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STATE OF NEW JERSEY

PROPOSED CONSTITUTION (1942)
CONSTITUTION OF 1844, AS AMENDED

Arranged for comparison for
JOINT LEGISLATIVE COMMITTEE CONSTITUTED UNDER
SENATE CONCURRENT RESOLUTION NO. 19,
ADOPTED JUNE 15, 1942

Hon. LLOYD L. SCHROEDER, Chairman
Hon. JOHN M. SUMMERILL, Jr.
Hon. H. RIVINGTON PYNE
Hon. EDWARD J. O'MARA

Members appointed from The New Jersey Senate

Hon. MANFIELD G. AMLICKE
Hon. DOMINIC A. CAVICCHIA
Hon. VINCENT S. HANEMAN
Hon. MILDRED A. PREEN

Members appointed from The New Jersey House of Assembly

Arranged and Compiled by

CHARLES DeF. BESORÉ
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SENATE CONCURRENT RESOLUTION No. 19

Adopted June 15, 1942

A CONCURRENT RESOLUTION creating a joint legislative committee to ascertain the sentiment of the people of the State as to the various proposals and recommendations for change in the New Jersey Constitution made by the Commission on Revision of the New Jersey Constitution and to report thereon to the Legislature.

WHEREAS, By Joint Resolution No. 2, approved November eighteenth, one thousand nine hundred and forty-one, the one hundred and sixty-fifth Legislature created a Commission on Revision of the New Jersey Constitution, and charged said commission with the duty of inquiring into the subject of constitutional revision, of suggesting in what respects the Constitution should be changed, and of making recommendations to provide for the more effective working of present-day representative processes; and

WHEREAS, Said commission was continued and reconstituted by joint resolution approved January twenty-fourth, one thousand nine hundred and forty-two; and

WHEREAS, After months of diligent research and inquiry, said commission has made a comprehensive report which includes, among other things, the text of a revised Constitution for New Jersey, which text in the judgment of said commission, as expressed in its said report, sets forth "the requirements to secure to New Jersey the benefits of experience in public affairs extending over a century and a half" and comprises "a document which can meet the demands of sound government"; and

WHEREAS, The full report of the commission is of such vital significance that it merits prompt, thorough and careful consideration by the people of this State as well as by their representatives in the Legislature; and

WHEREAS, To the end that this Legislature may have the benefit of public opinion before acting upon the proposals of the commission, it is desirable that the people of this State be afforded full and ample opportunity to be heard thereon; and

WHEREAS, This Legislature feels that the best method of recording a fair cross-section of public sentiment is through orderly public hearings before a joint legislative committee; now, therefore,

BE IT RESOLVED by the Senate of the State of New Jersey (the House of Assembly concurring):

1. There is hereby constituted a joint committee of the Legislature, which shall consist of four members of the Senate to be appointed by the President thereof and four members of the House of Assembly to be appointed by the Speaker thereof, who shall serve without compensation.

2. Said joint committee shall organize by electing a chairman from their own number and a secretary, who need not be a member of said joint committee, and shall be empowered to employ such clerical assistance as may be necessary to the performance of its duties and fix their compensation.

3. Said report of the Commission on Revision of the New Jersey Constitution is referred to the joint committee created hereby. It shall be the duty of said joint committee to hold public hearings to ascertain the sentiment of the people of the State as to the various proposals and recommendations made by said commission in its report and to ascertain, also, the sentiment of the people of the State as to whether or not they desire the fundamental law of the State to be changed.

4. The joint committee shall be entitled to call to its assistance and to require the services of such employees of any State department, board, bureau, commission or agency as it may deem necessary in order to perform its duties.

5. The joint committee shall keep a record of its hearings and proceedings and shall report to the Legislature the result thereof to the end that the Legislature may be informed of the public sentiment of the State as to the various proposals for changes in the fundamental law of the State made in said report of said commission and in the course of said hearings.

**CONSTITUTION OF
THE STATE OF NEW JERSEY**

Preamble.—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 endeavours 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.

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 pretence 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 or 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.

CONSTITUTION OF 1844, AS AMENDED

No change (Preamble)

No change (Art. I, Par. 1)

No change (Art. I, Par. 2)

No change (Art. I, Par. 3)

No change (Art. I, Par. 4)

No change (Art. I, Par. 5)

PROPOSED CONSTITUTION (1942)

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 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 persons.

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 have compulsory process for obtaining witnesses in his favour, and to have the assistance of counsel in his defense.

9. No person shall be held to answer for a capital or other infamous crime, unless on the presentment or indictment of a grand jury, except in cases of impeachment, 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 offense. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses, 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.

No change (Art. I, Par. 6)

cf. I-7

7. The right of 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. (Art. I, Par. 7.)

No change (Art. I, Par. 8)

cf. I-9

9. No person shall be held to answer for a criminal offense, 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. (Art. I, Par. 9.)

No change (Art. I, Par. 10)

No change (Art. I, Par. 11)

No change (Art. I, Par. 12)

No change (Art. I, Par. 13)

No change (Art. I, Par. 14)

No change (Art. I, Par. 15)

PROPOSED CONSTITUTION (1942)

16. Private property shall not be taken for public use without just compensation. Possession of land may be taken by any agency, instrumentality or political subdivision of the State, but not by any individual or private corporation, pending and prior to the determination and payment of such compensation.

17. No person shall be imprisoned for debt in any action, or on any judgment founded upon contract, unless in cases 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, and to petition for redress of grievances.

19. Any citizen or taxpayer may restrain the violation of any provision of this Constitution by a suit with leave of the Superior Court upon notice to the Attorney-General.

20. This enumeration of rights and privileges shall not be construed to impair or deny others retained by the people.

ARTICLE II

STATE GOVERNMENT

1. The functions, powers and responsibilities of the government of this State shall be divided among three distinct branches—the Legislative, Executive and Judicial. No person belonging to or constituting one of these branches shall exercise any of the powers properly belonging to either of the others, except as expressly provided in this Constitution.

2. All powers of government which are not by this Constitution vested in the Executive or Judicial branches, nor in conflict with rights reserved by the people, nor specifically proscribed to the Legislative branch, shall be embraced within the legislative power and may be exercised in such manner as may be provided by law.

3. The exercise of any powers or discharge of any responsibilities of a legislative or executive character by administrative agencies shall be limited to the effectuation of declared general standards or principles set forth by law and, to the extent that private rights are affected or privileges conferred or withheld, shall conform to established and published practices and procedures which, so far as practicable, shall be of uniform character.

CONSTITUTION OF 1844, AS AMENDED

cf. I-16

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. (Art. I, Par. 16.)

cf. I-16

8. Individuals or private corporations shall not be authorized to take private property for public use, without just compensation first made to the owners. (Art. IV, Sec. VII, Par. 8.)

No change (Art. I, Par. 17)

No change (Art. I, Par. 18)

New

No change (Art. I, Par. 21)

cf. II-1

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. (Art. III, Par. 1.)

New

New

ARTICLE III

LEGISLATIVE

SECTION I

General

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, but no person shall be eligible as a member of either house of the Legislature who shall not be entitled to the right of suffrage.

3. The two houses of the Legislature shall meet separately, in regular session, biennially on the second Tuesday in January, and shall adjourn sine die not exceeding ninety calendar days thereafter, except as provided in the executive article of this Constitution. The Senate shall, however, remain in continuous session and shall convene from time to time at the call of the President of the Senate or of the Governor for the sole purpose of receiving and acting upon nominations to office made by the Governor.

4. Special sessions of the Legislature shall be called by the Governor upon petition of two-thirds of the members of each house and may be called by the Governor at such other times as in his opinion the public interest may require. In either event, the call for a special session shall specify the matter or matters to be considered and no other matter shall be considered at such session. No special session shall exceed fifteen calendar days in duration, except as provided in the executive article of this Constitution.

No change (Art. IV, Sec. I, Par. 1)

cf. III-1-2

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, who shall not be entitled to the right of suffrage. (Art. IV, Sec. I, Par. 2.)

[cf. VIII-1]
[III-11-3]
[infra]

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;

cf. III-1-3

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;

[cf. VIII-1]
[infra]

but the time of holding such election may be altered by the Legislature. (Art. IV, Sec. I, Par. 3.)

New

SECTION II

Composition

1. The Senate shall be composed of one Senator from each county in the State elected by the legally qualified voters of the counties, respectively, for a term of four years beginning on the second Tuesday in January next following his election.

2. The members of the Senate shall be elected in two classes so that, as nearly as may be, one-half of the total number shall be elected biennially. The first classification for the purposes of this section shall be effectuated as provided in the schedule of this Constitution.

3. The General Assembly shall be composed of members from each county elected biennially by the legally qualified voters of the counties, respectively, for a term of two years beginning on the second Tuesday in January next following their election.

4. Members of the General Assembly shall be apportioned among the several counties in proportion, as nearly as may be, to population, as determined by the latest census of the United States, except that each county shall at all times be entitled to one member and the whole number of members shall never exceed sixty. An apportionment of members of the General Assembly shall be made by the Legislature at its first session after each Federal census, and shall remain unaltered until the next Federal census shall have been taken.

5. Vacancies in the office of Senator or Assemblyman shall be filled for the remainder of the unexpired term by election at the next general election held not less than sixty days after the occurrence of the vacancy.

SECTION III

Legislative Office

1. Members of the Senate and General Assembly shall receive annually the sum of one thousand 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 for service on the legislative council and as presiding officer of either house. The President of the Senate and the Speaker of the House of Assembly shall, by virtue of their offices, receive an additional compensation, equal to one-third of their allowance as members.

2. 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. For any speech or debate, in either house, they shall not be questioned in any other place.

3. No member of the Senate or General Assembly shall, during the time for which he or she was elected and for one year thereafter, be eligible to hold any appointive office under the authority of this State, including the offices of State Treasurer and State Comptroller.

4. The seat of any member of the Legislature shall be vacated by his acceptance of any office, position or appointment of profit under the government of this State or of the United States.

5. No person possessed of any office, position or appointment of profit under the government of this State or of the United States and no judge of any court shall be entitled to a seat in the Legislature. Such office, position or employment under the government of this State or any judicial office held under the laws thereof shall be deemed to have been vacated, however, by the acceptance of a seat in either house of the Legislature.

cf. III-III-1

7. Members of the Senate and General Assembly shall receive 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. 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 allowance as members. (Art. IV, Sec. IV, Par. 7.)

cf. III-III-2

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

cf. III-III-3

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. (Art. IV, Sec. V, Par. 1.)

cf. III-III-4

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 hereby be vacated. (Art. IV, Sec. V, Par. 2.)

cf. III-III-5

3. 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. (Art. IV, Sec. V, Par. 3.)

6. Each member of the Legislature shall, before he enters upon the duties of his office, take and subscribe an oath or affirmation to support the Constitution of this State and of the United States and faithfully to discharge the duties of his office according to the best of his ability. Members-elect of the Senate or General Assembly may administer to each other such oath or affirmation.

No counterpart

cf. III-III-6

1. Members of the Legislature shall, before they enter on the duties of their respective offices, 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 faithfully discharge the duties of Senator (or member of the General Assembly, as the case may be) according to the best of my ability." And members-elect of the Senate or General Assembly are hereby empowered to administer to each other the said oath or affirmation. (Art. IV, Sec. VIII, Par. 1.)

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." (Art. IV, Sec. VIII, Par. 3.)

SECTION IV

Procedure

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 behaviour, 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. The Senate shall vote in public on the question of confirmation of any nominations to office made by the Governor.

7. Lobbying in the legislative chambers of either house shall be prohibited. Persons or associations who engage to influence legislative action shall register with the Secretary of State, disclosing the names and interest of those for whom they may act, the compensation received or agreed, the measures which they may be engaged in promoting or opposing and all expenditures made or incurred in connection therewith. All such information shall constitute a public record. The Legislature shall impose suitable penalties for violations of these provisions.

No change (Art. IV, Sec. IV, Par. 1)

No change (Art. IV, Sec. IV, Par. 2)

No change (Art. IV, Sec. IV, Par. 3)

No change (Art. IV, Sec. IV, Par. 4)

No change (Art. IV, Sec. IV, Par. 5)

New

New

SECTION V

Legislative Council

1. There shall be a legislative council consisting, ex officio, of the Governor or, in his absence, the Attorney-General, the President of the Senate and the Speaker of the House of Assembly, the majority leaders and the leaders of the ranking minority party, for the time being, of each house of the Legislature. Members of the legislative council except the Governor and Attorney-General, shall receive the sum of one thousand five hundred dollars per annum while they serve as members thereof.

2. The legislative council shall: (a) make or cause to be made sound technical studies of the governmental needs of the State, and shall plan and formulate a program of necessary legislative measures predicated thereon in the form of draft bills, for consideration during each session of the Legislature; (b) provide independent research and consultative services in aid of its other powers and duties, within the limits of available appropriations, and co-operate with such other legislative agencies as may be established by law; (c) hold its first meeting at the call of the President of the Senate at such time and place as he shall designate, organize for the transaction of its business, adopt such rules of procedure as it may deem necessary, except as such rules may be established by law, and report at the opening session of each Legislature, and at such times thereafter and with respect to such matters as the council may deem in the public interest; (d) have such other powers and duties, not inconsistent with the foregoing, as may be from time to time prescribed by law.

New

New

SECTION VI

Legislation

1. 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."

2. 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.

3. All bills and joint resolutions shall be read three times in each house, before 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.

4. To avoid improper influences which may result from intermixing in one and the same act such things as have no proper relation to each other, every law shall embrace but one object, and that shall be expressed in the title. This paragraph shall not, however, be given effect to invalidate any law constituting a compilation, consolidation, revision or rearrangement of all or part of the laws heretofore or hereafter enacted upon recommendation of any permanent law revision agency, nor to invalidate any law enacted upon recommendation of the legislative council.

5. 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.

6. 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, other than by inserting it in such act, except as otherwise provided in this section.

7. The Legislature may by law, notwithstanding any express or implied limitation of this Constitution, incorporate by reference with present and future effect any provision of Federal public law or any Federal administrative rule or regulation relating to the regulation of industry or commerce, or to taxation, or establishing technical standards of any kind.

8. All the statutory law shall be continuously revised by such permanent agency as may be designated by law. The Legislature shall, from time to time upon recommendation of such agency and otherwise, enact revisions of such parts of the statutory law as need appears, to the end that all the law shall be completely revised at least once every ten years.

No change (Art. IV, Sec. VII, Par. 5)

No change (Art. IV, Sec. VI, Par. 1)

No change (Art. IV, Sec. IV, Par. 6)

cf. III-VI-4

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.

cf. III-VI-5

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.

[cf. III-VII-9]
[infra]

cf. III-VI-6

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. (Art. IV, Sec. VII, Par. 4.)

New

New

SECTION VII

Legislative Powers

1. Neither the Legislature nor either house thereof shall elect or appoint any executive, administrative or judicial officers, except the State Treasurer and the State Comptroller.

2. The right of labor to organize and bargain collectively shall not be impaired.

3. No divorce shall be granted by the Legislature.

4. 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.

5. It shall be lawful to hold, carry on, and operate in this State race meetings whereat the trotting, running or steeplechase racing of horses only may be conducted between the hours of sunrise and sunset on week days only and in duly legalized race tracks, at which the pari-mutuel system of betting shall be permitted. No lottery, roulette, or game of chance of any form shall be authorized by the Legislature in this State, and no ticket in any lottery shall be bought or sold within this State, or offered for sale; nor shall pool-selling, bookmaking, or gambling of any kind be authorized or allowed within this State, except pari-mutuel betting on the results of the racing of horses only, from which the State shall derive a reasonable revenue for the support of government, nor shall any gambling device, practice, or game of chance, or pari-mutuel betting thereon now prohibited by law, except as herein stated and otherwise provided, be legalized, or the remedy, penalty, or punishment now provided therefor be in any way diminished.

6. The Legislature may enact general laws under which municipalities and counties may limit and restrict to specified districts and regulate therein, land uses, buildings and structures according to their construction, and the nature and extent of their use. The Legislature may similarly limit and restrict the uses of property adjacent to any public parkway, highway, other public improvement or public place for the protection and conservation thereof. Such laws shall be deemed to be within the police power of the State and shall be subject to repeal or alteration by the Legislature.

7. Any agency of the State or any political subdivision thereof which is empowered to take or otherwise acquire private property for any public highway, parkway, other public improvement or public place, may acquire the fee or any lesser interest, and may be empowered by law to take or otherwise acquire the benefit of a fee or restrictions or easements upon abutting property to preserve and protect the public highway, parkway, other public improvement or public place.

New

New

No change (Art. IV, Sec. VII, Par. 1)

No change (Art. IV, Sec. VII, Par. 3)

cf. III-VII-5

2. It shall be lawful to hold, carry on, and operate in this State race meetings whereat the trotting, running or steeple-chase racing of horses only may be conducted between the hours of sunrise and sunset on week days only and in duly legalized race tracks, at which the pari-mutuel system of betting shall be permitted. No lottery, roulette, or game of chance of any form shall be authorized by the Legislature in this State, and no ticket in any lottery shall be bought or sold within this State, or offered for sale; nor shall pool-selling, book-making, or gambling of any kind be authorized or allowed within this State, except pari-mutuel betting on the results of the racing of horses only, from which the State shall derive a reasonable revenue for the support of government; nor shall any gambling device, practice, or game of chance, or pari-mutuel betting thereon now prohibited by law, except as herein stated and otherwise provided, be legalized, or the remedy, penalty, or punishment now provided therefor be in any way diminished. (Art. IV, Sec. VII, Par. 2.)

cf. III-VII-6

5. The Legislature may enact general laws under which municipalities, other than counties, may adopt zoning ordinances limiting and restricting to specified districts and regulating therein, buildings and structures, according to their construction, and the nature and extent of their use, and the exercise of such authority shall be deemed to be within the police power of the State. Such laws shall be subject to repeal or alteration by the Legislature. (Art. IV, Sec. VI, Par. 5.)

New

8. 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 pretence whatever. 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.

No change. (Art. IV, Sec. VII, Par. 6.)

9. No general law shall embrace any provision of a private, special or local character. The Legislature shall not pass any private, special or local laws:

(1) 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.

(2) Creating, increasing or decreasing the emoluments, term, tenure or pension rights of public officers or employees.

(3) Relating to taxation or exemption therefrom.

(4) Laying out, opening, altering and working roads or highways.

(5) Vacating any road, town plot, street, alley or public grounds.

(6) Regulating the internal affairs of towns and counties; appointing local offices or commissions to regulate municipal affairs.

(7) Selecting, drawing, summoning or impaneling grand or petit jurors.

(8) Changing the law of descent.

(9) Granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever.

(10) Granting to any corporation, association or individual the right to lay down railroad tracks.

(11) Providing for changes of venue in civil or criminal cases.

(12) 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 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.

[cf. III-VI-4]
[supra]

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.

[cf. III-VI-5]
[supra]

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.

cf. III-VII-9

No general law shall embrace any provision of a private, special or local character.

[cf. III-VI-6]
[supra]

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. (Art. IV, Sec. VII, Par. 4.)

cf. III-VII-9 (1)

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. (Art. IV, Sec. VII, Par. 7.)

cf. III-VII-9

11. The Legislature shall not pass private, local or special laws in any of the following enumerated cases, that is to say:

- “ (4) Laying out, opening, altering and working roads or high-ways.
- “ (5) Vacating any road, town plot, street, alley or public grounds.
- “ (6) Regulating the internal affairs of towns and counties; appointing local offices or commissions to regulate municipal affairs.
- “ (7) Selecting, drawing, summoning or impaneling grand or petit jurors.
- “ (2) Creating, increasing or decreasing the percentage or allowance of public officers during the term for which said officers were elected or appointed.
- “ (8) Changing the law of descent.
- “ (9) Granting to any corporation, association or individual any exclusive privilege, immunity or franchise whatever.
- “ (10) Granting to any corporation, association or individual, the right to lay down railroad tracks.
- “ (11) Providing for changes of venue in civil or criminal cases.
- “ (12) 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. (Art. IV, Sec. VII, Par. 11.)

10. 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 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.

cf. III-VII-10

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. (Art. IV, Sec. VII, Par. 9.)

ARTICLE IV

EXECUTIVE AND ADMINISTRATIVE

SECTION I

Executive Office

1. The executive power shall be vested in a Governor.

2. The Governor shall be elected in odd-numbered years by the legally qualified voters of this State. The person receiving the greatest number of valid votes shall be the Governor; but if an equal and greatest number of votes are received by more than one candidate, one of such candidates shall be chosen Governor by the votes of a majority of the members of both houses of the Legislature in joint meeting. Contested elections for the office of Governor shall be determined in such manner as may be provided by law.

3. The Governor shall serve for a term of four years, beginning on the fifteenth day of December next following his election, and no person hereafter elected shall be eligible for more than one term.

4. The Governor shall be not 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 absent during that time on the public business of the United States or of this State.

5. No member of Congress, or person holding an office under the United States, or this State, shall exercise the office of Governor except during his temporary absence from the State or temporary disability as specifically provided in this Constitution; 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.

No change (Art. V, Par. 1)

cf. IV-I-2

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 places where the people shall respectively vote for members of the Legislature. (Art. V, Par. 2.)

cf. IV-I-3

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:

[cf. IV-II-2]
[infra 1]

And no appointment or nomination to office shall be made by the Governor during the last week of his said term. (Art. V, Par. 3.)

cf. IV-I-4

4. The Governor shall be not 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 absent during that time on the public business of the United States or of this State. (Art. V, Par. 4.)

cf. IV-I-V

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. (Art. V, Par. 8.)

6. In case of impeachment of the Governor, his absence from the State, or temporary inability to discharge the duties of his office, the powers, duties and emoluments of the office shall devolve to the head of the Department of Taxation and Finance until such time as the Governor shall be acquitted, or shall return to the State, or the temporary inability shall cease. In case of any vacancy in the office of Governor caused by death or removal of the Governor, by death or resignation of the Governor-elect, or his failure to qualify, or from any other cause, the powers, duties and emoluments of the office shall devolve to the head of the Department of Taxation and Finance who shall serve until a new Governor shall have been elected and qualified. The new Governor shall be elected, in the manner provided by this Constitution, at the next general election to be held, in an odd-numbered year, not less than ninety days after the occurrence of the vacancy.

cf. IV-I-6

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 Governor shall be chosen at the second succeeding election for members of the Legislature.

[cf. IV-II-2]
 [infra]

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:

[cf. VI-I-4]
 [infra]

when a vacancy happens in the office of the clerk or surrogate of any county, the Governor shall fill such vacancy, and the commission shall expire when a successor is elected and qualified.

[cf. IV-II-2]
 [infra]

No person who shall have been nominated to the Senate by the Governor for any office of trust or profit under the government of this State, and shall not have been confirmed before the recess of the Legislature shall be eligible for appointment to such office during the continuance of such recess. (Art. V, Par. 12.)

cf. IV-I-6

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, or until a new Governor be elected and qualified. (Art. V, Par. 13.)

cf. IV-I-6

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. (Art. V, Par. 14.)

SECTION II

General

1. The Governor shall take care that the laws be faithfully executed, convene the Legislature or the Senate alone whenever, in his opinion, public necessity so requires, communicate a message to the Legislature relating to the condition of the State at the opening of each session and at such other times and with respect to such legislative measures or other public matters as he may deem in the public interest. He shall be commander-in-chief of all the military and naval forces of the State, and shall grant, under the great seal of the State, commissions to all civil and military officers elected or appointed pursuant to requirements of this Constitution. The Governor shall also nominate and appoint, by and with the advice and consent of the Senate, all officers so subject to appointment by this Constitution and all other officers whose election or appointment is not otherwise provided for by law.

cf. IV-II-1

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. (Art. V, Par. 6.)

cf. IV-II-1
[cf. IV-III-4]
[infra]
[cf. V-VI-2]
[infra]

3. The Attorney-General, Prosecutors of the Pleas, Clerk of the Supreme Court, Clerk of the Court of Chancery, Secretary of State, and the Keeper 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. (Art. VII, Sec. II, Par. 3.)

cf. IV-II-1
[cf. IV-III-4]
[infra]

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 for the time prescribed by law. (Art. VII, Sec. II, Par. 8.)

2. The Senate shall either confirm or reject the Governor's nominations for appointive offices within thirty days after they are submitted. If the Senate fails to act upon a nomination, the nominee shall be deemed confirmed at the expiration of thirty days from the date of submission of his name by the Governor. But the Governor shall make no nominations to the Senate during the last month of his term.

[cf. IV-I-3]
[supra]

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:

cf. IV-II-2

And no appointment or nomination to office shall be made by the Governor during the last week of his said term. (Art. V, Par. 3.)

[cf. IV-I-6]
[supra]

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 Governor shall be chosen at the second succeeding election for members of the Legislature.

cf. IV-II-2

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:

[cf. VI-I-4]
[infra]

when a vacancy happens in the office of the clerk or surrogate of any county, the Governor shall fill such vacancy, and the commission shall expire when a successor is elected and qualified.

cf. IV-II-2

No person who shall have been nominated to the Senate by the Governor for any office of trust or profit under the government of this State, and shall not have been confirmed before the recess of the Legislature shall be eligible for appointment to such office during the continuance of such recess. (Art. V, Par. 12.)

3. Every bill which shall have passed both houses shall be submitted to the Governor for approval. If the Governor shall approve, he shall sign the bill and it shall thereupon become a law. If any bill submitted to the Governor shall contain one or more items of appropriation of money, he may approve and sign the bill, but may specially disapprove by a written statement appended thereto of one or more of such items, and the items so disapproved shall not take effect. If the Governor shall disapprove a bill, or an item or items of appropriation which may be contained therein, he shall return it, with a written statement of his objections, to the house in which the bill originated. The Governor's objections shall be entered at large in the journal of the proceedings of that house and a copy thereof shall be sent to the other house.

4. Any bill shall become a law notwithstanding disapproval by the Governor if, upon reconsideration on or after the third day following return thereof to the house of origin, it shall receive the affirmative votes of a majority of the membership of each house of the Legislature, except that a supplementary appropriation bill may so become a law only by the affirmative votes of two-thirds such membership. Any item of appropriation specially disapproved by the Governor shall become effective notwithstanding such disapproval if, upon being separately reconsidered on or after the third day following return of the bill in which it is contained to the house of origin, it shall receive the affirmative votes of two-thirds of the membership of each house of the Legislature.

The vote taken upon reconsideration of any bill or item of appropriation after disapproval by the Governor shall be by yeas and nays and there shall be entered upon the journal of each house, respectively, the names of the members voting for and against.

5. At noon, on the seventh day, Sundays excepted, following the date of submission of any bill to the Governor, if he shall not prior thereto have returned it to the house of origin, the bill shall become a law with like effect as if he had signed it. If the Legislature shall by adjournment prevent return of a bill within seven days as aforesaid, the bill shall not become a law unless the Governor shall sign it within twenty days after such adjournment.

- cf. IV-II-3** 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;
- cf. IV-II-4** if, after such reconsideration, a majority 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 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.
- cf. IV-II-5** If any bill shall not be returned by the Governor, within five days (Sunday 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.
- cf. IV-II-3** . 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.
- cf. IV-II-4** 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.
- cf. IV-II-4** 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. (Art. V, Par. 7.)
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6. The Governor may, upon complaint submitted to him by at least twenty reputable citizens, cause an investigation to be made of the conduct in office of any State officer, except a member of the Legislature, an officer appointed or elected by the Legislature or a judicial officer. The Governor may remove any such officer after notice and an opportunity to be heard, whenever, in his opinion, such investigation discloses misfeasance or malfeasance in office.

7. The Governor may grant pardons and commute sentences after receiving recommendations of the parole commission established by this article. He may also suspend the collection of fines and forfeitures and may grant reprieves which may not extend beyond ninety days after conviction; but neither these powers nor the pardoning power shall apply to cases of impeachment.

New

cf. IV-II-7

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. (Art. V, Par. 9.)

SECTION III

Administration

1. There shall be nine administrative departments in the State government designated as Agriculture, Commerce, Education and Civil Service, Labor, Law, Public Works, Social Welfare, State, and Taxation and Finance, which shall be under the supervision and control of the Governor, and a State Treasurer and a State Comptroller who shall be appointed by and be responsible to the Legislature. The Governor shall, by executive order, from time to time allocate all executive and administrative offices, agencies and instrumentalities of the State government among and within the foregoing departments and offices.

2. Executive and administrative functions, powers and duties in the State government as authorized by law shall from time to time be allocated by the Governor, by executive order, among and within the departments and offices prescribed by this Constitution in such manner as to promote efficiency and economy in the operation of the State government, and to group, co-ordinate and consolidate the offices, agencies and instrumentalities thereof according to major purposes, as nearly as may be. No executive order shall, however, allocate functions, powers and duties of receipt and disbursement of public moneys other than to the State Treasurer, nor of accounting, audit and control other than to the State Comptroller.

3. Any executive order which allocates or reallocates functions, powers or duties pursuant to paragraph two of this section shall be transmitted by the Governor to each house of the Legislature while it is in regular or special session. Such order shall take effect in accordance with its terms, provided that it has been before the Legislature for thirty calendar days and prior to the expiration thereof the Legislature has not, by concurrent resolution, disapproved of the order. In the event of such disapproval, the order shall be void and of no effect. Limitations imposed by this Constitution upon the duration of regular and special sessions of the Legislature shall, solely for the purposes of this paragraph, be suspended to allow consideration of an executive order, but not exceeding thirty calendar days in any event.

New

New

New

4. The heads of all administrative departments shall comprise a single executive, unless otherwise provided by law. All such department heads and the members of all boards, councils and commissions, except the State Comptroller and the State Treasurer, shall be nominated and appointed by the Governor, by and with the advice and consent of the Senate.

5. The heads of all administrative departments shall serve during the term of the Governor appointing them, at his pleasure, and until their successors have been appointed and qualified.

6. The State Comptroller and the State Treasurer shall be appointed by the Senate and General Assembly in joint meeting. They shall hold their offices, respectively, for four years. The Governor may, whenever in his opinion it would be in the public interest, require from the Comptroller or the Treasurer written statements under oath of information on any matter relating to the conduct of their respective offices.

7. The Governor and the heads of executive and administrative departments of the State government shall, at stated times, receive for their services such compensation as may be fixed by law which shall be neither increased nor diminished during their respective terms.

8. Appointive officers and employees of the State government shall receive no compensation for their public services in addition to such annual salary as may be fixed by law. Any other moneys or fees received by any such officer or employee by virtue of or in connection with his office or position, except as reimbursement for expenses actually incurred in the course of his public duties, shall be forthwith paid into the State treasury.

9. No rule or regulation made by any executive or administrative agency of the State government except such as relates to the organization or internal management of an executive or administrative agency of the State government shall be effective until it is filed with the Secretary of State. The Legislature shall provide by law for the speedy publication of such rules and regulations.

cf. IV-III-4
[cf. IV-II-1]
[supra]
[cf. V-VI-2]
[infra]

3. The Attorney-General, Prosecutors of the Pleas, Clerk of the Supreme Court, Clerk of the Court of Chancery, Secretary of State, and the Keeper 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. (Art. VII, Sec. II, Par. 3.)

cf. IV-III-4
[cf. IV-II-1]
[supra]

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 for the time prescribed by law. (Art. VII, Sec. II, Par. 8.)

New

cf. IV-III-6

2. The State Treasurer and Comptroller shall be appointed by the Senate and General Assembly in joint meeting. They shall hold their offices for three years, and until their successors shall be qualified into office. (Art. VII, Sec. II, Par. 2.)

cf. IV-III-7

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. (Art. V, Par. 5.)

New

New

SECTION IV

Militia

1. The Legislature shall provide by law for enrolling, organizing and arming the militia, of which the Governor shall be commander-in-chief.

2. An Adjutant-General, who shall be chief of staff of the militia with the rank of Major-General, shall be nominated and appointed by the Governor with the advice and consent of the Senate. The Adjutant-General shall serve at the pleasure of the Governor.

3. Officers of the militia shall be appointed and commissioned by the Governor according to merit and fitness which shall be determined in such manner and upon such standards as now are or hereafter may be applied by the War Department of the United States for officers of equivalent rank.

4. No commissioned officer shall be removed from office other than by sentence of a court martial, or by a board constituted and empowered by law, except that all general officers may be suspended for cause by the Governor.

SECTION V

Parole Commission

1. There shall be a Commission on Parole in the executive branch of the government. The commission shall comprise three members, at least one of whom shall be a member of the bar of this State, who shall be nominated and appointed by the Governor, by and with the advice and consent of the Senate. Members of the commission shall hold office for a term of four years, but of those first appointed one shall be appointed for a term of two years, one for four years and one for six years. Members of the commission may be removed by the Governor, for cause upon notice and hearing, prior to the expiration of their respective terms. They shall receive such fixed annual compensation for their services as may be provided by law.

2. The Commission on Parole shall grant paroles and supervise parolees, as may be provided by law. The commission may remit fines and forfeitures and shall make recommendations to the Governor upon applications for executive clemency after conviction, in all cases except impeachments.

3. The Commission on Parole shall meet at stated times, and all hearings and proceedings of the commission shall be public. Every order of the commission remitting, reducing or affecting any fine, forfeiture or sentence, recommending or disapproving any application for executive clemency, with the reasons set forth at length, shall be filed with the clerk of the Supreme Court at least ten days before it may become effective, and shall constitute a public record.

cf. IV-V-1
cf. IV-V-2
cf. IV-V-3

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. (Art. V, Par. 10.)



PROPOSED CONSTITUTION (1942)

ARTICLE V

JUDICIAL

SECTION I

Judicial Power

1. The judicial power shall be vested in a Supreme Court and a Superior Court, and in inferior courts of original jurisdiction which may from time to time be established, altered and abolished by law. Such inferior courts may be integrated with the Superior Court in any manner and to any extent, not inconsistent with this Constitution, as may be provided by law.

2. In all matters in which there is any conflict or variance between equity and common law, equity shall prevail, and subject to rules of the Supreme Court every controversy shall be fully determined by the justice hearing it.

3. The Supreme Court shall sit at the State Capitol and the Superior Court shall sit in each county. The Supreme Court and appellate divisions of the Superior Court shall hold at least ten monthly terms each year, and all trial courts shall hold such terms as may be fixed by rules of the Supreme Court.

cf. V-I-1

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. (Art. VI, Sec. I, Par. 1.)

cf. V-I-2

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. (Art. IV, Sec. VII, Par. 10.)

New

PROPOSED CONSTITUTION (1942)

SECTION II

Supreme Court

1. The Supreme Court shall consist of a Chief Justice and six associate justices. Five members of the court shall constitute a quorum. The presiding justice of the court shall designate a justice of the Superior Court to serve temporarily when necessary to constitute a quorum.

2. The Supreme Court shall exercise appellate jurisdiction in the last resort in all causes subject to the limitations imposed by this Constitution. The court may, upon leave granted by a justice thereof, review any indictment before trial by certiorari. The court shall also have jurisdiction of the admission and discipline of attorneys and counsellors.

3. The Supreme Court shall make rules as to the administration of all of the courts, and, subject to law, as to pleading, practice and evidence in all the courts.

SECTION III

Superior Court

1. The Superior Court shall consist of such number of justices as may be authorized by law, but not less than twenty-five, each of whom may exercise the powers of the court, subject to rules of the Supreme Court. The Superior Court shall have original general jurisdiction throughout the State in all cases.

2. The Superior Court shall be divided into a law section, to exercise civil, criminal, and matrimonial jurisdiction, and an equity and probate section, to exercise all other jurisdiction of the court, each section having such parts as may be provided by rules of the Supreme Court.

3. Any justice of the Superior Court may grant prerogative writs, returnable in an appellate division which shall otherwise have original jurisdiction relating thereto, and shall determine in such manner as the rules of the Supreme Court may prescribe, and without a jury, questions of fact arising therein; or the hearing may be in the first instance before a single justice, whose decision, both as to law and fact, shall be reviewable by the appellate division.

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. (Art. VI, Sec. II, Par. 1.)

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. (Art. VI, Sec. II, Par. 2.)

3. Such of the six judges as shall attend the court shall receive, respectively, a per diem compensation, to be provided by law. (Art. VI, Sec. II, Par. 3.)

4. The Secretary of State shall be the clerk of this court. (Art. VI, Sec. II, Par. 4.)

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. (Art. VI, Sec. II, Par. 5.)

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. (Art. VI, Sec. II, Par. 6.)

1. The Court of Chancery shall consist of a Chancellor. (Art. VI, Sec. IV, Par. 1.)

2. The Chancellor shall be the Ordinary or Surrogate-General, and judge of the Prerogative Court. (Art. VI, Sec. IV, Par. 2.)

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. (Art. VI, Sec. IV, Par. 3.)

SECTION IV

Appeals and Appellate Divisions

1. There shall be established in the Superior Court at least two appellate divisions. Each appellate division shall consist of three justices of the Superior Court designated by rules of the Supreme Court who shall hear appeals from designated sections of the Superior Court and such additional appeals from inferior courts as may be provided by law. Such justices shall be annually assigned for that purpose by the Chief Justice of the Supreme Court.

2. An appeal to an appellate division may be taken as a matter of right from any order of the Superior Court. Appeals in cases involving restraints or the appointment of receivers shall, in whatever court pending, be preferred as to argument and disposition.

3. Judgments and orders of an appellate division shall be final, subject to an appeal to the Supreme Court. Appeals to the Supreme Court may be taken only:

(1) In capital cases and cases involving a constitutional question, which appeals shall be taken directly to the Supreme Court and shall be preferred as to argument and disposition;

(2) In the event of a dissenting opinion in an appellate division;

(3) On certification of an appellate division; or,

(4) On certification by the Supreme Court to any court.

4. The appellate courts, in addition to considering questions of law, may also set aside judgments, wholly or in part, where the finding of fact is against the weight of the evidence, or the verdict is excessive or inadequate. The appellate courts may exercise such original jurisdiction as may be incident to the complete determination of the controversy.

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. (Art. VI, Sec. IV, Par. 4.)

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. (Art. VI, Sec. V, Par. 1.)

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. (Art. VI, Sec. V, Par. 2.)

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. (Art. VI, Sec. V, Par. 3.)

1. There shall be no more than five 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. (Art. VI, Sec. VI, Par. 1.)

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. (Art. VI, Sec. VI, Par. 2.)

SECTION V

Judicial Officers

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 justices of the Superior Court, and the judges of any inferior court with jurisdiction extending to more than one municipality. The Legislature shall provide by law for a uniform method of appointment of all other judges.

2. Each justice of the Supreme Court shall, prior to his appointment, have been a justice of the Superior Court for at least one year. Justices of the Superior Court shall, prior to their appointment have been counsellors at law in good standing for at least ten years.

3. The Chief Justice and associate justices of the Supreme Court shall be appointed to hold office during good behavior. Justices of the Superior Court shall hold office for a term of seven years and if reappointed shall thereafter hold office during good behavior. The issue of good behavior shall, with respect to justices of the Supreme Court, be triable by the Senate, and with respect to all other justices or judges of any court shall be triable by the Supreme Court. No justice or judge of any court shall continue in office after he has attained the age of seventy years.

4. Justices and judges of every court shall, at stated times, receive for their services such salary as may be provided by law, which shall not be diminished during the term of their appointment. They shall hold no other office or position of profit in the government of this State, or of the United States, nor of any instrumentality or political subdivision of either of them.

5. Any judge or justice of any court in this State who shall become a candidate for an elective office under authority of this State or of the United States shall thereby vacate his judicial office. The justices of the Supreme Court, of the Superior Court and such other judicial officers as may be provided by law shall not during their continuance in office engage in the practice of law or other gainful occupation.

6. A justice of the Superior Court may exercise the powers of a judge of any court established by law in the county or counties to which he may be assigned, and may hold any such court with like jurisdiction, powers and duties as a judge thereof.

cf. V-V-1
cf. V-V-3
cf. V-V-4
cf. V-V-5

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. The justices of the Supreme Court and Chancellor shall hold their offices for the term of seven years; shall at stated times receive for their services a compensation which shall not be diminished during the term of their appointment; and they shall hold no other office under the government of this State or of the United States.

(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. (Art. VII, Sec. II, Par. 1.)

SECTION VI

Administration

1. The Chief Justice of the Supreme Court shall be the administrative head of all the courts, and shall supervise their work. He shall appoint an executive director of the courts to serve at his pleasure. The executive director shall:

(1) Assist the Chief Justice in all matters related to the administration, finance and personnel of the courts;

(2) Publish annually a statistical record of the judicial services of all the courts, justices and judges in the State, and of the costs thereof;

(3) Prescribe records, reports and audits for the inferior courts;

(4) Have such other duties as may be delegated by the Chief Justice.

2. The Supreme Court shall appoint a court reporter and a clerk of the court, each of whom shall hold office at the pleasure of the court. Within each county, respectively, the county clerks and, as to probate matters, the surrogates, shall be clerks of the Superior Court.

3. The Chief Justice of the Supreme Court shall annually assign justices of the Superior Court to counties, divisions, sections or parts thereof, and may from time to time transfer justices from one assignment to another as need appears.

4. Whenever the Supreme Court fails to hear any case within two months after an appeal therein is perfected or fails to decide any case within two months after it has been argued or submitted, the Chief Justice shall certify that fact to the Governor. The Governor may thereupon appoint a special term of the Supreme Court, from among the justices of the Superior Court, to exercise concurrently the jurisdiction of the court until the delay is cured.

5. Special judges may, upon request of the Chief Justice, be nominated and appointed by the Governor, by and with the advice and consent of the Senate, for temporary service not exceeding one year whenever and so long as any court fails to try or hear any case within two months after notice of trial has been filed or an appeal therein perfected, or fails to decide any case within two months after it has been argued or submitted. Such special judges may exercise all the powers and shall have all of the duties of a justice or judge of the court to which they are appointed.

6. On or before December first in each year the Chief Justice shall file with the Governor and the Legislature a report of the work of the courts during the year ending September first next preceding.

cf. V-VI-2

3. The Attorney-General, Prosecutors of the Pleas, Clerk of the Supreme Court, Clerk of the Court of Chancery, Secretary of State, and the Keeper 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. (Art. VII, Sec. II, Par. 3.)

cf. V-VI-2

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. (Art. VII, Sec. II, Par. 4.)

PROPOSED CONSTITUTION (1942)

No counterpart

No counterpart

No counterpart

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. (Art. VI, Sec. VII, Par. 1.)

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. (Art. VI, Sec. VII, Par. 2.)

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 commissions, 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. (Art. VII, Sec. II, Par. 7.)

ARTICLE VI

PUBLIC OFFICERS

SECTION I

Generally

1. Every appointive officer of the State government shall, before entering upon the duties of his office, take and subscribe an oath or affirmation to support the Constitution of this State and of the United States and faithfully, impartially and justly to perform the duties of his office to the best of his ability.

2. In the civil service of the State and all of its civil divisions, all offices and positions shall be classified according to duties and responsibilities, salary ranges shall be established for the various classes, and all appointments and promotions shall be made according to merit and fitness to be ascertained, so far as practicable, by examinations, which, so far as practicable, shall be competitive.

3. The Legislature or either house thereof may by resolution constitute and empower a committee thereof or any public officer or agency to investigate any and all phases of State and local government, or any part thereof, the fidelity of any public officer or employee, or the performance of any public office, employment or trust. No person shall be privileged from testifying in relation to any such matters and upon so testifying he shall be immune from criminal prosecution with respect to any matter to which such testimony may relate. Any public officer or employee who shall refuse or willfully fail to obey any subpoena lawfully issued by such investigating committee, officer or agency, or who shall refuse to testify or to answer any questions relating to any matter properly under investigation, or who shall refuse to waive immunity from prosecution with respect to any matter upon which he may testify, shall thereby become disqualified to continue in his office, position or employment, which shall forthwith be deemed vacant. Any such person shall not thereafter be eligible for any public office, position or employment.

New

New

New

4. County clerks and surrogates shall be elected by the people of their respective counties at a general election. They shall hold office for a term of five years. Whenever a vacancy occurs in the office of clerk or surrogate of any county, the Governor shall fill such vacancy by appointment for a term to expire when a successor is elected and qualified.

5. Sheriffs and coroners shall be elected by the people of their respective counties at a general election. They shall hold office for a term of three years.

cf. VI-I-4

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. (Art. VII, Sec. II, Par. 5.)

[cf. IV-I-6]
[supra]

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 Governor shall be chosen at the second succeeding election for members of the Legislature.

[cf. IV-II-2]
[supra]

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:

cf. VI-I-4

when a vacancy happens in the office of the clerk or surrogate of any county, the Governor shall fill such vacancy, and the commission shall expire when a successor is elected and qualified.

[cf. IV-II-2]
[supra]

No person who shall have been nominated to the Senate by the Governor for any office of trust or profit under the government of this State, and shall not have been confirmed before the recess of the Legislature shall be eligible for appointment to such office during the continuance of such recess. (Art. V, Par. 12.)

cf. VI-I-5

6. 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 offices for three years, after which, three years must elapse before they can be again capable of serving. Sheriffs shall annually renew their bonds. (Art. VII, Sec. II, Par. 6.)

6. After July first, one thousand nine hundred and forty-three, benefits payable by virtue of membership in any State pension or retirement system shall constitute a contractual relationship and shall not be diminished or impaired.

7. All civil officers elected or appointed pursuant to the provisions of this Constitution shall be commissioned by the Governor.

8. 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.

New

cf. VI-I-7

9. All civil officers elected or appointed, pursuant to the provisions of this Constitution shall be commissioned by the Governor. (Art. VII, Sec. II, Par. 9.)

No change (Art. VII, Sec. II, Par. 10)

SECTION II

Impeachments

1. The Governor and all other civil officers of the State government shall be liable to impeachment for misdemeanor in office during their continuance in office and for two years thereafter.

2. The House of Assembly shall have the sole power of impeaching by a vote of a majority of all the members. Except as otherwise provided by this Constitution with respect to judicial officers, all such impeachments shall be tried by the Senate, and members, when sitting for that purpose, shall 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. The presiding officer, respectively, of each house of the Legislature may call it into session for the purpose of impeachment proceedings.

No counterpart

3. Judgment in cases of impeachment shall not extend farther 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.

No counterpart

cf. VI-II-1

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. (Art. V, Par. 11.)

cf. VI-II-2

1. The House of Assembly shall have the sole power of impeaching by a vote of a majority of all the members; and all 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. (Art. VI, Sec. III, Par. 1.)

2. Any judicial officer impeached shall be suspended from exercising his office until his acquittal. (Art. VI, Sec. III, Par. 2.)

cf. VI-II-3

3. Judgment in cases of impeachment shall not extend farther 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. (Art. VI, Sec. III, Par. 3.)

4. The Secretary of State shall be the clerk of this court. (Art. VI, Sec. III, Par. 4.)

PROPOSED CONSTITUTION (1942)

ARTICLE VII

FINANCE

1. The credit of the State shall not be directly or indirectly loaned in any case.

2. No political subdivision or special district shall 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.

3. Neither the State nor any municipal corporation shall make any donation of land or appropriation of money to or for the use of any society, association or corporation.

4. All revenues of the State government from whatever source derived, including revenues of all departments, agencies and offices, except the income of the fund for the support of free schools, shall be paid into a single fund, to be known as the General State Fund, subject to appropriation for any public purpose, except that separate funds may be maintained for revenues realized from any tax levied specifically for the purpose of maintaining free public schools, for the proceeds of bond issues, earnings of self-liquidating public improvements, revenues of restricted use under or in compliance with Federal law, and revenues held in trust for retirement of the public debt, for the benefit of State or local public officers or employees or for a specific public purpose required by a private donation.

5. No money shall be drawn from the State treasury but for appropriations made by law.

All appropriations for the support of the State government, and for the several public purposes for which appropriations are made, shall be contained in one general appropriation bill enacted for each biennium and indicating the amounts appropriated for each fiscal period in the biennium. No other bill appropriating public money for any purpose shall be enacted unless it shall (1) provide for some single object or purpose, (2) receive the affirmative votes of two-thirds of the membership of each house of the Legislature, and (3) together with all prior appropriations for the same fiscal period, shall not exceed the total amount of revenue available therefor.

No change (Art. IV, Sec. VI, Par. 3)

cf. VII-2

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. (Art. I, Par. 19.)

cf. VII-3

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. (Art. I, Par. 20.)

New

cf. VII-5

2. No money shall be drawn from the treasury but for appropriations made by law. (Art. IV, Sec. VI, Par. 2.)

6. Property shall be assessed for taxes under general laws, and by uniform rules, according to its true value.

7. Except for purposes of war, or to repel invasion or to suppress insurrection, no debt or liability shall be contracted by or on behalf of the State in an amount which, singly or in the aggregate with any previous debts or liabilities, shall at any time exceed one hundred thousand dollars, unless authorized by a law which 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.

8. Any such law shall provide for some single object or work, to be distinctly specified therein, and for the payment of the debt or liability thereby authorized in equal annual installments, the first of which shall be payable not more than one year, and the last of which shall be payable not more than thirty-five years after such debt or liability, or any portion thereof, shall have been contracted. In contracting any debt or liability, however, the privilege of paying all or any part thereof prior to maturity may be reserved to the State in such manner and upon such terms as may be provided by law.

9. All money to be raised by authority of any law authorizing the contracting of a debt or liability by or on behalf of the State shall be applied only to the specific object or work stated therein or to the payment of such debt or liability. Such law shall provide the ways and means, exclusive of loans, to pay and discharge the principal and interest of the debt or liability thereby authorized. If such law should be repealed prior to such payment and discharge, the Legislature shall make adequate provision for payment of the remaining annual installments of principal and interest, and upon failure thereof a sufficient sum shall be set apart by the State Treasurer from the first revenues received and shall be applied to such purpose.

No change (Art. IV, Sec. VII, Par. 12)

- cf. VII-7** 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,
- cf. VII-8** unless the same shall be authorized by a law for some single object or work, to be distinctly specified therein ;
- cf. VII-9** 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 irrevocable until such debt or liability, and the interest thereon, are fully paid and discharged :
- cf. VII-7** 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 :
- cf. VII-9** 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 refer to any money that has been, or may be, deposited with this State by the government of the United States. (Art. IV, Sec. VI, Par. 4.)
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PROPOSED CONSTITUTION (1942)

ARTICLE VIII

ELECTIONS AND SUFFRAGE

1. General elections shall be held annually on the first Tuesday after the first Monday in November. The Governor, members of the Legislature and such local officers as may be provided by law shall be chosen at a general election.

2. All questions which may be subject to a vote of the people shall be submitted at a general election, or, in the case of local propositions, at a regular county or municipal election.

3. Every citizen of the United States who shall have attained the age of twenty-one years, been a resident of this State one year and of the county in which the vote is claimed five months, next before an election, and who shall have been duly registered as a voter pursuant to law, shall be entitled to vote therein for all officers that are now or hereafter may be elective by the people, and upon all questions which may be submitted to a vote of the people.

4. No pauper, idiot, insane person, or person convicted of a crime which at common law would have excluded him from being a witness, unless pardoned or restored by law to the right of suffrage, shall enjoy the right of an elector. Persons convicted of bribery may be deprived by law of the right of suffrage.

5. No person shall, for the purpose of the suffrage, be deemed to have become a resident of, nor to have abandoned prior residence in this State or any county thereof by reason of his presence in or absence therefrom during active service in the military or naval service of this State or of the United States.

6. The Legislature shall provide by law the manner in which, and the time and place at which ballots may be cast by electors absent in the actual service of the military or naval forces of this State or of the United States, and for the return and canvass of such absentee votes in the election district in which the voters respectively reside. The Legislature may also provide for voting by other absent electors and for the like return and canvass of their votes.

7. Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the privilege of the suffrage and for the registration of all qualified voters. Registration shall be upon personal application in the case of the first registration of any voter, and shall remain effective for such period as the Legislature may prescribe.

CONSTITUTION OF 1844, AS AMENDED

cf. VIII-1
[cf. III-II-3]
[supra]

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;

[cf. III-I-3]
[supra]

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;

cf. VIII-1

but the time of holding such election may be altered by the Legislature. (Art. IV, Sec. I, Par. 3.)

New

cf. VIII-3

1. Every 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, next before the election, shall be entitled to vote for all officers that now are, or hereafter may be elective by the people;

cf. VIII-5

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;

cf. VIII-4

and no pauper, idiot, insane person, or person convicted of a crime which now excludes him from being a witness unless pardoned or restored by law to the right of suffrage, shall enjoy the right of an elector.

cf. VIII-5

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;

cf. VIII-6

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. (Art. II, Par. 1.)

cf. VIII-4

2. The Legislature may pass laws to deprive persons of the right of suffrage who shall be convicted of bribery. (Art. II, Par. 2.)

New

PROPOSED CONSTITUTION (1942)

ARTICLE IX

AMENDMENTS

1. Any specific amendment or amendments to the Constitution may be proposed in the Senate or General Assembly, and if the same shall be approved by two-thirds 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.

2. The Legislature shall publish any approved amendment once in at least one newspaper of each county, if any be published therein, not less than three months prior to its submission to the people.

3. Approved amendments which have been published as required by this section shall be submitted to the people at a general election held not more than four months after the date of publication thereof. Submission shall be in such manner as the Legislature may prescribe.

4. If a majority of the qualified voters who vote thereon shall approve and ratify any amendment, it shall become part of the Constitution.

5. 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. The same amendment or one effecting the same change in the Constitution shall not be submitted to the people more often than once in five years.

- cf. IX-1** 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 being taken thereon, and referred to the Legislature then next to be chosen,
- cf. IX-2** 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;
- cf. IX-3** 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;
- cf. IX-4** 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:
- cf. IX-5** 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. (Art. IX.)
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PROPOSED CONSTITUTION (1942)

ARTICLE X

GENERAL PROVISIONS

1. The provisions of this Constitution shall be self-executing, to the fullest extent that their respective natures permit. Legislation shall be enacted in furtherance of their purposes and to facilitate their operation.

2. Any recital of specific functions, powers or duties in this Constitution shall not be construed in any manner to restrict by implication any general functions, powers or duties of government not inconsistent therewith.

3. 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.

4. 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 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."

5. This Constitution shall take effect on the first day of January, one thousand nine hundred and forty-three, subject to the provisions of the schedule hereinafter set forth.

No counterpart

CONSTITUTION OF 1844, AS AMENDED

New

New

No change (Art. VIII, Par. 2)

No change (Art. VIII, Par. 3)

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. (Art. VIII, Par. 4.)

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. (Art. VIII, Par. 1.)

ARTICLE XI

SCHEDULE

SECTION I

General

1. This Constitution shall supersede the Constitution of 1844 as amended, and the Legislature shall enact all laws necessary to make this Constitution fully effective.

2. No office, position or employment existing on the effective date of this Constitution shall be altered or abolished by virtue of the adoption hereof, except as otherwise provided herein.

3. All persons holding office upon the effective date of this Constitution shall continue in office and to exercise their respective powers and duties except as otherwise provided herein. The adoption of this Constitution shall not cause the term of office of any incumbent to be either extended or reduced, except as otherwise provided herein.

4. All the statutory and common law in force on the effective date hereof, which is not inconsistent with this Constitution, shall remain in full force and effect until it expires by its own limitation or is altered or repealed by law. All causes of action, indictments, prosecutions, rights, claims, demands, duties and obligations, of individuals and of bodies corporate, and of the State, and all charters and franchises shall continue unabated by the adoption of this Constitution. All indictments heretofore or hereafter found for any crime or offense committed before the adoption of this Constitution may be proceeded upon as if no change had taken place.

SECTION II

Legislative

1. The first biennial session of the Legislature under this Constitution shall be held in the year one thousand nine hundred and forty-four.

2. Members of the Legislature shall be elected for the term of office provided in this Constitution at the election held in one thousand nine hundred and forty-three and at each biennial election thereafter, except as otherwise provided in this schedule.

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 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 offense 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. (Art. X, Par. 1.)

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. (Art. X, Par. 2.)

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. (Art. X, Par. 3.)

4. In case of 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. (Art. X, Par. 4.)

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. (Art. X, Par. 5.)

3. The two classes of Senators required to be elected under the Constitution shall be first established as follows:

Seats in the Senate that, had this Constitution not been adopted would have been filled by election in the years one thousand nine hundred and forty-three and one thousand nine hundred and forty-five, respectively, shall remain elective in those years. The terms of the incumbents of those seats in the Senate that would have become elective in the year one thousand nine hundred and forty-four, had this Constitution not been adopted, shall be extended for an additional year. Three of the seats thereby made elective in the year one thousand nine hundred and forty-five shall be chosen by the Senate to be filled in that year for a term of two years and thereafter for the four-year term provided by this Constitution.

4. The compensation for members of the Legislature provided by this Constitution shall be paid from and after the effective date hereof.

SECTION III

Executive

1. On or before July first, one thousand nine hundred and forty-three, the Governor shall complete the first allocation of executive and administrative agencies, offices and instrumentalities of the State government within and among the departments and offices required by this Constitution. Prior to such allocation, each agency, office, and instrumentality shall continue to function as heretofore, except as may be otherwise provided by law.

2. Appropriation balances, personnel, property and records may be transferred as need appears by provision in any executive order allocating executive or administrative agencies, offices or instrumentalities, or their functions, powers and duties.

3. In case of death, resignation, removal or disability of the Governor or of his absence from the State prior to his appointment of the heads of civil departments required by this Constitution, all the powers, duties and emoluments of the office shall, as heretofore, devolve upon the President of the Senate and the Speaker of the House of Assembly, in that order.

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. (Art. X, Par. 6.)

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 election of sheriffs. (Art. X, Par. 7.)

8. The elections for the year eighteen hundred and forty-four shall take place as now provided by law. (Art. X, Par. 8.)

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. (Art. X, Par. 9.)

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. (Art. X, Par. 10.)

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. (Art. X, Par. 11.)

12. The Legislature shall pass all laws necessary to carry into effect the provisions of this Constitution. (Art. X, Par. 12.)

SECTION IV

Judicial

1. Immediately after the adoption of this Constitution, the Governor shall nominate and appoint, by and with the advice and consent of the Senate, from the persons then holding the offices of Chancellor, Chief Justice, justices of the Supreme Court, such judges of the Court of Errors and Appeals as are counsellors at law of ten years' standing, vice chancellors and Circuit Court judges, a Chief Justice and six associate justices of the new Supreme Court.

The remaining judicial officers above enumerated and the judges of the courts of common pleas shall constitute the justices of the new Superior Court, each for the unexpired period of his original term. If reappointed thereafter, any such justice shall have tenure during good behavior as provided in this Constitution. Nothing in this section shall be construed, however, to permit any justice to continue in office after attaining the age of seventy years.

2. The compensation of any judicial officer as fixed by law immediately prior to his transfer by this Constitution to either the new Supreme or Superior Courts shall not be increased or diminished during the term for which he was originally appointed. Common pleas judges shall be justices of the Superior Court for the remainder of the term for which they were originally appointed, at the same salary, with the same privileges, and assigned to the county from which they were appointed, and shall be eligible for reappointment on the same basis as all other Superior Court justices.

3. All causes pending in the Court of Errors and Appeals shall be transferred to the new Supreme Court. All other causes pending on appeal and all pending causes involving prerogative writs shall be transferred to the appellate division of the Superior Court. All causes pending in any other county or State courts, which are superseded, shall be transferred to the Superior Court.

4. All property, funds, records, files, books, papers and documents of the Court of Errors and Appeals, of the Prerogative Court, of the Court of Chancery and of the Supreme Court or in custody of any of these courts, shall be turned over by their respective clerks to the clerk of the new Supreme Court, who shall dispose of them as the court may by rule direct.

5. The circuit courts, courts of common pleas, oyer and terminer, quarter sessions, special sessions and the orphans' courts are superseded, and all their jurisdiction, functions, powers and duties are transferred to the Superior Court. Causes pending in such superseded courts shall be heard in the Superior Court sitting in the same county. All property, funds, records, files, books, papers and documents of the orphans' courts, or in custody thereof, shall be turned over by their respective clerks to the clerk of the Superior Court in their respective counties.

6. All the functions, powers and duties conferred by statute or rule upon justices and judges of courts superseded by this Constitution, to the extent that such functions, powers and duties are not inconsistent herewith, are hereby transferred to and may be exercised by justices of the Superior Court until otherwise provided by law or rule of court.

7. Appropriations made by law for judicial expenditures during the fiscal year 1942-1943 may be transferred to similar objects and purposes required by the judicial article. Restrictions upon supplemental appropriations contained in this Constitution shall not apply to any appropriations which may be required to finance the new judicial system prior to the fiscal year 1943-1944.

8. Article V shall take effect on the first day of July, one thousand nine hundred and forty-three, except that any provision of this Constitution which may require any act to be done prior thereto or in preparation therefor shall take effect immediately upon its adoption.