

---

STATE OF NEW JERSEY  
CONSTITUTIONAL CONVENTION  
OF 1947

---

REPORT AND PROPOSAL

of the

COMMITTEE ON  
JUDICIARY

NEW BRUNSWICK, NEW JERSEY

JULY 31, 1947

only copy  
974.90  
C758  
1947k  
copy 1

---

NEW JERSEY STATE LIBRARY

NEW JERSEY STATE LIBRARY

STATE OF NEW JERSEY  
CONSTITUTIONAL CONVENTION OF 1947  
AT  
RUTGERS UNIVERSITY  
THE STATE UNIVERSITY OF NEW JERSEY

---

July 31, 1947.

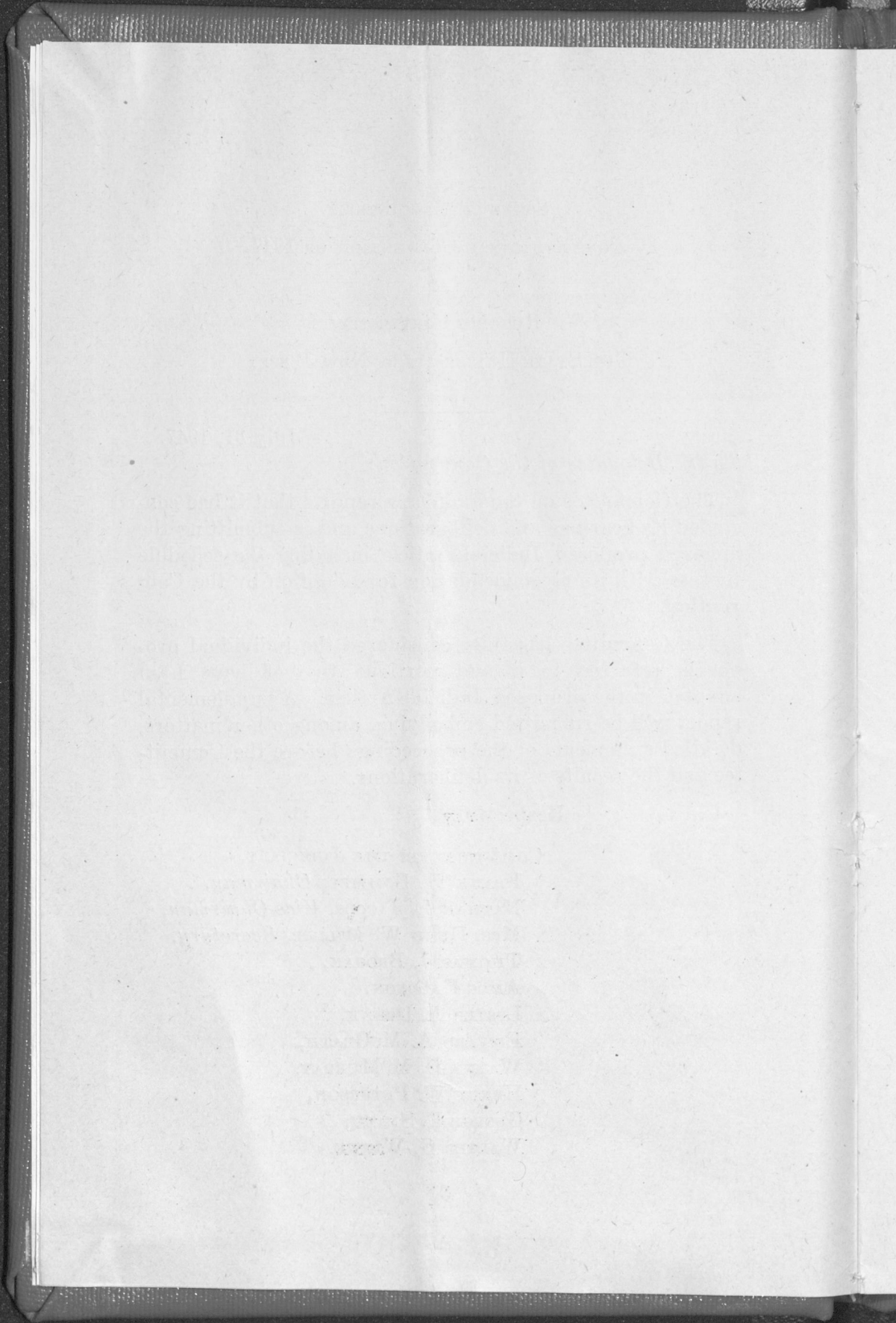
*To the Delegates of the Convention:*

The Committee on the Judiciary reports that it has concluded its hearings and deliberations and is submitting the annexed proposed Judicial Article including the schedule thereto with its recommendation for adoption by the Convention.

The Committee has fully considered the individual proposals referred to it and portions thereof have been adopted in the proposed Judicial Article. A supplemental report will be submitted embodying, among other matters, detailed statements of the proceedings before the Committee and the results of its deliberations.

Respectfully,

COMMITTEE ON THE JUDICIARY,  
FRANK H. SOMMER, *Chairman*,  
NATHAN L. JACOBS, *Vice-Chairman*,  
MRS. GENE W. MILLER, *Secretary*,  
THOMAS J. BROGAN,  
AMOS F. DIXON,  
LESTER A. DRENK,  
EDWARD A. MCGRATH,  
WAYNE D. McMURRAY,  
HENRY W. PETERSON,  
GEORGE F. SMITH,  
WALTER G. WINNE.



## PROPOSAL No. 4-1

---

### ARTICLE — JUDICIAL

#### SECTION I

1. The judicial power shall be vested in a Supreme Court, a General Court and inferior courts of limited jurisdiction. The inferior courts and their jurisdiction may from time to time be established, altered or abolished by law.

#### SECTION II

1. The Supreme Court shall consist of a Chief Justice and six Associate Justices. Five members of the court shall constitute a quorum. When necessary, the Chief Justice shall assign the Judge or Judges of the General Court, senior in service, as provided by rules of the Supreme Court, to serve temporarily in the Supreme Court.

2. The Supreme Court shall exercise appellate jurisdiction in the last resort in all causes provided in this Constitution.

3. The Supreme Court shall make rules governing the administration and, subject to law, the practice and procedure in all the courts in the State. The Supreme Court shall have jurisdiction over the admission to the practice of law and the discipline of persons admitted.

#### SECTION III

1. The General Court shall consist of such number of Judges as may be authorized by law, but not less than twenty-four, each of whom shall exercise the powers of the court subject to rules of the Supreme Court.

2. The General Court shall have original general jurisdiction throughout the State in all causes, excluding, unless otherwise provided by law, probate and criminal causes.

3. The General Court shall be divided into an Appellate Division, a Law Division, and an Equity Division. Each

division shall have such Parts, consist of such number of Judges, and hear such causes, as may be provided by rules of the Supreme Court.

4. Subject to rules of the Supreme Court, the Law Division and the Equity Division shall each exercise the powers and functions of the other division when the ends of justice so require; and legal and equitable relief shall be granted in any cause so that all matters in controversy between the parties may be completely determined.

#### SECTION IV

1. Appeals may be taken to the Supreme Court:

- (a) In causes determined by the Appellate Division of the General Court involving a question arising under the Constitution of the United States or this State;
- (b) In the event of a dissent in the Appellate Division of the General Court;
- (c) In capital causes;
- (d) On certification by the Supreme Court to any court; and
- (e) In such causes as may be provided by law.

2. Appeals may be taken to the Appellate Division of the General Court from the Law and Equity Divisions of the General Court and in such other causes as may be provided by law.

3. The Supreme Court and the Appellate Division of the General Court may exercise such original jurisdiction as may be necessary to the complete determination of any cause on review.

4. Prerogative writs are superseded and, in lieu thereof, review, hearing and relief shall be afforded in the General Court, on terms and in the manner provided by rules of

the Supreme Court, as of right, except in criminal causes where such review shall be discretionary.

#### SECTION V

1. The Governor shall nominate and appoint, by and with the advice and consent of the Senate, the Chief Justice and Associate Justices of the Supreme Court, the Judges of the General Court, and the judges of the inferior courts with jurisdiction extending to more than one municipality. No nomination to such an office shall be sent to the Senate for confirmation until after seven days' public notice by the Governor.

2. The Justices of the Supreme Court and the Judges of the General Court shall each prior to his appointment have been admitted to practice in this State for at least ten years.

3. The Justices of the Supreme Court shall hold their offices during good behavior. The Judges of the General Court shall hold their offices for initial terms of seven years and upon reappointment shall hold their offices during good behavior. Such Justices and Judges shall be retired upon attaining the age of seventy years. Provisions for the pensioning of the Justices of the Supreme Court and the Judges of the General Court shall be made by law.

4. The Justices of the Supreme Court and the Judges of the General Court shall be subject to impeachment, and any judicial officer impeached shall suspend the exercise of his office until acquitted. The Judges of the General Court shall also be subject to removal from office by the Supreme Court for such causes and in such manner as shall be provided by law.

5. Whenever the Supreme Court shall certify to the Governor that it appears that any Justice of the Supreme Court or Judge of the General Court is so incapacitated as substantially to prevent him from performing his judicial duties, the Governor shall appoint a commission of three

persons to inquire into the circumstances; and, on their recommendation, the Governor may retire the Justice or Judge from office.

6. The Justices of the Supreme Court and the Judges of the General Court shall receive for their services such salaries as may be provided by law, which shall not be diminished during the term of their appointment. They shall not, while in office, engage in the practice of law or other gainful pursuit.

7. The Justices of the Supreme Court and the Judges of the General Court shall hold no other office or position of profit under the authority of this State or the United States. Any such Justice or Judge who shall become a candidate for an elective public office shall thereby forfeit his judicial office.

#### SECTION VI

1. The Chief Justice of the Supreme Court shall be the administrative head of the Supreme Court, the General Court and the inferior courts. He shall appoint an Administrative Director to serve at his pleasure.

2. The Chief Justice of the Supreme Court shall assign Judges of the General Court to the Divisions and Parts of the General Court, and may from time to time transfer Judges from one assignment to another, as need appears. Assignments to the Appellate Division shall be for terms fixed by rules of the Supreme Court.

3. The Clerk of the Supreme Court and the Clerk of the General Court shall be appointed by the Supreme Court for such terms and at such compensation as shall be provided by law

## SCHEDULE

ARTICLE —

SECTION —

1. Subsequent to the adoption of this Constitution the Governor shall nominate and appoint, by and with the advice and consent of the Senate, a Chief Justice and six Associate Justices of the new Supreme Court from among the persons then being the Chancellor, the Chief Justice and Associate Justices of the old Supreme Court, the Vice-Chancellors and Circuit Court Judges. The remaining judicial officers enumerated and such Judges of the Court of Errors and Appeals as have been admitted to practice in this State for at least ten years, and are in office on the adoption of the Constitution, shall constitute the Judges of the General Court. The Justices of the new Supreme Court and the Judges of the General Court so designated shall hold office each for the period of his term which remains unexpired at the time the Constitution is adopted; and if reappointed he shall hold office during good behavior. No Justice of the new Supreme Court or Judge of the General Court shall hold his office after attaining the age of seventy years, except, however, that such Justice or Judge may complete the period of his term which remains unexpired at the time the Constitution is adopted.

2. The Court of Errors and Appeals, the present Supreme Court, the Court of Chancery and the Circuit Courts shall be abolished when the Judicial Article of this Constitution takes effect; and all their jurisdiction, functions, powers and duties shall be transferred to and divided between the new Supreme Court and the General Court according as jurisdiction is vested in each of them under this Constitution.

3. The Prerogative Court shall be abolished when the Judicial Article of this Constitution takes effect. All its appellate jurisdiction, functions, powers and duties shall be transferred to the General Court; and, until otherwise pro-

vided by law, its original jurisdiction shall be vested in the County Courts.

4. Until otherwise provided by law, all courts now existing in this State, other than those abolished in paragraphs 2 and 3 hereof, shall continue as if this Constitution had not been adopted, save that, until otherwise provided by law, the jurisdiction of the Courts of Common Pleas over civil actions at law shall be abolished when the Judicial Article of this Constitution takes effect; and save, further, that the Orphans' Court, Court of Common Pleas, Court of Oyer and Terminer, Court of Quarter Session and Court of Special Sessions of each county shall thereafter be designated the County Court of that county. Until otherwise provided by law, the judicial officers, surrogates and clerks of all courts now existing, other than those abolished in paragraphs 2 and 3 hereof, and the employees of said officers, clerks, surrogates and courts shall continue in the exercise of their duties, as if this Constitution had not been adopted.

5. The Supreme Court shall make rules governing the administration and practice and procedure of the County Courts; and the Chief Justice of the Supreme Court shall be the administrative head of these courts with power to assign any Judge thereof of any county to sit temporarily in the General Court or to sit temporarily without the county in a County Court. The jurisdiction of these courts may be transferred by law to the General Court.

6. The Advisory Masters appointed to hear matrimonial proceedings and in office on the adoption of the Constitution shall, each for the period of his term which remains unexpired at the time the Constitution is adopted, continue so to do as Advisory Masters to the Equity Division of the General Court, unless otherwise provided by law.

7. When the Judicial Article of this Constitution takes effect:

- (a) all causes and proceedings of whatever character pending in the Court of Errors and Appeals shall be transferred to the new Supreme Court;
- (b) all causes and proceedings of whatever character pending on appeal or writ of error in the present Supreme Court and in the Prerogative Court and all pending causes involving the prerogative writs shall be transferred to the Appellate Division of the General Court;
- (c) all causes and proceedings of whatever character pending in the Supreme Court other than those stated shall be transferred to the General Court;
- (d) all causes and proceedings of whatever character pending in the Prerogative Court other than those stated shall be transferred to the County Courts;
- (e) all causes and proceedings of whatever character pending in all other courts which are abolished and, until otherwise provided by law, all civil actions at law pending in the Courts of Common Pleas, shall be transferred to the General Court.

Causes shall be deemed to be pending for the purposes of this and the next paragraph, notwithstanding that an adjudication has been entered therein, until the time limited for review has expired.

8. The files of all causes pending in the Court of Errors and Appeals shall be delivered to the Clerk of the new Supreme Court; and the files of all causes pending in the present Supreme Court, the Court of Chancery and on appeal in the Prerogative Court shall be delivered to the Clerk of the General Court. The files of all other causes

pending in the Prerogative Court shall be delivered to the County Court as provided by rules of the Supreme Court. All other files, books, papers, records and documents and all property of the Court of Errors and Appeals, the present Supreme Court, the Prerogative Court, the Chancellor and the Court of Chancery, or in their custody, shall be disposed of as shall be provided by law.

9. Upon the taking effect of the Judicial Article of this Constitution, all the functions, powers and duties conferred by statute or rules upon the Chancellor, the Ordinary, and the Justices and Judges of the courts abolished by this Constitution, to the extent that such functions, powers and duties are not inconsistent with this Constitution, shall be transferred to and may be exercised by Judges of the General Court until otherwise provided by law or rules of the new Supreme Court; excepting that such statutory powers not related to the administration of justice as are then vested in any such judicial officers shall, after the Judicial Article of the Constitution takes effect and until otherwise provided by law, be transferred to and shall be exercised by the Chief Justice of the new Supreme Court.

10. Upon the taking effect of the Judicial Article of this Constitution, the Clerk of the Supreme Court shall become the Clerk of the new Supreme Court and shall serve as such Clerk until the expiration of the term for which he was appointed as Clerk of the Supreme Court, and all employees of the Supreme Court as previously constituted, of the Clerk thereof and of the Chief Justice and the Justices thereof, of the Circuit Courts and the Judges thereof and of the Court of Errors and Appeals shall be transferred to appropriate similar positions with similar compensation and civil service status under the Clerk of the new Supreme Court or the new Supreme Court, or the Clerk of the General Court or the General Court which shall be provided by law.

11. Upon the taking effect of the Judicial Article of this Constitution, the Clerk in Chancery shall become the Clerk

of the General Court and shall serve as such Clerk until the expiration of the term for which he was appointed as Clerk in Chancery, and all employees of the Clerk in Chancery, the Court of Chancery, the Chancellor and the several Vice-Chancellors shall be transferred to appropriate similar positions with similar compensation and civil service status under the Clerk of the General Court or the General Court which shall be provided by law.

12. Appropriations made by law for judicial expenditures during the fiscal year 1948-1949 may be transferred to similar objects and purposes required by the Judicial Article.

13. The Judicial Article of this Constitution shall take effect on January 1, 1949, except that the Governor, by and with the advice and consent of the Senate, shall have the power to fill vacancies arising prior thereto in the Supreme Court, the General Court, the inferior courts with jurisdiction extending to more than one municipality and the courts abolished by this Constitution; and except further that any provision of the Judicial Article which may require any act to be done prior thereto or in preparation therefor shall take effect immediately upon the adoption of this Constitution.



