and so right in themselves as to received the entire support of the people. The tickets prepared by the State are headed as follows: "State of New Jersey; Proposed Amendments to the Constitution. *For* all propositions on this ballot which are not canceled with ink or pencil, and *against* all which are so cancelled."

Vote the whole ticket!

[FOR THE CONSTITUTION.]

Source:

Woodbury Constitution, September 1, 1875.

CONSTITUTIONAL AMENDMENTS.

MR. EDITOR: Having been a member of the Constitutional Commission appointed to suggest to the Legislature amendments to our State Constitution, many of our citizens have called upon me to explain to them those suggestions that have been accepted by the last two Legislatures, and that are now to be acted upon by the people at an election to be held on the 7th of next month, I will here set forth, as briefly and plainly as I can, the amendments then to be voted upon, that they may be the more easily understood. They are as follows:

"No city, county, borough, town or village shall give any money, or property, or loan its money or credit, to any individual or corporation, or own any stock or bonds in any association or corporation."

No donation of land or appropriation of money shall be made by the State or any municipal corporation to or for the use of any society, association or corporation whatever.

The word "white" is stricken out in the article on the right of Suffrage; and it provides, that in time of war, no elector in the service of the State, or National Government, in the army or navy, shall be deprived of his vote by reason of absence from his election district, and the Legislature shall provide the manner in which the vote of such absent elector shall be received.

The Legislature may pass laws to deprive persons guilty of bribery, of whatever kind, of the right of voting.

Members of the Legislature shall be elected on the first Tuesday of November, and receive \$500 annually, and no other allowances.

No law shall be revived or amended by reference to its title only, but the act revived or section amended shall be inserted at length in the bill.

No general law shall embrace any provision of a private, special or local character.

No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of the act; nor shall any act be passed which enacts that any existing law, or any part thereof, shall be applicable, except by inserting it in such act.

The Legislature shall provide for the maintenance, and support of, a thorough and efficient system of free public schools, for the instruction of all the children of the State between the ages of 5 and 18 years.

Paragraph 8 of the Constitution, requiring three-fifths of the members of each house to grant, alter or renew charters of banks, and limiting them to twenty years, is stricken out.

No private, special or local bill shall be passed, unless public notice of the intention to apply therefor, and the general object thereof shall have been previously given.

The Legislature shall not pass private, local or special laws regulating the internal affairs of towns and counties, appointing local officers or commissioners to regulate municipal affairs, impaneling grand or petit jurors, or granting to any corporation, association or individual any exclusive privilege, but may pass general laws providing for all such cases.

Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value.

Officers of the Legislature shall take an oath, or affirmation, to faithfully, impartially, and justly perform the duties of the office, and to preserve all records, papers, and property entrusted to them.

The Governor shall have power to convene the Senate alone, without the House of Assembly, where public necessity requires it.

If any bill passed by the Legislature, and presented to the Governor, contain several items of appropriation of money, he may object to one or more of such items while approving other portions of the bill.

The Governor of the State shall not be elected by the Legislature to any office of the State, or United States, during the term for which he shall have been elected Governor.

The Governor shall nominate the Adjutant General and Quartermaster

General, with consent of the Senate.

Judges of the Inferior Court of Common Pleas shall be nominated by the Governor, with consent of the Senate.

The State Treasurer and Comptroller shall hold office for three years.

The Keeper of the State Prison shall be nominated by the Governor, with consent of the Senate, and hold his office for five years.

Sheriffs and Coroners shall be elected for three years, and Sheriffs shall renew their bonds annually.

I have endeavored to give the amendments in the order in which they will be voted upon. The above twenty-three are all the important ones, the remaining five being only changes in paragraphs for the purpose of classifying subjects.

BENJ. F. CARTER.

Woodbury, Aug. 30th, 1875.

Source:

Woodbury Constitution, September 1, 1875.

MUNICIPAL TAXATION AND DEBT.

The people of New Jersey residing in different cities of the State have been subjected to onerous taxation by the reckless manner in which the debts of those cities have been increased. More than half the population of the State consists of residents of the cities and burrough incorporations. While the Legislature is prohibited by the Constitution from creating a State debt, except in the time of war, exceeding one hundred thousand dollars, it may authorize the cities to incur any amount of indebtedness. The consequence has been that the aggregate debts of our cities now amount to millions, and unless they are checked in their extravagance the evils will become insufferable. Already the taxes in some of our cities are so great as to repel immigration. This is the case with respect to Elizabeth and Newark, and will soon be the fate of Camden and other cities, unless restricted in the power to create city debts.

The provision in the Constitution referred to above was designed to protect the people of the State against exorbitant taxation, but is evaded and rendered nugatory by the facility with which the cities by special legislation are permitted to increase their debts. The inhabitants of our cities, as well as those of the rural districts, are entitled to the benefit of the constitutional provisions respecting the limitation of debts.

The enormous extent of city indebtedness in the State of New York reaches seventy-five dollars for each city inhabitant. The aggregate of city debts in that

State amounts to \$175,675,267. The taxes levied on the people of twenty-four cities of New York in 1870, were \$36,439, 121; while the state and county taxation was only \$13,990,477. It would probably appear on investigation that the taxes which more than one-half the people of New Jersey residing in our cities pay compared with the county and State taxes bear the same proportion to each respectively as they do in New York.

Governor Tilden, in a message to the legislature of New York on the subject of the debts of municipalities, recommended the appointment of a commission whose duty it should be to frame a system of municipal government, which under a general law should be applicable to all the cities of the state by which all special legislation authorizing the loan of city credit or the creation of city debt should be prohibited. Some such measure is well deserving the attention of the Legislature of New Jersey, and we hope Gov. Bedle will not fail to call its attention to this important subject.

Source:

West Jersey Press, September 1, 1875.

THE TAX AMENDMENT.

The Mount Holly *Mirror* continues to urge the adoption of that amendment to the Constitution relating to taxes. The discussion of the subject has had the tendency of opening the eyes of the people, and if they do not understand any other of the numerous amendments to be voted on next Tuesday they certainly ought to understand this. The *Mirror* says:

“A common sense view of the meaning and design of the amendment is that it prohibits special legislation in regard to taxation, requiring that all statutes upon the subject shall be general, applicable alike to all parts of the State and to all the people of the State. For instance, if churches and school houses are exempt by law in one locality they shall not be taxed in another; if mortgages are taxed in one county they shall be taxed in all, or if to be exempted they shall be exempt throughout the State; that assessments shall be made upon the same basis in every county and not upon half valuation in one place, two-thirds in another, and full value in another; that exemption for debt shall be the same in all the counties—in short that no section or individual shall have, through special legislation, any advantage over other sections or individuals, but that all shall fair alike under the tax laws of the State.”

This is just the law which every fair-minded man should desire to see enacted, and we trust that every reader of this paragraph who believes in the justice of the proposition will go to the polls on the 7th instant and vote for the amendment

designed to secure it.

Source:

West Jersey Press, September 1, 1875.

THE CONSTITUTIONAL AMENDMENTS.

The special election for the adoption or rejection of the proposed amendments to the Constitution will take place on next Tuesday, September the 7th. After careful consideration we urgently advise our readers to vote for all of them except that relating to the tax clause, which it is generally conceded would work a repeal of the Five County Act. As to that amendment we have no advice to offer. There is much to be said for and against it. An impartial and equitable system of taxation, uniform throughout the State, is much to be desired, but it is not desirable to plunge Essex, Hudson, Union and other counties into great financial distress and probably bankruptcy—as would undoubtedly be the case if the Five County Act should be repealed. But there seems to be no doubt that a general law similar to the “Five County Act,” could be enacted for the whole State. It is a question for individual option and to that we leave it.

But we are persuaded that adoption of all the other amendments would be largely promotive of the welfare of the State. They will effect important, substantial, much needed reform. They will save the State thousands of dollars a year. They will purify and elevate legislation. They will throw additional and insurmountable guards around many important interests of the people. We therefore urge the people to come out next Tuesday and vote for them.

The proposed amendments, in brief, are designed to effect the following objects: To prevent any county, town, &c., from loaning its money or credit to any corporation, individual, &c.; prohibiting the appropriation by the State of land or money for the use of any society, association, &c., such as Catholic parochial schools; striking out the word “white” from the article on suffrage, to make it conform to the Federal Constitution; providing that hereafter Jersey men shall not lose their votes by reason of going out of the State to serve their country in the army or navy; giving the Legislature the right to pass laws depriving persons of the right of suffrage for any sort of bribery; fixing in the Constitution the annual election day in this State as now fixed by law; fixing the pay of members of the Legislature at \$500 each per annum; providing that no law shall be revived or amended by its title only, and requiring every proposed act to embrace and fully and clearly set forth in itself everything which it designs to cover or enact; providing for the maintenance and support of a thorough and efficient system of

free public schools; striking out of the present instrument the section providing that the assent of three-fifths of the members of each house shall be requisite for the passage of any law for granting, continuing, altering, &c., charters for banks or money corporations; providing that no private or special law shall be passed unless public notice of the general character thereof shall have been given; prohibiting the passage of private, local or special laws in a number of specified cases; providing for the passage of general laws for the cases enumerated in which special laws may not be passed, and in some others; providing that property shall be assessed for taxes under general laws, and by uniform rules according to its true value; prescribing an oath for officers of the Legislature, in which they pledge themselves to perform their duties efficiently, and to preserve all records, &c.; giving the Governor authority to convene the Senate alone in extra session whenever necessary; giving the Governor authority to veto separate items in an appropriation bill; prohibiting the election of the Governor to any office under the State or National governments during his incumbency; providing that the Adjutant General and Quartermaster General shall be nominated and appointed by the Governor with the advice and consent of the Senate, instead of by the Governor alone; providing that Judges of the Inferior Court of Common Pleas shall be nominated to the Senate by the Governor, instead of appointed by joint meeting as at present; providing that the Comptroller shall be appointed for three years in joint meeting; and providing that the State Treasurer shall be elected in the same manner and for the same period; providing, that the Keeper of the State Prison shall be nominated by the Governor to the Senate, instead of appointed by joint meeting as at present, and that he shall hold office for five years instead of one; providing, that Sheriffs and Coroners shall be elected for three years instead of one year as at present, and making them ineligible for re-election until three years shall have elapsed.

This is a brief but clear and plain statement of precisely what the proposed amendments are. It will, we think, strike every reader that they propose wise and salutary changes, which will conduce to the welfare of the people of the State. For our own part we are entirely convinced that the adoption of these amendments will be of great advantage to the State. All who are interested in good and safe and economical government ought to turn out and give them their earnest support.

Source:

Daily State Gazette, September 2, 1875.

MASS MEETING IN JERSEY CITY.**Opposition to the Proposed Amendments to the State****Constitution— Speeches by Mayor Traphagen and Others.**

A mass-meeting, irrespective of politics, was held in the Catholic Institute, in Jersey City, last night, for the purpose of considering the proposed amendments to the Constitution, which are to be voted upon on the 7th inst. The hall was densely packed with the prominent men of both parties, and deep interest was manifested. Mayor Traphagen was called on to preside, and Dudley [S]. Gregory, Hon. Henry S. Gaede, and Edward A. Ransom were chose Secretaries. The greatest opposition was manifested to paragraph 12, Section 7, of the amendments, which provides that all property in the State shall hereafter be taxed under general laws and at equal rates, according to its true value. The effect of this amendment, if adopted, would be to repeal an act generally known as the "Five County Act," which was passed some years ago, and exempts mortgages in the Counties of Hudson, Essex, Union, Middlesex, and Passaic from taxation. It is claimed that the effect of the repeal of this act would be disastrous to the business interests of those counties, as capitalists who may have their money invested in mortgages would call them in at once, and thus bring ruin and disaster to the farmers and business men who have mortgaged their property.

Mayor Traphagen explained the object of the meeting, and stated that the adoption of the amendment would be detrimental to the interests of the people of this county, and cripple the manufacturers of the State. He gave some statistics showing the amount of money loaned on mortgages by the different banks of the county, which amounted to nearly \$40,000,000 in the aggregate.

Senator Abbett also made an earnest speech in opposition to the amendment. Ex-Congressman Orestes Cleveland presented a resolution that all the amendments be voted down, and supported it with a vigorous speech, which was adopted unanimously. A committee was then appointed to conduct the campaign and lead the opposition to the amendments. The committee consists of A. A. Hardenbergh, David Smith, A. J. Dittmar, John P. Rimar, Henry Carroll, G. D. Van Reypen, George Gifford, Orestes Cleveland, Henry Gaede, and Jasper Wandle. The committee will meet in the Mayor's office this morning.

Source:

New York Times, September 2, 1875.

[UNTITLED.]

The vote on the constitutional amendments occurs on Tuesday next "at the

place or places in the several Townships where the last election for Governor was held," the polls being open from seven o'clock A.M. to seven P.M.

We believe, as we had said before, that they will all be carried, as the opposition that has appeared against different sections is merely local and of no weight, there being no organized opposition to them.

True, a circular has been issued, purporting to have originated with the Protestant churches of the state, calling upon their followers to guard well the passage of the sections relating to free schools. The circular has been very sparsely circulated, we having heard of but one in Morristown; and if, as its authors intimate, they are afraid of an organized opposition to the act, we must believe their imagination far exceeds their liberality. One circular will hardly go round, but it is well as it is; we believe the whole matter a scare and gotten up only for political effect.

The tickets to be voted can be found in an abundance at the polls, and as usual we advise our friends to "vote early" - not because of an anticipated rush or that your views will be biased, but because you will need all the time at your command to study out the section, if any, that you oppose.

Source:

True Democratic Banner, September 2, 1875.

THE AMENDMENTS.

The constitutional changes continue to be the subject of comment, wise and otherwise. The main features are: forbidding any city or town to loan money or credit to corporations; forbidding the State or any municipality to make donations of land or appropriations of money for the use of any society, association or corporation; fixing the salary of members of the Legislature at \$500 per annum, without reference to the length of the session; providing for free public schools for all the children of the State; assessing property for taxes under general laws, and by uniform rules according to its true value; giving the Governor power to veto parts of appropriation bills while approving others; and covering small special legislation by general laws. These are the essential features. Another, and the first, the one striking out the word "white" from the Constitution, once the subject of such violent discussion is now a mere formalism, adapting the State to the Federal Constitution.

Of these propositions, that forbidding appropriations to any society, association or corporation, will meet the strong and shrewd antagonism of the Roman Catholic Church, as will that providing for free public schools for all the

children of the State.

The next point of attack will be on the paragraph providing for the assessment of property for taxes, which is construed as repealing the Five County Act. This meets a strong opposition in this section of the State. It is designated as paragraph 12, Section 7, Article IV, and many who are willing or anxious to accept all the other amendments will strike out this.

Source:

Newark Daily Advertiser, September 3, 1875.

**REFERENDUM ON SEPTEMBER 7, 1875
(Volksabstimmung am 7. Sept. 1875)**

[Translated from the German by Thomas Koenig, Office of Legislative Services]

For the aforementioned date, our Legislature ordered a referendum concerning the frequently published amendments to the New Jersey State Constitution. In our Township it will take place at Zimmermann's Hotel. We refer our readers to the corresponding public notices on pages 3 and 4 of this paper and add that you can receive the ballot from the electoral officials.

The amendments themselves are of the kind that everyone can approve without reservations, no matter to which party he may belong and no matter how religious his conscience may be. All you need to do is to place the ballot you received from the electoral officials in the ballot-box. If you want to vote "No" on any of the amendments or sections thereof, you must only cross out the sentence or the provision that you do not like.

We must address one amendment that has engendered numerous discussions. It is the sentence that should be added as §20 to Article I (Rights and Privileges): "The State or any municipality thereof shall neither donate land nor appropriate funds to or for the use of societies, associations or corporations."

Most of our readers will know that the Catholic Church has been trying in other places to lay its hands on public funds – or to be more precise, on a share of the taxes dedicated to public schools – to support schools that serve their respective churches, hence sectarian schools in general.

For the most part, it was supposedly this fact that led to the introduction and the passage of those amendments. One of the main pillars of our Republic, you might even say its sole pillar, is our country's exquisite system of free schools. Its founders and those who helped develop it have made themselves immortal. The State needs citizens, good and knowledgeable citizens. But it has no business asking for the denomination of its citizens. For that reason, complete religious

freedom is guaranteed by our Constitution. If sundry denominations wish to give spiritual assistance to their members or to instruct their young in their creed, they may do that – in greatest liberty – in Sunday schools or other institutions that are independent of public institutions. But once we agree to subsidize one sect, we cannot refuse others. This would lead to boundless, zealous competition of various sects to capture the largest share of the bounty and lead to religious strife that we have not seen during most of our century. As soon as civic organizations, social clubs, and commercial establishments ask for confessions of faith, there is strife, envy, jealousy, lust for power and so forth. That's why knowledgeable members of the clergy oppose the idea of the so-called church schools and favor Sunday schools for churches instead.

To vote against this amendment, to cross it out, would open the door for unjust demands. That's why whoever sincerely desires that the Constitution, which grants and guarantees us religious freedom, remains true; and whoever does not want one religious sect to occupy a dominating position vis-à-vis other denominations, he shall not miss the opportunity to put an end to those events that would send us back to the times of "Die Welt – Die Waibling!"

We do not have the space to promote the other amendments that are just as perfect and modern. We would just like to add the admonition that everyone who is eligible to vote shall respect his duty to himself and the State.

Source:

Carlstadt Freie Presse, September 4, 1875.

THE DEMOCRATIC CATHOLIC ALLIANCE.

We yesterday alluded to the dishonest game being played by a considerable portion of the Democratic party of this State in reference to the constitutional amendments. They propose to kill all these amendments in order to secure the death of those which are obnoxious to the Catholics. This Democratic opposition is rapidly spreading, and the subject is of such grave importance as to demand some further consideration. It threatens the defeat of the entire series of proposed amendments, and a consequent loss to the State of the unquestionably beneficent effects of their adoption. The Democratic press in the northern, thickly populated part of the State, are urging their readers to vote against the proposed amendments in a body, with no other object, in our opinion, than pleasing their Catholic allies by securing the defeat of the amendments in relation to the public schools. The *Sussex Herald* says:

"We are free to say that, with the light we at present have, we are not prepared

to cast our vote for the proposed amendments. While they embrace some salutary provisions they contain others of a more dubious character, and which we fully do not understand. Other provisions are not embraced which are clearly demanded by the people and by the best interests of the State. Let the Legislature make provision for calling a convention where the whole Constitution can be revised, and a new one, in its entirety, plainly submitted to the people.”

The New Brunswick *Times* says:

“Some of the proposed amendments are not undesirable, but not one is of vital importance. And we consider it safe to be *sure to go to the polls and vote against all in a lump!* This *we* propose to do, for several reasons.”

It gives as the principal of these reasons that the proposed amendments are not thorough enough and that a Constitutional Convention ought to be called.

The Rahway *Democrats* says:

“In referring to the subject last week, we made the remark that we were strongly tempted to advise all to vote against the whole batch of amendments. By a further study of the subject, *and intercourse with leading men of the State*, we are now fully prepared to recommend such course, as we believe the good provisions are over-balanced by the bad, and the only way to arrive at a proper revision is to kill the amendments and have a constitutional convention.”

The italics in the above are our own. The passage appears to us significant.

A correspondent of the Jersey City *Argus*, which is the leading Democratic organ in Hudson County, unintentionally but very fully exposes the real animus of this attitude of the Democratic press. This correspondent is given a prominent place in the columns of the *Argus*, and he is evidently a man of influence in the Catholic councils, for he does not mince matters but addresses the Democratic party and leaders in stomachful language, as one conscious of their subserviency to the power he wields. He denounces the two proposed amendments affecting the public school system in unmeasured terms. He declares that prohibiting the appropriation by the State or any municipal authority of money or lands to any society, association, &c., “was intended to affect chiefly our Catholic Protectories, Orphan Asylums, Houses of the Good Shepherd, hospitals and other charitable institutions—a thing which is not apparent on the surface of this legislation, but which the records of that Commission, if published, will show to be the fact. The almost sudden appearance of these institutions, and their remarkable increase within the last few years aroused the alarm, not indeed of the people of the State in general, but in particular of a few narrow minded bigots, who, powerless to check or thwart the growth of these institutions by any fair and honest means, strove by underhand and disreputable ways to fortify their wishes, by thus altering the fundamental law—an attempt which is all the more

dishonorable as being introduced under the guise of equal rights and privileges to all.”

In regard to the proposed amendment providing that the State shall provide for the maintenance and support of a thorough and efficient system of free public schools, this writer says:

“The other amendment to which I allude, and which is aimed chiefly at our Roman Catholic fellow citizens, is that made to Article IV, regarding our Public School system. It is well known to the people of the State that our present Public School system is, in many respects, unsatisfactory to our Catholic fellow citizens, who say that they are obliged to pay taxes to support it, though they cannot conscientiously avail themselves of its benefits for their children, but are necessitated to establish separate schools, which, being taught in accordance with their religious principles, will not endanger the faith and morals of their children. It is idle to say that in this our Catholic fellow citizens are foolish and entitled to no belief. The fact that nearly 200,000 citizens of whatever faith are dissatisfied with the system of education as at present managed, is certainly a grave consideration for all who are concerned in the enactment of our laws, and especially of our Constitution of Government.”

He then indulges in a threat. He declares that the attempt to settle this [unintelligible text] “of their Catholic fellow citizens as ex-Governor Parker, Governor Bedle, Mr. Gilchrist, Mr. Abbott, and Mayor Traphagen, should have sanctioned amendments such as I have been considering. I will not do them the injustice to suppose for a moment that they would knowingly lend their approval to any law fundamental or local, which should bear heavily on any large and respectable class of their fellow citizens, but I must say I cannot easily account for the fact that they were not aware that these amendments—particularly that on the public school system—were hostile to nearly 200,000 of their Catholic fellow citizens.”

* * *

“I have no disposition to injure their political prospects and expectations which I know to be already good and laudable. They are on the road to the highest positions of political honor and trust, and I should regret exceedingly that aught should occur which might impede or thwart their onward course.”

The arrogant and menacing language of the Papists is not without its effects upon one of the cowardly Democratic leaders. For a report in the *Argus* of a meeting in opposition to the amendments affecting the Five County Act, shows that Orestes Cleveland, Hon. A. A. Hardenbergh and others counseled opposition to all the amendments. The *Argus* takes the same position.

Is there any room for doubt that a considerable portion of the Democratic

party of this State is in the hands of the Papists, and that a powerful and serious effort will be made by the Democratic-Popish coalition to defeat the Constitutional Amendments? We again urgently appeal to the friends of a free school system and of good and cheap government to rally to the support of the proposed amendments.

Source:

Daily State Gazette, September 4, 1875.

[UNTITLED.]

The New York *Tribune* says: "A very important special election will be held in New Jersey on Tuesday next. A series of constitutional amendments, prepared by a Commission, and adopted by the Legislature in two successive sessions, will come up for final disposition by the popular vote. There is no reason why all of them should not be ratified by an overwhelming majority. The worst enemies they have are the indifference of the people and the prejudice which always opposes changes in fundamental laws. It is difficult to understand, however, how an intelligent voter can be either indifferent or hostile to such plainly desirable reforms as these amendments will secure." We heartily endorse all this, and commend it to the attention of the people.

Source:

Daily State Gazette, September 4, 1875.

[UNTITLED.]

The act entitled "An Act to provide for submitting proposed amendments to the Constitution of this State to the people thereof," approved April 8, 1875, Section 6, requires the Judges of Election at each polling place to appoint a Messenger, who shall deliver the statement of the result of the election to the Secretary of State.

Section 10 provides the mode of payment. The Messenger becomes an officer, by virtue of his appointment, and is paid in the same manner that the other election officers are paid—that is, by the county.

Source:

Daily State Gazette, September 4, 1875.

THE "FIVE COUNTY" ACT.

Eminent gentlemen of the legal profession, after careful study, have given it as their opinion that the passage of a certain one of the proposed Constitutional amendments would have the effect of a repeal of the "Five County Act." Such a repeal would have a disastrous result upon the interests of the people generally of the localities interested, which, we believe, include Hudson, Essex and Union counties, and the cities of New Brunswick and Trenton, and a few other localities. Every person who has a mortgage against his real estate (and every person interested in his welfare), all who have money on deposit in the savings institutions, and all friends of the depositors, should not only vote against the amendment, but should also take special pains to get out a large vote and induce all electors to cast their ballots against the amendment. And in order to be sure to hit the right amendment, *vote against them all*.

If the "Five County" amendment should prevail it is almost impossible to imagine the amount of suffering which would follow. All the insurance and savings institutions would soon commence a foreclosure of their mortgages against property here, and the result be general bankruptcy.

The original "Five County Act," approved April 2, 1869, is as follows:

1. Be it enacted by the Senate and General Assembly of the State of New Jersey, That all taxes hereafter to be assessed in the counties of Hudson, Union and Essex, and in the city of New Brunswick, Middlesex County, and in the county of Passaic, except the townships of West Milford, Pompton and Wayne, for State, county, and city purposes, over and above the amount to be raised by a poll tax, shall be assessed and raised by such a per centum upon all real estate, chattels and personal property taxable by law, except mortgages, situate in said counties and city, both of residents and non-residents, by valuing the same at the true, full and fair value thereof, as shall be necessary to make the amount required for such taxes, and not otherwise; and the assessors shall designate in their assessments the numbers or general description of lots or parcels of land, and the value of chattels and all personal property which they assess to each person, corporation, association or party; and all real and personal estate shall be assessed in the townships and wards and cities where found, without any deduction for mortgages thereon; and all mortgages upon real estate, chattels or personal property taxable by law within said counties and cities shall be exempt from taxation when they are in the hands of any inhabitant, corporation or association residing or located in said counties or cities; but such mortgages shall not be so exempt when in the hands of any inhabitant, corporation or association residing or located in any county or place in this State not named in this act.

2. And be it enacted, That an act entitled "An act relative to taxes in certain

counties of this State," approved April eighth, eighteen hundred and sixty-eight, and the supplement thereto, approved April seventeenth, eighteen hundred and sixty-eight, be and the same are hereby repealed.

3. And be it enacted, That no act shall be deemed to repeal or modify this act, unless so expressed therein, and this act shall take effect immediately.

The paragraph in the proposed amendments, which, if adopted, will repeal the above act, is known as paragraph 12 of Section VII of the proposed amended Constitution, and reads as follows:

"Property shall be assessed for taxes under general laws, and by uniform rules, according to its true valuation."

We hope that large numbers of our most active and intelligent citizens will make it a point to take charge of this matter, and see that there is a large majority in this locality against the repeal of the act which has been of such great benefit to our city. A cotemporary in a neighboring city, speaking of this matter, says: Nearly all loans on real estate are effected through savings banks and insurance companies. By the provisions of this law they are enabled to put out large sums on bond and mortgage at seven per cent., and, as these mortgages are not taxable, they are enabled to guarantee their depositors six per cent. interest on deposits, and still leave a fair and entirely safe margin for their own profit. Were these mortgages taxable they could not afford to pay as much interest on deposits as they now do by the amount of the tax. If the tax is three per cent.—a fair estimate—they could then only allow three per cent. on deposits. As the people at large are the depositors in the saving banks, it is clear that the law is beneficial to the people. Moreover, the fact of our savings institutions being [illegible] to pay such interest on deposits has had the effect to draw capital here from other sections, which capital has accordingly found and is still finding opportunities for investment here, thus assisting the growth of this region. The rapid growth of the cities and towns in the section affected by this law is in no small measure due to this act. There is an apparent disadvantage to the mortgagee in thus being obliged to pay the entire tax on his property, but that this disadvantage is more than counterbalanced by the advantageous circumstances of the transaction, is abundantly shown by his willingness to become a mortgagee and assume this entire tax. Having at any rate assumed this burden and mortgaged his property, it is manifestly a great hardship to him, in these times, to necessitate the calling in of mortgages, a necessity which must arise from a repeal of the Five County Act, as the savings institutions can then no longer guarantee six per cent. interest, and being called upon for their deposits must call in their mortgages to meet the wants of their depositors who, withdrawing their money from here, will seek investments elsewhere. The calling in of these mortgages must necessarily cause widespread suffering among

mortgagees, and even their ruin in many cases, while the ultimate result of repealing the Five County Act will be to withdraw from this section millions of dollars, which are essential to its growth and development.

Source:

New Brunswick Times, September 4, 1875.

THE ELECTION TOMORROW.

Tomorrow the people of New Jersey are finally to decide whether the proposed amendments to the Constitution, prepared by the Commission appointed for that purpose in 1873, and subsequently adopted by two successive Legislatures, are or are not to become a part of the fundamental law. In deciding this question the people are called to exercise the very highest functions of the elective franchise. To adopt or reconstruct the constitution of government is the most solemn and momentous act that a free people is ever called upon to perform. In this case, and under the careful and numerous guards erected about the Constitution by the wisdom and foresight of the Fathers, it becomes a peculiarly grave and important duty, which may well evoke the most thoughtful and patriotic caution.

We have, however, no hesitation in advising our readers to give their earnest support to all these amendments save one. In the first place, we have examined them all with much care, and so far as our own judgment is concerned they appear to provide very wise and salutary changes. The most important of them all, in our opinion, are the following: Providing, that no State or municipal support shall be given to sectarian schools or institutions; that no law shall be revived or amended by reference to its title only, but the act revived or section amended shall be inserted at length in the bill; that no act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of the act; nor shall any act be passed which enacts that any existing law, or any part thereof, shall be applicable, except by inserting it in such act; that the Legislature shall provide for the maintenance, and support of, a thorough and efficient system of free public schools, for the instruction of all the children of the State between the ages of 5 and 18 years; that the Legislature shall not pass private, local or special laws regulating the internal affairs of towns and counties, appointing local officer or commissioners to regulate municipal affairs, impaneling grand or petit jurors, or granting to any corporation, association or individual any exclusive privilege, but may pass general laws providing for all such cases; that the Governor may veto separate items of an appropriation bill.

The other proposed changes are important, and all in the direction of substantial reform, but these are of transcendent consequence. They will correct and abolish some of the worst, most dangerous and most disgraceful features of modern legislation; they will save the people thousands of dollars every year in shortening and economising the Legislative session and several items of State expenditure, notably the public printing. They will put an effectual bar to the aggressive assaults of the Catholics upon Protestant institutions, and upon our free school system. On the whole these amendments to the Constitution will greatly simplify, greatly purify and elevate, and greatly improve the government of the State.

There are several grounds for the public confidence in the wisdom and righteousness if these proposed changes, without taking our judgment therefor. In the first place the Commission that prepared them was composed of careful and able men, who, for several months, gave the subject close, calm and thoughtful attention. They elaborated every proposed change after thorough discussion, consideration and revision. Then they have received the careful scrutiny and approval of two succeeding Legislatures. We know that in the Senate particularly they were subjected to the most critical examination by some of the most competent minds in the State. Then they have, for two years, been under the critical inspection of the whole State, our most subtle and accomplished judicial minds, the keen-eyed and open-mouthed press, the close scrutiny of men of ability in every domain of thought, and the common sense criticism of practical men. They have passed this formidable ordeal with marvelous success. With the exception of the opposition to the tax clause, and to the free school propositions on the part of the Catholics, the amendments are warmly commended as wise and beneficent by the people of the whole State.

The proposition which, on the whole, we would advise the people to vote against is the tax clause. It is the one which will repeal the Five County Act, and is marked on the ballot as follows:

“For the proposed amendment, designated paragraph twelve, Section seven of Article four, relative to ‘Legislative.’

“If you wish to vote against this proposition scratch the part here quoted from your ballot.”

We urgently trust that at least the Republican party will turn out in full force and cast a large vote for these salutary amendments. We think they will be adopted, but there is no such fatal weakness as over-confidence. Confidence in their superior numerical strength is liable to create apathy on the part of the Protestant community, while every vote of the enemies of our free schools will be polled.

Source:

Daily State Gazette, September 6, 1875.

[UNTITLED.]

The *Catholic Citizen* of Newark, on Saturday morning, had a passionate appeal to the Catholics of the State to vote against the proposed constitutional amendments. It said:

“But your duty, our duty, is plain. It is *vote against* all these amendments without exception; not only to vote yourself but to bring all your neighbors whom our voice may not reach.”

* * *

“Thank God our voice reaches every county in the State, and every considerable city, town and village therein.

“We now beg, nay we demand of you Catholic fellow citizens of New Jersey, to put your cancelling mark on every amendment proposed, and thus show your sense of the insult they imply, as well as the great money injury they would inflict.”

Republicans! Protestants! Is not your duty plain?

Source:

Daily State Gazette, September 6, 1875.

[UNTITLED.]

The Catholics threaten that if the proposed constitutional amendments in regard to the school question are adopted, they will not submit to them. Has this threat any connection with the constant military drill of Catholic organizations, and the formation of Catholic military companies?

Source:

Daily State Gazette, September 6, 1875.

THE CONSTITUTIONAL ELECTION.**Bishop Corrigan's Circular Letter.**

In the Roman Catholic churches yesterday ballots were distributed for the people to vote on the Constitutional Amendments in the election tomorrow. They were accompanied by an appeal from the Catholic Union of New Jersey to vote

against the 1st, 2d, 6th and 11th propositions. These proposed amendments, which have met the hostility of this powerful and well-disciplined church, are those which are most particularly American in their assertion of the traditions of the Republic in the relations of Church and State. They separate the church entirely from the State, they make the free public schools the special ward and offspring of the State. The 1st proposition is this—it is a new paragraph:

“19. NO COUNTY, CITY, OR BOROUGH, TOWN, TOWNSHIP OR VILLAGE SHALL HEREAFTER GIVE ANY MONEY OR PROPERTY, OR LOAN ITS MONEY OR CREDIT, TO OR IN AID OF ANY INDIVIDUAL, ASSOCIATION OR CORPORATION, OR BECOME SECURITY FOR, OR BE DIRECTLY OR INDIRECTLY THE OWNER OF, ANY STOCK OR BONDS OF ANY ASSOCIATION OR CORPORATION.”

This is closely linked with Proposition 2, which is also new and reads as follows, and relates to paragraph 20, Article I:

“20. NO DONATION OF LAND OR APPROPRIATION OF MONEY SHALL BE MADE BY THE STATE OR ANY MUNICIPAL CORPORATION TO OR FOR THE USE OF ANY SOCIETY, ASSOCIATION OR CORPORATION WHATEVER.”

These two Propositions are such an absolute severance of Church and State, and of the State with corporations, that they cut off all possibility of a State religion or of the support of any Church, directly or indirectly, from the moneys of the State. The Catholic Church does not disguise its belief that the State should be under the dictation of the Church in matters of education, nor that it should be called upon to support by donations of land or appropriations of money the institutions, charitable or beneficent, which it may employ for the propagation of its faith. This is not a matter to quarrel about. It is a right of conscience with the believer, but it is utterly and altogether at war with the theory of our government, and the two proposed amendments only re-assert the doctrines of our fathers and the faith of their sons. There we take departure. We honor and support the 1st and 3rd Amendments for the very reason that the Catholics oppose them. There is no misunderstanding between us, but there is a very decided difference of opinion as to the uses of a government of the whole people.

The 8th Proposition, which is also stricken out on the Catholic ballot, reads as follows:

“THE LEGISLATURE SHALL PROVIDE FOR THE MAINTENANCE AND SUPPORT OF A THOROUGH AND EFFICIENT SYSTEM OF FREE PUBLIC SCHOOLS FOR THE INSTRUCTION OF ALL CHILDREN IN THIS STATE BETWEEN THE AGES OF FIVE AND EIGHTEEN YEARS.”

Here too we take the same departure. Free public schools, secular schools, unbiased by the winds of doctrine or the passions of sect, are very dear to the American heart. Against them the Catholic Church has declared open but not treacherous war. He who is a devout and obedient Catholic can hardly reconcile himself to his ecclesiastical authorities without voting as he is told to against

paragraph 8 of the ballot. But who else is there in all churches, and in all circles not associated formally with any church, who can so abandon the sheet-anchor of intelligent American liberty as to vote against the sufficient education of all the children, rich and poor, so that they may be fitted for the duties of citizenship and the maintenance of our civil rights? We have argued this subject again and again and now only state the conclusion.

Proposition 11, which is also stricken out on the ballot before us is, as follows:

“11. THE LEGISLATURE SHALL NOT PASS PRIVATE, LOCAL OR SPECIAL LAWS IN ANY OF THE FOLLOWING ENUMERATED CASES, THAT IS TO SAY:

—and then follows an enumeration of special acts forbidden, among which occur the following:

“GRANTING TO ANY CORPORATION, ASSOCIATION OR INDIVIDUAL ANY EXCLUSIVE PRIVILEGE OR FRANCHISE WHATEVER.

* * *

“PROVIDING FOR THE MANAGEMENT AND SUPPORT OF FREE PUBLIC SCHOOLS..

“THE LEGISLATURE SHALL PASS GENERAL LAWS PROVIDING FOR THE CASES ENUMERATED IN THIS PARAGRAPH, AND FOR ALL OTHER CASES WHICH, IN ITS JUDGMENT, MAY BE PROVIDED FOR BY GENERAL LAWS.”

In the ballot before us, a copy of the one most generally circulated, as we believe, the proscription of these amendments stops with these four, the 1st, 2d, 8th and 11th. In another copy, the 12th Proposition, that in relation to taxation and said to be a repealer of the Five County Act, is also stricken out, and again, in some, the whole ballot is erased so as to make it a vote against the proposed amendments. We are inclined to believe that this latter plump negative to the entire series will be the ballot mostly cast. Such was the advice of the *Catholic Citizen* in last Saturday's issue. The instructions from the Catholic Union are:

4th—Cut off the sheet opposite, and keep it carefully until Tuesday next, then vote it in its present condition and you will thereby record your vote against these objectionable school amendments. If there are any other amendments you wish to oppose, you can cancel them with your pen or pencil, in the same manner in which these amendments are cancelled.

5th.—Let nothing prevent you from going to the “polls” on that day. Urge all your friends and acquaintances to go and vote against this injustice. If we only succeed in reducing the vote, it will be STANDING PROTEST against these amendments.

6th. Remember, finally, that the opposite sheet is the exact form of “ballot” required, and that it is now ready to be voted. Remember, also, that absence from the “polls” on next Tuesday is almost equivalent to voting in favor of the amendments. Vote the ticket opposite just as is, and you will vote against these

amendments.

We have felt compelled to lay this new exposition of an old element in our politics thus fully before our readers. If the election tomorrow is a matter of such deep interest to one sect, how is it with the general mass of the community? Shall there be organization and enthusiasm on one side and apathy on the other? If one has so much at stake, has not the other some measure of interest? And we say frankly that while this dictation of a special ballot to its voters is not in accord with our liking, we would that other churches and the community at large were as ready to assert their opinions and maintain them as boldly as the Catholics have done in this controversy.

As to whether the Catholic Church has thus decidedly interfered in the election of tomorrow, let the following letter to the priests of the Diocese of Newark answer. It comes into our hands from a source of undoubted authority and since the above article was written. So *all* interests in the State, *all* reforms however purely civil, *all* attempts of the citizen to adapt the Constitution to the condition and spirit of the age, are to be sacrificed to the real or supposed necessities of a single form of religion:

NEWARK, Sept. 3, 1875.—REV. AND DEAR SIR: Having taken legal advice, I am informed that by the new Constitutional Amendments, church property is liable to taxation. This would involve so heavy an additional burden to the Diocese that I feel it my duty to recommend you to instruct your people to strike out the objectionable clause, or better still, to make assurance doubly sure, let them strike out the whole ballot.

It is not enough to abstain from voting; let them vote, and vote against the amendments.

Very truly yours,

MICHAEL, Bishop of Newark.

P.S.—Remember that our people must cancel by pen or pencil the whole ballot, and then vote it, thus cancelled, in order to protest against the injustice.

Remember, also, that the special election in regard to these Constitutional Amendments will take place next Tuesday, Sept. 7th.

Source:

Newark Daily Advertiser, September 6, 1875.

**THE NEW JERSEY CONSTITUTION.
PROPOSED CHANGES—THE NEW YORK AMENDMENTS
IMITATED—THE CATHOLICS AND THE SCHOOL MONEYS—
THE WHOLE CATHOLIC INFLUENCE
AGAINST THE AMENDMENTS.**

Tomorrow the people of the State of New Jersey vote upon the question of the adoption or rejection of the amendments to the State Constitution. The Constitution prescribes that any amendments to the Constitution may be proposed in the Senate or General Assembly of the State; that they shall first have been concurred in by two successive Legislatures, and then ratified by the people, and become, after the formula had been observed, a part of the organic law of the State. The amendments now pending before the people were drawn by a Commission appointed by Gov. Parker, and have been ratified by two successive Legislatures. They are submitted in a body to the people, but the voters are to vote on each separately, so that the defeat of one does not insure the defeat of all. They add two paragraphs to Article I, providing, first, that no city or county or borough shall give money or property, or loan its money or credit to or in aid of any individual or corporation, or become security for or be directly or indirectly the owner of any stock or bonds of any association or corporation; and, secondly, that no donation of land or money shall be made by the State or any municipal corporation to any corporation or individual. Article II is amended so as to make the State law regulating the suffrage conform with the late amendment to the National Constitution, and so as to secure to citizen soldiers in actual service the right of suffrage in the State. Section II of Article II, which provides for punishment for bribery at elections, is amended so as to punish bribery whenever and wherever committed. The amendment to Section IV of Article IV fixes the compensation of members of the Senate and General Assembly at \$500 per year, instead of the per diem heretofore allowed them. An amendment to the sixth paragraph of the seventh section of Article IV provides that "the Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in this State between the ages of five and eighteen." A new paragraph, numbered 9, provides for notice of intention to apply for the passage of private, special, or local acts. A new paragraph, numbered 11, provides that no private, local, or special laws shall be passed for the laying out, altering, opening, or working of roads or highways; or for vacating any road, town plot, or public grounds; or regulating the internal affairs of towns and counties, or appointing local officers or commissioners to regulate municipal affairs; or for the selecting and impaneling of jurors; or for changing the allowance or percentage of public officers during a current term of office; or for changing the law of descent;

or granting exclusive privileges or immunities or franchises; or granting to any corporation or individual the right to lay down railroad tracks; or changing venue in civil or criminal cases; or providing for the management and support of free and public schools. A new paragraph is to be added assessing taxes on property under general laws and by uniform rules according to its true value. Paragraph 7, Article V, is to be so amended as to authorize the Governor to disapprove items of an appropriation bill without vetoing the whole bill. An amendment to paragraph 8 precludes the Legislature from electing the Governor of the State, during his term, to any office under the State or United States Government. Other amendments authorize the Governor to nominate to the Senate candidates for Adjutant General and Quartermaster; provide for the selection of the State Controller by the two Houses of the Legislature in joint meeting; increase the term of office of the Keeper and Inspectors of the State Prison and the State Treasurer to three years; vest the appointment of State Prison Keeper in the Governor and Senate; and increasing the term of Sheriffs and Coroners from one to three years. Other amendments are proposed, but they are of little importance.

It is generally conceded that the vote on the proposed amendments will be very light, except among those who have special reasons for opposition. Two of the amendments will encounter strong local opposition. The first of these is paragraph 12, proposed as an addition to Section VII of Article IV, providing that "property shall be assessed for taxes under general laws, and by uniform rules, according to its true value."

Some years ago the Legislature passed a statute known as the Five County Act, which exempts from taxation in Hudson, Essex, Union, and other counties in the State, to the number altogether of five, of mortgages in the hands of holders. This is in direct conflict with the proposed amendment. It is claimed on one side that the statute has contributed greatly to the growth of the five counties to which the exemption applies, capitalists being more ready to loan their moneys upon property located there than in other counties in which the securities have been subject to tax, and it is feared that the adoption of the amendment will lead to the withdrawal from those counties of large amounts of capital necessary to the support of their industries. On the other hand, the palpable fairness of taxing property all over the State equally and according to uniform rules is urged, while at the same time it is alleged that the agitation against the proposed amendment is created in the interest of the large railroad corporations, which own a vast amount of property in the five counties referred to. Among some lawyers the idea is prevalent that the amendment will not affect the mortgages already in existence, while they admit that the law under which they are held will, of course, be repealed. The contrary opinion is held by a large number of legal gentlemen, who

ask what the mortgage holders can show to the tax-gatherer, if the amendment repeals the law, in proof of their claim that their securities are exempt.

A local opposition, confined mostly to office holders, however, will be made to the adoption of the amendment precluding the Legislature from passing special laws for the governance of municipal corporations by legislative commissions. This amendment repeals the present charter of Jersey City by which in 1871 the city was placed in the hands of commissioners legislated into office in direct contravention of the will of the people. These commissioners have, as the readers of the *Times* already know, made themselves so odious to the people by their extravagance and corruption that the leading Republicans of the city have demanded their abolition.

A third element of opposition—and by far the most formidable—will come from the Catholics of the State, who are opposed to the amendments, which entirely eliminate the Catholic school question from State politics. As it at present stands, Article IV, Section VI, provides that designated moneys of the State “shall be annually appropriated to the support of the public schools for the equal benefit of all the people of the State.” An amendment proposes to insert the word “free” between “public” and schools, so as to give the State moneys not only to the public schools, but to those which are free also. This is regarded as a blow at the project of giving part of the school moneys to the Catholic parochial “schools.” The object of the amendment is further secured by a proposed amendment providing that “no donation of land, or appropriation of money shall be made by the State or any municipal corporation to or for the use of any society, association, or corporation whatever,”—which is held to preclude State assistance being extended to any church for the support of its schools; while still another amendment provides that no special law shall be passed “granting to any corporation, association, or individual any exclusive privilege, immunity, or franchise whatever,” which will certainly preclude the licensing of Catholic schools for the instruction of Catholic children.

These amendments have led to the organization of the Catholics, in most parts of the State, to secure the defeat of them, and it is probable that the whole Catholic vote will be cast against them. An apprehension is entertained that the staying from the polls of those who are in favor of the amendments may enable the solid Catholic vote to defeat them.

In some quarters the propriety of defeating all the amendments is being agitated. The ground upon which this action is being urged is that, as it is claimed, the amendments are incomplete, and that their entire defeat will lead to the selection of a new commission to do the work more thoroughly, while if the present amendments be adopted no more amendments can be made in less than

five years. This proposition generally comes from Catholics who are anxious to defeat the amendments obnoxious to them, and from those interested in special laws repealed by the adoption of the new features of the Constitution. If the amendments be defeated tomorrow, it will be at least three years, because of the formalities required, before new amendments can have been ratified and become a part of the organic law of the State.

Source:

New York Times, September 6, 1875.

[UNTITLED.]

The Catholic priests in this city on Sunday gave particular instructions to their people to vote against the amendments to the Constitution, which prevents the distribution of any public money to any society or association, and the amendment in favor of a free public school system.

Source:

Daily State Gazette, September 7, 1875.

THE FIVE COUNTY ACT.

The proposed amendment to the Constitution which will repeal the Five County Act is printed on every ballot to be voted today, as follows:

“For the proposed amendment, designated paragraph twelve, section seven of article four, relative to ‘Legislative.’”

Draw your pen or pencil over this if you do not want the Five County Act repealed. Do not make a mistake and cancel any other proposition. The Five County Act has unquestionably had a good effect in this city. There is no longer any trouble about getting money on mortgage without paying a bonus for it, and the mortgager is no longer kept in a state of continual anxiety for fear of threatened foreclosure. Before this law was passed, it was very difficult to obtain money on mortgage in this city, especially for any considerable time, and never without paying a large bonus every year or two. Now money goes begging for investment, and if it becomes assured that the law will not be disturbed, first class mortgages will command a premium. This is, in our opinion, a great advantage to the numerous property owners who have mortgages on their estate. The one-and-a-half per cent. tax they pay is less than the bonus formerly demanded, and it is besides very satisfactory to know that there is no difficulty in obtaining all the money that is wanted for such purposes. It has been particularly advantageous to

our manufacturing interests. Manufacturers are the greatest borrowers of money as a class, and this law has enabled them to obtain all they have needed, and the consequence has been that while this interest has languished or been actually prostrated in many other cities, in Trenton it has enjoyed unusual prosperity, and has rapidly grown. Of course, no sensible reader needs be told that when the manufactories of a city are flourishing, the condition of the people generally will be all the better for it.

Source:

Daily State Gazette, September 7, 1875.

POLLS OPEN AT 7 A.M., AND CLOSE AT 7 P.M.

Protestants to the Front!

The Roman Catholics of New Jersey were never before so thoroughly organized and enlisted in a political cause as they are in opposition to the proposed amendments to the Constitution in regard to the public schools. In all the Catholic churches of the State the priests, on Sunday, exhorted their followers to oppose these amendments; and tickets, with the obnoxious amendments canceled in the printing, were either given out in the churches or directions were given where they might be obtained. They were thus distributed in this city, and were all over town yesterday. The Bishops and priests of the church have taken the matter thoroughly in hand, and have left no means unemployed to arouse the Catholic people to a zealous opposition in these amendments. A solid Catholic vote will be cast against them all over the State today. Let the Protestants come to the front; their faith and their cherished free school system are in peril.

POLLS OPEN AT 7 A.M., AND CLOSE AT 7 P.M.

Source:

Daily State Gazette, September 7, 1875.

THE AMENDMENTS IN DANGER.

The Catholics in Open Hostility.

If this number of *The Jerseyman* should reach any one of our readers entitled to a vote who has not voted, before the close of the polls this evening, we urge him to lose not a moment of time in the performance of that duty, and to take with him all whom he can possibly influence or reach. The Catholic Church, which has been known for some time to be secretly hostile to several of the amendments,

threw off the mask a few days ago and on Sunday, in obedience to a circular from the Catholic Union and a letter from the Bishop of this Diocese, the priests of the church throughout the State assembled their flocks, instructed them to vote against the obnoxious amendments in some cases and against all of them in others, and distributed prepared ballots among them. The following is the Bishop's letter:

NEWARK, Sept. 3, 1875 - REV. AND DEAR SIRS: Having taken legal advice, I am informed that by the new constitutional amendments, church property is liable to taxation. This would involve so heavy an additional burden to the Diocese that I feel it my duty to recommend you to instruct your people to strike out the objectionable clause, or better still, to make assurance doubly sure, LET THEM STRIKE OUT THE WHOLE BALLOT.

It is not enough to abstain from voting; let them vote, and vote against the amendments.

Very truly yours,

MICHAEL, Bishop of Newark.

P.S. – Remember that our people must cancel by pen or pencil THE WHOLE BALLOT, and then vote it, thus canceled, in order to protest against the injustice.

Remember, also, that the special election in regard to these constitutional amendments will take place next Tuesday, September 7th.

The Bishop, it will be observed, shrewdly uses the taxation clause – misrepresenting it, at that – as a cover for his instructions to strike out at the whole ballot, and leaves to the circular of the Catholic Union, issued by his authority, the specific statement that the real secret of their hostility lies in the educational and unsectarian clauses of the amendments. Their recommendation is to vote against all the amendments, but strike especially at those numbered 1, 2, 8 and 11.

The Catholics having thus chosen to mass themselves against those wise and beneficent amendments which prevent sectarian appropriations and secure free schools for all the children of the State, the Protestant sentiment should be aroused in their defence. This sectarian interference with our public policy must be rebuked and utterly stamped out, or we shall soon be in the midst of perilous times. All other issues sink into insignificance beside it. If any have been unwarned, lukewarm or indifferent to the great danger before us up to this hour, we entreat them to give the remaining moments of this day to active and unwearied efforts in behalf of the *whole series of amendments*. SUPPORT THE STRAIGHT TICKET. Urge its support also upon all your friends and neighbors, and let this organized attempt of the Catholic Church to control our elections and mold our laws in its interest, meet with an overwhelming defeat at the hands of the people of

New Jersey. Morristown and Morris County, at least, should let their voice be heard with no uncertain sound on this subject.

Source:

Jerseyman, September 7, 1875.

[UNTITLED.]

The Catholic Union of New Jersey, and the priests whose mouthpiece it is, have somewhat overshot the mark. Its circular, which was distributed on Sunday in the Roman Catholic churches by the order of Bishop Corrigan, contains an earnest appeal to vote against the proposed amendments to the State Constitution restraining the Legislature from voting public money for secretarian purposes. The Protestant sentiment of New Jersey has been aroused by this attack, whose objective point is the integrity of the public school system, and the amendments to be voted on today are more than ever likely to be indorsed. Some of the arguments used by the Catholic Union are rather curious, as, for instance, this one: "The masses of the people are poor, and in the large centres of population, the poor are generally Catholics. At a time when poverty, wretchedness, and probable starvation stare the masses of unemployed laborers in the face, what would become of the lives and property of the rich, but for the moral influence of the Catholic Church?" In other words, the Catholic Church stands between us and a socialist revolt. Make terms with the Church or prepare for the Commune. If this is not intended as a covert threat, it would be interesting to know what it means.

Source:

New York Times, September 7, 1875.

THE CONSTITUTIONAL ELECTION.

Decisive Triumph of the Protestant Ticket!

THE PAPISTS NOWHERE!

The decided stand taken against the Constitutional Amendments by the

Catholics aroused the Protestants of this city to turn out to their support, and a much larger vote was polled than would have been under other circumstances, and much larger than was anticipated a short time ago. There was a pretty warm state of public feeling on the subject, and considerable enthusiasm in behalf of the amendments was manifested among the Protestant community, without regard to party distinctions, all over the city. We cannot give the vote in full in every ward, as this would necessitate the publishing of the entire ticket for each ward.

* * *

Source:

Daily State Gazette, September 8, 1875.

THE CONSTITUTIONAL ELECTION.

The result of the popular vote on the constitutional amendments at the election held yesterday can only be estimated. The judges of election have until tomorrow to make their returns and in many localities will need all that time. Such returns as we give in another column are, however, very nearly accurate and indicate the adoption of all the amendments, except the 12th Proposition, by a majority which will probably exceed 20,000. The 12th Proposition, that relative to a general law for taxation, runs behind in the counties of Hudson, Essex, Passaic, Union, Bergen and Middlesex, possibly 13,000 votes. It remains to be seen whether the other counties will overcome this emphatic rejection on the part of those under the Five County Act.

Now that the election is over, it presents many reasons for congratulation. Although it involved religious issues which were profoundly exciting, no violence occurred in any section. The vote was calm, orderly and unexpectedly large, and, we may safely assert, unusually intelligent. Moreover, it was destitute of all partisan bias. The distinction between Democrat and Republican was practically unknown, and the amendments are adopted with the prestige of being truly the act of the people at large. They are not innovations crowded down the throats of an unwilling minority for political ends. Neither party gains any special advantage and the new organic law will be accepted in a cheerful and obedient spirit.

Up to late last week there was no life in the canvass. The amendments were disputed by many, accepted by others on trust, and entirely neglected by the mass of the people. The general apathy and indifference was likely to defeat them, should any well-organized and disciplined opposition go quietly to work. An opposition came, but not such as we have described. The Roman Catholic Church took open ground at first against Proportions 1, 2, 8, and 11, then on Saturday last

on Proposition 12, and on Monday Bishop Corrigan's circular letter to his priesthood, dated on the previous Friday, recommending his priests to instruct their people to "make assurance doubly sure" by voting against *all* the amendments, was published in the afternoon papers of both parties in this city. The effect was electric. Thousands of citizens who had intended to withhold their votes went to the polls and voted indiscriminately for every proposition on the ticket. Hundreds who had made up their minds to vote against Proposition 12, rebelled against doing so under prelatical dictation, and to Bishop Corrigan must be ascribed the adoption of that proposition if, as we now suppose, it has become a part of the organic law. His opposition helped it in every arm that felt the true American pulse, and Catholics, very many of them, denied his right to counsel the defeat of measures purely civil and in no wise affecting the interests of the Church. Party lines and even ecclesiastical lines were obliterated.

This is true universally. At a large meeting of mostly Germans held in the Sixth Ward on Tuesday evening of last week, there was an almost unanimous feeling in favor of voting against all the amendments, on the ground that the ballot was obscure and patch-worked and that its rejection would compel the calling of a Constitutional Convention and so reach a systematic revision. The *Freie Zeitung*, not unlike ourselves, had confined itself to daily instructions as to the logical bearing of each proposition and had advocated nothing at all warmly, except those clauses relating to the common schools and the withholding of municipal credit or aid from corporations. To these it did sturdy service, but had not the Catholic plan developed itself in time we are almost certain that the vote "over the hill" would have been strongly against all the amendments, but that once known, the whole non-Catholic population rallied to their support. The revolution was wrought without meeting, oratory or popular clamor, but it was no more sudden and decisive than in other localities and associations. As we write, further returns from the State at large indicate a majority of 30,000 for the main ticket; Proposition 12 being reduced to about 10,000.

While this result is in the nature of a protest against an assault upon our school system and our traditional separation of Church and State, it is done in no spirit of hostility to religious liberty. New Jersey only reaffirms her time-honored devotion to the doctrine that the State owes a secular education to all its children and that for such an education, Nixon's Digest, backed as it is by a sense of personal honor and integrity toward men and of reverence toward God, is a good enough code of ethics. Children are to be educated in the interest and for the protection of the State, as a police measure, as a means of securing that intelligence in the voter without which popular government is an ignoble farce. The common school is a measure of self-protection for the State, and the action of

yesterday reaches only a little further when it affirms that no man shall be taxed for the inculcation of another man's religion. And that religion which has not within itself the zeal, and energy, and holy enterprise to enable it to support and propagate itself may go to the wall. It shall have no help from the public treasury. The whole matter of religious teaching—and no one can place a higher value upon it than the mass of those who voted yesterday against the union of Church and State—is relegated to the altar of the house of worship and the fire-side of home, and there it can have its healthiest and most lasting growth.

This is not radicalism—it is conservatism. It repeats the old lessons of the fathers, only with higher emphasis, because when the two previous Constitutions of New Jersey were adopted there was no apparent danger of any attempts to overthrow the old landmarks. As soon as such a purpose showed itself the sturdy sense of the common people was asserted, and the traditional policy, upon which hang all the law and the prophets of success in a government by the people, of the people and for the people, were resolutely reaffirmed in a voice so clear that none shall say it nay.

Source:

Newark Daily Advertiser, September 8, 1875.

THE CONSTITUTIONAL AMENDMENTS.

There is no doubt that all the proposed amendments to the Constitution have been adopted by large majorities. The tax clause was largely cut in the five counties where it operates, but not enough to overcome the large affirmative vote in other parts of the State. Outside of the counties affected by the Five County Act there is no opposition to the tax clause, and it has doubtless been adopted by from 10,000 to 15,000 majority. The other amendments we estimate to have between 30,000 and 40,000 majority.

Source:

Daily State Gazette, September 9, 1875.

THE CONSTITUTIONAL ELECTION.

The vote on Constitutional Amendments in Hudson County on Tuesday was very light, but the labor of counting the ballots was very great on account of the number of scratched tickets which were voted. The judges in some of the precincts had not begun to count at 9 P.M., and the law makes them responsible directly to the Secretary of State. It is probable that the vote in the county was

strongly against the proposition to tax mortgages, and the general opinion is that it is nearly divided for and against the other amendments.

The election passed off very quietly in Newark. Most of the Catholics voted against all the amendments and many of the Protestants voted for all save the 12th, which is the one repealing the Five County Act. At all the polls were stationed men with scratched ballots in the interest of the Catholic Union. A much larger vote was polled than was expected. In consequence of the great amount of scratching the returns come in very slowly, and the complete returns were not expected on Tuesday night. Seven wards complete give a majority for the amendments, and other wards are only partly heard from.

The voting in Elizabeth passed off quietly, about one-third the usual vote being cast. All the Constitutional Amendments were adopted by about 600 majority on 2,761 ballots, excepting the clause repealing the Five County Act, which is defeated, the majority against it being about 2,500. Documents were circulated by the Catholics against the "Public School Clause" and the "taxing of church property," with little effect on the entire vote.

The Constitutional Amendments were carried by from 200 to 300 majority in Paterson, except No. 12, which received less than 600 votes out of the 4,600 polled.

In Morristown the election passed off quietly. The Republicans and Democrats joined in supporting the amendments, and only the Catholic vote was against them.

In Camden, about 3,000 votes were polled, of which about one-fourth were cast against the amendments by the Catholics. In the county it was believed the majority in favor of the amendments would be 6,000 or 7,000.

Source:

Daily State Gazette, September 9, 1875.

ADOPTION OF THE AMENDMENTS.

The result of the special election held in this State on Tuesday last cannot be fixed with anything like certainty regarding the majorities of the different sections, but they are carried, it is safe to say, by majorities ranging from 15,000 to 25,000. The work of compiling the returns is no small job, but a definite result will no doubt be reached in a few days. The townships were given a week after the election in which to hand in their returns.

It is with a great deal of surprise that we consider the huge vote polled. The fact is patent, however, that had not the Catholic ministry made an organized

attempt to defeat the amendments, the balloting would, as we predicted, have been light. The action of the Catholics throughout the State on Sunday awoke the people from their lethargy, and the attempt of the church to control State affairs could but be frowned down.

Many of the Catholics in the city and throughout the county voted open, unscratched tickets, to express their dissatisfaction of the action of their church.

The most desperate exertions were made to defeat the amendment wiping out the Five County Act. The influence of those interested was felt throughout the State, and in every county more or less votes were polled against it. In the counties most deeply interested - Hudson, Essex, Union, Passaic and Middlesex - a heavy vote was polled against them, and the exertion made is exhibited in the result, that amendment approaching the nearest to defeat.

The voting was quiet, notwithstanding the deep feeling manifested, and we hear of no collision in either city or country.

Source:

True Democratic Banner, September 9, 1875.

THE AMENDMENTS.

The constitutional amendments having been adopted, the next important question is as to their effect. Senator Abbett of Hudson holds that the twelfth amendment will lead to foreclosures of mortgages on a vast scale. Other lawyers contend that the amendment can only apply to mortgages to be raised after it goes into effect. It must be governed by the general principles that it cannot be retrospective, nor can it repeal a contract already in force. Mayor Traphagen holds, on the other hand, that the taxation of mortgages cannot be construed into an interference with the contract between a mortgagee and a mortgagor, which may continue in force if the former be content with a reduced rate of interest, which is entirely improbable. Other lawyers hold that the taxation of mortgages would be double taxation, which is forbidden by the Constitution of the United States.

Ex-Attorney General Gilchrist has been interviewed and says: "To determine this question once and for all my plan would be to ignore the validity of the amendment, as to its alleged effect in the taxation of mortgages. Let the mortgagee deny that his mortgage is taxable. When the levy is made he can carry it into the Supreme Court by certiorari and let the question be decided there. Even admitting that its effect will be to tax mortgages, it will affect only those paying heavy taxes, as in our large cities. It will drive rich men from the cities into the

country districts, where taxes are light. Mortgages held by savings banks (amounting to about \$5,000,000 in Jersey City) only run from year to year and are liable to be called in at any time. There is one thing very good about these amendments. So much special legislation is prohibited that no rogue will find it to his interest to go to the Legislature, because he cannot make anything. The lobby is extinguished. But the great objection to the amendments is that the Legislature rushed them through two sessions without taking the trouble to read them, much less to discuss them. The haste was astonishing. You ask what should be done. I say we should cry out for a constitutional convention. That is the proper way to amend the Constitution. I was appointed on that Constitutional Commission, but I resigned because I felt the people had no representation there. There was nothing in what was submitted that the people wanted. We want the Court of Errors and Appeals reorganized. There is less deliberation in our Court of Errors than in any other court of the State. Then look at our system of representation in the Legislature. In no other State in the Union—though I am not certain about Delaware—has the system of representation by counties in either branches of the Legislature ever existed. See the counties of West Jersey such as Cape May, Atlantic, Ocean, etc. Eight of these counties have no more population, nor they anything like the wealth of Hudson County, yet they have eight votes to our one on every measure you bring up. We are completely subject to them. They have saddled us with commissions and we are paying heavily for what they have done. We are in as bad a condition as the people of South Carolina. What made secession possible there was the refusal of the upper house to alter the representation. This I have on the authority of an old resident of that state. He said that if a vote of the people were taken on secession the result would have been different. The voting was done by the planters, not by the people.” Coming back to the twelfth amendment, Mr. Gilchrist said that it involved taxation of church property.

Q. But what about railroad property? A. (with a smile) Ah, there’s the rub. The amendment certainly involves a system of equal taxation as people understand it. The Pennsylvania Company have made a contract with the State to pay one-half of one per cent. on their property, and by virtue of this contract they may fall back on their constitutional rights to protect them against further taxation.

Source:

Newark Daily Advertiser, September 10, 1875.

**THE REFERENDUM
(Die Volksabstimmung)**

[Translated from the German by Thomas Koenig, Office of Legislative Services]

The participation in the referendum on the constitutional amendments remained significantly below the participation in other political elections. While 541 votes had been cast in our Township in the last general election, only 230 votes were cast this Tuesday. The majority of them came from Carlstadt; Lodi was weak, and Moonachie did not participate at all – a proof of just how little the rural population pays attention to politics when partisan considerations and the interests of political powerbrokers do not motivate them to participate. Whereas Moonachie had usually a high turn-out in every election, this time the referendum on the proposed amendments was not important enough for a single person to weigh in to put an end to grievances and to support improvements. Improvements that are of greater importance to the politics and government of our State than the last spring elections, in which the rate of voter participation exceeded Tuesday's by more than 100 percent. Whereas the other general elections provide an annual opportunity to express one's opinion at the ballot-box, an opportunity to eliminate outdated and impractical constitutional provisions, and to replace them with modern and just additions does not come about that frequently. A people who love to speak proudly of "self-governance" should, in the first place, be aware of the meaning of this term and of their duties to the State – and act accordingly. That this is not happening proves the sad state of our Republic of "self-governance," for whose bad government we are responsible. How and when should it get better when the people fail to recognize the means through which to improve our government, and when the people who recognize those means fail to make better use of them?

We are not only talking about our Township. The rural population in other parts of the State, the population who live farther away from the polling places, were just as indifferent. Given that the party that sought to preserve the State laws that impede the public well-being did so for egotistical reasons and that it applied nefarious means (we remind you of the incidences in the Catholic churches of Paterson) to that end, it should have even more so been the duty of the People's Party to thwart the intentions of the other party by approving the amendments with an overwhelming majority.

Independent of the outcome of an election, not voting is inexcusable. That principle also applies to this election in which, in spite of rural laziness and apathy, the amendments reasonably appear to have passed, thanks to the higher voter turn-out in the cities.

Let's hope that we will soon succeed to perfect our now, much improved

Constitution by adding a provision that allows for the taxation of property owned by churches.

Source:

Carlstadt Freie Presse, September 11, 1875.

VERY RIDICULOUS.

In a circular addressed to Catholics of this county against an amendment to the Constitution of this State regarding the education of children, we find the following:

“They [those who are in favor of popular education] blindly ignore the fact that the masses of the people are poor, and that in the large centers of population the poor are generally Catholics. In times like the present, when the wealth of the country is being centered in the hands of a few, and when poverty, wretchedness and probable starvation stare the masses of unemployed laborers and their helpless families in the face, God only knows what would become of their lives and property but for the moral influence of that same Catholic Church which they persecute so unrelentingly.”

This, in one sense, is tantamount to a threat, and no intelligent Catholic will thank the parties who issued it.

Source:

Jersey City Herald, September 11, 1875.

THE INEQUITIES OF THE TAX LAW.

The school clause excepted, there was no one of the Constitutional Amendments that met with such determined hostility as that which provides for uniform taxation. In order to secure votes to defeat this, the report was industriously circulated that it meant the taxation of church property. Everything that the fertile ingenuity of its opponents could invent was brought to bear against it, but there were too many intelligent Jerseymen by about twenty thousand to be deceived, and to them belongs the credit of engrafting uniform taxation upon the organic law of the State. The provisions of the Five County Act may be right in themselves as its friends aver, but which we do not believe, yet the chief objection to it lies in its unequal operation. For example, let us see how it works in this county: In Camden City and in Gloucester City the taxable value of the property is given in round numbers as \$16,000,000, upon which no deductions are allowed;

while the real and personal property of the township is returned at between \$7,000,000 and \$8,000,000, upon deductions for debts are allowed to the extent of \$1,400,000. Herein lies the injustice of the Five County Act, which is in force in Camden City, but not in the county. Make the tax uniform and the exemptions uniform. If a man living on the west side of Cooper's Creek is compelled to pay tax on a mortgage given by him for \$1,000 or \$10,000, let the men on the east side of the creek be governed by the same rule. A just and equitable tax law is what is wanted; one which shall contain no special privileges to any class or section. This the wisdom of the people, in adopting the Constitutional Amendments, have expressed a determination to have, and woebe unto the man or the party that place themselves in the way of this determination.

Source:

West Jersey Press, September 15, 1875.

“GOOD NOMINATIONS.”

In view of the important character of the work to come before the next Legislature, the press of both parties are urging the necessity of “good nominations.” The adoption of the amendments renders a still further revision of laws necessary to make them conform to the amended Constitution, and this will require a much higher order of intellect than the average legislator has been found to possess. There are at least a score of men, or at least there have been, in all the Legislatures with which we are familiar, who scarcely ever knew anything about the effect of the votes they cast. Such men as these will have no business in the next Legislature, and should not be sent there. The modification of the tax law, and the perfection of a system of general laws required by the amendments, are intended to render special legislation unnecessary if not impossible. A work so important as this will have to be entrusted to men of experience and education, who have the capacity to comprehend its nature, and the ability to perform it. In this respect Camden County will not be found wanting, if we send the same men to Trenton who represented us there last winter. It was conceded, on all sides, that we had the “banner delegation,” and we hope it may be so in the next Legislature.

Source:

West Jersey Press, September 15, 1875.

THE AMENDMENTS.

The special election on Tuesday last resulted, as all predicted, in the overwhelming triumph of the constitutional amendments which have been before the people for the past two years. As is usual at all special elections, the vote cast was light, notwithstanding the importance of the interests involved. The engrafting of these amendments in the organic law of the State will, without doubt, justify the conviction that great good will be accomplished in behalf of better government and purer legislation. It is a victory in favor of practical reform in all that tends to the material and political prosperity of the State.

The amendments which met with an organized opposition in certain sections were those which provided for a prohibition upon special legislation - one of the most important in the entire series, the maintenance of the public schools, the assessment of property under general laws and according to uniform rules, and the clause relative to the appropriation of public money for sectarian purposes.

This last amendment was cordially endorsed by the great mass of the people excepting the Catholic element. A determined opposition was foreshadowed and at the polls it was developed, engineered and prosecuted by priestly dictation and arrogance.

When the increasing instances of heavy municipal indebtedness are considered, it seems essential that some prohibition upon the bonding system should be provided, and it will be fortunate that such a restriction upon lending the credit of a people to enterprises can be invoked in their behalf.

The preservation of our school system is a cherished hope of our people, and the protection of it from assault by church or other power is fortunate indeed. No State can advance in all that constitutes greatness and moral wealth which disregards the claims of popular education and enlightenment. Forming the basis of progress and material wealth, from it proceed advantages which cannot be estimated, while it guarantees such protection as every people should enjoy who count virtue a blessing.

That the State has arrived at that period in its governmental policy when a check is placed upon the evils incident to special legislation, is cause for profound congratulation. Scarcely any of the ills which afflict a people exceed those which have their outgrowth in the framing of special laws. Corrupting and demoralizing in its tendency, the abolishing of this very principle or right which sanctions the passage of special enactments will secure benefits in that branch of government which most feels the necessity of such a purifying process. A great stride in favor of reform has been made.

As to the practical operation of one of these amendments - relative to taxation - there is a diversity of sentiment, some maintaining that the entire policy of the

State will be changed. One thing seems clear, and that is that these counties which have enjoyed the advantages of what is known as the Five County Act - exempting mortgages from taxation - will demand an enactment of a general law which shall contain similar provisions to those in the special act. The wisdom and justice of this principle we do not care now to discuss, but question, as we think now, the policy of having such features embodied in a general law. The disposition of the matter, however, will come before the next Legislature, when it will become a proper subject of controversy by the people and the press.

The remaining amendments, while good in themselves, are more conservative and will exercise a more quiet influence in shaping and determining the future policy of the State in its legislative branch of government. They have all been incorporated into and become a part of the great law of the State by the passive assent of the people, rather than by a general uprising to ensure their adoption. That all will work harmoniously and result in increased prosperity to the State is the earnest wish of all who strive for reform in government.

Source:

Woodbury Constitution, September 15, 1875.

THE CATHOLICS AND THE AMENDMENTS.

MR. EDITOR: Under the above caption you published in Monday's *Advertiser* the report in part of an interview between a representative of the *New York Herald* and Bishop Corrigan's "Alter Ego," Very Rev. George H. Doane, Vicar-General. The gentleman is reported to have said, "It was then and only then that the Bishop's circular was sent out, the object of which was to prevent a use being made of the ballot which every Catholic would regret." The "Alter Ego" must have a very exalted opinion of the intelligence of the Catholics throughout the State. He could not mean other than that they were incompetent to exercise their judgment for their best interests, and the welfare of the commonwealth. The "Bishop's circular" to the contrary notwithstanding, many Catholics voted for all the amendments because they considered themselves competent judges in secular matters. They, with the mass of our citizens, condemn the Bishop in coming forth to dictate from the sanctuary through some of the priests of the diocese how the people over whom he wielded spiritual authority should exercise the right of suffrage. In the history of the Church in New Jersey, it remained for Bishop Corrigan to introduce such a policy.

The "Alter Ego," adds: "But the political end of this subject is not yet." Does he mean that Bishop Corrigan will still force his priests as his agents to "instruct"

the people? To their credit be it said some of the priests did not refer to the "circular" as "recommended;" whilst others applied at the Episcopal residence to enquire whether the document were really genuine, as they could not believe that the Bishop's folly was so great as to issue it. It was indeed a "red flag flaunted in the face of Jersey Protestants," as the *Herald* man puts it.

Will the Bishop hold it up in defiance, or will he, imitating the bright example of his illustrious predecessor, Bishop Bayley, confine himself to ecclesiastical affairs and leave politics to politicians? Let him do this, and "recommend" his priests to "instruct" their people to live in peace and harmony with their separated brethren, rather than excite in their hearts the worst of all feelings—religious hatred—and then will he truly be imitating him whose mission was to inculcate "peace and good will among men." Let the priests still pursue the policy "recommended" in the "Bishop's circular;" but let one blow be struck and where will it "end?" Has not our beloved city once before been the scene of religious strife; may it never be renewed.

"But the political end of this subject is not yet." Would it not be well for the "Alter Ego" to be careful not to add fuel to the fire, for himself and the Bishop might be held responsible for the "end" which "is not yet?" Let the good old doctrine be maintained by every one—"A free Church and a free State"; and let the Bishop and "Alter Ego" follow in the wake of those politicians whose prospects have been destroyed—those Catholics who "affiliated with politics and disposed to run for office have quietly withdrawn," after having paid blind obedience to the "recommendation" of the Bishop. It would be well for the Bishop also to withdraw, and at the same time let him "recommend" his priests not to meddle in matters not within their province, and "then and only then" we shall see "the political end of this subject."

ALTER ALTERIUS.

Source:

Newark Daily Advertiser, September 22, 1875.

STATE CANVASSERS.

The Board of State Canvassers met in the Senate Chamber at the State House at two o'clock P.M.

Present: Gov. Bedle; Senators Abbett, of Hudson; Hopper, of Passaic; Stone, of Union; Sewell, of Camden; and Madden, of Atlantic.

The oath prescribed by law was administered to the Senators by the Governor. On motion of Senator Abbett, Senator Sewell was appointed to and did administer

the oath to the Governor.

The Secretary of State being absent, on motion of Senator Sewell, Assistant Secretary of State, Jos. D. Hall, was appointed Clerk of the Board, and the oath of office was administered by the Governor.

The returns from the several polling districts of the State as filed in the office of the Secretary of State were produced and laid before the Board of Canvassers. Whereupon said board proceeded to canvass the returns.

* * *

All of the returns having been duly canvassed, the Governor, as chairman of the board, was directed to sign the determination and certificate, as required by statute. These signatures having been duly attested by the clerk, and after auditing the bill for per diem and mileage of the members, the board, on motion, adjourned without day.

The Governor's Proclamation announcing the adoption of the amendments will be issued today.

The tabular statements were made up for the Board of State Canvassers, in the Department of State. This was a work of great labor and necessitated accuracy. It was found they were entirely correct, not a figure being omitted, as was demonstrated by a careful review of all the returns.

Source:

Daily State Gazette, September 29, 1875.

[UNTITLED.]

The canvass of the votes on the amendments to the State Constitution of New Jersey shows that all the twenty-eight amendments, except the twelfth, were passed by an average majority of 40,000. The twelfth passed by a reduced majority of 6,734. The total vote was 96,552, or about seven-tenths of the average vote of the State. It is a very instructive fact that the Catholic opposition to the clause forbidding grants to sectarian institutions did not call out more than 2,000 votes. There must be from 15,000 to 20,000 voters of Roman Catholic faith in New Jersey, yet nine-tenths of them disregarded the urgent and direct appeals of the church to vote against the objectionable amendments. While this ought to be a lesson to the Roman Catholic priesthood to abstain from compromising their absolute authority in spiritual matters by meddling with questions of current politics, it need not blind the Protestant voters of the country to the dangers of such interference when made under more favorable circumstances. The Roman Catholic voters of New Jersey are in too small a minority to render it possible for

them to affect an issue on which the majority of both political parties were opposed to them. But it would be rash to conclude that in states where their votes would count for something, Roman Catholics would not be more prompt in obeying the commands of the church.

Source:

New York Times, September 29, 1875.

THE NEW JERSEY CONSTITUTION.

TRENTON, N. J., Sept. 28.—The Board of State Canvassers met yesterday to count the votes in the State, for and against the constitutional amendments. The whole number of votes cast was 96,552. There were twenty-eight amendments in all, and each received a majority of over forty thousand, except the twelfth amendment, which repealed what is known as the “Five County Act,” and that was carried by 6,734 majority. Every county gave a majority for all the amendments except Essex, Hudson, Union, and Passaic, which gave a majority for all except the twelfth amendment. The Catholic opposition to the school clause did not amount to more than two thousand votes.

Source:

New York Times, September 29, 1875.

THE NEXT LEGISLATURE.

The next session of the Legislature will be one of unusual importance, and the *Trenton Gazette* calls attention to the fact that the position has been largely elevated in dignity and importance by the adoption of the constitutional amendments. The member will hereafter receive larger pay and, for at least one or two sessions, have vastly more momentous and difficult functions to perform. Besides the revision of the tax laws, which will demand the exercise of the best ability, financial culture, discretion and experience that the State commands, the enactment of a system of general laws for the numerous cases in which special acts are prohibited will tax, as never before, the wisdom and judgment of the Legislature. The preparation and enactment of these measures will constitute the most important work ever undertaken by the New Jersey Legislature. They will nearly concern the material welfare of every individual, every corporation, every business and financial interest in the State. If they are done in a slovenly, ignorant, unfaithful or corrupt manner, untold disasters are liable to result.

It is therefore incumbent upon the people to send their very best and ablest men to the Legislature this year. Let the Republican party meet this necessity by everywhere making nominations that will merit and command the public support. Let no other considerations than eminent fitness for the important work in hand control nominations this year. We trust that the Republican press will everywhere urgently enforce this upon the party, and the party leaders will make it their business so far as possible to carry it into effect. Let the Republican Legislative ticket this year be unparalleled for its conspicuous worth and ability. This will certainly win us the State.

Source:

Newark Daily Advertiser, October 22, 1875.

THE LEGISLATURE AND THE AMENDED CONSTITUTION.

The Legislature which has just been elected will be the first to meet under the amended Constitution. The methods of legislating have been considerably altered and restricted by the new instrument. It provides that:

“No law shall be revived or amended by reference to its title only, but the act revived, or the section or sections amended, shall be inserted at length. No general law shall embrace any provision of a private, special or local character. No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of the act or which shall enact that any existing law, or any part thereof, shall be applicable, except by inserting in it such act.”

This will involve a great increase of work, and of the bulk of the acts passed, as any one may see by referring to the laws upon the statute books. Probably half the laws passed by all recent Legislatures have references to acts and sections of acts already on the statute books.

But besides the change in methods of work, the new amendments impose upon the next Legislature some duties of a very important and delicate character. It will have to conform the law to changes in the Constitution which impose great, and we think, wholesome restraints upon the law making power. The most important of all the amendments to the Constitution provides that:

“The Legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say:

“Laying out, opening, altering and working roads or highways.

“Vacating any road, town plot, street, alley or public grounds.

“Regulating the internal affairs of towns and counties; appointing local officers or commissions to regulate municipal affairs.

“Selecting, drawing, summoning or empaneling grand or petit jurors.

“Creating, increasing or decreasing the per centage or allowance of public officers during the term for which said officers were elected or appointed.

“Changing the law of descent.

“Granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever.

“Granting to any corporation, association or individual the right to lay down railroad tracks.

“Providing for changes of venue in civil or criminal cases.

“Providing for the management and support of free public schools.

“The Legislature shall pass general laws providing for the cases enumerated in this paragraph, and for all other cases which, in its judgment, may be provided for by general laws. The Legislature shall pass no special act conferring corporate powers, but they shall pass general laws under which corporations may be organized and corporate powers of every nature obtained, subject, nevertheless, to repeal or alteration at the will of the Legislature.”

After a system of general laws has been enacted to conform to this section, the work of subsequent Legislatures will be greatly circumscribed, because the passage of private or special laws in the cases here enumerated have heretofore constituted the great bulk of the work of each session. But the enactment of this system of general laws will next winter be a very important and delicate task to perform. It will demand the very best ability, the most careful and sleepless vigilance, the largest experience, the most tireless industry.

Another important amendment that imposes upon the ensuing session a very important task, is the following:

“12. Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value.”

It is generally conceded that this works a repeal of the Five County Act, and is held by some to compel the taxation of church and college property. The framing of a tax law under this amendment will be the most difficult and trying work of the session.

The work of the next Legislature will, therefore, necessarily be slow and tedious, and will occupy considerable time. The session will probably be a long one. There will not be much occupation for the lobby, and the deliberations of the Legislature will now possess a dignity and quietness unparalleled in its previous history.

* * *

Persons who purpose making applications to the Legislature will bear in mind that no private, local or special act can be passed, under the amended Constitution,

in a large number of specified cases; and that no such law on any subject can be passed unless public notice of the intention to apply therefor, and of the general object thereof, shall have been previously given.

Source:

Daily State Gazette, November 6, 1875.

**NEW JERSEY LEGISLATURE.
THE STATE CONSTITUTION IN CONFLICT WITH ITSELF—
THE SENATE AND THE GOVERNOR'S NOMINATIONS—
THE BILL TAXING CHURCH PROPERTY—
REVENUE FROM RAILROAD TAXATION.
*From Our Own Correspondent.***

Trenton, Sunday, Jan. 30, 1876.

The Legislature at its session during the past week met with a constitutional point which will probably lead to a difference of opinion between the legislative and executive departments of the State Government. Paragraph 2 of Section II of Article VII of the old Constitution provides as follows: "Judges of the Court of Common Pleas shall be appointed by the Senate and General Assembly in joint meeting." One of the amendments adopted last fall amends paragraph 1 of the same section and article so as to take the appointment of these Judges from the joint Houses, and give it, along with the appointments of the Supreme Court Judges and Chancellor, to the Governor, with the approval of the Senate. Then each of the succeeding paragraphs of the old Constitution is, by other amendments, moved up one peg, No. 3 being substituted for No. 2, just as though the latter had been expunged. But no amendment, in terms, strikes paragraph No. 2 from the organic law, so that the Constitution, when printed, presents the anomaly of having two separate paragraphs numbered "2," and of providing in two succeeding paragraphs two different modes of appointing the Common Pleas Judges. A number of vacancies occur on the bench of that court within a few weeks, and the question as to whether with the Legislature or the Governor rests the appointing power was mooted in the caucus the other evening. Some of the members held that of course the new law overrides the old one, and that the Governor is to nominate and the Senate confirm. Others answered by holding that the courts have no right to inquire which is the newer feature of the organic law of the State. No decision was arrived at, but the matter will be further discussed in the joint caucus to be held on Wednesday of next week.

The possible refusal of the Senate to act upon Gov. Bedle's nominations for

Secretary of State and Clerk in Chancery, unless Mr. Wilson is renominated for State Prison Keeper, has led to considerable discussion as to how the vacancies will be filled, in case the Governor does not yield. The Constitution provides that both shall hold their offices for five years, with no provision that either shall hold over until his successor shall have been appointed and confirmed. Mr. Kelsey's term as Secretary of State will expire April 6; Mr. Little's, as Clerk in Chancery, on March 17, and it would seem that the offices become vacant on those dates, though Chancery would be left without a Clerk and the State without a Secretary. Another clause of the Constitution, which will probably bear upon the question, unless the session should prove to be an unusually long one, provides that "When a vacancy happens during the recess of the Legislature in any office which is to be filled by the Governor and Senate, the Governor shall fill such vacancy." The Legislature generally adjourns on the last Friday in March, so that the vacancy in the Secretary of State's office can be filled by the Governor under the clause just quoted. But the commission of the Chancery Clerk will most surely expire during the present session. The office will become vacant, and probably will remain so, unless the Governor and the Senate can agree.

The Democrats of the House and the Democratic press throughout the State have attempted to foist upon the Republicans the responsibility for reopening the religious question by pointing to the introduction, a few days ago, of Mr. Corey's bill repealing the exemption from assessments of the Benedictine Sisters, a Catholic order of Elizabeth. They generally misrepresent the purpose of the bill by saying that it is to make the order's property liable to taxation. The fact is that the bill makes the order liable, like any other religious corporation, of whatever denomination, only to assessments for street improvements. The clause exempting the Benedictine Sisters from assessment is said to have been smuggled through the Legislature from which they received their charter. The Sisters have already been released, by reason of the exemption, from one assessment of \$450, which was paid by the city.

The subject of railroad taxation having been brought into prominence by the Governor's recommendations in his annual Message and the introduction of Senator Abbett's bill, the value of railroad property in the State is very generally the subject of inquiry. Gov. Bedle estimates the value of railroad property, including equipment and spendages, to be affected by the bill at \$125,000,000, in round numbers. A tax of one-half of one per cent. on this would produce \$625,000. The united New Jersey railroad and canal companies are bound to pay into the Treasury at least \$298,128.96 for each year, under an act abolishing transit duties, which was accepted by them. The two sources of revenue, it is computed, will bring into the State Treasury about nine hundred and twenty-five thousand

dollars. The companies, excepting the united roads, paid last year to the State only \$298,492.32.

Source:

New York Times, January 31, 1876.

**NEW JERSEY LEGISLATURE.
PROSPECTS OF FINAL ADJOURNMENT—
THE CONSTITUTIONAL CONVENTION
*From Our Own Correspondent.***

TRENTON, Sunday, April 9, 1876.

It has been generally understood that the week which is to open tomorrow evening is to be the last week's session of this Legislature. There is no disposition among the members of either House to remain beyond Friday next. Among certain members, however, a sentiment prevails that the necessity of legislation may keep them together for another week. Owing to the embarrassments resulting from the adoption of the new Constitution, and the consequent necessity of drafting general laws in answer to its provisions, the legislation of the session has progressed slowly. Much important business yet remains untransacted, and some of the most important bills introduced are yet upon the calendar of one or the other of the Houses. The constitutional obstacles which have prevented practical legislation during the session has served to increase the favor with which Mr. Howell's Constitutional Convention bill is regarded. It is the opinion of many of the shrewdest lawyers in both Houses that it is impossible to work under the patched instrument given to the State by Gov. Parker's Commission. The bill is on the Senate calendar, and will probably be brought up tomorrow.

Source:

New York Times, April 10, 1876.

MISCELLANEOUS DOCUMENTS AND TABLES

- Appendix 1. Portraits of Members of the 1873 Constitutional Commission
- Appendix 2. The Constitutional Commission:
Amendments Proposed and Passed, by Sponsor
- Appendix 3. The Constitutional Commission:
Number of Motions Made by Members
- Appendix 4. The Constitutional Commission:
Number of Amendments Referred to Each Committee
- Appendix 5. The Constitutional Commission:
Members' Dates of Attendance
- Appendix 6. Sections of the 1947 New Jersey State Constitution
Affected by the 1875 Constitutional Amendments
- Appendix 7. List of Newspapers Used in this Project
- Appendix 8. An Act to Defray the Expense of the
Constitutional Commission
(February 19, 1874)

APPENDIX 1: PORTRAITS OF MEMBERS OF THE 1873 CONSTITUTIONAL COMMISSION

CREDITS FOR PORTRAITS APPEARING ON PAGES 1187-1205

MEMBERS:

- Babcock:** W. Woodford Clayton, *History of Union and Middlesex Counties*, Philadelphia, Everts & Peck, 1882, opposite page 530.
- Brinkerhoff:** [No Portrait Located]
- Buckley:** Courtesy of the New Jersey Office of Legislative Services Library, Trenton, NJ.
- Carter:** Courtesy of the Gloucester County Historical Society, Woodbury, NJ.
- Cutler:** Courtesy of the New Jersey State Library, Trenton, NJ.
- Dickinson:** *The Trenton Banking Company: A History of the First Century of Its Existence, Prepared by a Committee of The Board of Directors*, Trenton: 1907, opposite page 87.
- Ferry:** Francis B. Lee, *New Jersey as a Colony and as a State, Biographical Volume [Volume 6]*, New York: The Publishing Society of New Jersey, 1903, opposite page 254.
- Gilchrist:** Courtesy of the Jersey City Public Library, Jersey City, NJ.
- Green:** Courtesy of the New Jersey Historical Society, Newark, NJ.
- Gregory:** Courtesy of the Jersey City Public Library, Jersey City, NJ.
- Grey:** *Biographical, Genealogical and Descriptive History of the First Congressional District of New Jersey, Volume 2*, New York: Lewis Publishing Company, 1900, opposite page 514.
- Hubbell:** *Algernon Sidney Hubbell, In Memoriam*. n.p.: n.p., [1891], frontispiece.
- Ryerson:** Courtesy of the New Jersey Historical Society, Newark, NJ.
- Swayze:** James P. Snell, *History of Sussex and Warren Counties*, Philadelphia: Everts & Peck, 1881, opposite page 274.
- Taylor:** *State of New Jersey Manual of the Legislature*, Morristown, NJ: F.L. Lundy, 1874, opposite page 61.
- Ten Eyck:** United States Senate Historical Office, Washington, DC.
- Thompson:** James P. Snell, *History of Hunterdon and Somerset Counties*, Philadelphia: Everts & Peck, 1881, page 590.
- Zabriskie:** *Obituary Addresses and Proceedings of the Bar on the Occasion of the Death of Abraham O. Zabriskie*, Jersey City: John H. Lyon, 1874, frontispiece.

SECRETARIES:

- Anderson:** *State of New Jersey Manual of the Legislature*, Trenton, NJ: T. F. Fitzgerald, 1891, opposite page 246.
- Naar:** Joseph L. Naar Papers, 1880-1951, Accession # 1421, Rutgers University Special Collections and Archives, Alexander Library, New Brunswick, NJ.



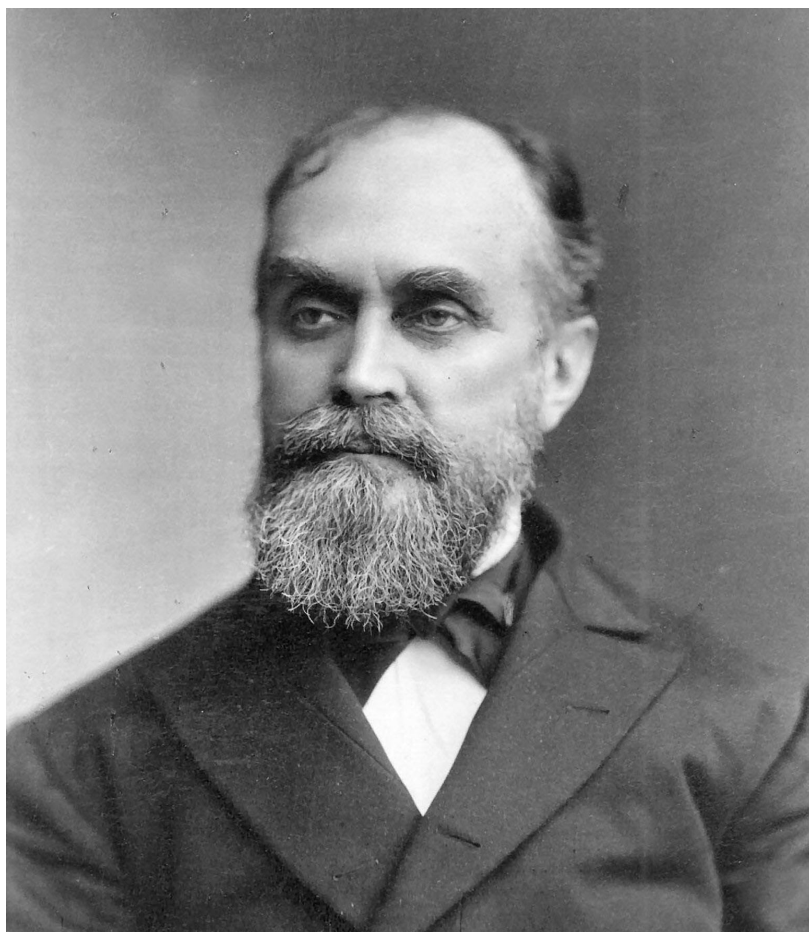
John F. Babcock

1825-1902



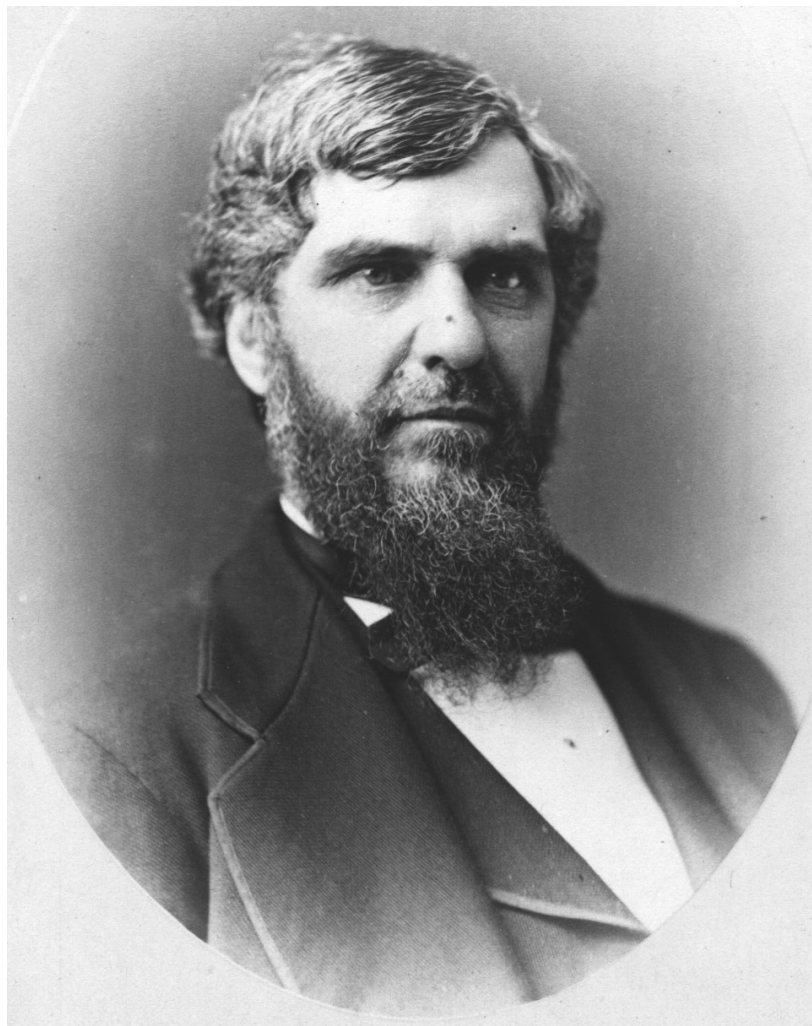
Benjamin Buckley

1808-1891



Benjamin F. Carter

1823-1894



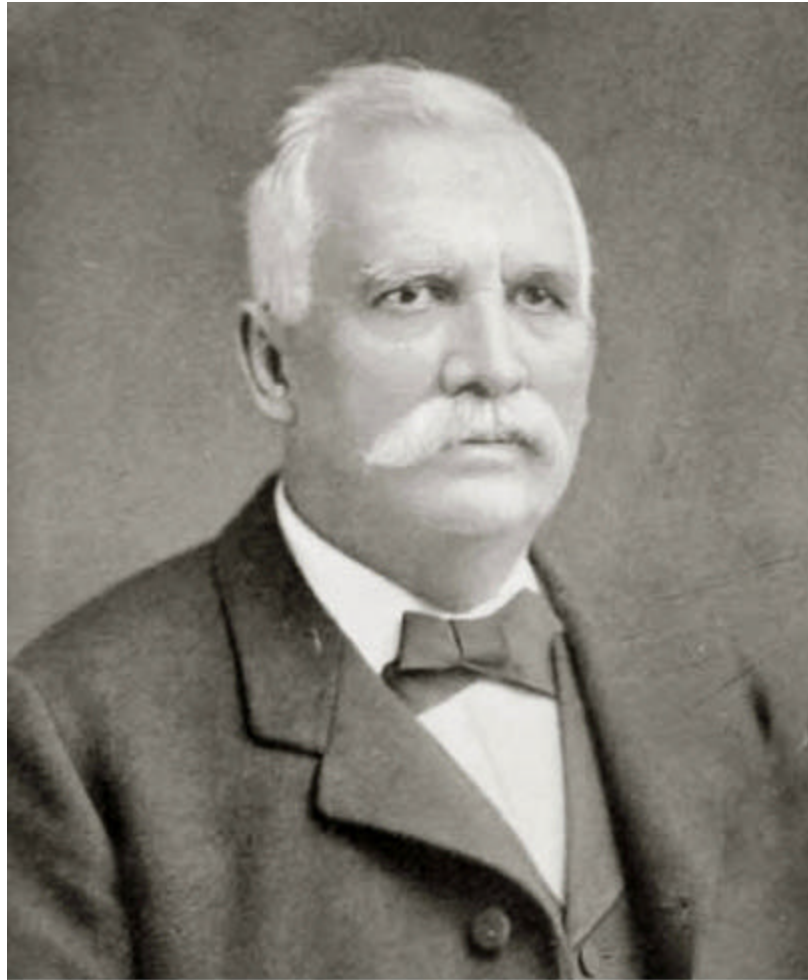
Augustus W. Cutler

1827-1897



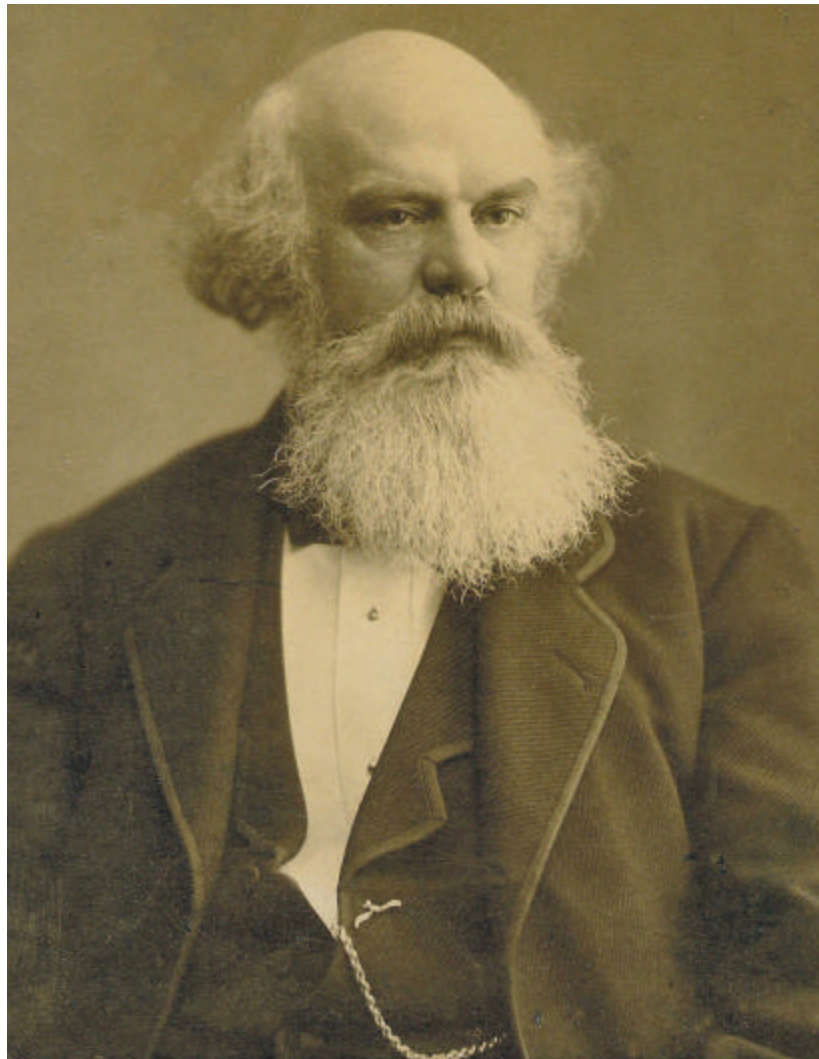
Philemon Dickinson

1804-1882



George J. Ferry

1830-1916



Robert Gilchrist

1825-1888



Robert S. Green

1831-1895



Dudley S. Gregory

1800-1874



Samuel H. Grey

1836-1903



Algernon S. Hubbell

1799-1891



Martin Ryerson

1815-1875



Jacob L. Swayze

1824-1881



John W. Taylor

1830-1894



John C. Ten Eyck

1814-1879



Joseph Thompson

1808-1893



Abraham O. Zabriskie

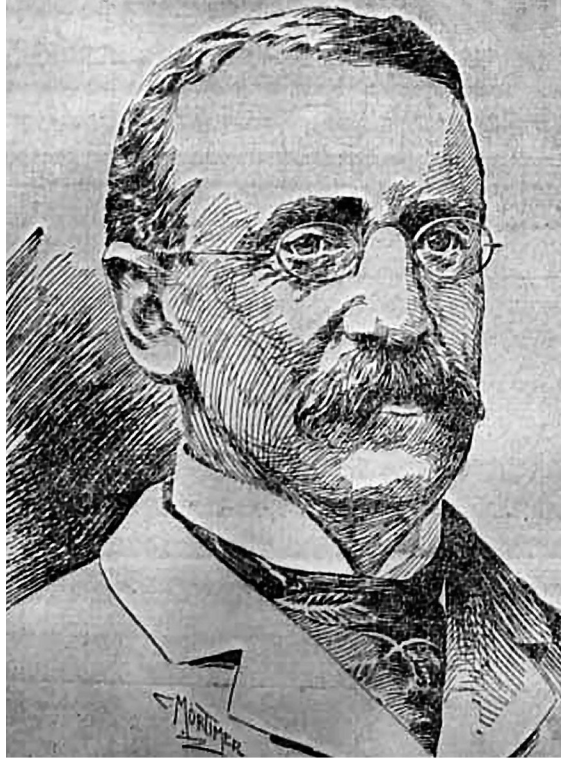
1807-1873



Edward J. Anderson

1830-1905

Commission Secretary



Joseph L. Naar
1842-1905
Commission Secretary

**APPENDIX 2: THE CONSTITUTIONAL COMMISSION:
AMENDMENTS PROPOSED AND PASSED, BY SPONSOR**

1207

Sponsor	Amendments Proposed	Amendments Adopted by the Constitutional Commission	Amendments Adopted into Constitution	Proposed Amendment Number (Bold denotes adoption by the Commission; * denotes adoption into Constitution)
Babcock	0	0	0	
Brinkerhoff	1	0	0	89
Buckley	8	4	2	11, 18 , 19* , 20, 41 , 74, 75, 76*
Carter	5	3	2	1* , 2 , 3* , 4, 83
Cutler	4	2	1	67, 77 , 78* , 79
Dickinson	15	5	1	5* , 43, 44, 45, 46, 47 , 48, 49, 50 , 51, 52, 53, 54, 55 , 56
Ferry	5	0	0	37, 68, 71, 72, 73
Gilchrist	0	0	0	
Grey	2	0	0	32, 34
Green	4	4	2	35* , 36* , 80 , 86
Gregory	13	2	2	23, 24* , 25, 26, 27, 28* , 29, 30, 31, 33, 61, 62, 66
Hubbell	0	0	0	
Ryerson	0	0	0	
Swayze	13	3	1	42, 57, 58, 59 , 60, 69, 70, 84* , 85, 87, 88, 90, 91
Thompson	2	1	0	21, 22
Ten Eyck	5	1	1	63, 64, 65* , 81, 82
Taylor	0	0	0	
Zabriskie	0	0	0	
Committees				
Executive, Judiciary, etc.	10	9	6	6 , 7* , 8* , 9* , 12, 13* , 14* , 15, 16, 17*
Legislative	3	3	2	38* , 39* , 40
Future Amendments, etc.	1	1	1	92*
Bill of Rights, etc.	1	1	1	10*
TOTAL	92	39	22	

**1208 APPENDIX 3: THE CONSTITUTIONAL COMMISSION:
NUMBER OF MOTIONS MADE BY MEMBERS**

Member	Motions to Amend	Agreed	Procedural Motions	Agreed
Babcock	0	0	0	0
Brinkerhoff	4	2	2	1
Buckley	5	1	2	1
Carter	23	10	7	6
Cutler*	14	7	1	1
Dickinson	1	0	4	4
Ferry	15	14	10	9
Gilchrist	0	0	0	0
Grey	23	14	5	4
Green	41	29	10	10
Gregory	4	1	6	2
Hubbell	12	5	4	3
Ryerson	0	0	0	0
Swayze	12	3	8	5
Thompson	3	1	1	1
Ten Eyck	0	0	0	0
Taylor*	0	0	0	0
Zabriskie	0	0	0	0
TOTAL	157	87	60	47

*As member of Constitutional Commission, not as member of the State Senate.

The purpose of this table is to provide an indication of the 1873 Constitutional Commission members' activity and influence in terms of motions made to substantially amend the text of a proposed constitutional amendment ("Motions to Amend"); and motions made to table, recommit, postpone discussion, divide, substitute, accept or reject a proposed constitutional amendment ("Procedural Motions"); and whether the Commission agreed with the motions made.

1209

**APPENDIX 4: THE CONSTITUTIONAL COMMISSION:
NUMBER OF AMENDMENTS REFERRED TO EACH COMMITTEE**

Committee to Which Proposed Amendments were Referred	Total Amendments Referred
Bill of Rights and Right of Suffrage, Limitation on the Powers of Government and General and Special Legislation	37
Legislative Department, Its Constitution and Organization	12
Executive, Judiciary, Appointing Power and Tenure of Office	17
Future Amendments, General Provisions and Final Revision	4
Committee of the Whole	6
Special Committee	1
No Committee Reference	15
TOTAL	92

**1210 APPENDIX 5: THE CONSTITUTIONAL COMMISSION:
MEMBERS' DATES OF ATTENDANCE**

	May 8	July 8	July 22	Oct. 7	Oct. 8
Babcock	P	P	P	A	A
Brinkerhoff	NA	NA	NA	NA	NA
Buckley	P	P	A	P	P
Carter	P	P	P	P	P
Cutler	P	P	P	P	A
Dickinson	NA	A	P	PL	P
Ferry	NA	P	A	P	P
Gilchrist	P	P	A	A	A
Green	P	P	P	P	P
Gregory	NA	P	P	P	P
Grey	P	P	P	A	P
Hubbell	NA	NA	NA	NA	NA
Ryerson	P	NA	NA	NA	NA
Swayze	P	P	P	P	P
Taylor	P	P	A	A	A
Ten Eyck	P	P	P	P	A
Thompson	NA	P	P	P	P
Zabriskie	P	NA	NA	NA	NA
Total Present	12	13	10	10	9

P = Present

A = Absent

PL = Present, Late

NA = Not Applicable

**APPENDIX 5: THE CONSTITUTIONAL COMMISSION:
MEMBERS' DATES OF ATTENDANCE**

1211

	Oct. 9	Oct. 14	Oct. 15	Oct. 16	Oct. 21
Babcock	A	PL	PL	A	A
Brinkerhoff	NA	A	A	A	P
Buckley	P	PL	P	A	PL
Carter	P	P	P	P	P
Cutler	A	P	P	A	P
Dickinson	P	P	P	P	PL
Ferry	P	P	P	P	P
Gilchrist	A	NA	NA	NA	NA
Green	P	P	PL	P	P
Gregory	P	PL	P	P	P
Grey	A	PL	A	A	P
Hubbell	NA	PL	P	A	P
Ryerson	NA	NA	NA	NA	NA
Swayze	P	P	P	P	A
Taylor	A	NA	NA	NA	NA
Ten Eyck	P	P	P	P	P
Thompson	A	P	P	P	A
Zabriskie	NA	NA	NA	NA	NA
Total Present	8	13	12	8	11

P = Present

A = Absent

PL = Present, Late

NA = Not Applicable

**1212 APPENDIX 5: THE CONSTITUTIONAL COMMISSION:
MEMBERS' DATES OF ATTENDANCE**

	Oct. 22	Oct. 23	Oct. 28	Oct. 29	Nov. 11
Babcock	A	A	A	A	P
Brinkerhoff	P	P	A	A	P
Buckley	P	P	PL	P	P
Carter	PL	P	P	P	P
Cutler	P	A	P	P	P
Dickinson	P	PL	PL	PL	P
Ferry	P	P	P	P	P
Gilchrist	NA	NA	NA	NA	NA
Green	A	A	PL	PL	P
Gregory	A	P	P	A	A
Grey	A	P	P	P	A
Hubbell	P	P	PL	P	P
Ryerson	NA	NA	NA	NA	NA
Swayze	P	PL	P	P	P
Taylor	NA	NA	NA	NA	NA
Ten Eyck	PL	P	P	P	P
Thompson	P	P	P	P	A
Zabriskie	NA	NA	NA	NA	NA
Total Present	10	11	12	11	11

P = Present
A = Absent
PL = Present, Late
NA = Not Applicable

**APPENDIX 5: THE CONSTITUTIONAL COMMISSION:
MEMBERS' DATES OF ATTENDANCE**

1213

	Nov. 12	Nov. 13	Nov. 18	Dec. 23
Babcock	P	PL	P	P
Brinkerhoff	PL	A	A	A
Buckley	P	A	P	A
Carter	P	P	P	P
Cutler	P	P	A	P
Dickinson	P	P	P	PL
Ferry	P	P	P	P
Gilchrist	NA	NA	NA	NA
Green	PL	PL	P	P
Gregory	A	P	P	P
Grey	P	P	P	P
Hubbell	P	P	P	P
Ryerson	NA	NA	NA	NA
Swayze	P	P	P	P
Taylor	NA	NA	NA	NA
Ten Eyck	P	P	P	P
Thompson	A	A	P	P
Zabriskie	NA	NA	NA	NA
Total Present	12	11	12	12

P = Present
A = Absent
PL = Present, Late
NA = Not Applicable

**1214 APPENDIX 6: SECTIONS OF THE 1947 NEW JERSEY CONSTITUTION
AFFECTED BY THE 1875 CONSTITUTIONAL AMENDMENTS**

1947 Constitution Section in Which the 1875 Amendment Has Been Retained in Whole or in Part	1844 Constitution Section Affected by 1875 Constitutional Amendment	1875 Constitutional Amendment Ballot Question Number*
Art. II, Sec. I, Par. I	Art. IV, Sec. I, Par. 3	5
Art. II, Sec. I, Par. 3, 4	Art. II, Par. 1	3
Art. IV, Sec. IV, Par. 7	Art. IV, Sec. IV, Par. 7	6
Art. IV, Sec. VII, Par. 5, 7	Art. IV, Sec. VII, Par. 4	7
Art. IV, Sec. VII, Par. 8	Art. IV, Sec. VII, Par. 9	10
Art. IV, Sec. VII, Par. 9	Art. IV, Sec. VII, Par. 11	11
Art. IV, Sec. VIII, Par. 2	Art. IV, Sec. VIII, Par. 2	13
Art. V, Sec. I, Par. 3	Art. V, Par. 8	16
Art. V, Sec. I, Par. 12	Art. V, Par. 6	14
Art. V, Sec. I, Par. 15	Art. V, Par. 7	15
Art. VIII, Sec. I, Par. 1	Art. IV, Sec. VII, Par. 12	12
Art. VIII, Sec. III, Par. 2	Art. I, Par. 19	1
Art. VIII, Sec. III, Par. 3	Art. I, Par. 20	2
Art. VIII, Sec. IV, Par. 1, 2	Art. IV, Sec. VII, Par. 6	8

* See "A Statement of Determination...for Proposed Amendments to the Constitution of this State," September 28, 1875, beginning on page 759 of this volume. See also Table 4 beginning on page 221 of this volume.

APPENDIX 7: NEWSPAPERS USED IN THIS PROJECT: PARTY AFFILIATION, PUBLICATION FREQUENCY AND CIRCULATION 1215

Newspaper	City	Party *	Freq **	Circulation
American Standard (Argus)	Jersey City	D	d	1,650
Bordentown Register	Bordentown	I	w	790
Bridgeton Chronicle	Bridgeton	R	w	1,250
Camden Democrat	Camden	D	w	1,750
Carlstadt Freie Presse	Carlstadt	I	w	420
Central New Jersey Times	Plainfield	R	w	720
Clinton Democrat	Clinton	D	w	840
Daily Public Opinion	Trenton	R	d	700
Daily State Gazette	Trenton	R	d	1,600
Daily True American	Trenton	D	d	1,440
Elizabeth Daily Monitor	Elizabeth	I	d	1,300
Evening Journal	Jersey City	R	d	5,200
Hackettstown Gazette	Hackettstown	D	w	900
Hammonton Item	Hammonton	R	w	200
Hightstown Gazette	Hightstown	I	w	760
Hunterdon Independent	Frenchtown	I	w	450
Hunterdon Republican	Flemington	R	w	850
Jersey City Herald	Jersey City	D	w	1,250
Jersey City Times	Jersey City	R	d	2,880
Jerseyman	Morristown	R	w	1,000
Monmouth Democrat	Freehold	D	w	1,164

1216 APPENDIX 7: NEWSPAPERS USED IN THIS PROJECT: PARTY AFFILIATION, PUBLICATION FREQUENCY AND CIRCULATION

Newspaper	City	Party *	Freq **	Circulation
Mount Holly Herald	Mount Holly	D	w	1,660
New Brunswick Daily Fredonian	New Brunswick	R	d	1,100
New Brunswick Daily Times	New Brunswick	D	d	780
New Jersey Patriot	Bridgeton	D	w	1,824
New York Times	New York City	R	d	----
Newark Daily Advertiser	Newark	R	d	7,200
Newark Daily Journal	Newark	D	d	5,100
Orange Chronicle	Orange	I	w	1,128
Paterson Daily Guardian	Paterson	D	d	1,650
Paterson Daily Press	Paterson	R	d	1,960
Sentinel of Freedom	Newark	R	w	2,000
Sussex Register	Newton	R	w	2,000
True Democratic Banner	Morristown	D	w	960
Warren Journal	Belvidere	D	w	1,200
West Jersey Pioneer	Bridgeton	I	w	650
West Jersey Press	Camden	R	w	1,250
Woodbury Constitution	Woodbury	R	w	1,650

* D = Democrat
R = Republican
I = Independent

** d = Daily
w = Weekly

CHAPTER LXIV. [CHAPTER 64.]

An act to defray the expense of the constitutional commission.

1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That for the purpose of defraying the expense of the constitutional commission appointed by the governor in pursuance of a joint resolution approved April fourth, eighteen hundred and seventy-three, the treasurer of this state is hereby directed to pay, upon the warrant of the comptroller, the following sums: for the expenses of stationery, printing, postage, &c., incurred by said commission in the performance of their duties, an amount not exceeding six hundred and seventy-five dollars; to the president and each of the members, the sum of three hundred dollars for the entire session or proportionately for any part of the session; to each of the secretaries, the sum of five hundred, and to the sergeant-at-arms, the sum of one hundred dollars.

2. *And be it enacted*, that this act shall take effect immediately.

Approved February 19, 1874.

Source:

LAWS OF NEW JERSEY, 1874, p. 15.

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Bridgeton Chronicle

Camden Democrat

Carlstadt Freie Presse

Central New Jersey Times (Plainfield)

Clinton Democrat

Daily Public Opinion (Trenton)
Daily State Gazette (Trenton)
Daily True American (Trenton)
Elizabeth Daily Monitor
Evening Journal (Jersey City)
Hackettstown Gazette
Hammonton Item
Hightstown Gazette
Hunterdon Independent (Frenchtown)
Hunterdon Republican (Flemington)
Jersey City Herald
Jersey City Times
Jerseyman (Morristown)
Monmouth Democrat (Freehold)
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New Brunswick Daily Fredonian
New Brunswick Daily Times
New Jersey Patriot (Bridgeton)
New York Times
Newark Daily Advertiser
Newark Daily Journal
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Sentinel of Freedom (Newark)
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INDEX

This Index serves two functions. First, for each entry followed by a Proposed Amendment number in bold type – “**PROPOSED AMENDMENT NO.**” – the reference is to the authors’ numerical designation of proposed amendments in Part VII of this volume (pages 791-934), where all actions on the Constitutional Commission’s proposals are traced from introduction to final action. For such entries, Part VII will serve the function of an additional index by indicating the bracketed page numbers in the official proceedings where the proposal was considered. Using the dates of consideration of each proposed amendment in Part VII, the reader may locate the relevant newspaper coverage, if any, in Parts III and IV, for that day.

Second, this Index provides additional subject matter access and selective proper name access to the volume. The authors carefully identified and indexed all major and minor subject topics discussed by the 1873 Constitutional Commission. These non-bold numbers reference the page numbers in this volume.

- ABBETT, LEON: on constitutional amendment procedure, 736-738; on Five County Act, 214-215, 1120, 1134-1135, 1143, 1169
- AFRICAN-AMERICAN MALE SUFFRAGE: (*See* Suffrage – African-American male)
- ANDERSON, EDWARD J. (Commission secretary): biography, 57; portrait, 1204
- ASSEMBLY CONSIDERATION OF COMMISSION RECOMMENDATIONS: *1874 Assembly*, 190-194, 601, 603, 604, 605-627, 723-735, 1059-1061, 1076, 1083-1085, 1096-1108; *1875 Assembly*, 196-198, 637-651, 740-743, 1109-1112; (*see also* Senate consideration of Commission recommendations)
- ATTORNEY GENERAL: **PROPOSED AMENDMENT No. 15**; 75, 274, 321-322, 405, 416, 524, 547-548, 589, 625, 711, 818, 943, 959, 990, 1025
- BABCOCK, JOHN F. (Commission member): 5 (note 2); biography, 32; portrait, 1187
- BANKS: **PROPOSED AMENDMENT No. 46**; **PROPOSED AMENDMENT No. 70**; **PROPOSED AMENDMENT No. 92**; 71, 102, 285, 294-295, 305, 326, 405, 423, 430, 472-473, 508, 518, 536, 592, 598, 616, 631, 642, 679, 714, 747, 761, 775, 786, 789, 875, 900, 932, 954, 993, 1134, 1138, 1142, 1143, 1151, 1170
- BEASLEY, MERCER: 42, 98, 964, 965, 967, 968; declined nomination to Commission, 30, 31 (note), 46 (note 130), 246-247, 254, 381-382, 999
- BEBOUT, JOHN: xv, xx, 11 (note 29), 14, 16
- BEDLE, JOSEPH D. (Governor): 206, 218, 765, 773, 781-790, 977, 1140, 1181-1182
- BLACK MALE SUFFRAGE: (*See* Suffrage – African-American male)
- BRIBERY: (*See* Suffrage – bribery; *see* Legislature – corrupt enactment of laws)
- BRINKERHOFF, WILLIAM: (Commission member): biography, 32-33; filled vacancy on Commission, 30, 31 (note), 291-292, 1038
- BUCKLEY, BENJAMIN: (Commission member): biography, 34; portrait, 1188
- CAPITAL PUNISHMENT: **PROPOSED AMENDMENT No. 90**; 184, 367, 405, 507, 930
- CARTER, BENJAMIN F. (Commission member): biography, 34-35; portrait, 1189; speech on Governor's veto power, 63, 179-180, 475-477, 1053-1055, 1057-1058, 1059; praised, 972-973, 1061; writes clarification of proposed amendments, 209, 1137-1139

CITIZEN SUGGESTIONS: 53-55, 61, 74-76, 114, 116, 174, 176 (note 592), 266, 401, 404, 406, 407, 428, 575, 690, 1009-1010, 1012-1014, 1061, 1063, 1065

CHANCELLOR: (*See* Judiciary – Chancellor)

COMPTROLLER: **PROPOSED**

AMENDMENT No. 13; 75, 188 (note 645), 189 (note 656), 589, 600, 626, 634, 648, 710-711, 749, 763, 778, 990, 1139, 1142

CONSTITUTIONAL AMENDMENT, PROCEDURE: **PROPOSED AMENDMENT No. 71**; 185, 257-258, 297-298, 318-319, 349, 367, 431, 468, 474, 491, 901; (*see also* Constitutional convention)

CONSTITUTIONAL COMMISSION, NEW JERSEY (1873): 6, 28, 232, 233, 234, 241, 247, 349, 956, 957, 959, 961, 962, 973, 978, 982, 994, 1007, 1009, 1010, 1012, 1022, 1024, 1025, 1027, 1029, 1030, 1033, 1038, 1058, 1067, 1068, 1073, 1095, 1105, 1111, 1136;
– committees: 55-56, 248, 257, 264, 392, 393, 394, 395, 396, 398, 401, 407, 409, 410;
– Committee of the Whole: 59, 78, 80 (note 238), 181, 259, 375-380, 397;
– criticism of : 48, 50, 1006, 1024, 1041, 1046, 1050, 1073, 1077, 1080;
– expenses: 56-58, 1217;
– meeting dates and times: 53;
– members: 30-46, 236, 237, 245, 962, 964, 965, 967, 968, 970, 971, 974,

976, 980 (*See also* names of individual members); absences, 49-50, 56, 60, 309, 1041; attendance, 1210-1213; biographies, 32-46; motions made, 1208; new members, 31, 291, 254, 388, 427, 999, 1001, 1038; portraits, 1186-1203; proposed amendments by, 1207; resignations, 46, 247, 381, 387, 400, 410, 412, 999, 1024, 1038;
– open meetings: 53-55, 395, 409;
– organizational committee: 253, 256, 382, 384, 386-387, 390;
– President's speeches: (Ten Eyck), 47 (note 135), 255-256, 373-374, 388-390; (Zabriskie), 384;
– proceedings: 6, 21, 78, 245-380, 381-512, 555; compilation of newspaper accounts, 381-512; transcription, 245-380;
– quorum: 50, 58, 261, 264, 399, 401, 403;
– report: 78-79, 194, 195, 511, 243, 259, 372, 513, 515, 525, 553, 556; transcription, 513-524, 525-552;
– resolution creating Commission: 233;
– rules: 58-60, 246, 401, 462;
– scholarly coverage: 13-16;
– staff: 56-58, 988;
– vacancies: 30, 31, 33, 47, 58, 185, 247, 254, 381, 387, 388, 558, 999, 1000, 1001

CONSTITUTIONAL COMMISSION, NEW YORK (1872-1873): vii, 7, 9-10, 24, 26, 28, 64, 66, 71-74, 181-184, 195-196, 395, 413, 952, 953-955, 960, 977-978, 993

CONSTITUTIONAL COMMISSIONS, NATURE OF: 6-8

CONSTITUTIONAL COMMISSIONS,
NEWSPAPER COVERAGE: 16-18, 992;
New Jersey, 18-22, 241, 554, 935

CONSTITUTIONAL CONVENTION:
PROPOSED AMENDMENT No. 71; 26,
28, 185, 232, 239, 270, 297, 318, 349,
367, 412, 431, 493, 942, 943, 948, 956,
974, 1063, 1075, 1076, 1077, 1094,
1095, 1106, 1113, 1183

CORONERS: **PROPOSED AMENDMENT**
No. 17; **PROPOSED AMENDMENT No.**
73; 300, 308, 416, 433, 459, 548, 711,
1025, 1038, 1040, 1139, 1142, 1159

CORPORATIONS: **PROPOSED**
AMENDMENT No. 70; 14, 63, 68, 69,
71, 72, 102, 286, 294, 364, 391, 429,
446, 458, 510, 900;
– investment in stock: **PROPOSED**
AMENDMENT No. 50; 424, 441,
462, 518, 536, 617, 680, 879;
– laws reviving corporate powers:
446, 536;
– special laws creating: **PROPOSED**
AMENDMENT No. 46; 285, 367, 423,
507, 693, 698; (*see also* Special
legislation);
– taking of property: **PROPOSED**
AMENDMENT No. 22; **PROPOSED**
AMENDMENT No. 77; (*see also*
Eminent domain);
– taxation: **PROPOSED AMENDMENT**
No. 89; 346, 352, 929; (*see also*
Special legislation)

CORRUPTION: (*See* Legislature –
corrupt enactment of laws; *see*
Suffrage – bribery)

CUTLER, AUGUSTUS W. (Commission
member): biography, 35-36; portrait,
1190

DEBT – LOCAL: **PROPOSED**
AMENDMENT No. 19; **PROPOSED**
AMENDMENT No. 33; **PROPOSED**
AMENDMENT No. 49; 231, 274, 277,
279, 286, 314, 316, 320, 336, 364, 368,
418, 419, 424, 463, 464, 482, 498, 505,
508, 510, 515, 592, 596, 609, 629, 635,
638, 713, 731, 736, 739, 745, 773, 822,
841, 1117, 1139

DEBT – STATE: **PROPOSED**
AMENDMENT No. 53; **PROPOSED**
AMENDMENT No. 58; 288, 289, 315,
327, 515, 529, 593, 596, 609, 610, 629,
638, 745, 773, 882, 1117

DICKINSON, PHILEMON (Commission
member): biography, 36-37; filled
vacancy on Commission, 30, 31
(note), 254, 388, 1000; portrait, 1191

EDUCATION: 117-174, 358, 371, 569,
570, 674, 679, 921, 1016, 1020, 1021,
1047, 1083;
– age of attendance: 66, 122 (note
387), 147 (note 463), 149-152, 160,
360, 502, 570, 921;
– free: 123, 359, 486, 501, 510, 518,
535, 569, 570, 598, 615, 631, 642, 674,
675, 746, 775, 921, 1125;
– home schooling: **PROPOSED**
AMENDMENT No. 81; 75, 131 (note
425);
– mandatory attendance: **PROPOSED**
AMENDMENT No. 31; 277, 360, 418,
504, 839;

EDUCATION (*continued*):– school finance: **PROPOSED****AMENDMENT No. 30**; 120, 159-161, 277, 315, 361, 418, 463, 483, 486, 504, 132, 316, 320, 336, 359, 464, 466, 482, 503, 838;– School Fund: **PROPOSED****AMENDMENT No. 29**; 120, 277, 315, 361, 418, 463, 483, 486, 504, 837;– school taxes: **PROPOSED****AMENDMENT No. 30**; 132, 277, 315, 316, 320, 336, 359, 418, 463, 464, 466, 482, 503, 838, 1034, 1048, 1049, 1050;

– special legislation on management of public schools – prohibits:

PROPOSED AMENDMENT No. 35.10; 69, 131-132, 169, 171, 325;

– thorough and efficient clause:

PROPOSED AMENDMENT No. 84; viii-xii, 5, 13, 66, 117-174, 591, 598, 615, 631, 642, 712, 746, 775, 921, 1096, 1125, 1148;

– thorough system: 144, 483, 510

ELECTION ON CONSTITUTIONAL

AMENDMENTS: (*See* Ratification vote on proposed amendments)ELECTIONS: (*See* Suffrage)EMINENT DOMAIN: **PROPOSED****AMENDMENT No. 22**; **PROPOSED****AMENDMENT No. 77**; **PROPOSED****AMENDMENT No. 86**; 231, 304, 318, 345, 351, 356, 358, 369, 519, 528, 537, 560, 561, 700, 910, 926; jury trial: 275, 305, 348, 351, 369, 515, 528, 560, 561, 579, 608, 609, 618, 654, 657, 661, 731, 734, 828, 1079

FERRY, GEORGE J. (Commission

member): biography, 37; filled vacancy on Commission, 30, 31 (note), 254; portrait, 1192; women's suffrage proposal, 114, 299-300

FIVE COUNTY ACT OF 1869 (relative to property tax exemption on mortgages in five NJ counties): 175-176, 211, 214-216, 219, 471, 787-789, 1088, 1118, 1120, 1122, 1132, 1133, 1134-1136, 1137, 1141, 1143, 1150, 1153, 1159, 1161, 1167, 1169, 1175, 1178; (*see also* Taxation – uniform taxation)FREE PRESS, FREE SPEECH: **PROPOSED****AMENDMENT No. 69**; 293, 318, 345, 429, 899

GILCHRIST, ROBERT (Commission member): biography, 38; criticism of Commission's work and hasty legislative approval, 47 (note 134); portrait, 1193; on validity of Five County Act, 216, 1169-1170; resignation, 30, 31 (note), 33, 47, 75, 410

GOVERNOR:

– appointment of judges: **PROPOSED AMENDMENT No. 12**; 321, 339, 442, 468, 486, 487, 497, 547, 813, 1004;– appointments: **PROPOSED****AMENDMENT No. 9**; **PROPOSED****AMENDMENT No. 13**; **PROPOSED****AMENDMENT No. 14**; **PROPOSED****AMENDMENT No. 16**; **PROPOSED****AMENDMENT No. 55**; 104, 189-190, 274, 414, 416, 459, 815, 816, 817,

GOVERNOR (*continued*):

884;

– convening Senate alone: **PROPOSED**

AMENDMENT No. 65; xix, 5, 70, 185, 291, 306, 313, 427, 457, 521, 540, 583, 599, 620, 633, 645, 706, 748, 777, 895, 1039;

– ineligible for other offices:

PROPOSED AMENDMENT No. 8; 271, 279, 308, 413, 420, 459, 521, 541, 587, 600, 621, 622, 633, 646, 709, 748, 777, 807, 1037;

– line item veto: **PROPOSED**

AMENDMENT No. 7; 181, 271, 307, 419, 458, 521, 540, 586, 599, 621, 633, 646, 709, 748, 805, 1023, 1039;

– pardon power: **PROPOSED**

AMENDMENT No. 32; **PROPOSED**

AMENDMENT No. 88; 346, 458, 840, 928, 1003, 1005;

– veto: **PROPOSED AMENDMENT No. 6**; 179, 188, 271, 307, 329, 330, 338, 413, 419, 435, 449, 475, 485, 521, 540, 583, 621, 706, 803, 1023, 1031, 1041, 1053, 1057, 1059

GOVERNOR'S ANNUAL MESSAGE

PERTAINING TO CONSTITUTIONAL AMENDMENTS: (1873), 61-62, 95, 102, 229-232; (1874), 557-558; (1875), 751-752; (1876), 781-790

GOVERNOR'S PROCLAMATIONS:

– convening Constitutional Commission, 239;

– convening Special Senate Session to consider nominations to

Constitutional Commission, 234;

– declaring adoption of constitutional amendments, 773

GREEN, ROBERT S. (Commission member): biography, 38-39; portrait, 1194

GREGORY, DUDLEY S. (Commission member): biography, 39-40; filled vacancy on Commission, 30, 31 (note), 291-292; portrait, 1195; praised, 1000, 1068

GREY, SAMUEL H. (Commission member): biography, 40; portrait, 1196

HOBART, GARRET A.: 190, 192-194, 1099, 1100

HOUGH'S *AMERICAN CONSTITUTIONS*: 62-71, 147 (note 463), 157 (notes 511, 515), 172 (notes 576-578), 184 (note 621), 253, 384, 385, 477, 512

HUBBELL, ALGERNON S. (Commission member): biography, 41; filled vacancy on Commission, 30, 31 (note), 291-292; portrait, 1197

HUNT, J. DAGGETT: list of suggested constitutional amendments, 75-76, 120 (note 373), 989-992

HUSSEY, CORNELIA C.: **PROPOSED AMENDMENT No. 66**; petition regarding women's suffrage, 74 (note 221), 114, 292

JUDICIARY: **PROPOSED AMENDMENT No. 93**; 352, 361, 492, 522, 584, 588, 595, 622, 707, 712, 715, 716, 721, 777, 933, 1114, 1181;

JUDICIARY (*continued*):

– appointed judges: **PROPOSED AMENDMENT No. 12**; 321, 339, 442, 468, 486, 487, 497, 547, 813, 1004;
 – Chancellor: **PROPOSED AMENDMENT No. 82**; **PROPOSED AMENDMENT No. 83**; 303, 334, 339, 354, 361, 442, 486, 501, 504, 919, 920;
 – Court of Common Pleas: **PROPOSED AMENDMENT No. 12**; **PROPOSED AMENDMENT No. 76**; 303, 321, 339, 441, 459, 486, 495, 523, 545, 547, 600, 624, 907, 1181;
 – elected judges: 392, 396, 405, 492, 495, 496, 819, 1001, 1005, 1006, 1014;
 – judicial compensation: 303, 497, 523, 547;
 – Justices of the Peace: **PROPOSED AMENDMENT No. 41**; **PROPOSED AMENDMENT No. 75**; 283, 302, 327, 329, 341, 422, 441, 473, 475, 487, 522, 545, 623, 870, 906, 983, 1052, 1063;
 – reorganization: **PROPOSED AMENDMENT No. 93**;
 – Supreme Court: **PROPOSED AMENDMENT No. 54**; **PROPOSED AMENDMENT No. 87**; 288, 303, 339, 346, 347, 424, 442, 458, 492, 493, 586, 624, 883, 927;
 – venue, changes of – prohibits special legislation regarding: **PROPOSED AMENDMENT No. 35.12**

JURIES: 185, 501, 994;
 – jury trial for eminent domain: **PROPOSED AMENDMENT No. 22**; **PROPOSED AMENDMENT No. 77**; 275, 431;
 – special legislation to select, draw,

summon or impanel – prohibits: **PROPOSED AMENDMENT No. 35.4**; 185;
 – verdict of “not proven”: **PROPOSED AMENDMENT No. 34**; 278, 332, 345, 418, 479, 490, 493, 843;
 – verdicts by three-fourths of the members: **PROPOSED AMENDMENT No. 21**; 275, 332, 417, 480, 827

LEGISLATIVE CONSIDERATION OF COMMISSION RECOMMENDATIONS: 553-752; (*see also* Assembly consideration of Commission recommendations; *see also* Senate consideration of Commission recommendations)

LEGISLATURE: **PROPOSED AMENDMENT No. 68**; **PROPOSED AMENDMENT No. 74**; 292, 309, 597, 746, 868, 898, 905, 937, 939, 945, 986, 988, 994, 998, 1015, 1018, 1055, 1173, 1178, 1179;
 – apportionment: **PROPOSED AMENDMENT No. 74**; **PROPOSED AMENDMENT No. 81**; 428, 483, 941;
 – appropriations to religious organizations: **PROPOSED AMENDMENT No. 28**; 836;
 – biennial session: **PROPOSED AMENDMENT No. 23**;
 – bills amending laws: **PROPOSED AMENDMENT No. 36**; **PROPOSED AMENDMENT No. 40**; **PROPOSED AMENDMENT No. 59**; 231, 280, 310, 420, 517, 535, 860;
 – bills incorporating laws: **PROPOSED AMENDMENT No. 36**; **PROPOSED AMENDMENT No. 40**; **PROPOSED AMENDMENT No. 59**; 280, 310, 420,

- LEGISLATURE (*continued*):
 425, 446, 447, 460, 568, 597, 615, 641,
 673, 746, 775, 860;
 – bills, printing: **PROPOSED**
AMENDMENT No. 40; 436, 667, 868;
 – compensation: **PROPOSED**
AMENDMENT No. 4; **PROPOSED**
AMENDMENT No. 39; **PROPOSED**
AMENDMENT No. 64; 189, 230, 267,
 282, 291, 322, 405, 408, 421, 426, 437,
 441, 442, 460, 469, 517, 533, 597, 612,
 613, 630, 640, 668, 733, 742, 746, 775,
 799, 865, 894, 946, 947, 1046;
 – constitutional limits: 23;
 – corrupt enactment of laws:
PROPOSED AMENDMENT No. 45;
PROPOSED AMENDMENT No. 52; 101-
 107, 229, 285, 287, 342, 423, 458, 488,
 874, 881; (*see also* Stanhope Fraud);
 – districts: 301, 428;
 – elections: **PROPOSED AMENDMENT**
No. 38; 428, 429, 435;
 – ineligible for other offices:
PROPOSED AMENDMENT No. 18; 274,
 308, 348, 416, 493, 517, 533, 534, 614,
 672, 673, 821;
 – laws, effective date: **PROPOSED**
AMENDMENT No. 59; 289, 328, 341,
 425, 474, 488, 519, 537, 617, 681,
 888;
 – laws limiting recovery for death or
 injury: **PROPOSED AMENDMENT No.**
56; 288, 333, 424, 480, 518, 536, 617,
 680, 885;
 – laws, single subject: **PROPOSED**
AMENDMENT No. 59; 289, 425;
 – laws, title: **PROPOSED AMENDMENT**
No. 40; 289, 425, 597, 888;
 – oath: **PROPOSED AMENDMENT No. 5**;
 269, 282, 310, 342, 357, 411, 421, 447,
 460, 489, 499, 510, 520, 538, 539, 582,
 594, 599, 619, 632, 645, 705, 706, 714,
 748, 776, 800;
 – reading of bills: **PROPOSED**
AMENDMENT No. 40; **PROPOSED**
AMENDMENT No. 63; 282, 290, 309,
 421, 426, 436, 437, 460, 516, 532, 612,
 668, 732, 868, 893, 1040;
 – representation in Senate: **PROPOSED**
AMENDMENT No. 74; 177, 355, 357,
 441, 485, 497, 499, 941, 942, 943, 949,
 958, 959, 970, 977, 979, 980, 981, 983,
 984, 1033, 1113;
 – special legislation: *see* Special
 legislation;
 – terms of office: 274, 281, 301, 421,
 428, 429, 516, 531, 590, 610, 630, 640,
 746, 774, 829, 863
- LIBEL: **PROPOSED AMENDMENT No.**
69; 345, 468, 490
- LINE ITEM VETO: (*See* Governor –
 line item veto)
- LIQUOR: 184, 417;
 – local option: **PROPOSED AMENDMENT**
No. 25; 276, 417, 832;
 – licenses: 290, 426, 441;
 – taxation: **PROPOSED AMENDMENT**
No. 62; 892
- LOCAL GOVERNMENT: 417, 335, 529;
 – charters: **PROPOSED AMENDMENT**
No. 24; 276, 283, 311, 421, 443, 460,
 461, 518, 616, 679, 830;
 – county lines: **PROPOSED AMENDMENT**
No. 57; 289, 313, 425, 481, 515, 529,
 592, 609, 663, 713, 886, 1064;
 – debt: (*See* Debt – local);

LOCAL GOVERNMENT (*continued*):

– Jersey City reorganization: 107-110, 444, 455, 683, 684, 687, 696, 1092, 1129, 1160;
 – laws creating commissions to govern: **PROPOSED AMENDMENT No. 35.3**; **PROPOSED AMENDMENT No. 48**; 286, 347, 424, 444, 493, 685, 686, 849, 877;
 – Newark: 443;
 – prohibits giving or loaning money: **PROPOSED AMENDMENT No. 19**; **PROPOSED AMENDMENT No. 28**

MARRIED WOMEN'S PROPERTY:

PROPOSED AMENDMENT No. 79; 71, 305, 331, 344, 457, 479, 490, 916

MILITIA: **PROPOSED AMENDMENT No. 9**; 271, 459, 546-547, 600, 624, 625, 633, 647, 749, 763, 777, 809; (*see also* Suffrage – military)

NAAR, JOSEPH L. (Commission secretary): biography, 57; portrait, 1205

PARDONS: (*See* Governor – pardon power)

PARKER, JOEL (Governor): vii, 9, 25-29, 47-48, 51, 61-62, 95, 98-99, 102, 103, 119, 124, 128, 174-175, 186, 187, 227-239, 557-558, 751-752, 945-947

PETITIONS TO AMEND CONSTITUTION: (*See* Citizen suggestions)

POLL TAX: (*See* Suffrage – poll tax)

PRISON KEEPER AND INSPECTORS:

PROPOSED AMENDMENT No. 13;
PROPOSED AMENDMENT No. 14;
PROPOSED AMENDMENT No. 55; 189, 274, 321, 416, 425, 458, 468, 523, 524, 547, 548, 587, 600, 624, 625, 626, 634, 648, 649, 710-711, 734, 749, 763, 778, 1006, 1008, 1025, 1139, 1142, 1159, 1182

PROPERTY TAX: (*See* Taxation)

PUBLIC LANDS: **PROPOSED AMENDMENT No. 91**

PUBLIC OFFICERS: **PROPOSED**

AMENDMENT No. 35.6; **PROPOSED AMENDMENT No. 47**; **PROPOSED AMENDMENT No. 80**; 104, 189-190, 286, 312, 321, 337, 348, 521, 523, 542, 549, 586, 587, 590, 621, 625, 634, 709, 711, 749, 876, 917; (*see also* Governor – appointments)

RAILROADS: **PROPOSED AMENDMENT No. 35.11**; **PROPOSED AMENDMENT No. 51**; **PROPOSED AMENDMENT No. 70**; 95, 286, 295, 406, 424, 430, 830, 900, 998, 1059; (*see also* Stanhope Fraud; *see also* Eminent domain)

RATIFICATION VOTE ON PROPOSED AMENDMENTS: 204-222, 753, 1112, 1115, 1119, 1121, 1124, 1126, 1128, 1130, 1135, 1143, 1145, 1149, 1152, 1165, 1167;
 – ballot problems: 204-210, 1115, 1128, 1135;
 – Catholic-Protestant controversy: 211-213, 1130, 1144, 1145, 1146, 1154,

RATIFICATION VOTE ON PROPOSED
AMENDMENTS (*continued*):

1158, 1160, 1161, 1162, 1164, 1168,
1172, 1175;
– results: 216-219, 759-772, 1165,
1167, 1168, 1171, 1174, 1176, 1177;
– returns, official by State and
County: 766-772

RELIGIOUS ORGANIZATIONS:

– Catholic-Protestant controversy:
211-213, 1130, 1144, 1145, 1146, 1154,
1158, 1160, 1161, 1162, 1164, 1168,
1172, 1175;
– Legislature prohibited from making
appropriations to: **PROPOSED**
AMENDMENT No. 28; 836;
– schools: 139, 145, 148-149, 152,
154, 156, 159, 168;
– taxation of church property: (*See*
Taxation – church property)

RUNYON, THEODORE: 964, 965, 967,
969; declined nomination to
Commission, 30, 31 (note), 46 (note
130), 246-247, 254, 381-382, 999

RYERSON, MARTIN (Commission
member): biography, 41-42; illness, 46
(note 132); portrait, 1198; praised,
974; resignation from Commission,
30, 31 (note), 46, 254, 256, 387, 400

SENATE CONSIDERATION OF

COMMISSION RECOMMENDATIONS:
1874 Senate, 186-190, 559-604, 653-
722, 729, 1059-1061, 1076, 1083-
1085, 1096-1108; *1875 Senate*, 194-
196, 629- 636, 737-739, 1109-1112;
(*see also* Assembly consideration of

Commission recommendations)

SEWELL, WILLIAM J.: 29, 100 (note
270), 162 (note 538), 188, 217, 233

Sheriffs: **PROPOSED AMENDMENT No.**
17; **PROPOSED AMENDMENT No. 73**;
300, 308, 309, 345, 416, 433, 459, 469,
524, 548, 600, 625, 626, 711, 820, 904

SPECIAL LEGISLATION: **PROPOSED**
AMENDMENT No. 35 through
PROPOSED AMENDMENT No. 35.12;
PROPOSED AMENDMENT No. 36,
PROPOSED AMENDMENT No. 59;
PROPOSED AMENDMENT No. 63; 26,
101-107, 230, 278, 280, 291, 323, 328,
343, 391, 393, 418, 425, 426, 439, 443,
446, 470, 474, 489, 517, 519, 535, 537,
568, 571, 572, 573, 575, 597, 598, 616,
617, 631, 643, 679, 681, 690, 699, 747,
775, 844-859, 893, 932, 937, 939, 946,
951, 1087, 1101, 1102;
– banks and money corporations,
special legislation: **PROPOSED**
AMENDMENT No. 92;
– corporations, associations or
individuals – prohibits special
legislation granting privileges to,
PROPOSED AMENDMENT No. 35.8;
– corporations, other than banks –
prohibits special legislation:
PROPOSED AMENDMENT No. 46;
– juries – prohibits special legislation
selecting, drawing, summoning or
impaneling: **PROPOSED AMENDMENT**
No. 35.4;
– laws of descent – prohibits special
legislation changing: **PROPOSED**
AMENDMENT No. 35.7;

SPECIAL LEGISLATION (*continued*):
 – local governments – prohibits special legislation regulating the affairs of: **PROPOSED AMENDMENT No. 35.3**;
 – money – prohibits special legislation regulating rate of interest: **PROPOSED AMENDMENT No. 35.5**;
 – public officers' fees and allowances – prohibits special legislation increasing or decreasing: **PROPOSED AMENDMENT No. 35.6**;
 – railroad tracks, right to lay down – prohibits special legislation granting: **PROPOSED AMENDMENT No. 35.11**;
 – roads or highways – prohibits special legislation laying out, opening or altering: **PROPOSED AMENDMENT No. 35.1**;
 – roads, town plots, streets, alleys and public grounds of – prohibits special legislation vacating: **PROPOSED AMENDMENT No. 35.2**;
 – schools, common, management of – prohibits special legislation: **PROPOSED AMENDMENT No. 35.10**;
 – venue, change of – prohibits special legislation regarding: **PROPOSED AMENDMENT No. 35.12**;
 (*see also* Banks; *see also* Corporations; *see also* Railroads; *see also* Stanhope Fraud)

STANHOPE FRAUD: 95-100, 874

STANTON, ELIZABETH CADY:
PROPOSED AMENDMENT No. 11;
 – petition regarding women's suffrage, 74, 114 (note 345), 273

STATE CONTRACTS: **PROPOSED AMENDMENT No. 60**; 289-290, 425-426

State Debt: (*See* Debt – state)

STOKES, CHARLES: **PROPOSED AMENDMENT No. 81**; petitions to Commission, 74-75 (note 223), 334, 346, 481

SUFFRAGE: 110, 396, 408, 563, 597, 630, 797;
 – African-American male: **PROPOSED AMENDMENT No. 1**; 15, 35, 64, 110-111, 112-114, 115, 197, 198 (note 685), 209, 267, 273, 311, 376, 408, 414, 415, 433, 434, 516, 529, 596, 610, 611, 630, 639, 664, 741, 742, 745, 751, 774, 793, 937, 966, 1012, 1025, 1081, 1084, 1112, 1137, 1141, 1144;
 – age: 434;
 – bribery: **PROPOSED AMENDMENT No. 3**; **PROPOSED AMENDMENT No. 42**; 101, 284, 344, 422, 490, 498, 797, 871, 874;
 – citizens: 273, 433, 434;
 – fluent in English: **PROPOSED AMENDMENT No. 3**; 116, 267, 357, 408, 415, 499, 797;
 – military: **PROPOSED AMENDMENT No. 10**; 111, 273, 292, 311, 415, 433, 516, 530, 596, 610, 611, 630, 639, 666, 745, 774;
 – numbered ballots: **PROPOSED AMENDMENT No. 43**; 284, 345, 422, 491, 872;
 – paupers: **PROPOSED AMENDMENT No. 37**; 280, 332, 420, 479, 862;
 – poll tax: **PROPOSED AMENDMENT No.**

SUFFRAGE (*continued*):

20; 275, 304, 316, 416, 456, 464, 466, 826;

– registration: **PROPOSED AMENDMENT No. 44**; 284, 347, 423, 435, 493, 873;

– residency: **PROPOSED AMENDMENT No. 2**; 273, 311, 408, 414, 415, 433, 435, 516, 564, 610, 665, 731, 795;

– uniformity in elections: **PROPOSED AMENDMENT No. 44**;

– women: **PROPOSED AMENDMENT No. 11**; **PROPOSED AMENDMENT No. 66**; **PROPOSED AMENDMENT No. 67**; **PROPOSED AMENDMENT No. 72**; 74, 114, 273, 292, 299, 304, 318, 351, 416, 428, 432, 456, 494, 507, 508, 575, 698, 812, 897, 903, 1068, 1069, 1071, 1097

SURROGATES: PROPOSED AMENDMENT No. 14; **PROPOSED AMENDMENT No. 16**; 274, 321, 322, 416, 468, 542, 584, 943, 1025

SWAYZE, JACOB L. (Commission member): biography, 42-43; criticized, 970-971, 1001-1003, 1005, 1015; list of suggested constitutional amendments ruled out of order, 120 (note 373), 404-406; portrait, 1199; resolution to dissolve Constitutional Commission, 48-49, 270, 412-413; resolution to invite citizen suggestions, 54-55, 266, 404, 1001-1003, 1005, 1012; thorough and efficient clause, antecedent language, 144-161, 486-487

TAXATION: 174, 212, 305, 340, 363, 364, 417, 498, 581, 1051, 1060, 1065, 1071, 1122, 1126, 1127, 1132, 1140;

– assessments: **PROPOSED**

AMENDMENT No. 61; 175, 212, 290, 366, 426, 465, 506, 519, 538, 580, 599, 619, 632, 644, 700, 748, 776, 891, 925, 1127;

– church property: **PROPOSED**

AMENDMENT No. 78; 176-177, 573, 574, 575, 701, 912, 992, 996, 997, 1061, 1062, 1063, 1065, 1072, 1078, 1081, 1082, 1085, 1172;

– corporations: **PROPOSED**

AMENDMENT No. 89; 346, 352;

– equalization: **PROPOSED AMENDMENT No. 61**; 365, 426, 506;

– exemption: **PROPOSED AMENDMENT No. 26**; **PROPOSED AMENDMENT No. 27**; **PROPOSED AMENDMENT No. 78**; **PROPOSED AMENDMENT No. 85**;

PROPOSED AMENDMENT No. 89; 231, 276, 305, 318, 331, 341, 346, 363, 417, 457, 467, 478, 487, 492, 504, 505, 506, 510, 520, 538, 580, 581, 700, 705, 833, 834, 912, 925, 929;

– uniform taxation: **PROPOSED**

AMENDMENT No. 85; 61, 76, 96 (note 248), 174-177, 212, 219, 231, 1127-1128, 1172-1173; (*see also* Five County Act)

TAYLOR, JOHN W. (Commission member): biography, 43-44; influence on “thorough and efficient” education clause as Senate President, 44, 127 (note 404), 161-174, 188 (note 645); libeled in press, 105; portrait, 1200; praised, 105-106, 1100; resignation from Commission, 30-31, 47-48

TEN EYCK, JOHN C. (Commission member and President): biography,

TEN EYCK, JOHN C. (*continued*):
44-45; leadership, 224; portrait, 1201;
praised, 372, 511, 964, 980-981, 1068-
1069; speech as President of
Commission, 47, 255-256, 373-374,
388-390, 1069; speech on Governor's
veto power, 179-180, 449-453, 1041-
1044; speech on legislative
compensation, 437-438

THOMPSON, JOSEPH (Commission
Member): biography, 45; portrait,
1202

TREASURER: 75, 189, 274, 321, 392-
393, 405, 425, 458, 468, 547, 589, 711,
943, 959, 990, 1006, 1139, 1142, 1159

VETO: (*See* Governor – line item
veto; *see* Governor – veto)

Vice-Chancellor: (*See* Judiciary –
Chancellor)

VOTING: (*See* Suffrage)

WOMEN, MARRIED – PROPERTY
RIGHTS (*see* Married women's
property)

WOMEN'S SUFFRAGE: (*See* Suffrage –
women)

ZABRISKIE, ABRAHAM O.
(Commission member and President):
biography, 45-46; death, 30, 31 (note),
46, 254, 256, 262, 268-269, 399, 410,
999, 1000; portrait, 1203; speech as
President of Commission, 384