
STATE OF NEW JERSEY
CONSTITUTIONAL CONVENTION
OF 1947

Report and Proposal
of the
Committee on
Rights, Privileges, Amendments
and Miscellaneous Provisions

NEW BRUNSWICK, NEW JERSEY

JULY 31, 1947

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STATE OF NEW JERSEY
CONSTITUTIONAL CONVENTION OF 1947
NEW BRUNSWICK, N. J.

July 31, 1947.

To The Delegates Assembled:

The Committee on Rights, Privileges, Amendments and Miscellaneous Provisions presents for your consideration the final draft of its recommendations on the work assigned to it under the rules of the Convention.

We were given the Preamble and five major Articles for study and report. The Articles were:

ARTICLE I—Right and Privileges.

ARTICLE II—Right of Suffrage.

ARTICLE III—Distribution of the Powers of Government.

ARTICLE VIII—General Provisions.

ARTICLE IX—Amendments.

We were also assigned such parts of the schedule as pertain thereto, or as might come under a miscellaneous classification.

PREAMBLE

We are recommending the Preamble as it is now found in our present Constitution.

ARTICLE I

We have made some changes and additions under Article I, Rights and Privileges. They include the following points:

- Section 1. The word "men" is changed to "persons."
- Section 2. No change from the present Constitution.
- Section 3. No change from the present Constitution.
- Section 4. The word "racial" has been added to the phrase referring to no religious test as a qualification for

any office or trust. After the words "public trust," the remainder of the thought is transferred to a new section.

New Section 5. This section is an all-inclusive statement of principle on the enjoyment of civil rights and on the question of no discrimination in civil rights, and is self-explanatory.

New Section 6. No change from the present Constitution.

New Section 7. No change from the present Constitution.

New Section 8. The reference to a jury of six "men" is changed to a jury of six "persons," and the new thought is added that the Legislature may authorize trial of the issue of mental incompetency without a trial by jury.

New Section 9. No change from the present Constitution.

New Section 10. The words "in cases cognizable by Justices of the Peace" have been replaced by "in cases not now prosecuted by indictment."

New Section 11. No change from the present Constitution.

New Section 12. No change from the present Constitution.

New Section 13. No change from the present Constitution.

New Section 14. No change from the present Constitution.

New Section 15. No change from the present Constitution.

New Section 16. No change from the present Constitution.

New Section 17. The words of Section 16 of the present Constitution "but land may be taken for public highways as heretofore, until the Legislature shall direct compensation to be made," have been deleted and a transfer has been made from Article IV, Section 7, Paragraph 8, of the

present Constitution, to the remainder of this section which reads: "individuals or private corporations shall not be authorized to take private property for public use, without just compensation first made to the owners."

New Section 18. No change from the present Constitution.

New Section 19. This includes all of Section 18 of the present Constitution. There has been added a sentence relative to privately employed labor and publicly employed labor and their rights.

New Section 20. No change from the present Constitution.

ARTICLE II

We have made some changes and additions under Article II. Elections and Suffrage (changed from Right of Suffrage). They include the following points:

The first two sections are new material and are self-explanatory.

Section 3. The word "male" has been stricken out before the word "citizen." We have also added the phrase, "and upon all questions which may be submitted to a vote of the people."

Section 4. A new thought has been added giving the Legislature the right to provide for absentee voting by members of the armed forces in time of peace.

Section 5. No change from the present Constitution.

Section 6. The word "pauper" has been eliminated.

Section 7. Under this section, Section 2 of Article II of the present Constitution has been rewritten and material formerly included elsewhere in Section 1 transferred to it.

ARTICLE III

We have made the following changes under Article III, Distribution of Powers of Government:

Section 1. The word "departments" has been dropped from the present Constitution and the word "branches" has been substituted together with other appropriate language.

ARTICLE VIII

We have made some changes under Article VIII, General Provisions.

Section 1 of the present Constitution has been deleted.

Section 1 in our recommendation is the same as Section 2 of the present Constitution.

Section 2. This is a portion of Section 3 of the present Constitution.

Section 3. This is the remainder of Section 3 of the present Constitution. It was the majority opinion of the Committee that the words "countersigned by the Secretary of State" should be included because they felt that the Secretary of State should be named in the final Convention draft as a Constitutional officer.

Section 4. This is entirely new material, which is self-explanatory.

Section 5. This section is self-explanatory.

ARTICLE IX

We have made some changes and additions under Article IX, Amendments. They include the following points:

Section 1. In this section, amendments may be proposed in the Senate or General Assembly, and provision is made for public hearings to be held on any amendment or amendments. The remainder of this section is self-explanatory and is a completely new method of passing amendments in the Legislature as compared to the 1844 Constitution.

Section 2. This incorporates the same thought with reference to the subject as in the 1844 Constitution.

Section 3. This calls for publication in every county of the proposed amendment or amendments not less than three months prior to its submission to the people, compared to four months as at present.

Section 4. This provides that the proposed amendment or amendments shall be passed on at the next general election after proper publication.

Section 5. This provides that each amendment shall be submitted separately and distinctly.

Section 6. This provides a method of determining when new amendments to the Constitution will become effective.

Section 7. This provides that a defeated amendment, or any similar one, cannot come up again until the third general election thereafter, as compared to five years in the present Constitution.

ARTICLE X

The Committee has included two sections in its report under Article X, Schedule, acting under the direction of the Convention that our Committee should prepare such parts of the Schedule as apply not only to the Preamble and the five Articles assigned to our Committee, but also any pertaining to general or miscellaneous provisions.

Relative to the proposals referred to our Committee, they were acted upon as follows:

Proposal No. 1. Disapproved.

Proposal No. 2. Disapproved.

Proposal No. 3. Disapproved.

Proposal No. 6. The Committee recommends that this proposal be referred to the Legislature, through the Governor, for appropriate action.

Proposal No. 7. Disapproved.

Proposal No. 8. Approved in part.

Proposal No. 9. Approved.

Proposal No. 11. Disapproved.

Proposal No. 13. Disapproved.

Proposal No. 16. Approved in part.

Proposal No. 17. Disapproved.

Proposal No. 18. Approved in part.

Proposal No. 19. Approved in part.

Proposal No. 26. Approved in part.

Proposal No. 27. Disapproved.

- Proposal No. 28. Approved in part.
Proposal No. 29. Approved in part.
Proposal No. 37. Disapproved.

The final draft of the recommendations by the Committee on Rights, Privileges, Amendments and Miscellaneous Provisions is not to be taken as necessarily representing the unanimous opinion of all the members of the Committee on all points. Individual members may from time to time express to the whole Convention opinions on various matters different from this report.

Respectfully submitted,

COMMITTEE ON RIGHTS, PRIVILEGES,
AMENDMENTS AND MISCELLANEOUS
PROVISIONS.

(Signed) JOHN F. SCHENK,
Chairman;

(Signed) ROBERT CAREY,
Vice-Chairman;

(Signed) LAWRENCE N. PARK,
Secretary;

(Signed) JOSEPH A. DELANEY,

(Signed) LELAND F. FERRY,

(Signed) RONALD D. GLASS,

(Signed) MARIE H. KATZENBACH,

(Signed) JOHN H. PURSEL,

(Signed) OLIVER RANDOLPH,

(Signed) FRANCIS A. STANGER, JR.,

(Signed) WESLEY A. TAYLOR.

CONSTITUTIONAL CONVENTION
OF THE
STATE OF NEW JERSEY
New Brunswick, N. J.

July 31, 1947.

To the Delegates Assembled:

Although I join in the general report of the Committee on Rights, Privileges, Amendments and Miscellaneous Provisions because it is a proper report of our Committee actions, I am not in accord with the findings of the Committee on two important matters. In relation to these two matters, I hereby submit a minority report. I am filing this personally, but I have been advised by several of the members of the Committee, whose views coincide with mine, that they are in full accord with my conclusions.

The two matters are:

1. The Committee recommends a new method of amending the Constitution.

The theory behind this action is that the people demand an easier way of amending our Charter of Government. I note no evidence of any such demand. The system of amendment provided in our present Constitution has been in operation over 100 years and has always been found "easy enough" for any amendment purposes. The last three amendments to our Constitution became a part of it with plenty of ease and without much difficulty.

Several of our Committee voted at our meetings for the maintenance of the amendment method in our present Constitution with one variation; namely, that the voting upon any proposed amendment should take place at a general election instead of at a special election. I now urge and recommend the adoption of this method.

The plan recommended by the Committee makes amending the Constitution as easy as passing an ordinary amendment to the Disorderly Persons Act. If the Committee's proposed amending clause is adopted, there will be little left to safeguard the Constitution as an enduring thing. Further, if the Committee's recommendation is adopted, amendments will possibly be put through without the public knowing that hardly anyone has even been thinking of an amendment. The United States Constitution cannot be amended in such fashion.

2. The second proposition to which I object is our Committee's recommendation that the application of some of the labor organizations to place some specific labor clauses in the Constitution should be adopted. I, and the associates whom I have already referred to, are absolutely opposed to this. We feel that such clauses should have no place whatsoever in the State Constitution. You find no such provisions in the United States Constitution and, as far as I can determine by examination, you can find them in only one State Constitution in our entire land. There is no demand for this except a class demand, and class legislation certainly has no place in a properly drawn Constitution, nor does any legislative matter. The Constitution can soon be destroyed if it is made into a legislative grab-bag. The second sentence of Section 19 of the Committee's proposed Rights and Privileges article should not be adopted.

I, therefore, recommend the rejection of the two matters discussed herein which the Committee has recommended be placed in the new Constitution, and the inclusion of the amending process suggested herein.

Respectfully,

ROBERT CAREY,
*Vice-Chairman, Committee on Rights,
Privileges, Amendments and Miscel-
laneous Provisions.*

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 endeavors to secure and transmit the same unimpaired to succeeding generations, do ordain and establish this Constitution.

ARTICLE —

RIGHTS AND PRIVILEGES

1. All persons 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 or racial test shall be required as a qualification for any office or public trust.
5. No person shall be denied the enjoyment of any civil right, nor be discriminated against in any civil right on account of religious principles, race, color, ancestry or national origin.

6. 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 libelous 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.

7. 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.

8. 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; and the Legislature may authorize the trial of the issue of mental incompetency without a trial by jury.

9. 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 favor, and to have the assistance of counsel in his defense.

10. 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 not now prosecuted by indictment, or arising in the army or navy, or in the militia, when in actual service in time of war or public danger.

11. 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.

12. 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.

13. The military shall be in strict subordination to the civil power.

14. 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.

15. 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.

16. Excessive bail shall not be required, excessive fines shall not be imposed, and cruel and unusual punishments shall not be inflicted.

17. Private property shall not be taken for public use, without just compensation; individuals or private corporations shall not be authorized to take private property for public use, without just compensation first made to the owners.

18. 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.

19. 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. The right of privately employed labor to organize and bargain collectively, and the right of publicly employed labor to organize and present to and make known to the State, or any of its political sub-

divisions, their grievances and requests through representatives of their own choosing, shall not be impaired.

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

ARTICLE —

ELECTIONS AND SUFFRAGE

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

2. All questions, which are to be submitted to a vote of the people of the entire State, shall be submitted at general elections.

3. Every 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, and upon all questions which may be submitted to a vote of the people.

4. In time of war no elector in the actual military service of the State, or of the United States, in the armed forces thereof, shall be deprived of his vote by reason of absence from his election district; the Legislature may provide for absentee voting by members of the armed forces in time of peace. The Legislature shall have power to provide the manner in which and the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election district in which they respectively reside.

5. 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.

6. No idiot or insane person shall enjoy the right of an elector.

7. The Legislature may pass laws to deprive persons of the right of suffrage who shall be convicted of such crimes as may be designated by the Legislature; any person convicted of any such crime, and who may be pardoned or otherwise restored by law to the right of suffrage shall enjoy the right of an elector.

ARTICLE —

DISTRIBUTION OF THE POWERS OF GOVERNMENT

1. The powers of the government shall be divided among three distinct branches, the legislative, executive, and judicial. No person or persons 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.

ARTICLE —

GENERAL PROVISIONS

1. 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.

2. 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."

3. All writs shall be in the name of the State; and all indictments shall conclude in the following manner, viz.:

“against the peace of this State, the government and dignity of the same.”

4. Wherever in this Constitution the term “man,” “men,” “person,” “persons,” “people” or “peoples” is used, the same shall be deemed and taken to include both sexes.

5. This Constitution shall take effect and go into operation on the _____ day of _____ in the year of our Lord one thousand nine hundred and _____

ARTICLE —

AMENDMENTS

1. Any specific amendment or amendments to the Constitution may be proposed in the Senate or General Assembly. Prior to a vote in the house in which such amendment or amendments are first introduced, the same shall be printed and on the desks of the members thereof at least twenty calendar days, and thereafter a public hearing shall be held thereon. If the proposed amendment or amendments shall be agreed to by a three-fifths vote of all the members of each of the two houses, then the same shall be presented to the Governor. If the Governor approves the proposed amendment or amendments or if he fails to take any action thereon within fifteen days, the same shall be submitted to the people. If the Governor vetoes the proposed amendment or amendments, the same shall not be submitted to the people unless the Legislature shall re-pass the proposed amendment or amendments by a two-thirds vote of all the members of each of the two houses.

2. Such proposed amendment or amendments shall be entered on the journals of each of the two houses with the yeas and nays taken thereon.

3. The Legislature shall cause to be published such proposed amendment or amendments once in at least one newspaper of each county, if any be published therein, not less than three months prior to submission to the people.

4. Such proposed amendment or amendments shall then be submitted to the people at the next general election in the form provided by the Legislature.

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.

6. If at the election the people shall approve such proposed amendment or amendments, or any of them, by a majority of the legally qualified voters of this State voting thereon, such amendment or amendments, or any of them, so approved shall become part of the Constitution on the thirtieth day after such general election unless otherwise provided in the amendment or amendments, or any of them, thus approved.

7. If at the election the people shall not approve any proposed amendment, said proposed amendment or one to effect the same or substantially the same change in the Constitution shall not be submitted to the people before the third general election thereafter.

ARTICLE —

SCHEDULE

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. The adoption of this Constitution or the taking effect thereof or of any Articles thereof shall not of itself affect the tenure, term or compensation of any person holding any State civil office or State position or employment at the time when the same is adopted or takes effect, except as provided in this Constitution.

