

R E P O R T  
of the  
COMMITTEE ON ARRANGEMENT AND FORM  
of  
PROPOSAL NO. 1-1  
on  
RIGHTS, PRIVILEGES, AMENDMENTS AND MISCEL-  
LANEOUS PROVISIONS  
as amended on second reading  
to the  
CONSTITUTIONAL CONVENTION OF NEW JERSEY.

PROPOSAL NO. 1-1  
was referred to your Committee  
on August 22, 1947, and, pursu-  
ant to the Rules of the Conven-  
tion, is reported back in the  
form hereunto annexed.

COMMITTEE ON ARRANGEMENT AND FORM

Wayne D. McMurray,  
Chairman  
Charles P. Hutchinson,  
Vice-Chairman  
Alfred C. Clapp,  
Secretary  
Franklin H. Berry  
John Drewen  
Albert H. Holland  
Frank G. Schlosser

Dated: August 26, 1947.

COMMITTEE PROPOSAL NO. 1-1  
(AS AMENDED ON 2nd READING)

CONSTITUTIONAL CONVENTION OF NEW JERSEY

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INTRODUCED BY MR. JOHN F. SCHENK

Chairman, Committee on Rights, Privileges, Amendments  
and Miscellaneous 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                   1. All persons are by nature free and inde-  
2 pendent, and have certain natural and unalienable rights,  
3 among which are those of enjoying and defending life and  
4 liberty, acquiring, possessing, and protecting property,  
5 and of pursuing and obtaining safety and happiness.

1                   2. All political power is inherent in the  
2 people. Government is instituted for the protection,  
3 security, and benefit of the people, and they have the  
4 right at all times to alter or reform the same, whenever  
5 the public good may require it.

1                   3. No person shall be deprived of the ines-  
2 timable privilege of worshiping Almighty God in a manner  
3 agreeable to the dictates of his own conscience; nor under  
4 any pretense whatever be compelled to attend any place of  
5 worship contrary to his faith and judgment; nor shall any  
6 person be obliged to pay tithes, taxes, or other rates for

7 building or repairing any church or churches, place or  
8 places of worship, or for the maintenance of any minis-  
9 ter or ministry, contrary to what he believes to be  
10 right, or has deliberately and voluntarily engaged to  
11 perform.

1           4. There shall be no establishment of one  
2 religious sect in preference to another; no religious or  
3 racial test shall be required as a qualification for any  
4 office or public trust.

1           5. No person shall be denied the enjoyment  
2 of any civil or military right, nor be discriminated  
3 against in the exercise of any civil or military right,  
4 nor be segregated in the militia or       public schools,  
5 because of religious principles, race, color, ancestry  
6 or national origin.

1           6. Every person may freely speak, write and  
2 publish his sentiments on all subjects, being responsible  
3 for the abuse of that right. No law shall be passed to  
4 restrain or abridge the liberty of speech or of the press.  
5 In all prosecutions or indictments for libel, the truth  
6 may be given in evidence to the jury; and if it shall  
7 appear to the jury that the matter charged as libelous  
8 is true, and was published with good motives and for  
9 justifiable ends, the party shall be acquitted; and the  
10 jury shall have the right to determine the law and the  
11 fact.

1           7. The right of the people to be secure in  
2 their persons, houses, papers, and effects, against un-  
3 reasonable searches and seizures, shall not be violated;  
4 and no warrant shall issue except upon probable cause,  
5 supported by oath or affirmation, and particularly de-  
6 scribing the place to be searched and the papers and

7 things to be seized.

1           8. No person shall be held to answer for a  
2 criminal offense, unless on the presentment or indictment  
3 of a grand jury, except in cases of impeachment, or in  
4 cases now prosecuted without indictment, or arising in  
5 the army or navy or in the militia, when in actual  
6 service in time of war or public danger.

1           9. The right of trial by jury shall remain  
2 inviolate; but the Legislature may authorize the trial  
3 of civil causes, when the matter in dispute does not  
4 exceed fifty dollars, by a jury of six persons. The  
5 Legislature in any civil cause may provide that a ver-  
6 dict may be rendered by not less than five-sixths of  
7 the jury. The Legislature may authorize the trial of  
8 the issue of mental incompetency without a jury.

1           10. In all criminal prosecutions the accused  
2 shall have the right to a speedy and public trial by an  
3 impartial jury; to be informed of the nature and cause  
4 of the accusation; to be confronted with the witnesses  
5 against him; to have compulsory process for obtaining  
6 witnesses in his favor, and to have the assistance of  
7 counsel in his defense.

1           11. No person shall, after acquittal, be  
2 tried for the same offense. All persons shall, before  
3 conviction, be bailable by sufficient sureties, except  
4 for capital offenses, when the proof is evident or  
5 presumption great.

1           12. Excessive bail shall not be required,  
2 excessive fines shall not be imposed, and cruel and  
3 unusual punishments shall not be inflicted.

1           13. No person shall be imprisoned for debt  
2 in any action, or on any judgment founded upon contract,  
3 unless in cases of fraud; nor shall any person be  
4 imprisoned for a militia fine in time of peace.



1           14. The privilege of the writ of habeas  
2 corpus shall not be suspended, unless in case of  
3 rebellion or invasion the public safety may require it.

1           15. The military shall be in strict sub-  
2 ordination to the civil power.

1           16. No soldier shall, in time of peace, be  
2 quartered in any house, without the consent of the owner;  
3 nor in time of war, except in a manner prescribed by law.

1           17. Treason against the State shall consist  
2 only in levying war against it, or in adhering to its  
3 enemies, giving them aid and comfort. No person shall  
4 be convicted of treason, unless on the testimony of  
5 two witnesses to the same overt act, or on confession  
6 in open court.

1           18. The people have the right freely to  
2 assemble together, to consult for the common good, to  
3 make known their opinions to their representatives,  
4 and to petition for redress of grievances.

1           19. Persons in private employment shall have  
2 the right to organize and bargain collectively. Persons  
3 in public employment shall have the right to organize,  
4 present to and make known to the State, or any of its  
5 political subdivisions or agencies, their grievances and  
6 proposals through representatives of their own choosing.

1           20. Private property shall not be taken for  
2 public use without just compensation. Individuals or  
3 private corporations shall not be authorized to take  
4 private property for public use without just compensation  
5 first made to the owners.

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

## ARTICLE \_\_\_\_\_

## Elections and Suffrage

1           1. General elections shall be held annually on  
2 the first Tuesday after the first Monday in November; but the  
3 time of holding such elections may be altered by law. The  
4 Governor and members of the Legislature shall be chosen at  
5 general elections. Local elective officers shall be chosen  
6 at general elections or at such other times as shall be  
7 provided by law.

1           2. All questions submitted to the people of  
2 the entire State shall be voted upon at general elections.

1           3. Every citizen of the United States, of the  
2 age of twenty-one years, who shall have been a resident  
3 of this State one year, and of the county in which he claims  
4 his vote five months, next before the election, shall be  
5 entitled to vote for all officers that now are or hereafter  
6 may be elective by the people, and upon all questions which  
7 may be submitted to a vote of the people.

1           4. In time of war no elector in the military  
2 service of the State or in the armed forces of the United  
3 States shall be deprived of his vote by reason of absence  
4 from his election district. The Legislature may provide for  
5 absentee voting by members of the armed forces of the United  
6 States in time of peace. The Legislature may provide the  
7 manner in which and the time and place at which such absent  
8 electors may vote, and for the return and canvass of their  
9 votes in the election district in which they respectively  
10 reside.

1           5. No person in the military, naval or marine  
2 service of the United States shall be considered a resident  
3 of this State, by being stationed in any garrison, barrack,  
4 or military or naval place or station within this State.

1           6. No idiot or insane person shall enjoy  
2 the right of suffrage.

1           7. The Legislature may pass laws to deprive  
2 persons of the right of suffrage who shall be convicted  
3 of such crimes as it may designate. Any person so de-  
4 prived, when pardoned or otherwise restored by law to the  
5 right of suffrage, shall again enjoy that right.

#### ARTICLE \_\_\_\_\_

##### Distribution of the Powers of Government

1           1. The powers of the government shall be  
2 divided among three distinct branches, the legislative,  
3 executive, and judicial. No person or persons belonging  
4 to or constituting one branch shall exercise any of the  
5 powers properly belonging to either of the others, except  
6 as expressly provided in this Constitution.

#### ARTICLE \_\_\_\_\_

##### General Provisions

1           1. The seal of the State shall be kept by the  
2 Governor, or person administering the government, and used  
3 by him officially, and shall be called the Great Seal of  
4 the State of New Jersey.

1           2. All grants and commissions shall be in the  
2 name and by the authority of the State of New Jersey, sealed  
3 with the Great Seal, signed by the Governor, or person ad-  
4 ministering the government, and countersigned by the Secre-  
5 tary of State, and shall run thus: "The State of New Jer-  
6 sey, to .....Greetings."

1           3. All writs shall be in the name of the State;  
2 and all indictments shall conclude in the following man-  
3 ner, viz.: "against the peace of this State, the govern-  
4 ment and dignity of the same."

1                   4. Wherever in this Constitution the  
2 term "person," "persons," "people" and any personal  
3 pronoun is used, the same shall be taken to include  
4 both sexes.

1                   5. This Constitution shall take effect and  
2 go into operation on the first day of January in the year  
3 of our Lord one thousand nine hundred and forty-eight.

#### ARTICLE \_\_\_\_\_

##### Amendments

1                   1. Any specific amendment or amendments to  
2 this Constitution may be proposed in the Senate or  
3 General Assembly. At least twenty calendar days prior  
4 to a vote thereon in the house in which such amendment  
5 or amendments are first introduced, the same shall be  
6 printed and placed on the desks of the members of each  
7 house. Thereafter and prior to such vote a public  
8 hearing shall be held thereon. If the proposed amendment  
9 or amendments or any of them shall be agreed to by  
10 three-fifths of all the members of each of the respective  
11 houses, the same shall be submitted to the people. If  
12 the same or any of them shall be agreed to by less than  
13 three-fifths but nevertheless by a majority of all the  
14 members of each of the respective houses, such proposed  
15 amendment or amendments shall be referred to the Legis-  
16 lature in the next legislative year; and if in that year  
17 the same or any of them shall be agreed to by a majority  
18 of all the members of each of the respective houses, then  
19 the amendment or amendments so agreed to shall be sub-  
20 mitted to the people.

1           2. The proposed amendment or amendments  
2 shall be entered on the journal of each house with the  
3 yeas and nays of the members voting thereon.

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

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

1           5. If more than one amendment be submitted,  
2 they shall be submitted in such manner and form that the  
3 people may vote for or against each amendment separately  
4 and distinctly.

1           6. If at the election such proposed amendment  
2 or amendments or any of them shall be approved by a  
3 majority of the legally qualified voters of the State  
4 voting thereon, the same shall become part of the Constitution  
5 on the thirtieth day after such general election unless  
6 otherwise provided in the amendment or amendments, or  
7 any of them, thus approved.

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

## ARTICLE \_\_\_\_\_

## Schedule

1                   1. This Constitution shall supersede the  
2 Constitution of 1844 as amended.

1                   2. The Legislature shall enact all laws  
2 necessary to make this Constitution fully effective.

1                   3. All law, statutory and otherwise, all  
2 rules and regulations of administrative bodies and all  
3 rules of courts in force at the time this Constitution  
4 or any Article thereof takes effect shall remain in  
5 full force until they expire or are superseded, altered  
6 or repealed by this Constitution or otherwise.

1                   4. Except as otherwise provided by this  
2 Constitution, all writs, actions, causes of action,  
3 prosecutions, contracts, claims and rights of individuals  
4 and of bodies corporate, and of the State, and all  
5 charters and franchises shall continue unaffected not-  
6 withstanding the taking effect of any Article of the  
7 Constitution.

1                   5. All indictments which have been found  
2 before the taking effect of this Constitution or any  
3 Article thereof may be proceeded upon. After the  
4 Judicial Article of the Constitution takes effect,  
5 indictments for crimes or offenses committed prior  
6 thereto may be found and proceeded upon in the court  
7 succeeding to the jurisdiction of that in which the  
8 same would have been cognizable had such Article not  
9 taken effect.

R E P O R T  
of the  
COMMITTEE ON ARRANGEMENT AND FORM  
OF  
PROPOSAL NO. 2-1  
on the  
LEGISLATIVE ARTICLE  
as amended on second reading  
to the  
CONSTITUTIONAL CONVENTION OF NEW JERSEY

PROPOSAL NO. 2-1  
was referred to your Committee  
on August 15, 1947, and, pursu-  
and to the Rules of the Conven-  
tion, is reported back in the  
form hereunto annexed.

COMMITTEE ON ARRANGEMENT AND FORM

Wayne D. McMurray,  
Chairman  
Charles P. Hutchinson,  
Vice-Chairman  
Alfred C. Clapp,  
Secretary  
Franklin H. Berry  
John Drewen  
Albert H. Holland  
Frank G. Schlosser

Dated: August 20, 1947.

COMMITTEE PROPOSAL NO. 2-1  
(AS AMENDED ON 2nd READING)  
CONSTITUTIONAL CONVENTION OF NEW JERSEY

---

INTRODUCED BY MR. EDWARD J. O'MARA  
Chairman, Committee on the Legislative

A Proposal for the Legislative Article of the proposed new Constitution in substitution for Article IV (except Section VI, Paragraphs 2, 3, and 4 and except Section VII, Paragraphs 6, 10 and 12) of the present Constitution.

1               RESOLVED, That the following be agreed upon  
2 as part of the proposed new State Constitution:

Article — Legislative

Section I

1               1. The legislative power shall be vested in  
2 a Senate and General Assembly.

1               2. No person shall be a member of the Senate  
2 who shall not have attained the age of thirty years, and  
3 have been a citizen and resident of the State for four  
4 years, and of the county for which he shall be elected one  
5 year, next before his election. No person shall be a mem-  
6 ber of the General Assembly who shall not have attained the  
7 age of twenty-one years, and have been a citizen and resident  
8 of the State for two years, and of the county for which he  
9 shall be elected one year, next before his election. No  
10 person shall be eligible for membership in the Legislature  
11 who shall not be entitled to the right of suffrage.

1               3. The Senate and General Assembly shall meet  
2 and organize separately on the second Tuesday in January



3 of each year, whereupon the legislative year shall com-  
4 mence.

1           4. Special sessions of the Legislature shall  
2 be called by the Governor upon petition of a majority of  
3 all the members of each house and may be called by the  
4 Governor whenever in his opinion the public interest shall  
5 require.

#### Section II

1           1. The Senate shall be composed of one Sen-  
2 ator from each county, elected by the legally qualified  
3 voters of the county, for a term beginning at noon of  
4 the second Tuesday in January next following his election  
5 and ending at noon of the second Tuesday in January four  
6 years thereafter.

1           2. The members of the Senate shall be elected  
2 in two classes so that, as nearly as may be, one-half of  
3 all the members shall be elected biennially.

#### Section III

1           1. The General Assembly shall be composed of  
2 members elected biennially by the legally qualified voters  
3 of the counties, respectively, for terms beginning at noon  
4 of the second Tuesday in January next following their elec-  
5 tion and ending at noon of the second Tuesday in January  
6 two years thereafter. The members of the General Assembly  
7 shall be apportioned among the several counties as nearly  
8 as may be according to the number of their inhabitants,  
9 but each county shall at all times be entitled to one mem-  
10 ber and the whole number of members shall never exceed  
11 sixty. The present apportionment shall continue until the  
12 next census of the United States shall have been taken.  
13 Apportionment of the members of the General Assembly shall  
14 be made by the Legislature at the first session after the  
15 next and every subsequent census, and each apportionment  
16 when made shall remain unaltered until the following census  
17 shall have been taken.

## Section IV

1           1. Any vacancy in the Legislature occasioned  
2 by death, resignation or otherwise shall be filled by  
3 election for the unexpired term only, as may be provided  
4 by law. Each house shall direct a writ of election to  
5 fill any vacancy in its membership; but if the vacancy  
6 shall occur during a recess of the Legislature, the  
7 writ may be issued by the Governor, as may be provided  
8 by law.

1           2. Each house shall be the judge of the elections,  
2 returns and qualifications of its own members, and a  
3 majority of all its members shall constitute a quorum  
4 to do business; but a smaller number may adjourn from  
5 day to day, and may be authorized to compel the  
6 attendance of absent members, in such manner, and under  
7 such penalties, as each house may provide.

1           3. Each house shall choose its own officers,  
2 determine the rules of its proceedings, and punish its  
3 members for disorderly behavior. It may expel a member  
4 with the concurrence of two-thirds of all its members.

1           4. Each house shall keep a journal of its  
2 proceedings, and from time to time publish the same.  
3 The yeas and nays of the members of either house on  
4 any question shall, on demand of one-fifth of those  
5 present, be entered on the journal.

1           5. Neither house, during the session of the  
2 Legislature, shall, without the consent of the other,  
3 adjourn for more than three days, or to any other  
4 place than that in which the two houses shall be  
5 sitting.

1           6. All bills and joint resolutions shall be  
2 read three times in each house before final passage.

3 No bill or joint resolution shall be read a third time  
4 in either house until after the intervention of one  
5 full calendar day following the day of the second  
6 reading; but if either house shall resolve by vote of  
7 three-fourths of all its members, signified by yeas  
8 and nays entered on the journal, that a bill or joint  
9 resolution is an emergency measure, it may proceed  
10 forthwith from second to third reading. No bill or  
11 joint resolution shall pass, unless there shall be a  
12 majority of all the members of each body personally  
13 present and agreeing thereto, and the yeas and nays  
14 of the members voting on such final passage shall be  
15 entered on the journal.

1           7. Members of the Senate and General Assembly  
2 shall receive annually, during the term for which they  
3 shall have been elected and while they shall hold their  
4 office, such compensation as shall, from time to time,  
5 be fixed by law and no other allowance or emolument,  
6 directly or indirectly, for any purpose whatever. The  
7 President of the Senate and the Speaker of the General  
8 Assembly, each by virtue of his office, shall receive  
9 an additional allowance, equal to one-third of his  
10 compensation as a member.

1           8. The compensation of members of the Senate  
2 and General Assembly shall be fixed at the first session  
3 of the Legislature held after this Constitution takes  
4 effect, and may be increased or decreased by law from  
5 time to time thereafter, but no increase or decrease  
6 shall be effective until the legislative year fol-  
7 lowing the next general election for members of the  
8 General Assembly.

1           9. Members of the Senate and General Assembly  
2 shall, in all cases except treason and high misdemeanor,

3 be privileged from arrest during their attendance at  
4 the sitting of their respective houses, and in going  
5 to and returning from the same; and for any statement,  
6 speech or debate, in either house or at any meeting of  
7 a legislative committee, they shall not be questioned  
8 in any other place.

#### Section V

1           1. No member of the Senate or General Assembly,  
2 during the term for which he shall have been elected,  
3 shall be nominated, elected or appointed to any State  
4 civil office or position, of profit, which shall have  
5 been created by law, or the emoluments whereof shall  
6 have been increased by law, during such term. The  
7 provisions of this paragraph shall not prohibit the  
8 election of any person as Governor or as a member of  
9 the Senate or General Assembly.

1           2. The Legislature may appoint any commission,  
2 committee or other body whose main purpose is to aid or  
3 assist it in performing its functions. Members of the  
4 Legislature may be appointed to serve on any such body.

1           3. If any member of the Legislature shall  
2 become a member of Congress or shall accept any Federal  
3 or State office or position, of profit, his seat shall  
4 thereupon become vacant.

1           4. No member of Congress, no person holding  
2 any Federal or State office or position, of profit, and  
3 no judge of any court shall be entitled to a seat in  
4 the Legislature.

1           5. Neither the Legislature nor either house  
2 thereof shall elect or appoint any executive, adminis-  
3 trative or judicial officer except the State Auditor.

#### Section VI

1           1. All bills for raising revenue shall  
2 originate in the General Assembly; but the Senate may

3 propose or concur with amendments, as on other bills.

1           2. The Legislature may enact general laws  
2 under which municipalities, other than counties, may  
3 adopt zoning ordinances limiting and restricting to  
4 specified districts and regulating therein, buildings  
5 and structures, according to their construction, and  
6 the nature and extent of their use, and the nature  
7 and extent of the uses of land, and the exercise of  
8 such authority shall be deemed to be within the  
9 police power of the State. Such laws shall be subject  
10 to repeal or alteration by the Legislature.

1           3. Any agency or political subdivision of the  
2 State or any agency of a political subdivision thereof,  
3 which may be empowered to take or otherwise acquire  
4 private property for any public highway, parkway, airport,  
5 place, improvement, or use, may be authorized by law  
6 to take or otherwise acquire a fee simple absolute  
7 or any lesser interest, and may be authorized by law  
8 to take or otherwise acquire a fee simple absolute in,  
9 easements upon, or the benefit of restrictions upon,  
10 abutting property to preserve and protect the public  
11 highway, parkway, airport, place, improvement, or use;  
12 but such taking shall be with just compensation.

#### Section VII

1           1. No divorce shall be granted by the Legislature.

2. No gambling of any kind shall be authorized by the Legislature unless the specific kind, restrictions and control thereof have been heretofore submitted to, and authorized by a majority of the votes cast by, the people at a special election or shall hereafter be submitted to, and authorized by a majority of the votes cast thereon by, the legally qualified voters of the State voting at a general election.

1           3. The Legislature shall not pass any bill  
2 of attainder, ex post facto law, or law impairing the  
3 obligation of contracts, or depriving a party of any  
4 remedy for enforcing a contract which existed when the  
5 contract was made.

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

1           5. No law shall be revived or amended by  
2 reference to its title only, but the act revived, or  
3 the section or sections amended, shall be inserted at  
4 length. No act shall be passed which shall provide that  
5 any existing law, or any part thereof, shall be made or  
6 deemed a part of the act or which shall enact that any  
7 existing law, or any part thereof, shall be applicable,  
8 except by inserting it in such act.

1           6. The laws of this State shall begin in  
2 the following style: "Be it enacted by the Senate and  
3 General Assembly of the State of New Jersey."

1           7. No general law shall embrace any pro-  
2 vision of a private, special or local character.

1           8. No private, special or local law shall  
2 be passed unless public notice of the intention to  
3 apply therefor, and of the general object thereof, shall  
4 have been previously given. Such notice shall be given  
5 at such time and in such manner and shall be so evidenced  
6 and the evidence thereof shall be so preserved as may  
7 be provided by law.

1           9. The Legislature shall not pass any private,  
2 special or local laws:

3           (1) Authorizing the sale of any lands belonging in  
4 whole or in part to a minor or minors or other persons  
5 who may at the time be under any legal disability to  
6 act for themselves.

7           (2) Changing the law of descent.

8           (3) Providing for change of venue in civil or  
9 criminal cases.

10          (4) Selecting, drawing, summoning or empaneling grand  
11 or petit jurors.

12          (5) Creating, increasing or decreasing the emoluments,  
13 term or tenure rights of any public officers or employees.

14          (6) Relating to taxation or exemption therefrom.

15          (7) Providing for the management and control of free  
16 public schools.

17          (8) Granting to any corporation, association or  
18 individual any exclusive privilege, immunity or franchise  
19 whatever.

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

22          (10) Laying out, opening, altering, constructing,  
23 maintaining and repairing roads or highways.

24          (11) Vacating any road, town plot, street, alley  
25 or public grounds.

26          (12) Appointing local officers or commissions to  
27 regulate municipal affairs.

28          (13) Regulating the internal affairs of municipalities  
29 formed for local government and counties, except as  
30 otherwise in this Constitution provided.

31          The Legislature shall pass general laws providing for  
32 the cases enumerated in this paragraph, and for all other  
33 cases which, in its judgment, may be provided for by  
34 general laws. The Legislature shall pass no special act



35 conferring corporate powers, but shall pass general laws  
36 under which corporations may be organized and corporate  
37 powers of every nature obtained, subject, nevertheless,  
38 to repeal or alteration at the will of the Legislature.

1           10. Upon petition by the governing body of  
2 any municipal corporation formed for local government,  
3 or of any county, and by vote of two-thirds of all the  
4 members of each house, the Legislature may pass private,  
5 special or local laws regulating the internal affairs  
6 of the municipality or county. The petition shall be  
7 authorized in a manner to be prescribed by general law  
8 and shall specify the general nature of the law sought  
9 to be passed. Such law shall become operative only if  
10 it is adopted by ordinance of the governing body of the  
11 municipality or county or by vote of the legally quali-  
12 fied voters thereof. The Legislature shall prescribe  
13 in such law or by general law the method of adopting  
14 such law, and the manner in which the ordinance of  
15 adoption may be enacted or the vote taken, as the case  
16 may be.

1           11. The provisions of this Constitution  
2 and of any law concerning municipal corporations formed  
3 for local government, and counties, shall be liberally  
4 construed in their favor. The powers of counties and  
5 such municipal corporations shall include not only those  
6 expressly or incidentally conferred, specifically enumerated,  
7 indispensable, essential, or implied, but also those  
8 reasonably convenient for the execution of such powers  
9 and not inconsistent with or prohibited by law or this  
10 Constitution.

## Section VIII

1           1. Members of the Legislature shall, before  
 2 they enter on the duties of their respective offices, take  
 3 and subscribe the following oath or affirmation: "I do  
 4 solemnly swear (or affirm, as the case may be,) that I  
 5 will support the Constitution of the United States and  
 6 the Constitution of the State of New Jersey, and that I  
 7 will faithfully discharge the duties of Senator (or  
 8 member of the General Assembly, as the case may be)  
 9 according to the best of my ability." Members-elect of  
 10 the Senate or General Assembly are empowered to administer  
 11 said oath or affirmation to each other.

1           2. Every officer of the Legislature shall,  
 2 before he enters upon his duties, take and subscribe  
 3 the following oath or affirmation: "I do solemnly  
 4 promise and swear (or affirm) that I will faithfully,  
 5 impartially and justly perform all the duties of the  
 6 office of ....., to the best of my  
 7 ability and understanding; that I will carefully pre-  
 8 serve all records, papers, writings, or property entrusted  
 9 to me for safe-keeping by virtue of my office, and make  
 10 such disposition of the same as may be required by law."

## SCHEDULE

1           1. The first Legislature under this Con-  
 2 stitution shall meet on the second Tuesday in January,  
 3 in the year one thousand nine hundred and forty-eight.

1           2. Each member of the General Assembly,  
 2 elected at the election in the year one thousand nine  
 3 hundred and forty-seven, shall hold office for a term  
 4 beginning at noon of the second Tuesday in January in  
 5 the year one thousand nine hundred and forty-eight and  
 6 ending at noon of the second Tuesday in January in the

7 year one thousand nine hundred and fifty. Each member  
8 of the General Assembly elected thereafter shall hold  
9 office for the term provided by this Constitution.

1           3. Each member of the Senate elected in  
2 the years one thousand nine hundred and forty-five and one  
3 thousand nine hundred and forty-six shall hold office for  
4 the term for which he was elected. Each member of the  
5 Senate elected at the election in the year one thousand  
6 nine hundred and forty-seven shall hold office for a term  
7 of four years beginning at noon of the second Tuesday in  
8 January, following. The seats in the Senate which would  
9 have been filled in the years hereinafter designated had  
10 this Constitution not been adopted shall be filled by  
11 election as follows: of those seats which would have  
12 been filled by election in the year one thousand nine  
13 hundred and forty-eight, three seats, as chosen by the  
14 Senate in the year one thousand nine hundred and forty-  
15 eight, shall be filled by election in that year for  
16 terms of five years, and three, as so chosen, shall be  
17 filled by election in that year for terms of three years,  
18 and those seats which would have been filled by election  
19 in the year one thousand nine hundred and forty-nine  
20 shall be filled by election in that year for terms of  
21 four years, so that ten seats in the Senate shall be  
22 filled by election in the year one thousand nine hundred  
23 and forty-nine and in every four years thereafter for  
24 terms of four years, and the members of the Senate so  
25 elected and their successors shall constitute one class  
26 to be elected as prescribed in paragraph 2 of Section II  
27 of Article ---- of this Constitution and eleven seats  
28 shall be filled by election in the year one thousand nine  
29 hundred and fifty-one and in every four years thereafter  
30 for terms of four years, and the members of the Senate

31 so elected and their successors shall constitute the other  
32 class to be elected as prescribed in said paragraph of  
33 this Constitution.

1                   4. The provisions of Paragraph 1 of Section V  
2 of Article ---- of this Constitution, shall not prohibit  
3 the nomination, election or appointment of any member of  
4 the Senate or General Assembly first organized under this  
5 Constitution, to any State civil office or position created  
6 by this Constitution or created during his first term of  
7 service as such member under this Constitution.

R E P O R T  
of the  
COMMITTEE ON ARRANGEMENT AND FORM  
of  
PROPOSAL NO. 3-1  
on the  
EXECUTIVE, MILITIA AND CIVIL OFFICERS  
as amended on second reading  
to the  
CONSTITUTIONAL CONVENTION OF NEW JERSEY.

PROPOSAL NO. 3-1  
was referred to your Committee  
on August 13, 1947 and, pursu-  
ant to the Rules of the Conven-  
tion, is reported back in the  
form hereunto annexed.

COMMITTEE ON ARRANGEMENT AND FORM

Wayne D. McMurray,  
Chairman  
Charles P. Hutchinson,  
Vice-Chairman  
Alfred C. Clapp,  
Secretary  
Franklin H. Berry  
John Drewen  
Albert H. Holland  
Frank G. Schlosser

Dated: August 18, 1947.

PROPOSAL NO. 3-1  
(as amended on 2nd reading)

CONSTITUTIONAL CONVENTION OF NEW JERSEY

INTRODUCED BY DAVID VAN ALSTYNE, JR.  
Chairman, Committee on Executive, Militia and Civil Officers

A PROPOSAL relating to the Governor, militia, State administrative organization, public officers and employees, adding new articles on the Executive and on Public Officers in lieu of Articles V and VII of the Constitution of 1844.

1           RESOLVED, That the following be agreed upon as part  
2 of the proposed new State Constitution:

Article —

EXECUTIVE

Section I

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

1           2. The Governor shall not be less than thirty years  
2 of age, and shall have been for twenty years at least a citizen of the United States, and a resident of this State seven  
3 years next before his election, unless he shall have been absent during that time on the public business of the United  
4 States or of this State.

1           3. No Member of Congress or person holding any office or position, of profit, under this State or the United States shall be Governor. If the Governor or person administering the office of Governor shall accept any other office or position, of profit, under this State or the United States, the office of Governor shall thereby be vacated. No  
2 Governor shall be elected by the Legislature to any office  
3 during the term for which he shall have been elected  
4 Governor.

1           4. The Governor shall be elected by the legally  
2 qualified voters of this State. The person receiving the  
3 greatest number of votes shall be the Governor; but if two  
4 or more shall be equal and greatest in votes, one of them  
5 shall be elected Governor by the vote of a majority of all

6 the members of both houses in joint meeting at the regular  
7 legislative session next following the election for Governor  
8 by the people. Contested elections for the office of Governor  
9 shall be determined in such manner as may be provided by law.

1       5. The term of office of the Governor shall be four  
2 years, beginning at noon of the third Tuesday of January  
3 next following his election, and ending at noon of the third  
4 Tuesday in January four years thereafter. No person who has  
5 been elected Governor for two successive terms, including an  
6 unexpired term, shall again be eligible for that office until  
7 the third Tuesday in January of the fourth year following the  
8 expiration of his second successive term.

1       6. In the event of a vacancy in the office of Governor  
2 resulting from death, resignation or removal of a Governor in  
3 office, or the death of a Governor-elect, or from any other  
4 cause, the functions, powers, duties and emoluments of the  
5 office shall devolve upon the President of the Senate, for  
6 the time being; and in the event of his death, resignation  
7 or removal, then upon the Speaker of the General Assembly,  
8 for the time being; and in the event of his death, resigna-  
9 tion or removal, then upon such officers and in such order  
10 of succession as may be provided by law, until the election  
11 and qualification of another Governor.

1       7. In the event of the failure of the Governor-elect  
2 to qualify, or of the absence from the State of a Governor  
3 in office, or his inability to discharge the duties of his  
4 office, or his impeachment, the functions, powers, duties  
5 and emoluments of the office shall devolve upon the President  
6 of the Senate, for the time being; and in the event of his  
7 death, resignation, removal, absence, inability or impeach-  
8 ment, then upon the Speaker of the General Assembly, for the  
9 time being; and in the event of his death, resignation, re-  
10 moval, absence, inability or impeachment, then upon such  
11 officers and in such order of succession as may be provided  
12 by law; until the Governor-elect shall qualify, or the Gov-  
13 ernor in office shall return to the State, or shall no longer  
14 be unable to perform the duties of the office, or shall be  
15 acquitted, as the case may be, or until a new Governor

16 shall be elected and qualify.

1           8. Whenever a Governor-elect shall have failed to  
2 qualify within six months after the beginning of his term  
3 of office, or whenever for a period of six months a Governor  
4 in office, or person administering the office, shall have  
5 remained continuously absent from the State, or shall have  
6 continued to be unable to discharge the duties of his  
7 office by reason of mental or physical disability, the  
8 office shall be deemed vacant. Such vacancy shall be  
9 determined by the court of last resort upon presentment  
10 to it of a concurrent resolution of the ground of the  
11 vacancy, adopted by a vote of two-thirds of all the  
12 members of each house of the Legislature, and upon notice,  
13 hearing before the Court and proof of the existence of the  
14 vacancy.

1           9. In the event of a vacancy in the office of  
2 Governor, a Governor shall be elected to fill the unexpired  
3 term at the general election next succeeding the vacancy,  
4 unless the vacancy shall occur within sixty days immediately  
5 preceding a general election, in which case he shall be  
6 elected at the second succeeding general election; but no  
7 election to fill an unexpired term shall be held in any year in  
8 which a Governor is to be elected for a full term. A Governor  
9 elected for an unexpired term shall assume his office immediately  
10 upon his election.

1           10. The Governor shall receive for his services a  
2 salary, which shall be neither increased nor diminished during  
3 the period for which he shall have been elected.

1           11. The Governor shall take care that the laws be  
2 faithfully executed. To this end he shall have power, by  
3 appropriate action or proceeding in the courts brought in  
4 the name of the State, to enforce compliance with any con-  
5 stitutional or legislative mandate, or to restrain violation  
6 of any constitutional or legislative power or duty, by any  
7 officer, department or agency of the State; but this power  
8 shall not be construed to authorize any action or proceeding  
9 against the Legislature.



1           12. The Governor shall communicate to the  
2 Legislature, by message at the opening of each regular  
3 session and at such other times as he may deem necessary,  
4 the condition of the State, and shall in like manner  
5 recommend such measures as he may deem desirable. He may  
6 convene the Legislature or the Senate alone whenever in his  
7 opinion the public interest shall require. He shall be  
8 the Commander-in-Chief of all the military and naval forces  
9 of the State. He shall grant commissions to all officers  
10 elected or appointed pursuant to this Constitution. He shall  
11 nominate and appoint, with the advice and consent of the  
12 Senate, all officers for whose election or appointment pro-  
13 vision is not otherwise made by this Constitution or by law.

1           13. The Governor may fill any vacancy occurring in  
2 any office during a recess of the Legislature, appointment to  
3 which may be made by the Governor with the advice and consent  
4 of the Senate, or by the Legislature in joint meeting. An  
5 ad interim appointment so made shall expire at the end of the  
6 next regular session of the Senate, unless a successor shall  
7 be sooner appointed and qualified; and after the end of the  
8 session no ad interim appointment to the office shall be  
9 made unless the Governor shall have submitted to the Senate  
10 a nomination to the office during the session and the Senate  
11 shall have adjourned without confirming or rejecting it.

1           14. Every bill which shall have passed both houses  
2 shall be presented to the Governor. If he approves he shall  
3 sign it, but if not he shall return it, with his objections,  
4 to the house in which it shall have originated, which shall  
5 enter the objections at large on its journal and proceed to  
6 reconsider it. If upon reconsideration, on or after the third  
7 day following the return of the bill, two-thirds of all the  
8 members of the house of origin shall agree to pass the bill,  
9 it shall be sent, together with the objections of the Governor,  
10 to the other house, by which it shall be reconsidered and if  
11 approved by two-thirds of all the members of that house, it  
12 shall become a law; and in all such cases the votes of each  
13 house shall be determined by yeas and nays, and the names of  
14 the persons voting for and against the bill shall be entered

15 on the journal of each house respectively. If a bill shall  
16 not be returned by the Governor within ten days, Sundays  
17 excepted, after it shall have been presented to him, the  
18 same shall become a law on the tenth day, unless the house of  
19 origin shall on that day be in adjournment. If on the tenth  
20 day the house of origin shall be in temporary adjournment  
21 in the course of a regular or special session, the bill  
22 shall become a law on the day on which the house of origin  
23 shall reconvene, unless the Governor shall on that day return  
24 the bill to that house.

25           If, on the tenth day, the Legislature is in ad-  
26 journment sine die the bill shall become a law if the  
27 Governor shall sign it within forty-five days, Sundays  
28 excepted, after such adjournment. On the said forty-fifth  
29 day the bill shall become a law, notwithstanding the failure  
30 of the Governor to sign it within the period last stated,  
31 unless at or before noon of that day he shall return it with  
32 his objections to the house of origin at a special session  
33 of the Legislature which shall convene on that day, without  
34 petition or call, for the sole purpose of acting pursuant  
35 to this paragraph upon bills returned by the Governor. At  
36 such special session a bill may be reconsidered beginning on  
37 the first day, in the manner provided in this paragraph for  
38 the reconsideration of bills, and if approved upon recon-  
39 sideration by two-thirds of all the members of each house  
40 it shall become a law. The Governor may, in returning a  
41 bill with his objections, for reconsideration at any general  
42 or special session of the Legislature, recommend that an  
43 amendment or amendments specified by him be made in the bill,  
44 and in such case the Legislature may amend and re-enact the  
45 bill. If a bill be so amended and re-enacted it shall be  
46 again presented to the Governor, but shall become a law only  
47 if he shall sign it within ten days after presentation; and  
48 no bill shall be returned by the Governor a second time. A  
49 special session of the Legislature shall not be convened  
50 pursuant to this paragraph whenever the forty-fifth day,

51 Sundays excepted, after adjournment of a regular or special  
52 session shall fall on or after the last day of the legislative  
53 year in which such adjournment shall have been taken.

1           15. If any bill presented to the Governor shall  
2 contain one or more items of appropriation of money, he may  
3 object in whole or in part to any such item or items while  
4 approving the other portions of the bill. In such case he  
5 shall append to the bill, at the time of signing it, a  
6 statement of each item or part thereof to which he objects,  
7 and each item or part thereof so objected to shall not take  
8 effect. A copy of such statement shall be transmitted by  
9 him to the house in which the bill originated, and each item  
10 or part thereof objected to shall be separately reconsidered.  
11 If upon reconsideration, on or after the third day following  
12 said transmittal, one or more of such items or parts thereof  
13 be approved by two-thirds of all the members of each house,  
14 the same shall become a part of the law, notwithstanding  
15 the objections of the Governor. All the provisions of the  
16 preceding paragraph in relation to bills not approved by the  
17 Governor shall apply to cases in which he shall withhold his  
18 approval from any item or items or parts thereof contained  
19 in a bill appropriating money.

#### Section II.

1           1. The Governor may grant pardons and reprieves in  
2 all cases other than impeachment and treason, and may suspend  
3 and remit fines and forfeitures. A commission or other body  
4 may be established by law to aid and advise the Governor in  
5 the exercise of executive clemency.

1           2. A system for the granting of parole shall be  
2 provided by law.

#### Section III

1           1. Provision for organizing, inducting, training,  
2 arming, disciplining and regulating a militia shall be made  
3 by law, which shall conform to applicable standards established  
4 for the armed forces of the United States. Discrimination on  
5 account of race, color, religion or national origin in  
6 organizing, inducting, training, arming, disciplining and  
7 regulating the militia is prohibited.

1           2. The Governor shall nominate and appoint all  
2 general and flag officers of the militia, with the advice  
3 and consent of the Senate. All other commissioned officers  
4 of the militia shall be appointed and commissioned by the  
5 Governor according to law.

#### Section IV

1           1. All executive and administrative offices, de-  
2 partments, and instrumentalities of the State government,  
3 including the offices of Secretary of State and Attorney  
4 General, and their respective functions, powers and duties,  
5 shall be allocated by law among and within not more than  
6 twenty principal departments, in such manner as to group  
7 the same according to major purposes so far as practicable.  
8 Temporary commissions for special purposes may, however,  
9 be established by law and such commissions need not be  
10 allocated within a principal department.

1           2. Each principal department shall be under the  
2 supervision of the Governor. The head of each principal  
3 department shall be a single executive unless otherwise  
4 provided by law. Such single executives shall be nominated  
5 and appointed by the Governor, with the advice and con-  
6 sent of the Senate, to serve at the pleasure of the  
7 Governor during his term of office and until the appoint-  
8 ment and qualification of their successors, except as  
9 herein otherwise provided with respect to the Secretary  
10 of State and Attorney General.

1           3. The Secretary of State and the Attorney  
2 General shall be nominated and appointed by the Governor  
3 with the advice and consent of the Senate to serve during  
4 the term of office of the Governor.

1           4. Whenever a board, commission or other body  
2 shall be the head of a principal department, the members  
3 thereof shall be nominated and appointed by the Governor  
4 with the advice and consent of the Senate, and may be re-  
5 moved in the manner provided by law. Such a board, com-  
6 mission or other body may appoint a principal executive

8.  
7 officer when authorized by law, but the appointment shall  
8 be subject to the approval of the Governor. Any principal  
9 executive officer so appointed shall be removable by the  
10 Governor, upon notice and an opportunity to be heard.

1           5. The Governor may cause an investigation to be  
2 made of the conduct in office of any officer or employee  
3 who receives his compensation from the State of New Jersey,  
4 except a member of the Legislature or an officer elected  
5 by the Senate and General Assembly in joint meeting, or  
6 a judicial officer. He may require such officer or em-  
7 ployee to submit to him a written statement or statements,  
8 under oath, of such information as the Governor may require  
9 relating to the conduct of their respective offices or  
10 employments. After notice, the service of charges and an  
11 opportunity to be heard at public hearing the Governor  
12 may remove any such officer or employee for cause. Such  
13 officer or employee shall have the right of judicial re-  
14 view, on both the law and the facts, in such manner as  
15 shall be provided by law.

1           6. No rule or regulation made by any State  
2 department, officer, agency or authority, except such  
3 as relates to the organization or internal management  
4 of the State Government or a part thereof, shall take  
5 effect until it is filed with the Secretary of State or  
6 in such other manner as may be provided by law. The  
7 Legislature shall provide for the prompt publication of  
8 such rules and regulations.

#### Article -----

#### Public Officers and Employees

#### Section I

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

1           2. Appointments and promotions in the civil service  
2 of the State, and of such political subdivisions as may  
3 be provided by law, shall be made according to merit and  
4 fitness to be ascertained, as far as practicable, by  
5 examination, which, as far as practicable, shall be com-  
6 petitive; except that preference in appointments by  
7 reason of active service in any branch of the military  
8 or naval forces of the United States in time of war may  
9 be provided by law.

1           3. Any compensation for services or any fees  
2 received by any person by virtue of an appointive State  
3 office or position, in addition to the annual salary  
4 provided for the office or position, shall immediately  
5 upon receipt be paid into the treasury of the State,  
6 unless the compensation or fees shall be allowed or  
7 appropriated to him by law.

1           4. Any person before or after entering upon  
2 the duties of any public office, position or employment  
3 in this State may be required to give bond as may be  
4 provided by law.

1           5. The term of office of all officers elected  
2 or appointed pursuant to the provisions of this Consti-  
3 tution, except as herein otherwise provided, shall com-  
4 mence on the day of the date of their respective com-  
5 missions; but no commission for any office shall bear  
6 date prior to the expiration of the term of the incumbent  
7 of said office.

1           6. The State Auditor shall be appointed by the  
2 Senate and General Assembly in joint meeting for a term  
3 of five years and until his successor shall be appointed  
4 and qualified. It shall be his duty to conduct post-  
5 audits of all transactions and accounts kept by or for  
6 all departments, offices and agencies of the State  
7 government, to report to the Legislature or to any  
8 committee thereof as shall be required by law, and to  
9 perform such other similar or related duties as shall,  
10 from time to time, be required of him by law.

## Section II.

1           1. County prosecutors shall be nominated and  
2 appointed by the Governor with the advice and consent of  
3 the Senate. Their term of office shall be five years,  
4 and they shall serve until the appointment and qualifi-  
5 cation of their respective successors.

1           2. County clerks, surrogates and sheriffs shall  
2 be elected by the people of their respective counties at  
3 general elections. The term of office of county clerks  
4 and surrogates shall be five years, and of sheriffs  
5 three years. Whenever a vacancy shall occur in any  
6 such office it shall be filled in the manner to be pro-  
7 vided by law.

## Section III

1           1. The Governor and all other State officers,  
2 while in office and for two years thereafter, shall be  
3 liable to impeachment for misdemeanor committed during  
4 their respective continuance in office.

1           2. The General Assembly shall have the sole  
2 power of impeachment by vote of a majority of all the  
3 members. All impeachments shall be tried by the Senate,  
4 and members, when sitting for that purpose, shall be on  
5 oath or affirmation "truly and impartially to try and  
6 determine the charge in question according to the  
7 evidence." No person shall be convicted without the con-  
8 currence of two-thirds of all the members of the Senate.  
9 When the Governor is tried, the Chief Justice of the  
10 court of last resort shall preside and the President of  
11 the Senate shall not participate in the trial.

1           3. Judgment in cases of impeachment shall not  
2 extend further than to removal from office, and to dis-  
3 qualification to hold and enjoy any public office of honor,  
4 profit or trust in this State; but the person convicted  
5 shall nevertheless be liable to indictment, trial and  
6 punishment according to law.

## Article ----

## Schedule

1           1. A Governor shall be elected for a full term  
2 at the general election to be held in the year one  
3 thousand nine hundred and forty-nine and each fourth year  
4 thereafter.

1           2. The taking effect of this Constitution or any  
2 provision thereof shall not of itself affect the tenure,  
3 term, status or compensation of any person then holding  
4 any public office, position or employment in this State,  
5 except as provided in this Constitution. Unless otherwise  
6 specifically provided in this Constitution, all con-  
7 stitutional officers in office at the time of its  
8 adoption shall continue to exercise the authority of  
9 their respective offices during the term for which they  
10 shall have been elected or appointed and until the  
11 qualification of their successors respectively.  
12 Upon the taking effect of this Constitution all officers  
13 of the militia shall retain their commissions subject  
14 to the provisions of Article IV, Section III.

1           3. The Legislature, in compliance with the  
2 provisions of this Constitution, shall prior to July  
3 first, one thousand nine hundred and forty-nine, and  
4 from time to time thereafter may, allocate by law the  
5 executive and administrative offices, departments and  
6 instrumentalities of the State Government among and  
7 within the principal departments. If such allocation  
8 shall not have been completed within the time limited,  
9 the Governor shall call a special session of the  
10 Legislature to which he shall submit a plan or plans  
11 for consideration to complete such allocation; and no  
12 other matters shall be considered at such session.



R E P O R T  
of the  
COMMITTEE ON ARRANGEMENT AND FORM  
of  
PROPOSAL NO. 4-1  
on the  
JUDICIARY ARTICLE  
as amended on second reading  
to the  
CONSTITUTIONAL CONVENTION OF NEW JERSEY

PROPOSAL NO. 4-1  
was referred to your Committee  
on August 19, 1947, and, pursu-  
ant to the Rules of the Conven-  
tion, is reported back in the  
form hereunto annexed.

COMMITTEE ON ARRANGEMENT AND FORM

Wayne D. McMurray,  
Chairman  
Charles P. Hutchinson,  
Vice-Chairman  
Alfred C. Clapp,  
Secretary  
Franklin H. Berry  
John Drewen  
Albert H. Holland  
Frank G. Schlosser

Dated: August 21, 1947.

PROPOSAL NO. 4-1  
(as amended on 2nd reading)

CONSTITUTIONAL CONVENTION OF NEW JERSEY

INTRODUCED BY MR. FRANK H. SOMMER

Chairman, Committee on Judiciary

Article ---- Judicial

Section I

1           1. The judicial power shall be vested in a  
2 Supreme Court, a Superior Court, County Courts and  
3 inferior courts of limited jurisdiction. The inferior  
4 courts and their jurisdiction may from time to time be  
5 established, altered or abolished by law.

Section II

1           1. The Supreme Court shall consist of a  
2 Chief Justice and six Associate Justices. Five members  
3 of the court shall constitute a quorum. When necessary,  
4 the Chief Justice shall assign the Judge or Judges of  
5 the Superior Court, senior in service, as provided by  
6 rules of the Supreme Court, to serve temporarily in the  
7 Supreme Court. In case the Chief Justice is absent or  
8 unable to serve, a presiding Justice designated in  
9 accordance with rules of the Supreme Court shall serve  
10 temporarily in his stead.

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

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

## Section III

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

1           2. The Superior Court shall have original  
2 general jurisdiction throughout the State in all causes.

1           3. The Superior Court shall be divided into  
2 an Appellate Division, a Law Division, and a Chancery  
3 Division. Each division shall have such Parts, con-  
4 sist of such number of Judges, and hear such causes,  
5 as may be provided by rules of the Supreme Court.

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

## Section IV

1           1. There shall be a County Court in each  
2 county, which shall have all the jurisdiction hereto-  
3 fore exercised by the Court of Common Pleas, Orphans'  
4 Court, Court of Oyer and Terminer, Court of Quarter  
5 Sessions, Court of Special Sessions and such other juris-  
6 diction consistent with this Constitution as may be  
7 conferred by law.

1           2. There shall be a Judge of each County  
2 Court and such additional Judges as shall be provided  
3 by law, and they shall be appointed as heretofore.

1           3. Each Judge of the County Court may  
2 exercise the jurisdiction of the County Court.

1           4. The jurisdiction, powers and functions  
2 of the County Courts and of the Judges of the County  
3 Courts may be altered by law as the public good may  
4 require.

1           5. The County Courts, in civil causes  
2 including probate causes, within their jurisdiction,  
3 and subject to law, may grant legal and equitable  
4 relief so that all matters in controversy between the  
5 parties may be completely determined.

#### Section V

1           1. Appeals may be taken to the Supreme Court:

2           (a) In causes determined by the Appellate Division  
3 of the Superior Court involving a question  
4 arising under the Constitution of the United  
5 States or this State;

6           (b) In causes where there is a dissent in the  
7 Appellate Division of the Superior Court;

8           (c) In capital causes;

9           (d) On certification by the Supreme Court to the  
10 Superior Court and, where provided by rules of  
11 the Supreme Court, to the County Courts and the  
12 inferior courts; and

13          (e) In such causes as may be provided by law.

1           2. Appeals may be taken to the Appellate  
2 Division of the Superior Court from the Law and Chancery  
3 Divisions of the Superior Court, the County Courts and in  
4 such other causes as may be provided by law.

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

1                   4. Prerogative writs are superseded and,  
2 in lieu thereof, review, hearing and relief shall  
3 be afforded in the Superior Court, on terms and in  
4 the manner provided by rules of the Supreme Court,  
5 as of right, except in criminal causes where such  
6 review shall be discretionary.

## Section VI

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

1           2. The Justices of the Supreme Court, the Judges  
2 of the Superior Court and the Judges of the County Courts  
3 shall each prior to his appointment have been admitted  
4 to the practice of the law in this State for at least  
5 ten years.

1           3. The Justices of the Supreme Court and the  
2 Judges of the Superior Court shall hold their offices  
3 for initial terms of seven years and upon reappointment  
4 shall hold their offices during good behavior. Such  
5 Justices and Judges shall be retired upon attaining the  
6 age of seventy years. Provisions for the pensioning of  
7 the Justices of the Supreme Court and the Judges of the  
8 Superior Court shall be made by law.

1           4. The Justices of the Supreme Court, the Judges  
2 of the Superior Court and the Judges of the County Courts  
3 shall be subject to impeachment, and any judicial officer  
4 impeached shall not exercise his office until acquitted.  
5 The Judges of the Superior Court and the Judges of the  
6 County Courts shall also be subject to removal from office  
7 by the Supreme Court for such causes and in such manner as  
8 shall be provided by law.

1           5. Whenever the Supreme Court shall certify to the  
2 Governor that it appears that any Justice of the Supreme

3 Court, Judge of the Superior Court or Judge of the  
4 County Court is so incapacitated as substantially to  
5 prevent him from performing his judicial duties, the  
6 Governor shall appoint a commission of three persons  
7 to inquire into the circumstances; and, on their  
8 recommendation, the Governor may retire the Justice  
9 or Judge from office, on pension as may be provided  
10 by law.

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

1           7. The Justices of the Supreme Court, the  
2 Judges of the Superior Court and the Judges of the  
3 County Courts shall hold no other office or position  
4 of profit under the authority of this State or the  
5 United States. Any such Justice or Judge who shall  
6 become a candidate for an elective public office  
7 shall thereby forfeit his judicial office.

#### Section VII

1           1. The Chief Justice of the Supreme Court  
2 shall be the administrative head of all the courts in  
3 the State. He shall appoint an Administrative Director  
4 to serve at his pleasure.

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

-

1           3. The Clerk of the Supreme Court and the  
2 Clerk of the Superior Court shall be appointed by  
3 the Supreme Court for such terms and at such com-  
4 pensation as shall be provided by law.

#### SCHEDULE

Article \_\_\_\_\_

Section \_\_\_\_\_

1           1. Subsequent to the adoption of this Con-  
2 stitution the Governor shall nominate and appoint,  
3 by and with the advice and consent of the Senate,  
4 a Chief Justice and six Associate Justices of the  
5 new Supreme Court from among the persons then being  
6 the Chancellor, the Chief Justice and Associate  
7 Justices of the old Supreme Court, the Vice-Chancellors  
8 and Circuit Court Judges. The remaining judicial  
9 officers enumerated and such Judges of the Court of  
10 Errors and Appeals as have been admitted to the  
11 practice of law in this State for at least ten years,  
12 and are in office on the adoption of the Constitution,  
13 shall constitute the Judges of the Superior Court.  
14 The Justices of the new Supreme Court and the Judges  
15 of the Superior Court so designated shall hold office  
16 each for the period of his term which remains unexpired  
17 at the time the Constitution is adopted; and if reappointed  
18 he shall hold office during good behavior. No Justice  
19 of the new Supreme Court or Judge of the Superior  
20 Court shall hold his office after attaining the age  
21 of seventy years, except, however, that such Justice  
22 or Judge may complete the period of his term which  
23 remains unexpired at the time the Constitution is adopted.

1           2. The Judges of the Courts of Common Pleas  
2 shall constitute the Judges of the County Courts, each  
3 for the period of his term which remains unexpired at



4 the time the Judicial Article of this Constitution  
5 takes effect.

1           3. The Court of Errors and Appeals, the  
2 present Supreme Court, the Court of Chancery, the  
3 Prerogative Court and the Circuit Courts shall be  
4 abolished when the Judicial Article of this Consti-  
5 tution takes effect; and all their jurisdiction,  
6 functions, powers and duties shall be transferred to  
7 and divided between the new Supreme Court and the  
8 Superior Court according as jurisdiction is vested  
9 in each of them under this Constitution.

1           4. Until otherwise provided by law and except as  
2 provided in this Constitution, now existing in this State,  
3 other than those abolished in paragraph 3 hereof, shall  
4 continue as if this Constitution had not been adopted. Until  
5 otherwise provided by law, the judicial officers, surrogates  
6 and clerks of all courts now existing, other than those  
7 abolished in paragraph 3 hereof, and the employees of  
8 said officers, clerks, surrogates and courts shall  
9 continue in the exercise of their duties, as if this  
10 Constitution had not been adopted.

1           5. The Supreme Court shall make rules governing  
2 the administration and practice and procedure of the  
3 County Courts; and the Chief Justice of the Supreme  
4 Court shall be the administrative head of these courts  
5 with power to assign any Judge thereof of any county  
6 to sit temporarily in the Superior Court or to sit  
7 temporarily without the county in a County Court.

1           6. The Advisory Masters appointed to hear  
2 matrimonial proceedings and in office on the adoption  
3 of this Constitution shall, each for the period of  
4 his term which remains unexpired at the time the  
5 Constitution is adopted, continue so to do as Advisory  
6 Masters to the Chancery Division of the Superior Court,  
7 unless otherwise provided by law.

1           7. All Special Masters in Chancery, Masters  
2 in Chancery, Supreme Court Commissioners and Supreme  
3 Court Examiners shall, until otherwise provided by  
4 rules of the Supreme Court, continue respectively as  
5 Special Masters, Masters, Commissioners and Examiners  
6 of the Superior Court, with appropriate similar  
7 functions and powers as if this Constitution had not  
8 been adopted.

1           8. When the Judicial Article of this Constitution  
2 takes effect:

3           (a) all causes and proceedings of whatever  
4 character pending in the Court of Errors and  
5 Appeals shall be transferred to the new  
6 Supreme Court;

7           (b) all causes and proceedings of whatever  
8 character pending on appeal or writ of error  
9 in the present Supreme Court and in the Pre-  
10 rogative Court and all pending causes involving  
11 the prerogative writs shall be transferred to  
12 the Appellate Division of the Superior Court;

13           (c) all causes and proceedings of whatever  
14 character pending in the Supreme Court other  
15 than those stated shall be transferred to the  
16 Superior Court;

17           (d) all causes and proceedings of whatever  
18 character pending in the Prerogative Court other  
19 than those stated shall be transferred to the  
20 Chancery Division of the Superior Court.

21           (e) All causes and proceedings of whatever  
22 character pending in all other courts which  
23 are abolished shall be transferred to the  
24 Superior Court.

25 For the purposes of this and the next paragraph causes  
26 shall be deemed to be pending, notwithstanding that an  
27 adjudication has been entered therein, until the time  
28 limited for review has expired, and where an order or

29 decree has been entered reserving to the parties the <sup>10.</sup>  
30 right to apply for further relief.

1           9. The files of all causes pending in the  
2 Court of Errors and Appeals shall be delivered to the  
3 Clerk of the new Supreme Court; and the files of all  
4 causes pending in the present Supreme Court, the Court  
5 of Chancery and the Prerogative Court shall be delivered  
6 to the Clerk of the Superior Court. All other files,  
7 books, papers, records and documents and all property  
8 of the Court of Errors and Appeals, the present  
9 Supreme Court, the Prerogative Court, the Chancellor  
10 and the Court of Chancery, or in their custody, shall  
11 be disposed of as shall be provided by law.

1           10. Upon the taking effect of the Judicial  
2 Article of this Constitution, all the functions, powers  
3 and duties conferred by statute, rules or otherwise  
4 upon the Chancellor, the Ordinary, and the Justices  
5 and Judges of the courts abolished by this Constitution,  
6 to the extent that such functions, powers and duties are  
7 not inconsistent with this Constitution, shall be trans-  
8 ferred to and may be exercised by Judges of the Superior  
9 Court until otherwise provided by law or rules of the  
10 new Supreme Court; excepting that such statutory powers  
11 not related to the administration of justice as are then  
12 vested in any such judicial officers shall, after the  
13 Judicial Article of the Constitution takes effect and  
14 until otherwise provided by law, be transferred to and  
15 exercised by the Chief Justice of the new Supreme Court.

1           11. Upon the taking effect of the Judicial  
2 Article of this Constitution, the Clerk of the Supreme  
3 Court shall become the Clerk of the new Supreme Court  
4 and shall serve as such Clerk until the expiration of  
5 the term for which he was appointed as Clerk of the  
6 Supreme Court, and all employees of the Supreme Court  
7 as previously constituted, of the Clerk thereof and of

8 the Chief Justice and the Justices thereof, of the  
9 Circuit Courts and the Judges thereof and of the  
10 Court of Errors and Appeals shall be transferred to  
11 appropriate similar positions with similar compensa-  
12 tion and civil service status under the Clerk of the  
13 new Supreme Court or the new Supreme Court, or the  
14 Clerk of the Superior Court or the Superior Court,  
15 which shall be provided by law.

1           12. Upon the taking effect of the Judicial  
2 Article of this Constitution, the Clerk in Chancery  
3 shall become the Clerk of the Superior Court and shall  
4 serve as such Clerk until the expiration of the term  
5 for which he was appointed as Clerk in Chancery, and  
6 all employees of the Clerk in Chancery, the Court of  
7 Chancery, the Chancellor and the several Vice-Chancellors  
8 shall be transferred to appropriate similar positions  
9 with similar compensation and civil service status under  
10 the Clerk of the Superior Court or the Superior Court,  
11 which shall be provided by law.

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

1           14. The Judicial Article of this Constitu-  
2 tion shall take effect on July 1, 1948, except that the  
3 Governor, by and with the advice and consent of the  
4 Senate, shall have the power to fill vacancies arising  
5 prior thereto in the new Supreme Court and the Superior  
6 Court; and except further that any provision of this  
7 Constitution which may require any act to be done prior  
8 thereto or in preparation therefor shall take effect  
9 immediately upon the adoption of this Constitution.

AMENDMENT NO. 1

*Adopted*

AMENDMENT TO COMMITTEE PROPOSAL NO. 4 - 1

As reported by the Committee on Arrangement and Form

Introduced by Wayne D. McMurray  
Delegate from Monmouth County

I. Substitute in place of paragraph 4, page 8, the following paragraph:

"Until otherwise provided by law, all courts now existing in this State, other than those abolished in paragraph 3 hereof, shall continue as if this Constitution had not been adopted, provided, however, that when the Judicial Article of this Constitution takes effect the jurisdiction, functions and powers of the Court of Common Pleas, Orphans' Court, Court of Oyer and Terminer, Court of Quarter Sessions and Court of Special Sessions of each County, the judicial officers, clerks and employees thereof, and the causes pending therein and their files, shall be transferred to the County Court of the county. All statutory provisions relating to the county courts aforementioned of each county and to the Judge or Judges thereof shall apply to the new County Court of the County and the Judge or Judges thereof, unless otherwise provided by law. Until otherwise provided by law and except as aforestated, the judicial officers, surrogates and clerks of all courts now existing, other than those abolished in paragraph 3 hereof, and the employees of said officers, clerks, surrogates and courts, shall continue in the exercise of their duty as if this Constitution had not been adopted."

II. Substitute the following for lines 25 to 30 of paragraph 8 on pages 9 and 10:

"For the purposes of this paragraph, paragraph 4 and paragraph 9, a cause shall be deemed to be pending notwithstanding that an adjudication has been entered therein, provided the time limited for review has not expired or the adjudication reserves to any party the right to apply for further relief."

R E P O R T  
of the  
COMMITTEE ON ARRANGEMENT AND FORM  
of  
PROPOSAL NO. 5-1  
on  
TAXATION AND FINANCE  
as amended on second reading  
to the  
CONSTITUTIONAL CONVENTION OF NEW JERSEY

PROPOSAL NO. 5-1  
was referred to your Committee  
on August 26, 1947, and, pursu-  
ant to the Rules of the Conven-  
tion, is reported back in the  
form hereunto annexed.

COMMITTEE ON ARRANGEMENT AND FORM

Wayne D. McMurray,  
Chairman  
Charles P. Hutchinson,  
Vice-Chairman  
Alfred C. Clapp,  
Secretary  
Franklin H. Berry  
John Drewen  
Albert H. Holland  
Frank G. Schlosser

Dated: August 28, 1947.

COMMITTEE PROPOSAL NO. 5-1  
(AS AMENDED ON 2nd READING)

CONSTITUTIONAL CONVENTION OF NEW JERSEY

\*\*\*\*\*

INTRODUCED BY MR. WILLIAM T. READ  
Chairman, Committee on Taxation and Finance

ARTICLE \_\_\_\_\_ FINANCE

Section I

1           1. Property shall be assessed for taxation  
2 under general laws and by uniform rules. All real  
3 property assessed and taxed locally or by the State for  
4 allotment and payment to taxing districts shall be assessed  
5 according to the same standard of value; and such real  
6 property shall be taxed at the general tax rate of the  
7 taxing district in which the property is situated, for the  
8 use of such taxing district.

1           2. Exemption from taxation may be granted only  
2 by general laws. Until otherwise provided by law all ex-  
3 emptions from taxation validly granted and now in existence  
4 shall be continued. Exemptions from taxation may be altered  
5 or repealed, except those exempting real and personal prop-  
6 erty used exclusively for religious, educational, charitable  
7 or cemetery purposes, as defined by law, and owned by any  
8 corporation or association organized and conducted exclus-  
9 ively for one or more of such purposes and not operating  
10 for profit.

1           3. Any citizen and resident of this State now  
2 or hereafter honorably discharged or released under honor-  
3 able circumstances from active service in time of war in  
4 any branch of the armed forces of the United States, shall  
5 be exempt from taxation on real and personal property to  
6 an aggregate assessed valuation not exceeding five hundred  
7 dollars. Any person hereinabove described who has been or  
8 shall be declared by the United States Veterans Administration,

9 or its successor, to have a service-connected dis-  
10 ability, shall be entitled to such further exemption  
11 from taxation as from time to time may be provided  
12 by law. The widow of any citizen and resident of  
13 this State who has met or shall meet his death on  
14 active duty in time of war in any such service shall  
15 be entitled, during her widowhood, to the exemption  
16 in this paragraph provided for honorably discharged  
17 veterans and to such further exemption as from time  
18 to time may be provided by law.

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

1 5. No money shall be drawn from the State  
2 treasury but for appropriations made by law. All  
3 moneys for the support of the State government and  
4 for all other State purposes as far as can be ascer-  
5 tained or reasonably foreseen, shall be provided for  
6 in one general appropriation law covering one and the  
7 same fiscal year; except that when a change in the  
8 fiscal year is made, necessary provision may be made  
9 to effect the transition. No general appropriation  
10 law or other law appropriating money for any State  
11 purpose shall be enacted if the appropriation con-  
12 tained therein, together with all prior appropria-  
13 tions made for the same fiscal period, shall exceed  
14 the total amount of revenue on hand and anticipated  
15 which will be available to meet such appropriations  
16 during such fiscal period, as certified by the Gov-  
17 ernor.



1           6. The legislature shall not, in any  
2 manner, create any debt or debts, liability or lia-  
3 bilities, of the State, which shall singly or in the  
4 aggregate with any previous debts or liabilities at  
5 any time exceed one per centum of the total amount  
6 appropriated by the general appropriation law for  
7 the State fiscal year in which the law authorizing  
8 such new debts or liabilities is enacted, unless the  
9 same shall be authorized by a law for some single  
10 object or work distinctly specified therein. Regard-  
11 less of any limitation relating to taxation in this  
12 Constitution, such law shall provide the ways and  
13 means, exclusive of loans, to pay the interest of  
14 such debt or liability as it falls due, and also  
15 to pay and discharge the principal of such debt  
16 or liability within thirty-five years from the time  
17 it is contracted. The law shall not be repealed  
18 until such debt or liability and the interest thereon  
19 are fully paid and discharged. No such law shall  
20 take effect until it shall have been submitted to  
21 the people at a general election and approved by  
22 a majority of all the votes cast thereon. All  
23 money to be raised by the authority of such law  
24 shall be applied only to the specific object stated  
25 therein, and to the payment of the debt thereby  
26 created. This paragraph shall not be construed to  
27 refer to any money that has been or may be deposited  
28 with this State by the Government of the United  
29 States. Nothing in this paragraph contained shall  
30 apply to the creation of any debts or liabilities  
31 for purposes of war, or to repel invasion, or to  
32 suppress insurrection or to meet an emergency  
33 caused by disaster or act of God.

1           7. No county, city, borough, town, township or  
2 village shall hereafter give any money or property, or  
3 loan its money or credit, to or in aid of any individual,  
4 association or corporation, or become security for, or  
5 be directly or indirectly the owner of, any stock or  
6 bonds of any association or corporation.

1           8. No donation of land or appropriation of  
2 money shall be made by the State or any county or  
3 municipal corporation to or for the use of any society,  
4 association or corporation whatever.

1           9. The clearance, replanning, development  
2 or redevelopment of blighted areas shall be a public  
3 purpose and public use, for which private property  
4 may be taken or acquired. Municipal, public or  
5 private corporations may be authorized by law to  
6 undertake such clearance, replanning, development  
7 or redevelopment; and improvements made for these  
8 purposes and uses, or for any of them, may be exempted  
9 from taxation, in whole or in part, for a limited  
10 period of time during which the profits of and  
11 dividends payable by any private corporation enjoying  
12 such tax exemption shall be limited by law. The  
13 conditions of use, ownership, management and control  
14 of such improvements shall be regulated by law.

#### Section II

1           1. The Legislature shall provide for the  
2 maintenance and support of a thorough and efficient  
3 system of free public schools for the instruction of  
4 all the children in the State between the ages of five  
5 and eighteen years.

1           2. The fund for the support of free public  
2 schools, and all money, stock and other property,  
3 which may hereafter be appropriated for that purpose,

4 or received into the treasury under the provision of  
5 any law heretofore passed to augment the said fund,  
6 shall be securely invested, and remain a perpetual  
7 fund; and the income thereof, except so much as it  
8 may be judged expedient to apply to an increase of  
9 the capital, shall be annually appropriated to the  
10 support of free public schools, for the equal benefit  
11 of all the people of the State; and it shall not be  
12 competent for the Legislature to borrow, appropriate  
13 or use the said fund or any part thereof for any  
14 other purpose, under any pretense whatever.

1           3. The Legislature may, within reasonable  
2 limitations as to distance to be prescribed, provide  
3 for the transportation of children within the ages of  
4 five to eighteen years inclusive to and from any school.

STATE OF NEW JERSEY

CONSTITUTIONAL CONVENTION

COMMITTEE ON SUBMISSION AND ADDRESS TO THE PEOPLE

Wednesday - August 13, 1947

(The meeting started at 10:30 a.m.)

MR. WILBOUR E. SAUNDERS, CHAIRMAN: I would like to know whether it is the wish of the committee members to have this an open or closed meeting.

(It was unanimous that the meeting be an open one.)

CHAIRMAN: As I understand it, may we incorporate on the minutes of the formal meeting the fact that we are now getting a tentative statement to get advice concerning the form if there is no alternative suggested and the Constitution is to be proposed as a whole?

Now, the next step. What is the next step?

MR. FRANCIS D. MURPHY: Mr. Chairman, I think that it is obvious from the wording of the enabling act that this Constitution may be submitted in parts, so I suggest that we frame a question which will be submitted in parts to the people.

CHAIRMAN: A sample question on that basis.

MR. MURPHY: Exactly.

CHAIRMAN: There is no one here that has any question that the law specifically says we may submit it in parts. Are we agreed on that?

MR. MURPHY: I have none, Mr. Chairman.

MR. A. J. CAFIERO: I think we are in accord on that point.

CHAIRMAN: Let's try to see what is a sample of that.

Do you want to read that off, Mr. Murphy?

MR. MURPHY: Judge Lloyd, will you mark your paper Form No. 2?

We are now going to attempt to fashion a sample ballot based upon the language of the enabling act "in parts".  
Mr. Chairman, may I ask Mr. Moroney if he prepared such a sample ballot?

CHAIRMAN: Did you, Mr. Moroney?

MR. J. FRANCIS MORONEY: No, Mr. Murphy. I prepared sample ballots on the basis of the difficulties that we have been going through, in other words, the questionable ballots.

CHAIRMAN: That is, with alternatives, you mean?

MR. MORONEY: Yes.

CHAIRMAN: Let's get this out of the way because this should be very simple.

MR. MURPHY: Mr. Chairman, may I ask Mr. Paul if he prepared a sample ballot to be submitted to the voters in parts.

MR. WINSTON PAUL: No, I did not because I did not have a sample ballot at home. Unfortunately, my stuff is in my office, and I couldn't get there. I have only the form of question that I had yesterday.

MR. MURPHY: Mr. Chairman, may I then tell Judge Lloyd what I have here to start this off?

CHAIRMAN: Do, please.

MR. FRANCIS V. D. LLOYD: If I may interrupt, I previously submitted a suggested form of ballot to the committee, a copy of which the chairman has in duplicate, and I think that every member has a copy of that.

MR. MURPHY: Judge Lloyd, would you mark this, then, Form No. 2?

MR. LLOYD: I am doing the stenographic work, then?

MR. MURPHY: Yes, and only because you are in a central point and we can understand your writing. You can't understand mine. The ballot reads as follows:

"Are you in favor of the adoption of articles to the Constitution of the State of New Jersey, as proposed by the delegates to the Constitutional Convention--"

CHAIRMAN: Mr. Lloyd said, "has agreed upon".

MR. MURPHY: I will agree to that -- "and a copy of which articles have heretofore been sent to you." And, then, "For such adoption", a square; "Against such adoption", a square.

CHAIRMAN: Will you pause while I ask Mr. Watson to join us and introduce Mr. Watson.

(Mr. Russell Watson, Counsel to Governor Driscoll, was introduced to the members of the committee.)

CHAIRMAN: What should be our procedure? We have asked Mr. Watson to meet with us. It is not quite fair to take up his time unless we want to go ahead and question him. Mr. Van Riper, you know, is also coming.

MR. PAUL: He is in the building here awaiting our call.

(Discussion off the record.)

(At this point Mr. Van Riper joined the meeting and informed the Chairman that the Secretary of State would not be present at the meeting.)

(Discussion on the record again.)

MR. PAUL: Mr. Chairman, before we start, may I suggest that it would be fitting and proper for the records now to show that the Attorney General and the attorney of the Governor, Mr. Russell Watson, are here at our request, and we appreciate and record our appreciation of their being here, particularly Mr. Van Riper who gave up a holiday to be here? We also invited the Secretary of State but he is unable to be here.

CHAIRMAN: Will that be made a part of the record by unanimous consent?

(No objection was heard.)

CHAIRMAN: Now, gentlemen, we are very grateful to you. All of this grows out of Section 23 of the enabling act, which you

have undoubtedly read many times. That is, the Convention may frame a Constitution to be submitted as a whole to the people for adoption or rejection, or it may frame one or more parts of a Constitution, each to be submitted to the people, and that they may adopt or reject any part. If the Convention so determines, it may also frame one or more parts to be submitted in the alternative in order that the people may adopt any or all of the alternatives or reject any or all. This committee is, first, of the opinion that there is no question but that the Convention has a right to submit the Constitution either as a whole or in parts, and we assume that you gentlemen would agree to that.

MR. RUSSELL WATSON: Yes.

CHAIRMAN: Then, the disputed point comes not about submitting it as a whole, for there would be no question -- simply vote for or against it as a whole -- but the disputed points have been, first, as to whether the Convention had a right to have alternatives if it were submitting it as a whole.

MR. WATSON: Right.

CHAIRMAN: And that, secondly, there have been questions as to how a question would need to be framed if it were to be submitted as a part, for example, involving such questions as if a part were adopted and the major portion rejected, what would be the situation then?

Members of the committee, I have stated our dilemmas, and I have tried to do it very briefly.

MR. MURPHY: I think you have.

MR. PAUL: May I ask Mr. Watson if he has seen the Attorney General's opinion dated August 8?

MR. WATSON: Yes, I have.

MR. WALTER VAN RIPER, ATTORNEY GENERAL OF THE STATE OF NEW JERSEY: I gave Mr. Watson a copy of it.

MR. MURPHY: Mr. Chairman, I would suggest then that in view of the fact that we have heard the Attorney General and we know his views on this subject, that we hear Mr. Watson and see what he has to say with reference to the entire subject.

CHAIRMAN: Does that meet with the committee's agreement?

(Entire committee indicates approval)

MR. WATSON: I am glad to have this opportunity, Mr. Chairman and gentlemen of the committee. May I say that the disagreement between the Attorney General and myself is one of principle, one of legal interpretation, and it is entirely in a friendly spirit. We have discussed this problem several times and at length, neither budging the other.

Anticipating that this call might come yesterday, I have reduced my views to writing -- that is the original (indicating to the Chairman) -- and I have four other copies here. There was not time for mimeographing. Perhaps one would serve for two copies. I have a copy for you, Walter.

MR. VAN RIPER: I will share one with someone else.

MR. WATSON: Then I have three or four for the gentlemen of the press if they want them.

Gentlemen of the committee: I think the best way to submit this is to read this opinion, and I will comment upon it as we go through it. So that it will be more clearly intelligible at the outset, I would like to state two, three, or four fundamental principles which are the bases of my thinking, and if the opinion is approached from those bases, I think it will be more illustrative.

First, the Convention is a constituent assembly representing the sovereign authority of the people. As such,



the Convention is plenary and has all and any powers it may choose to exercise unless it has been effectively limited in some respects. There, too, in reading Chapter VIII, we don't look for grants of power. The Legislature did not grant powers to this Convention. The Legislature submitted a public question to the people, and the people granted the powers. Those powers, as granted by the people, are limited only in two respects: Prohibition against change in county territorial limits and against change in the basis of legislative representation. So, in reading Chapter VIII, we don't look for grants of power, but we look to see only if there are any positive or effective prohibitions against the exercise of power. Now, nowhere in Chapter VIII is there any prohibition which would prevent the Convention from submitting a principal proposition and a part alternative to some provision included in the principal proposition. You find no prohibition of that in Chapter VIII today.

Now, as we proceed with my opinion, I think we will find plainly affirmative provision for such a submission.

(At this point, Dr. Clothier  
joined the meeting.)

In my view, gentlemen, under Chapter VIII, the Convention may submit proposals any way that it sees fit, as a whole, or in parts, or with alternatives to provisions of the whole or to provisions of the parts.

Now, what is a part? A part, gentlemen, is anything that this Convention says it is. It is anything short of a whole. A part -- the Bill of Rights could be a part if it were so submitted. The Convention could submit two Bills of Rights. The people could take their choice. That would be a part which would stand or fall by itself, so that if the remainder of the Constitution were rejected and that part

were adopted, it would be incorporated into the present Constitution. Or it might submit the Bill of Rights as a constituent section of the proposed Constitution with an alternative, for instance, with or without the collective bargaining provision. So, a part may be an entire article or it may be a provision of an article so long as it presents completely a single constitutional proposition. To be specific, we turn to Section VII of Article IV of the present Constitution:

Paragraph 1. "No divorce shall be granted by the Legislature."

That could be a part if the Convention decided so to submit it, or the judiciary article could be a part. To illustrate it, the proposed Constitution could be presented with the judiciary article as a part, standing or falling by itself regardless of the fate of the remainder of the Constitution, or it could be presented with a judiciary article incorporated with an alternative Chancery section, for instance. The Chancery section would be attached to the judiciary article to be incorporated in the judiciary article as it might or might not receive the majority of the votes cast.

Now, with that preliminary statement, may we address ourselves to this opinion?

CHAIRMAN: Please.

MR. WATSON: First, gentlemen, we begin to stating the questions which were propounded and answered by the Attorney General and with which we are in friendly disagreement, but it is unnecessary to read those, four, five, and six, as we are all thoroughly familiar with them. It suffices to say, as the Chairman stated at the outset, that the fundamental difference of opinion is whether an alternative may be an alternative to the Constitution submitted as a whole -- may be presented as well as an alternative to a part. Now, I think it may be presented either way.

Now, we turn to Page Two:

"In my opinion, the fourth and fifth questions should be answered in the affirmative and the sixth question in the negative."

I think that needs no argument.

CHAIRMAN: Perhaps, the whole may be accompanied by alternative propositions. You say "Yes"?

MR. WATSON: I say "Yes".

CHAIRMAN: And the fifth one is --if --

MR. WATSON: It be so submitted and the proposed Constitution is adopted by the people, and one or more of the alternatives are also adopted, do they become a part of the new Constitution? And I say "Yes".

CHAIRMAN: Thank you.

MR. WATSON: Now, the sixth: If the Constitution is submitted as a whole accompanied by alternatives and if the Constitution is defeated, then the alternatives would fall. My answer there is "Yes". If it is submitted as a whole with alternatives and the whole fails, the alternatives would fail, too, because you can't have alternatives to nothing, you see?

Now, I will proceed slowly, unless you want me to go more quickly:

"In my opinion, the fourth and fifth questions should be answered in the affirmative and the sixth question in the negative. It is my opinion that the Convention may submit a Constitution as a whole accompanied by an alternative or alternatives to any part thereof in such manner that if both the proposed Constitution and the alternative or alternatives are adopted by the people, the alternative or alternatives would become part or parts of the new Constitution taking the place of the parts or parts to which it or they are the alternative or alternatives."

And that's the point in dispute.

Now, this conclusion rests upon Chapter 8 of the Laws of 1947, pursuant to which the people established a Constitutional Convention, which is now in session, and upon the plenary powers of the Convention, on two grounds.

First, with respect to the powers of the Convention under Chapter 8, and I quote the provisions which I think are pertinent to this inquiry.

Section 2. "The Constitutional Convention shall prepare and agree upon a new State Constitution, revising, altering or reforming the present Constitution in such part or parts, and in such manner --- 'part or parts and in such manner' --- as the Convention shall deem in the public interest;\*\*\*"

Now, there is the fundamental description of the powers of the Convention, "part or parts and in such manner." Could anything be clearer?

Section 3. "The Constitutional Convention shall complete and agree upon its proposals \*\*\* and shall provide for submission thereof \*\*\* for approval or rejection by the legal voters, either as a whole or in such parts and with such alternatives as the Convention may deem desirable."

"As a whole with such alternatives," or "in parts and with such alternatives" as the Convention deems desirable.

And Section 23, which you have just read, and further on I will submit what I think is self-evident. Section 23 outlines three methods of submission.

Section 23. "The Convention may frame a Constitution to be submitted as a whole to the people for adoption or rejection."

That is one; and two:

"or it may frame one or more parts of a Constitution, each to be so submitted to the people that they may adopt or reject any part";

and three:

"and, if the Convention so determines, it may also -- 'it may also'"

indicating that this is a third alternative;

"it may also frame one or more parts to be submitted in the alternative in order that the people may adopt any of the alternatives or reject any or all of them."

Section 28. "If a Constitution as a whole is submitted to the people and a majority of all votes cast for and against its adoption shall be in favor of its adoption, then it shall become the Constitution of this State taking effect according to its terms; --"

Now, all of this is not strictly pertinent.

"and if one or more parts of a Constitution are submitted to the people as aforesaid and a majority of all votes cast for and against the adoption of any part shall be in favor of its adoption, then each part so approved shall become a part of the Constitution of this State, taking effect according to its terms. In any such case the Secretary of State shall certify the results of the election to the Governor and the Governor shall thereupon issue his proclamation which shall contain either the Constitution of the State as adopted or, if but one or more parts have been adopted, then the Constitution of the State as so revised."

Now, also fundamentally pertinent is the question upon which the people voted. This is what they saw on their ballots.

"Do you favor the holding of a State Constitutional Convention --"

and this is the grant of power not from the Legislature, which has no authority to grant powers, but it is the people who grant those powers:

"which shall prepare for submission to the legal voters next November fourth, for their adoption or rejection, in whole or in part, a new State Constitution revising, altering or reforming the present Constitution in such part or parts and in such manner as the Convention shall deem in the public interest, \*\*\* "

And that is all the people said, excepting for two distinctions, the county territorial change and any change subject to legal interpretation.

Now, the Attorney General's opinion limits the Convention to two methods of submission, as I understand it, "as a whole, or in parts". He thinks that alternative parts may be submitted but that a new Constitution submitted as a whole may not be accompanied by alternative proposals. In my view, Section 23, above quoted, plainly authorized three methods of submission:

- (1) As a whole for adoption or rejection as a whole;
- (2) In one or more parts -- (parts being what this Convention decides to present so long as it is a single, at least a single constitutional proposition) -- so that any part may be adopted or rejected; and
- (3) With one or more parts in the alternative so that any of the alternatives may be adopted or rejected.

The third method clearly authorizes the submission of "parts" to be submitted in the alternative. Parts of what? Obviously, parts of the proposed Constitution. Therefore, under Section 23, the Convention could submit a new Constitution with alternative proposals to parts thereof, standing or falling with the proposed Constitution or, it could submit parts of a Constitution in the alternative, standing or falling individually. Either way.

This construction of Section 23 is supported by the other quoted provisions of Chapter 8. Now, here, really comes the meat of the Article. Under Section 2, the Convention is directed to prepare and agree upon a new State Constitution, revising, altering or reforming the present Constitution "in such part or parts and in such manner" as the Convention shall deem in the public interest. Under Section 3, the Convention is directed to submit "its proposals either as a whole or in such parts and with such alternatives as the Convention may deem desirable." This section contemplates alternatives either to the Constitution as a whole or to the parts. It is an undue restriction to say that alternative applies to "parts" and not to the "whole". This section contemplates alternatives either to the Constitution as a whole or to the parts thereof.

Section 28 provides for the submission of one or more parts of the Constitution as aforesaid. Now what do these words "as aforesaid" mean? The quoted words "as aforesaid" relate the manner of submission to Sections 2, 3 and 23. Otherwise, they are meaningless.

Finally, in answer to the question submitted under Section 13, the people, by a large majority, empowered the Convention to prepare and submit, "in whole or in part, a new Constitution, revising, altering or reforming the present Constitution in such part or parts and in such manner as the Convention shall deem in the public interest". "In such manner, with or without alternatives." Now, here is a broad grant of sovereign power unrestricted except for the prohibition of change in county territorial limits or in legislative representation also contained in the public question. The question as it appeared on the ballot and the people's answer brush aside legalistic arguments which would narrow the power of the Convention respecting the method of submission.

Except for change in county territorial limits and except for change in legislative representation, the Convention has authority under Chapter 8 to submit a proposed Constitution in whole or in part and with such alternative or alternatives either to the parts of the whole or to individual parts as it "shall deem in the public interest."

Attention is directed to the vitally important fact that the Attorney General's opinion would restrict the power of the Convention while the view herein presented recognizes the broad scope of the powers of the Constitutional Convention, subject only to the two specific limitations set by the people.

A concrete illustration of the application -- I think sometimes these generalities are helped by practical applications, so I undertook to do that. It is not my province to suggest methods, but it merely points up this general argument -- a concrete illustration of the application of the principle of broad construction appears in the tentative draft of the Legislative Article prepared by the Committee on the Legislative. I am not expressing any opinion as to whether that is a wise proposal, or an unwise policy. It has nothing to do with this opinion, but as I said, it's an illustration. The Article is in eight sections. Section VII contains eleven paragraphs. Paragraph 2 of Section VII appears in two alternatives designated as "Alternative A" and "Alternative B". Concerning these two alternatives, the Committee in its final report stated:

"The Committee recognizes that the issue created by the difference of opinion as to whether or not the present gambling clause should be liberalized is one which will excite great interest and discussion among the people of the State. It feels that, as to an issue which has created such divergence of opinion, the people should be permitted to express their preference. It, therefore, proposes that there be submitted at the November election alternative propositions on gambling; the first alternative being



the retention of the present gambling clause; the second being a liberalized gambling clause which would permit not only pari-mutuel betting, but would also permit the Legislature to authorize and regulate the conduct of specified games of chance by bona fide charitable, religious, fraternal and veterans organizations or associations, and volunteer fire companies, subject to local option. It is proposed that the referendum be framed in such a way that the clause which receives the greater number of votes as between the two should be inserted in the new Constitution."

Now, in the Attorney General's opinion, this manner of submission would violate Chapter 8. The construction herein advanced would permit the accomplishment of the Committee's objective, if such be the will of the Convention. In other words, if that were the only alternatives submitted, it would be an alternative to a part of a proposed Constitution.

The problem faced by the Committee was anticipated by Chapter 8 in the specific language of Sections 2, 3 and 23, as hereinbefore analyzed on pages 4 and 5. I think that language specifically covers this situation.

In brief, it is within the contemplation of Chapter 8 that a Constitution may be submitted in whole and in parts, provided the parts are alternatives to provisions of the whole. Section 23 provides that the Convention may "frame one or more parts to be submitted in the alternative", but it contains no limitation that such parts may not be alternative provisions of the whole. Now so much for that, that is Chapter 8, which, as I say, does not grant a power. The grant of power came from the people.

Now, second, with respect to the plenary powers of the Convention.

Regardless of the construction of the Convention's powers under Chapter VIII, the Convention may submit a proposed Constitution in whole or in parts and with alternatives to the whole or to the parts under its plenary powers. It is an established rule of constitutional law that a Constitutional Convention is a constituent assembly representing the sovereign authority of the people which may be limited only by the people themselves. The doctrine that a Legislature may not limit a Constitutional Convention has always been recognized in New Jersey. It was in recognition of this rule of constitutional law that the restrictions limiting the Convention had to stem from the vote of the people.

Chapter VIII itself --

MR. LLOYD: May I interrupt, please, for a moment. Is that a citation from that?

MR. WATSON: No, this is not a legalistic document, but if the Committee desires a memorandum I shall be glad to submit one supporting these statements. But for the purposes of this presentation we took a practical view, and here it comes. This is exactly what happened.

Did you want to say something, Mr. Murphy?

MR. MURPHY: No.

MR. WATSON: All right, then let me go on.

Chapter VIII itself recognizes these plenary powers first, by framing the public question upon which the people voted so as to restrict the Convention only respecting county territorial limits and legislative representation, and second, by the provision in Section 13, of Chapter VIII, which also was incorporated into the public question, that the Secretary of State should review the proposed Constitution and parts thereof to determine whether the Convention has complied with

the county territorial limits restriction and with the legislative representation restriction, and that only upon such certification may the proposed Constitution and parts thereof be submitted to the voters. This provision reads as follows:

"\*\*\*and provided further, that the Secretary of State shall review such proposed Constitution and parts thereof to determine whether the Convention has complied with the foregoing restrictions, and that only upon his certification that it has so complied may the proposed Constitution and parts thereof be submitted as aforesaid."

Now, may I interpolate?

I have read in the papers that fear has been expressed by some of the delegates that if alternatives to the whole were submitted the Secretary of State might conclude that Chapter VIII were violated and he would look to the Attorney General for advice, and that might be the basis of litigation. It is none of the Secretary of State's business. Let's follow now.

The voters did not restrict the Convention in any wise concerning the submission of alternatives. Upon the contrary, they delegated to the Convention a broad and sweeping grant of power, that is, to submit, in whole or in part, a new State Constitution revising, altering or reforming the present Constitution "in such part or parts and in such manner as the Convention shall deem in the public interest". As a safeguard against the possible non-observance of the county territorial limits and the legislative representation restrictions, the Secretary of State was directed to review the proposed Constitution and parts thereof to determine whether the Convention has complied with these restrictions and only upon his certification that it has so

complied may the proposed Constitution and parts thereof be submitted. The Secretary of State was not directed to review the proposed Constitution and parts thereof to determine whether alternatives have or have not been submitted, but to determine solely whether the Convention has complied with the two specified restrictions. The Secretary of State's certification, which is a prerequisite to submission to the voters, does not extend to the manner of submitting alternatives. It extends merely to compliance with these two limitations.

The wording of the public question indicates conclusively that the Legislature contemplated that the Convention would enjoy plenary powers except for the prohibitions of change in county territorial limits and legislative representation.

I am sorry to say that apparently a paragraph is dropped from this.

You see these two, Chapter VIII, in framing these instructions to the Secretary of State, recognized that these two restrictions were the only prohibitions operating upon the powers of the Convention.

I conclude that the Convention may submit a new Constitution as a whole, accompanied by alternative proposals in such manner that if the proposed Constitution were adopted by the people and one or more of the alternatives were adopted, they would become a part of the new Constitution either under the powers of the Constitution as described by Chapter VIII, or under its plenary powers.

CHAIRMAN: Gentlemen, now, will you ask your questions of Mr. Watson?

Mr. Murphy.

MR. MURPHY: May I direct a question to the Attorney General?

CHAIRMAN: Yes.

MR. VAN RIPER: Of course.

MR. MURPHY: General, on page 3 of Mr. Watson's brief, he starts with this language at the bottom of that page: "Fundamentally pertinent is the substance of the question submitted to the voters pursuant to Section 13 of the Act", and the language contained therein and in the bottom part of that question, "reforming the present Constitution in such part or parts and in such manner as the Convention shall deem in the public interest". Now, it seems to me, General, that Mr. Watson has made a powerful argument there. As I followed him, he seemed to say that the people gave us that right, so that if there is any contrary language in the enabling act that that falls, that we have the right to present this question to the people in November in such manner as the Convention shall deem in the public interest. How do you answer that?

MR. VAN RIPER: Before I answer that, may I say this? --

MR. WATSON: May I interrupt for just a minute. I just want to say this. I don't know what this is going to lead to, but I don't want it to be an across the table discussion. I don't want to get into any legalistic arguments.

MR. VAN RIPER: I just wanted to elaborate on what Mr. Watson said about our "friendly disagreement". The fact that he and I are in disagreement on some phases of this, means simply that two lawyers, one a very good one and the other just trying to do the best that he can, are not able to agree. I don't think we are in any different position than the fact that members of the United States Supreme Court vote five to four every

day, except that they do it acrimoniously and Mr. Watson and I do not do it acrimoniously. We haven't so far, and I am sure we are not going to as a result of this.

MR. WATSON: May I inject? The Attorney General did not say which is which.

(Laughter)

MR. VAN RIPER: I am sure that there is no question in anybody's mind but what I referred to you as "a great lawyer", Mr. Watson. If there is, I want the record to show it.

(Laughter)

MR. VAN RIPER: I think you are, and I have great respect for your intelligence and for your legal judgment, and I always have had.

Mr. Murphy, I answer that this way, by asking a question: What does the word "manner" apply to? Isn't it true that it applies to the "revising, altering and reforming" of the Constitution, the way in which to do it, the things which you put in it, and the things which you take out? Not the matter of the submission of it? Now, that word has been defined by the courts in connection with this very same kind of a proposition.

MR. MURPHY: May I answer you, General? --

MR. LLOYD: Is this to be, -- I beg your pardon, go ahead.

MR. MURPHY: General, the way I read it is, "Do you favor the holding of a State Constitutional Convention which shall prepare a Constitution for submission in such manner as the Convention shall deem in the public interest?"

MR. VAN RIPER: No, wait a minute. That isn't the way it reads.

MR. MURPHY: That's the way I read it.

MR. VAN RIPER: Prepare for submission of what? Prepare for what? "A new constitution revising, altering or reforming the present Constitution, in such part and in such manner." Do what "in such manner?" "Revise or alter or reform." Isn't that what it applies to?

MR. MURPHY: I don't think so, General. I think that it applies to that and to submission also.

MR. VAN RIPER: I see. Well, that's a matter of construction, Mr. Murphy. I can't see how the word "manner" there can apply to anything but the subject matter and the way in which you do it. For instance, you can take two articles now and comprise them both into one, if you want to, or you can take the one which you have now and expand them into three, if you want to. That is a legal manner of revising all constitutions, but not the manner of submission, because you have here positive, plain and direct language with reference to the manner of submission, contained in Section 28 and in 23. Here you are talking about the making of the Constitution in this Section.

MR. MURPHY: You are also, General, talking about the submission, because the question very, very plainly said: "Do you favor the holding of a State Constitutional Convention which shall prepare for submission?" Now, my thought on that is that it was to give to us the widest possible latitude in bringing back this question to the voters in November.

MR. VAN RIPER: All right. Let me ask you this question, Mr. Murphy, will you please? I am doing this by way of trying to reason this thing out to see if we can't reach some goal that we all want.

That gives to the Convention uncurbed power to

submit it in any manner in which it sees fit, is that what you think?

MR. MURPHY: Yes, sir, indeed I do, sir.

MR. VAN RIPER: You think that the Convention can order that the Constitution be submitted in whole and in parts?

MR. MURPHY: To be absolutely consistent, yes, I say that.

MR. VAN RIPER: Do you really think so?

MR. MURPHY: Yes, I do, General.

MR. VAN RIPER: Mr. Watson and I are in agreement on this.

MR. MURPHY: What I am doing is this. I am putting a construction on this vote and I am not worried about what the Legislature did with the mere wording of the enabling act.

MR. VAN RIPER: But the enabling act is your grant of power from the people.

MR. MURPHY: It is, that is true, but it can't limit us.

MR. WATSON: I just want to inject here for a moment. I am not going to interrupt, except where I am quoted. The Attorney General said that we agreed that it can't be submitted as a whole and in parts. Now, that is a play on words. It can be submitted as a whole with alternative parts.

MR. VAN RIPER: With the exception of that. I mean, it is understood from the forepart.

MR. WATSON: Of course, it would be difficult to submit a whole Constitution and parts. It would be contradictory. It wouldn't be practicable.

MR. VAN RIPER: Regardless of that, I thought from your questions, Mr. Watson, I assumed that with the exception of 3, 4, and 6, that we were in agreement on the others.

MR. WATSON: Well, you can submit a whole document with alternative parts, which gets us to the same place.



MR. MURPHY: I have maintained that all along, Mr. Watson, that you could do exactly that.

MR. VAN RIPER: All right. Now, getting away from that point, you say that under this manner, under the terminology here, you just said so, the Convention can be submitted as a whole and in parts, too. Is that right?

MR. MURPHY: If they would be foolish enough to do it, yes.

MR. LLOYD: Mr. Chairman, may I direct a question to Mr. Watson?

CHAIRMAN: Yes.

MR. WATSON: Surely.

MR. LLOYD: Mr. Watson, I conclude that the gist of your memorandum and your statements is that we, in solving this particular question, rely on Paragraph 13, of Chapter VIII, of the 1947 laws, which is the paragraph providing the form of question to be submitted. In other words, that we disregard the Legislature's other words as to whether we shall submit it in whole or in parts, or in the alternative.

MR. WATSON: No, that is not my position. I said that Section 13, the people's vote, is fundamental. Now, I think that all the provisions of Chapter VIII are consistent with that. The Attorney General thinks, apparently, that some of the provisions of Chapter VIII are inconsistent with that. I think they are a harmonious whole; that Section 13 is fundamental and that these other provisions of the quoted sections, -- may I have this Section 2 -- pardon me, Mr. Montgomery -- in Section 2:

"The Constitutional Convention shall prepare and agree upon a new Constitution, revising, altering and reforming the present Constitution in such part or parts, and in such manner as the Convention shall deem to the public interest."

That is perfectly consistent with it. So in the same way, Section 3 and Section 23 are all consistent with Section 13.

MR. LLOYD: But if those parts were found to be inconsistent, would you say that Paragraph 13 would control?

MR. WATSON: UNDOUBTEDLY.

MR. PAUL: Mr. Chairman, may I ask through you, a question of Mr. Watson?

CHAIRMAN: Yes.

MR. PAUL: Your thesis is that the power of this Convention stems from the power granted by the people on public questions which was given here in Section 13?

MR. WATSON: That's right.

MR. PAUL: Now, getting back to the question --

MR. WATSON: I would like to elaborate on that thesis, if I may? I can.

MR. PAUL: No, I don't think that will be necessary. I have a very simple question here. The Attorney General asked you whether you and he were in agreement that you could not submit the document in whole and in parts. That you could not do that. It had to be either in whole or in parts. I call your attention to the wording, a question substantially following the form: "Do you favor the holding of a State Constitutional Convention which shall prepare for submission to the legal voters next November 4th for their adoption or rejection in whole or in parts a new Constitution, revising, etc." Now, in view of that language, which was the language --

MR. WATSON: Are you reading from Section 13?

MR. PAUL: I'm reading from Section 13. In view of that language, do you have a doubt in your mind as to the possibility of our submitting it both in whole and in parts? Is that not prohibited under this wording?

MR. WATSON: What is the wording?

MR. PAUL: The wording is "in whole or in part".

CHAIRMAN: "or".

MR. WATSON: "In whole or in part"?

MR. PAUL: Yes, that is the question, with that wording, if you submit a whole Constitution.

MR. WATSON: I think that under that wording, you could submit the whole Constitution.

MR. PAUL: Could you also submit a part? A whole and could you also at the same time submit independent parts?

MR. WATSON: Well, let's not try to define parts. Let's just say "parts".

MR. PAUL: No.

MR. WATSON: You could submit the whole and alternative parts. Something to take the place of some part of the whole.

MR. PAUL: I guess that is your alternative.

MR. WATSON: Yes.

MR. PAUL: WHAT I am trying to do is to get at the basic thing, to get that cleared up. We have assumed in this committee that the Convention would have to submit either a Constitution as a whole or in part. Our doubt is as to whether they could submit alternatives to the whole?

MR. PAUL: The Attorney General answers that in the negative and you answer it in the affirmative. But the first question is the question whether you can submit a Constitution as a whole -- say here's a whole package -- and you say now you vote yes or no on that. Then you say here are four packages over here, you can vote yes or no on each one of those as well.

MR. WATSON: Yes, the Convention could do that, but it would be impractical to do it because you might well come out of that with conflicting provisions.

MR. PAUL: You might have the identical provisions in your executive, legislative and all of the five branches, but you have all that wrapped up in one package here, and you can vote yes or no on the one package. Then you have five separate packages, each one of which is contained in this, and they vote yes or no on each one of those. Does that, under your construction --

MR. WATSON: What's he going to say, yes or no on each of these five questions? Well you can see its impracticable. Suppose there was a majority for the whole Constitution and a majority for some of the wholly independent parts? You'd have the whole Constitution with certain appendages.

MR. PAUL: I'm disturbed over the words "in whole or in part". I follow your reasoning, Mr. Watson, as to the powers of the Convention being granted by what the people voted on. It got its power from the people, and the power of the people is given in Section 13 pretty much in detail, I think.

MR. WATSON: I think that what this means is this: "That the Convention may submit a whole Constitution, or it could submit parts of a Constitution. If all or any of the parts were adopted and some were rejected, those that were adopted could become parts of the present Constitution. That's clear isn't it? In whole or in part, and in such manner. Now I think the Convention may submit a part or parts in such manner, that they would be alternatives to provisions of the whole so that the people would vote, the choice of the people would be between an alternative or a designated provision in the whole.

MR. LLOYD: We have a whole, we have parts, and we have alternatives as three separate --

MR. WATSON: That's right.

MR. LLOYD: In other words, an alternative is not necessarily a part, am I correct in that?

MR. WATSON: No, it is an alternative to a provision in a part. Take the Judiciary Article, for example. You can present a judiciary article with an alternative Chancery provision and if the alternative received the greater number of votes, it would be incorporated into that judicial section which is a part.

MR. LLOYD: The alternative is not defined, in your opinion, as a part.

MR. WATSON: It may be. A part may be an alternative or a provision may be an alternative.

MR. LLOYD: An alternative is not necessarily a part.

MR. WATSON: Not necessarily, it may be either. In other words, gentlemen, I'd like to reiterate what I've said, that my view expands the powers of the Convention. Take, with all due respect, the Attorney General's recent comment on Section 13. This fundamental Section 13, whether, in such

manner, it relates to submission or whether it relates merely to revising or reforming. Why read that narrow meaning in this? Why not take the broader meaning? Let's assume that either is arguable. I think it's conclusive, that "in such manner" modifies and relates to "submission and revising, altering and reforming". Why should this Convention go out of its way to limit it's own powers? Let's assume the language contemplates both constructions. Take the broader line.

MR. MORONEY: Mr. Watson, as I take it, when you submit an alternative to the whole, you would include in the whole, for example, a judiciary article in favor of the retention of Chancery, then your alternative to that would be, do you favor the elimination of chancery?

MR. WATSON: Well, you couldn't put it that way. The alternative would have to contain certain definite provisions.

MR. MORONEY: Now, let me ask you a question, a very practical question, and it might possibly become a political question, if you will. Which one of those alternatives are you going to include in the whole?

MR. WATSON: That is up to the Convention. The Convention has complete and discretionary power. For instance, suppose Mr. Moroney, there are a dozen controversial subjects, are you going to submit all controversial sections to the electorate. If so, the election would become a confused town meeting. You can't do that and you shouldn't do it, because the people haven't given these controversial sections the thought and study that you have. They delegated that power to you, the Convention. They said to you, in effect: "You, ladies and gentlemen of the Convention, you study all the intricacies of this difficult subject, then

you present it to us in such a manner as you deem best." It is your problem to say which one will be submitted and which one will not be submitted as alternatives. Suppose you were to submit an alternative on every controversial subject before you. It would be too complicated. You wouldn't get a practical result. That is your authority; it has been delegated to you. It is your responsibility.

MR. MORONEY: All right, sir. If I may, just one more question. My question deals with your statement with regard to the Secretary of State. You state here that he was solely called upon to find out whether the Convention had followed those two restrictions. However, there is nothing according to this bill, or the direction of the bill to the Secretary of State, to prevent him from feeling that he has a proper right to determine whether the Convention has followed it so far as the whole or in part is concerned.

MR. WATSON: You can't find in Chapter VIII any such provision. Now, of course, in all --

MR. PAUL: May I quote from that? I think it will clarify it, so that we will know what we're talking about. The provision there is:

"The Secretary of State shall forthwith review the proposed Constitution and the several parts thereof to be submitted to the people, and shall within two days find and determine whether the Convention has complied with its instructions as voted by the people."

MR. MORONEY: That, Mr. Watson, and, Mr. Paul, is my alarm over this thing. That does not prevent the Secretary of State from coming in and determining under Section 13 that the Convention must follow the instructions as given and that is where you have the possibility of legal complications.

CHAIRMAN: May we sort of line up, gentlemen? Different men have asked for the privilege of speaking. Mr. Paul and Mr. Lloyd and even the Chair would like to get in a question once in a while. Are you finished, Mr. Moroney?

MR. MORONEY: I am finished. However, I still have my question before the Chair.

CHAIRMAN: Would anyone like to comment upon Mr. Moroney's question?

MR. MURPHY: I do. I would like to ask the Attorney General, does he share Mr. Moroney's alarm that the Secretary of State can come to this Convention and say, "Here, this isn't in proper form, you should have submitted it thus and so"?

MR. MORONEY: May I qualify my statement? It wasn't a question of alarm, sir. It was a question of possibility.

MR. MURPHY: I stand corrected.

MR. VAN RIPER: Mr. Murphy, I call your attention to the fact that the Legislature in its act which was adopted by the people expressly set the Secretary of State up here as a check against the Convention in certain regards. Probably it was an unusual procedure, but it was done.

MR. MURPHY: What are these regards?

MR. VAN RIPER:

"The Secretary of State shall forthwith certify his findings and determination of the Convention --

MR. MURPHY: What section are you reading?

MR. VAN RIPER: Page 12, Section 24, Line 8 to 11:

"The Secretary of State shall forthwith certify his findings and determination of the Convention and upon certification that the proposed document and parts thereof comply with the instructions of the people as aforesaid, and only upon such certification, the Convention may proceed to arrange for submission."



MR. PAUL: I think we have a very important point to clarify here, and I think we are all interested in what was voted by the people. I think the thing really hinges on what was voted by the people. Now I turn back to Section 13. I have this dilemma and I would like to ask a question for information. I do not recall, I tried to get a copy of the ballot we voted on, but my recollection is that what we voted on is what appears on Page 7.

MR. VAN RIPER: That's right. I secured a copy from the Secretary of State's office.

MR. PAUL: Now Page 7 is not the same as Paragraph 13. Paragraph 13 states a question, but what the people actually voted on apparently, what was voted on according to Page 7, was "vote for or against such a Constitutional Convention by placing a X or plus in the proper box below and the question is for such a Constitutional Convention instructed to retain the present territorial limits of the respective counties and the present basis of representation in the Legislature".

MR. WATSON: Mr. Paul, that on the ballot followed the previous part --

MR. PAUL: "For such a Constitutional Convention and as such" relates to -- If you'll read 13, "a public question will be submitted to the legal voters by printing in not less than ten-point type, at the head of the ballot, above the names of candidates for the office of delegate, a question in substantially the following form:", then all this appears. Then the box: "for such a Constitutional Convention or against such a Constitutional Convention." Therefore, the only dilemma as I can see it, maybe I'm wrong, maybe my logic is very poor to-

day, but it seems to me that the only question we have to determine is the section involved in the presentation of "in whole or in part".

MR. WATSON: In whole, or in part, or in such manner -- You may submit it in whole, you may submit it in part, and you may submit it in parts with alternatives or without alternatives, in such manner.

MR. PAUL: We are limited in our report to the Convention by what is contained in Paragraph 13. I think that is the thing to consider.

CHAIRMAN: I would like to ask Mr. Watson a question about the punctuation contained in Paragraph 23 which reads,

"The Convention may frame a Constitution to be submitted as a whole to the people for adoption or rejection; or it may frame one or more parts of a Constitution, each to be so submitted to the people that they may adopt or reject any part and, if the Convention so determines, it may also frame one or more parts to be submitted in the alternative in order that the people may adopt any of the alternatives or reject any or all of them."

I question the semi-colon after the words "adoption or rejection", as everything after that follows the semi-colon.

MR. WATSON: Now, the question of punctuation, I believe that you're an educator, Mr. Saunders?

CHAIRMAN: Not much of one.

MR. WATSON: Of course, the best punctuation is no punctuation. You know, in Great Britain, legal documents are unpunctuated and a master of language doesn't need punctuation!

Courts give as much attention to punctuation as they want to, and this committee and the Convention may do the same thing.

MR. VAN RIPER: Who set the Secretary of State up? The people did that.

MR. MURPHY: No, Mr. Attorney General, they did no such thing. You don't mean, Mr. Attorney General, that the people meant to do any such thing.

MR. VAN RIPER: I don't know what the people meant to do, but as a matter of fact, I know what they did do.

MR. MURPHY: Well, I say that they did no such thing, but surely you don't think the Legislature or the people would do any such thing.

MR. VAN RIPER: But they did.

MR. MURPHY: But they did not. The language is capable of a meaning which says: "Go ahead and prepare a new Constitution and there is only one limitation on you, and that is the way we are going to vote. Don't change the county representations ----"

MR. VAN RIPER: It is in the ballot. May I ask a question of Mr. Watson which I would like to have some help on? Here is a Constitution as a whole. It has twenty subjects in it, we'll say. Included in it is the subject of taxation, and over here is an alternative on taxation. Now this thing is submitted as a whole. The alternative folds. It doesn't get a majority vote, so that would be out then. But the whole got a majority vote. Now, are we agreed that that would become the Constitution of this State? Are we agreed then that in the Constitution of the State there would be this tax clause? It would be there, would it not, because the taxpayers had voted to adopt that?

MR. WATSON: Yes.

MR. VAN RIPER: Assuming there were one million votes cast, the minute 500,001 votes were in favor of it, that became the Constitution of the State?

MR. WATSON: Yes.

MR. MURPHY: Mr. Chairman, I want to ask Mr. Watson just one more question. Mr. Watson, suppose that the ballot on this side is the whole document. Now, Senator O'Mara's report, Mr. Watson, is this piece of paper here. But he left out Paragraph 2 of Section 7, that's the controversial bingo issue. Is there any doubt, Mr. Watson, that if we submit this entire thing, which includes this legislative draft, or whatever else you want to call it, and you put this on bingo out here fashioned in such form that the voters will vote on it, that if either A or B obtains a majority, you then take, we'll say A, and push it right in there?

MR. WATSON: You could do that.

MR. MURPHY: No question about that?

MR. WATSON: But a better way to do it, if that is the choice that the voters are to have, would be to put one of these in the main document and the other as an alternative.

MR. MURPHY: I agree with you, except which one should be in here. There would be quite a fight as to which one should go in there.

(Off the record discussions among various members.)

MR. WATSON: Who did this: "Do you favor the adoption of the Constitution ----"

MR. LLOYD: Mr. Moroney did.

MR. WATSON: Yes or no. If you voted "yes" to Question 1 which is the following alternative proposal, Alternative A, it's perfectly all right.

MR. VAN RIPER: Doesn't that restrict you from voting on the alternative only if you voted "yes" on the big question?

MR. WATSON: The Convention may do that.

MR. VAN RIPER: May it?

MR. WATSON: Certainly it may. What's to prevent it?

MR. VAN RIPER: Section 23 says each part to be submitted. It says the people may adopt or reject any part.

MR. WATSON: That's right. You don't have to submit three parts,

or ten parts. The Convention may submit six parts as it sees fit. But what they submit, the people must be able to adopt or reject.

MR. VAN RIPER: All right. Well, doesn't this question preclude them from doing that?

MR. WATSON: The people may adopt any of the alternatives or reject them.

MR. VAN RIPER: The people must have a chance to vote yes or no on every question which is on the ballot.

MR. WATSON: Every question which the Convention puts out?

MR. VAN RIPER: Yes. Once it is on the ballot, they must have a chance to vote yes or no.

MR. WATSON: On whatever the Convention puts on the ballot.

MR. VAN RIPER: This wouldn't do that, would it?

MR. WATSON: Yes, it would. This is what the Convention submitted.

MR. VAN RIPER: Wouldn't they be voting "no" on those alternatives by voting "no" to the entire thing?

MR. MURPHY: In effect that would do it, but you have yes or no on the main question and yes or no on the alternative. Am I not entitled to vote yes or no on each one?

MR. WATSON: The most practical way to do, Mr. Murphy, is to put one in there, and vote on the other.

MR. VAN RIPER: Then you have a situation that I think you really ought to consider. You have a situation where you adopt this whole Constitution, and under the Act that becomes the Constitution of this State.

MR. WATSON: With or without the alternatives.

MR. VAN RIPER: But the act doesn't say that.

MR. WATSON: You just disregard the last provision of Section 23 entirely. Where does the act not say that?

MR. VAN RIPER: Where does it say it?

MR. WATSON: It says it in Section 23.

MR. MURPHY: In such manner.

MR. WATSON: It doesn't contain any prohibition of it. Of course,

I won't accept that burden, you see. I won't accept the burden of finding anything in here. I put the burden upon you to find any prohibition of it.

MR. VAN RIPER: I find this --

MR. WATSON: A prohibition?

MR. VAN RIPER: No, not a prohibition. If a Constitution as a whole is submitted and a majority of all votes cast for and against its adoption shall be in favor, then it becomes the Constitution of this State.

MR. WATSON: What section are you reading from?

MR. VAN RIPER: Section 28.

MR. WATSON: Well, there are parts to the Constitution submitted --

MR. VAN RIPER: The same thing applies over there. If a Constitution as a whole is submitted, and a majority vote in favor of it, it becomes the Constitution.

MR. WATSON: Under your own -- hold up your piece of paper there -- now, under that piece of paper, it hasn't been submitted. It has been submitted as a whole with an alternative, so your proposition there is not under this first sentence.

MR. VAN RIPER: Well, I say this can't be done.

MR. WATSON: Why can't it be done?

MR. VAN RIPER: Because you would not then be submitting the Constitution as a whole.

MR. WATSON: You don't have to submit it as a whole. You can submit it as a whole, or in parts with alternatives, under Section 23, under liberal language of the statute.

MR. VAN RIPER: We are right back again.

MR. WATSON: Well, why say the same thing all over again.

CHAIRMAN: About that what you just said. You said it may be submitted as a whole or in parts with alternatives.

MR. WATSON: With alternatives to the parts.

CHAIRMAN: If there are alternatives, do we have to submit it in parts?

CHAIRMAN: If there are alternatives, do we have to submit it in parts?

MR. WATSON: You may submit it as a whole, you may submit it as a whole with alternatives, or you may submit a part with alternatives.

(Off the record discussions among members.)

MR. PAUL: Mr. Chairman, having heard with great pleasure, and thanking Mr. Watson and the Attorney General for their courtesy and valuable advice, may I move that we go into executive session and prepare our report?

MR. LLOYD: Seconded.

(The committee went into executive session at this point, ending the discussion for the record.)

# CONSTITUTION OF NEW JERSEY

## 1947

A CONSTITUTION agreed upon by the delegates of the people of New Jersey,  
in Convention begun at Rutgers University, the State University of  
of June, and con-  
ar of our Lord one

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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 except 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. 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 now prosecuted without indictment, or arising in the army or navy or in the militia, when in actual service in time of war or public danger.

9. The right of trial by jury shall remain inviolate; but the Legislature may authorize the trial of civil causes by a jury of six persons when the matter in dispute does not exceed fifty dollars. The Legislature may provide that in any civil cause a verdict may be rendered by not less than five-sixths of the jury. The Legislature may authorize the trial of the issue of mental incompetency without a jury.

10. 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.

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

13. 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.

14. 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.

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

16. 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.

17. 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.

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. Persons in private employment shall have the right to organize and bargain collectively. Persons in public employment shall have the right to organize, present to and make known to the State, or any of its political subdivisions or agencies, their grievances and proposals through representatives of their own choosing.

20. 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.

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

## ARTICLE II

### 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 shall be chosen at general elections. Local elective officers shall be chosen at general elections or at such other times as shall be provided by law.

2. All questions submitted to the people of the entire State shall be voted upon 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 military service of the State or in the armed forces of the United States 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 of the United States in time of peace. The Legislature may 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 of 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 suffrage.

7. The Legislature may pass laws to deprive persons of the right of suffrage who shall be convicted of such crimes as it may designate. Any person so deprived, when pardoned or otherwise restored by law to the right of suffrage, shall again enjoy that right.

## ARTICLE III

### 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 branch shall exercise any of the powers properly belonging to either of the others, except as expressly provided in this Constitution.

## ARTICLE IV

### LEGISLATIVE

#### SECTION I

1. The legislative power shall be vested in a Senate and General Assembly.
2. No person shall be a member of the Senate who shall not have attained the age of thirty years, and have been a citizen and resident of the State for four years, and of the county for which he shall be elected one year, next before his election. 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 resident of the State for two years, and of the county for which he shall be elected one year, next before his election. No person shall be eligible for membership in the Legislature ~~who shall not~~ be entitled to the right of suffrage. *unless he*

3. The Senate and General Assembly shall meet and organize separately on the second Tuesday in January of each year, ~~on which day~~ the legislative year shall commence. *at noon*  
*at which time*

4. Special sessions of the Legislature shall be called by the Governor upon petition of a majority of all the members of each house and may be called by the Governor whenever in his opinion the public interest shall require.

#### SECTION II

1. The Senate shall be composed of one Senator from each county, elected by the legally qualified voters of the county, for a term beginning at noon of the second Tuesday in January next following his election and ending at noon of the second Tuesday in January four years thereafter.

2. The members of the Senate shall be elected in two classes so that, as nearly as may be, one-half of all the members shall be elected biennially.

#### SECTION III

1. The General Assembly shall be composed of members elected biennially by the legally qualified voters of the counties, respectively, for terms beginning at noon of the second Tuesday in January next following their election and ending at noon of the second Tuesday in January two years thereafter. The members of the General Assembly shall be apportioned among the several counties as nearly as may be according to the number of their inhabitants, but each county shall at all times be entitled to one member and the whole number of members shall never exceed sixty. The present apportionment shall continue until the next census of the United States shall have been taken. Apportionment of the members of the General Assembly shall be made by the Legislature at the first session after the next and every subsequent census, and each apportionment when made shall remain unaltered until the following census shall have been taken.

#### SECTION IV

1. Any vacancy in the Legislature occasioned by death, resignation or otherwise shall be filled by election for the unexpired term only, as may be provided by law. Each house shall direct a writ of election to fill any vacancy in its membership; but if the vacancy shall occur during a recess of the Legislature, the writ may be issued by the Governor, as may be provided by law.

2. Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of all its members 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, and punish its members for disorderly behavior. It may expel a member with the concurrence of two-thirds of all its members.

4. Each house shall keep a journal of its proceedings, and from time to time publish the same. The yeas and nays of the members of either house on any question shall, on demand 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, or to any other place than that in which the two houses shall be sitting.

6. All bills and joint resolutions shall be read three times in each house before final passage. No bill or joint resolution shall be read a third time in either house until after the intervention of one full calendar day following the day of the second reading; but if either house shall resolve by vote of three-fourths of all its members, signified by yeas and nays entered on the journal, that a bill or joint resolution is an emergency measure, it may proceed forthwith from second to third reading. No bill or joint resolution shall pass, unless there shall 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.

7. Members of the Senate and General Assembly shall receive annually, during the term for which they shall have been elected and while they shall hold their office, such compensation as shall, from time to time, be fixed by law and no other allowance or emolument, directly or indirectly, for any purpose whatever. The President of the Senate and the Speaker of the General Assembly, each by virtue of his office, shall receive an additional allowance, equal to one-third of his compensation as a member.

8. The compensation of members of the Senate and General Assembly shall be fixed at the first session of the Legislature held after this Constitution takes effect, and may be increased or decreased by law from time to time thereafter, but no increase or decrease shall be effective until the legislative year following the next general election for members of the General Assembly.

9. Members of the Senate and General Assembly shall, in all cases except treason and high misdemeanor, be privileged from arrest during their attendance at the sitting of their respective houses, and in going to and re-

turning from the same; and for any statement, speech or debate in either house or at any meeting of a legislative committee, they shall not be questioned in any other place.

#### SECTION V

1. No member of the Senate or General Assembly, during the term for which he shall have been elected, shall be nominated, elected or appointed to any State civil office or position, of profit, which shall have been created by law, or the emoluments whereof shall have been increased by law, during such term. The provisions of this paragraph shall not prohibit the election of any person as Governor or as a member of the Senate or General Assembly.

2. The Legislature may appoint any commission, committee or other body whose main purpose is to aid or assist it in performing its functions. Members of the Legislature may be appointed to serve on any such body.

3. If any member of the Legislature shall become a member of Congress or shall accept any Federal or State office or position, of profit, his seat shall thereupon become vacant.

4. No member of Congress, no person holding any Federal or State office or position, of profit, and no judge of any court shall be entitled to a seat in the Legislature.

5. Neither the Legislature nor either house thereof shall elect or appoint any executive, administrative or judicial officer except the State Auditor.

#### SECTION VI

1. All bills for raising revenue shall originate in the General Assembly; but the Senate may propose or concur with amendments, as on other bills.

2. 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 nature and extent of the uses of land, 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.

3. Any agency or political subdivision of the State or any agency of a political subdivision thereof, which may be empowered to take or otherwise acquire private property for any public highway, parkway, airport, place, improvement, or use, may be authorized by law to take or otherwise acquire a fee simple absolute or any lesser interest, and may be authorized by law to take or otherwise acquire a fee simple absolute in, easements upon, or the benefit of restrictions upon, abutting property to preserve and protect the public highway, parkway, airport, place, improvement, or use; but such taking shall be with just compensation.

#### SECTION VII

1. No divorce shall be granted by the Legislature.

2. No gambling of any kind shall be authorized by the Legislature unless the specific kind, restrictions and control thereof have been heretofore sub-

mitted to, and authorized by a majority of the votes cast by, the people at a special election or shall hereafter be submitted to, and authorized by a majority of the votes cast thereon by, the legally qualified voters of the State voting at a general election.

3. The Legislature shall not pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or depriving a party of any remedy for enforcing a contract which existed when the contract was made.

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

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. 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.

6. 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".

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

8. No private, special or local law shall be passed unless public notice of the intention to apply therefor, and of the general object thereof, shall have been previously given. Such notice shall be given at such time and in such manner and shall be so evidenced and the evidence thereof shall be so preserved as may be provided by law.

9. 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) Changing the law of descent.

(3) Providing for change of venue in civil or criminal causes.

(4) Selecting, drawing, summoning or empaneling grand or petit jurors.

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

(6) Relating to taxation or exemption therefrom.

(7) Providing for the management and control of free public schools.

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

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

(10) Laying out, opening, altering, constructing, maintaining and repairing roads or highways.

- (11) Vacating any road, town plot, street, alley or public grounds.
- (12) Appointing local officers or commissions to regulate municipal affairs.
- (13) Regulating the internal affairs of municipalities formed for local government and counties, except as otherwise in this Constitution provided.

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.

10. Upon petition by the governing body of any municipal corporation formed for local government, or of any county, and by vote of two-thirds of all the members of each house, the Legislature may pass private, special or local laws regulating the internal affairs of the municipality or county. The petition shall be authorized in a manner to be prescribed by general law and shall specify the general nature of the law sought to be passed. Such law shall become operative only if it is adopted by ordinance of the governing body of the municipality or county or by vote of the legally qualified voters thereof. The Legislature shall prescribe in such law or by general law the method of adopting such law, and the manner in which the ordinance of adoption may be enacted or the vote taken, as the case may be.

11. The provisions of this Constitution and of any law concerning municipal corporations formed for local government, or concerning counties, shall be liberally construed in their favor. The powers of counties and such municipal corporations shall include not only those granted in express terms but also those of necessary or fair implication, or incident to the powers expressly conferred, or essential thereto, and not inconsistent with or prohibited by this Constitution or by law.

## SECTION VIII

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) 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) according to the best of my ability". Members-elect of the Senate or General Assembly are empowered to administer said oath or affirmation to each other.

2. Every officer of the Legislature shall, before he enters upon his duties, take and subscribe the following oath or affirmation: "I do solemnly promise and swear (or affirm) that I will faithfully, impartially and justly perform all the duties of the office of . . . . ., to the best of my ability and understanding; that I will carefully preserve all records, papers, writings, or property entrusted to me for safe-keeping by virtue of my office, and make such disposition of the same as may be required by law".

## ARTICLE V

### EXECUTIVE

#### SECTION I

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

2. The Governor shall <sup>be</sup> not ~~be~~ less than thirty years of age, and shall have been for twenty years ~~at least~~ a citizen of the United States, and a resident of this State seven years next before his election, unless he shall have been absent during that time on the public business of the United States or of this State.

3. No member of Congress or person holding any office or position, of profit, under this State or the United States shall be Governor. If the Governor or person administering the office of Governor shall accept any other office or position, of profit, under this State or the United States, his office of Governor shall thereby be vacated. No Governor shall be elected by the Legislature to any office during the term for which he shall have been elected Governor.

4. The Governor shall be elected by the legally qualified voters of this State. The person receiving the greatest number of votes shall be the Governor; but if two or more shall be equal and greatest in votes, one of them shall be elected Governor by the vote of a majority of all the members of both houses in joint meeting at the regular legislative session next following the election for Governor by the people. Contested elections for the office of Governor shall be determined in such manner as may be provided by law.

5. The term of office of the Governor shall be four years, beginning at noon of the third Tuesday in January next following his election, and ending at noon of the third Tuesday in January four years thereafter. No person who has been elected Governor for two successive terms, including an unexpired term, shall again be eligible for that office until the third Tuesday in January of the fourth year following the expiration of his second successive term.

6. In the event of a vacancy in the office of Governor resulting from the death, resignation or removal of a Governor in office, or the death of a Governor-elect, or from any other cause, the functions, powers, duties and emoluments of the office shall devolve upon the President of the Senate, for the time being; and in the event of his death, resignation or removal, then upon the Speaker of the General Assembly, for the time being; and in the event of his death, resignation or removal, then upon such officers and in such order of succession as may be provided by law; until a new Governor shall be elected and qualify.

7. In the event of the failure of the Governor-elect to qualify, or of the absence from the State of a Governor in office, or his inability to discharge the duties of his office, or his impeachment, the functions, powers, duties and emoluments of the office shall devolve upon the President of the Senate, for the time being; and in the event of his death, resignation, removal, absence, inability or impeachment, then upon the Speaker of the General Assembly, for



the time being; and in the event of his death, resignation, removal, absence, inability or impeachment, then upon such officers and in such order of succession as may be provided by law; until the Governor-elect shall qualify, or the Governor in office shall return to the State, or shall no longer be unable to discharge the duties of the office, or shall be acquitted, as the case may be, or until a new Governor shall be elected and qualify.

8. Whenever a Governor-elect shall have failed to qualify within six months after the beginning of his term of office, or whenever for a period of six months a Governor in office, or person administering the office, shall have remained continuously absent from the State, or shall have been continuously unable to discharge the duties of his office by reason of mental or physical disability, the office shall be deemed vacant. Such vacancy shall be determined by the Supreme Court upon presentment to it of a concurrent resolution declaring the ground of the vacancy, adopted by a vote of two-thirds of all the members of each house of the Legislature, and upon notice, hearing before the Court and proof of the existence of the vacancy.

9. In the event of a vacancy in the office of Governor, a Governor shall be elected to fill the unexpired term at the general election next succeeding the vacancy, unless the vacancy shall occur within sixty days immediately preceding a general election, in which case he shall be elected at the second succeeding general election; but no election to fill an unexpired term shall be held in any year in which a Governor is to be elected for a full term. A Governor elected for an unexpired term shall assume his office immediately upon his election.

10. The Governor shall receive for his services a salary, which shall be neither increased nor diminished during the period for which he shall have been elected.

11. The Governor shall take care that the laws be faithfully executed. To this end he shall have power, by appropriate action or proceeding in the courts brought in the name of the State, to enforce compliance with any constitutional or legislative mandate, or to restrain violation of any constitutional or legislative power or duty, by any officer, department or agency of the State; but this power shall not be construed to authorize any action or proceeding against the Legislature.

12. The Governor shall communicate to the Legislature, by message at the opening of each regular session and at such other times as he may deem necessary, the condition of the State, and shall in like manner recommend such measures as he may deem desirable. He may convene the Legislature, or the Senate alone, whenever in his opinion the public interest shall require. He shall be the Commander-in-Chief of all the military and naval forces of the State. He shall grant commissions to all officers elected or appointed pursuant to this Constitution. He shall nominate and appoint, with the advice and consent of the Senate, all officers for whose election or appointment provision is not otherwise made by this Constitution or by law.

13. The Governor may fill any vacancy occurring in any office during a recess of the Legislature, appointment to which may be made by the Governor with the advice and consent of the Senate, or by the Legislature in joint

meeting. An ad interim appointment so made shall expire at the end of the next regular session of the Senate, unless a successor shall be sooner appointed and qualify; and after the end of the session no ad interim appointment to the same office shall be made unless the Governor shall have submitted to the Senate a nomination to the office during the session and the Senate shall have adjourned without confirming or rejecting it. No person nominated for any office shall be eligible for an ad interim appointment to such office if the nomination shall have failed of confirmation by the Senate.

14. (a) Every bill which shall have passed both houses shall be presented to the Governor. If he approves he shall sign it, but if not he shall return it, with his objections, to the house in which it shall have originated, which shall enter the objections at large on its journal and proceed to reconsider it. If upon reconsideration, on or after the third day following the return of the bill, two-thirds of all the members of the house of origin shall agree to pass the bill, it shall be sent, together with the objections of the Governor, to the other house, by which it shall be reconsidered and if approved by two-thirds of all the members of that house, it shall become a law; and in all such cases the votes of each house shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If a bill shall not be returned by the Governor within ten days, Sundays excepted, after it shall have been presented to him, the same shall become a law on the tenth day, unless the house of origin shall on that day be in adjournment. If on the tenth day the house of origin shall be in temporary adjournment in the course of a regular or special session, the bill shall become a law on the day on which the house of origin shall reconvene, unless the Governor shall on that day return the bill to that house.

(b) If on the tenth day the Legislature is in adjournment sine die, the bill shall become a law if the Governor shall sign it within forty-five days, Sundays excepted, after such adjournment. On the said forty-fifth day the bill shall become a law, notwithstanding the failure of the Governor to sign it within the period last stated, unless at or before noon of that day he shall return it with his objections to the house of origin at a special session of the Legislature which shall convene on that day, without petition or call, for the sole purpose of acting pursuant to this paragraph upon bills returned by the Governor. At such special session a bill may be reconsidered beginning on the first day, in the manner provided in this paragraph for the reconsideration of bills, and if approved upon reconsideration by two-thirds of all the members of each house, it shall become a law. The Governor, in returning with his objections a bill for reconsideration at any general or special session of the Legislature, may recommend that an amendment or amendments specified by him be made in the bill, and in such case the Legislature may amend and re-enact the bill. If a bill be so amended and re-enacted, it shall be presented again to the Governor, but shall become a law only if he shall sign it within ten days after presentation; and no bill shall be returned by the Governor a second time. A special session of the Legislature shall not be convened pursuant to this paragraph whenever the forty-fifth day, Sundays excepted, after adjournment of a regular or special session shall fall on or after the last day of the legislative year in which such adjournment shall have been taken.

*which was signed by the Governor within such 45 day period shall become a law*

15. If any bill presented to the Governor shall contain one or more items of appropriation of money, he may object in whole or in part to any such item or items while approving the other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of each item or part thereof to which he objects, and each item or part so objected to shall not take effect. A copy of such statement shall be transmitted by him to the house in which the bill originated, and each item or part thereof objected to shall be separately reconsidered. If upon reconsideration, on or after the third day following said transmittal, one or more of such items or parts thereof be approved by two-thirds of all the members of each house, the same shall become a part of the law, notwithstanding the objections of the Governor. All the provisions of the preceding paragraph 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 or parts thereof contained in a bill appropriating money.

## SECTION II

1. The Governor may grant pardons and reprieves in all cases other than impeachment and treason, and may suspend and remit fines and forfeitures. A commission or other body may be established by law to aid and advise the Governor in the exercise of executive clemency.

2. A system for the granting of parole shall be provided by law.

## SECTION III

1. Provision for organizing, inducting, training, arming, disciplining and regulating a militia shall be made by law, which shall conform to applicable standards established for the armed forces of the United States.

2. The Governor shall nominate and appoint all general and flag officers of the militia, with the advice and consent of the Senate. All other commissioned officers of the militia shall be appointed and commissioned by the Governor according to law.

## SECTION IV

1. All executive and administrative offices, departments, and instrumentalities of the State government, including the offices of Secretary of State and Attorney General, and their respective functions, powers and duties, shall be allocated by law among and within not more than twenty principal departments, in such manner as to group the same according to major purposes so far as practicable. Temporary commissions for special purposes may, however, be established by law and such commissions need not be allocated within a principal department.

2. Each principal department shall be under the supervision of the Governor. The head of each principal department shall be a single executive unless otherwise provided by law. Such single executives shall be nominated and appointed by the Governor, with the advice and consent of the Senate, to serve at the pleasure of the Governor during his term of office and until the appointment and qualification of their successors, except as herein otherwise provided with respect to the Secretary of State and the Attorney General.

3. The Secretary of State and the Attorney General shall be nominated and appointed by the Governor with the advice and consent of the Senate to serve during the term of office of the Governor.

4. Whenever a board, commission or other body shall be the head of a principal department, the members thereof shall be nominated and appointed by the Governor with the advice and consent of the Senate, and may be removed in the manner provided by law. Such a board, commission or other body may appoint a principal executive officer when authorized by law, but the appointment shall be subject to the approval of the Governor. Any principal executive officer so appointed shall be removable by the Governor, upon notice and an opportunity to be heard.

5. The Governor may cause an investigation to be made of the conduct in office of any officer or employee who receives his compensation from the State of New Jersey, except a member, officer or employee of the Legislature or an officer elected by the Senate and General Assembly in joint meeting, or a judicial officer. He may require such officers or employees to submit to him a written statement or statements, under oath, of such information as *he* ~~the Governor~~ <sup>call for</sup> may ~~require~~ relating to the conduct of their respective offices or employments. After notice, the service of charges and an opportunity to be heard at public hearing the Governor may remove any such officer or employee for cause. Such officer or employee shall have the right of judicial review, on both the law and the facts, in such manner as shall be provided by law.

6. No rule or regulation made by any department, officer, agency or authority of this State, except such as relates to the organization or internal management of the State government or a part thereof, shall take effect until it is filed either with the Secretary of State or in such other manner as may be provided by law. The Legislature shall provide for the prompt publication of such rules and regulations.

## ARTICLE VI

### JUDICIAL

#### SECTION I

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

#### SECTION II

1. The Supreme Court shall consist of a Chief Justice and six Associate Justices. Five members of the court shall constitute a quorum. When necessary, the Chief Justice shall assign the Judge or Judges of the Superior Court, senior in service, as provided by rules of the Supreme Court, to serve temporarily in the Supreme Court. In case the Chief Justice is absent or unable to serve, a presiding Justice designated in accordance with rules of the Supreme Court shall serve temporarily in his stead.

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

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

### SECTION III

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

2. The Superior Court shall have original general jurisdiction throughout the State in all causes.

3. The Superior Court shall be divided into an Appellate Division, a Law Division, and a Chancery Division. Each division shall have such Parts, consist of such number of Judges, and hear such causes, as may be provided by rules of the Supreme Court.

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

### SECTION IV

1. There shall be a County Court in each county, which shall have all the jurisdiction heretofore exercised by the Court of Common Pleas, Orphans' Court, Court of Oyer and Terminer, Court of Quarter Sessions, Court of Special Sessions and such other jurisdiction consistent with this Constitution as may be conferred by law.

2. There shall be a Judge of each County Court and such additional Judges as shall be provided by law, and they shall be appointed in the same manner as heretofore provided for Judges of the Court of Common Pleas.

3. Each Judge of the County Court may exercise the jurisdiction of the County Court.

4. The jurisdiction, powers and functions of the County Courts and of the Judges of the County Courts may be altered by law as the public good may require.

5. The County Courts, in civil causes including probate causes, within their jurisdiction, and subject to law, may grant legal and equitable relief so that all matters in controversy between the parties may be completely determined.

## SECTION V

1. Appeals may be taken to the Supreme Court:

(a) In causes determined by the Appellate Division of the Superior Court involving a question arising under the Constitution of the United States or this State;

(b) In causes where there is a dissent in the Appellate Division of the Superior Court;

(c) In capital causes;

(d) On certification by the Supreme Court to the Superior Court and, where provided by rules of the Supreme Court, to the County Courts and the inferior courts; and

(e) In such causes as may be provided by law.

2. Appeals may be taken to the Appellate Division of the Superior Court from the Law and Chancery Divisions of the Superior Court, the County Courts and in such other causes as may be provided by law.

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

4. Prerogative writs are superseded and, in lieu thereof, review, hearing and relief shall be afforded in the Superior Court, on terms and in the manner provided by rules of the Supreme Court, as of right, except in criminal causes where such review shall be discretionary.

## SECTION VI

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

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

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

4. The Justices of the Supreme Court, the Judges of the Superior Court and the Judges of the County Courts shall be subject to impeachment, and any judicial officer impeached shall not exercise his office until acquitted. The Judges of the Superior Court and the Judges of the County Courts shall also be subject to removal from office by the Supreme Court for such causes and in such manner as shall be provided by law.

5. Whenever the Supreme Court shall certify to the Governor that it appears that any Justice of the Supreme Court, Judge of the Superior Court or Judge of the County Court is so incapacitated as substantially to prevent him from performing his judicial duties, the Governor shall appoint a commission of three persons to inquire into the circumstances; and, on their recommendation, the Governor may retire the Justice or Judge from office, on pension as may be provided by law.

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

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

## SECTION VII

1. The Chief Justice of the Supreme Court shall be the administrative head of all the courts in the State. He shall appoint an Administrative Director to serve at his pleasure.

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

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

## ARTICLE VII

### PUBLIC OFFICERS AND EMPLOYEES

#### SECTION I

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

2. Appointments and promotions in the civil service of the State, and of such political subdivisions as may be provided by law, shall be made according to merit and fitness to be ascertained, as far as practicable, by examination, which, as far as practicable, shall be competitive; except that preference in appointments by reason of active service in any branch of the military or naval forces of the United States in time of war may be provided by law.

3. Any compensation for services or any fees received by any person by virtue of an appointive State office or position, in addition to the annual salary



provided for the office or position, shall immediately upon receipt be paid into the treasury of the State, unless the compensation or fees shall be allowed or appropriated to him by law.

4. Any person before or after entering upon the duties of any public office, position or employment in this State may be required to give bond as may be provided by law.

5. The term of office of all officers elected or appointed pursuant to the provisions of this Constitution, except as herein otherwise provided, 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.

✓ 6. The State Auditor shall be appointed by the Senate and General Assembly in joint meeting for a term of five years and until his successor shall be appointed and qualified. It shall be his duty to conduct post-audits of all transactions and accounts kept by or for all departments, offices and agencies of the State government, to report to the Legislature or to any committee thereof as shall be required by law, and to perform such other similar or related duties as shall, from time to time, be required of him by law.

## SECTION II

1. County prosecutors shall be nominated and appointed by the Governor with the advice and consent of the Senate. Their term of office shall be five years, and they shall serve until the appointment and qualification of their respective successors.

2. County clerks, surrogates and sheriffs shall be elected by the people of their respective counties at general elections. The term of office of county clerks and surrogates shall be five years, and of sheriffs three years. Whenever a vacancy shall occur in any such office it shall be filled in the manner to be provided by law.

## SECTION III

1. The Governor and all other State officers, while in office and for two years thereafter, shall be liable to impeachment for misdemeanor committed during their respective continuance in office.

2. The General Assembly shall have the sole power of impeachment by vote of a majority of all the members. All 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 the evidence". No person shall be convicted without the concurrence of two-thirds of all the members of the Senate. When the Governor is tried, the Chief Justice of the Supreme Court shall preside and the President of the Senate shall not participate in the trial.

3. Judgment in cases of impeachment shall not extend further than to removal from office, and to disqualification to hold and enjoy any public office of honor, profit or trust in this State; but the person convicted shall nevertheless be liable to indictment, trial and punishment according to law.



ARTICLE VIII  
TAXATION AND FINANCE

SECTION I

1. Property shall be assessed for taxation under general laws and by uniform rules. All real property assessed and taxed locally or by the State for allotment and payment to taxing districts shall be assessed according to the same standard of value; and such real property shall be taxed at the general tax rate of the taxing district in which the property is situated, for the use of such taxing district.

2. Exemption from taxation may be granted only by general laws. Until otherwise provided by law all exemptions from taxation validly granted and now in existence shall be continued. Exemptions from taxation may be altered or repealed, except those exempting real and personal property used exclusively for religious, educational, charitable or cemetery purposes, as defined by law, and owned by any corporation or association organized and conducted exclusively for one or more of such purposes and not operating for profit. ~~and except the property in the preceding paragraph~~

3. Any citizen and resident of this State now or hereafter honorably discharged or released under honorable circumstances from active service in time of war in any branch of the armed forces of the United States, shall be exempt from taxation on real and personal property to an aggregate assessed valuation not exceeding five hundred dollars. Any person hereinabove described who has been or shall be declared by the United States Veterans Administration, or its successor, to have a service-connected disability, shall be entitled to such further exemption from taxation as from time to time may be provided by law. The widow of any citizen and resident of this State who has met or shall meet his death on active duty in time of war in any such service shall be entitled, during her widowhood, to the exemption in this paragraph provided for honorably discharged veterans and to such further exemption as from time to time may be provided by law.

SECTION II

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

2. No money shall be drawn from the State treasury but for appropriations made by law. All moneys for the support of the State government and for all other State purposes as far as can be ascertained or reasonably foreseen, shall be provided for in one general appropriation law covering one and the same fiscal year; except that when a change in the fiscal year is made, necessary provision may be made to effect the transition. No general appropriation law or other law appropriating money for any State purpose shall be enacted if the appropriation contained therein, together with all prior appropriations made for the same fiscal period, shall exceed the total amount of revenue on hand and anticipated which will be available to meet such appropriations during such fiscal period, as certified by the Governor.

3. The Legislature shall not, in any manner, create in any fiscal year a debt or debts, liability or liabilities of the State, which together with any previous debts or liabilities shall exceed at any time one per centum of the total amount appropriated by the general appropriation law for that fiscal year, unless the same shall be authorized by a law for some single object or work distinctly specified therein. Regardless of any limitation relating to taxation in this Constitution, such 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 thereof within thirty-five years from the time it is contracted; and the law shall not be repealed until such debt or liability and the interest thereon are fully paid and discharged. No such law shall take effect until it shall have been submitted to the people at a general election and approved by a majority of the legally qualified voters of the State voting thereon. 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 paragraph 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. Nor shall anything in this paragraph contained apply to the creation of any debts or liabilities for purposes of war, or to repel invasion, or to suppress insurrection or to meet an emergency caused by disaster or act of God.

### SECTION III

1. The clearance, replanning, development or redevelopment of blighted areas shall be a public purpose and public use, for which private property may be taken or acquired. Municipal, public or private corporations may be authorized by law to undertake such clearance, replanning, development or redevelopment; and improvements made for these purposes and uses, or for any of them, may be exempted from taxation, in whole or in part, for a limited period of time during which the profits of and dividends payable by any private corporation enjoying such tax exemption shall be limited by law. The conditions of use, ownership, management and control of such improvements shall be regulated by law.

2. 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.

3. No donation of land or appropriation of money shall be made by the State or any county or municipal corporation to or for the use of any society, association or corporation whatever.

### SECTION IV

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

2. The fund for the support of free public 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 free public schools, for the equal benefit of all the people of the State; and it shall not be competent for the Legislature to borrow, appropriate or use the said fund or any part thereof for any other purpose, under any pretense whatever.

3. The Legislature may, within reasonable limitations as to distance to be prescribed, provide for the transportation of children within the ages of five to eighteen years inclusive to and from any school.

## ARTICLE IX

### AMENDMENTS

1. Any ~~specific~~ amendment or amendments to this Constitution may be proposed in ~~this~~ Senate or General Assembly. At least twenty calendar days prior to the first vote thereon in the house in which such amendment or amendments are first introduced, the same shall be printed and placed on the desks of the members of each house. Thereafter and prior to such vote a public hearing shall be held thereon. If the proposed amendment or amendments or any of them shall be agreed to by three-fifths of all the members of each of the respective houses, the same shall be submitted to the people. If the same or any of them shall be agreed to by less than three-fifths but nevertheless by a majority of all the members of each of the respective houses, such proposed amendment or amendments shall be referred to the Legislature in the next legislative year; and if in that year the same or any of them shall be agreed to by a majority of all the members of each of the respective houses, then such amendment or amendments shall be submitted to the people.

2. The proposed amendment or amendments shall be entered on the journal of each house with the yeas and nays of the members voting thereon.

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

4. The proposed amendment or amendments shall then be submitted to the people at the next general election in the manner and 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 the proposed amendment or amendments or any of them shall be approved by a majority of the legally qualified voters of the State voting thereon, the same shall become part of the Constitution on the thirtieth day after the election, unless otherwise provided in the amendment or amendments.

7. If at the election a proposed amendment shall not be approved, neither such proposed amendment nor one to effect the same or substantially the same change in the Constitution shall be submitted to the people before the third general election thereafter.

ARTICLE X  
GENERAL PROVISIONS

1. The seal of the State shall be kept by the Governor, or person administering the office of Governor, 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 office of Governor, 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. All indictments shall conclude: "against the peace of this State, the government and dignity of the same".
4. Wherever in this Constitution the term "person", "persons", "people" or any personal pronoun is used, the same shall be taken to include both sexes.
5. Except as herein otherwise provided, this Constitution shall take effect on the first day of January in the year of our Lord one thousand nine hundred and forty-eight.

ARTICLE XI  
SCHEDULE

SECTION I

1. This Constitution shall supersede the Constitution of one thousand eight hundred and forty-four as amended.
2. The Legislature shall enact all laws necessary to make this Constitution fully effective.
3. All law, statutory and otherwise, all rules and regulations of administrative bodies and all rules of courts in force at the time this Constitution or any Article thereof takes effect shall remain in full force until they expire or are superseded, altered or repealed by this Constitution or otherwise.
4. Except as otherwise provided by this Constitution, all writs, actions, causes of action, prosecutions, contracts, claims and rights of individuals and of bodies corporate, and of the State, and all charters and franchises shall continue unaffected notwithstanding the taking effect of any Article of this Constitution.
5. All indictments found before the taking effect of this Constitution or any Article may be proceeded upon. After the taking effect thereof, indictments for crime and complaints for offenses committed prior thereto may be found, made and proceeded upon in the courts having jurisdiction thereof.

*judicial  
branch*

## SECTION II

1. The first Legislature under this Constitution shall meet on the second Tuesday in January, in the year one thousand nine hundred and forty-eight.

2. Each member of the General Assembly, elected at the election in the year one thousand nine hundred and forty-seven, shall hold office for a term beginning at noon of the second Tuesday in January in the year one thousand nine hundred and forty-eight and ending at noon of the second Tuesday in January in the year one thousand nine hundred and fifty. Each member of the General Assembly elected thereafter shall hold office for the term provided by this Constitution.

3. Each member of the Senate elected in the years one thousand nine hundred and forty-five and one thousand nine hundred and forty-six shall hold office for the term for which he was elected. Each member of the Senate elected in the year one thousand nine hundred and forty-seven shall hold office for a term of four years beginning at noon of the second Tuesday in January following his election. The seats in the Senate which would have been filled in the years hereinafter designated had this Constitution not been adopted shall be filled by election as follows: of those seats which would have been filled by election in the year one thousand nine hundred and forty-eight, three seats, as chosen by the Senate in the year one thousand nine hundred and forty-eight, shall be filled by election in that year for terms of five years, and three, as so chosen, shall be filled by election in that year for terms of three years, and those seats which would have been filled by election in the year one thousand nine hundred and forty-nine shall be filled by election in that year for terms of four years, so that ~~ten~~ <sup>eleven</sup> seats in the Senate shall be filled by election in the year one thousand nine hundred and ~~forty-nine~~ <sup>fifty-one</sup> and every fourth year thereafter for terms of four years, and the members of the Senate so elected and their successors shall constitute one class to be elected as prescribed in paragraph 2 of Section II of Article IV of this Constitution, and ~~eleven~~ <sup>three</sup> seats shall be filled by election in the year one thousand nine hundred and fifty-one and every fourth year thereafter for terms of four years, and the members of the Senate so elected and their successors shall constitute the other class to be elected as prescribed in said paragraph of this Constitution.

4. The provisions of Paragraph 1 of Section V of Article IV of this Constitution shall not prohibit the nomination, election or appointment of any member of the Senate or General Assembly first organized under this Constitution, to any State civil office or position created by this Constitution or created during his first term as such member.

## SECTION III

1. A Governor shall be elected for a full term at the general election to be held in the year one thousand nine hundred and forty-nine and every fourth year thereafter.

2. The taking effect of this Constitution or any provision thereof shall not of itself affect the tenure, term, status or compensation of any person then holding any public office, position or employment in this State, except as provided in this Constitution. Unless otherwise specifically provided in this Con-

stitution, all constitutional officers in office at the time of its adoption shall continue to exercise the authority of their respective offices during the term for which they shall have been elected or appointed and until the qualification of their successors respectively. Upon the taking effect of this Constitution all officers of the militia shall retain their commissions subject to the provisions of Article V, Section III.

3. The Legislature, in compliance with the provisions of this Constitution, shall prior to the first day of July, one thousand nine hundred and forty-nine, and may from time to time thereafter, allocate by law the executive and administrative offices, departments and instrumentalities of the State government among and within the principal departments. If such allocation shall not have been completed within the time limited, the Governor shall call a special session of the Legislature to which he shall submit a plan or plans for consideration to complete such allocation; and no other matters shall be considered at such session.

#### SECTION IV

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

2. The Judges of the Courts of Common Pleas shall constitute the Judges of the County Courts, each for the period of his term which remains unexpired at the time the Judicial Article of this Constitution takes effect.

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

4. Except as otherwise provided in this Constitution and until otherwise provided by law, all courts now existing in this State, other than those abolished in paragraph 3 hereof, shall continue as if this Constitution had not been adopted, provided, however, that when the Judicial Article of this Constitution takes effect, the jurisdiction, powers and functions of the Court of Common Pleas, Orphans' Court, Court of Oyer and Terminer, Court of

Quarter Sessions and Court of Special Sessions of each county, the judicial officers, clerks and employees thereof, and the causes pending therein and their files, shall be transferred to the County Court of the county. All statutory provisions relating to the county courts aforementioned of each county and to the Judge or Judges thereof shall apply to the new County Court of the county and the Judge or Judges thereof, unless otherwise provided by law. Until otherwise provided by law and except as aforestated, the judicial officers, surrogates and clerks of all courts now existing, other than those abolished in paragraph 3 hereof, and the employees of said officers, clerks, surrogates and courts shall continue in the exercise of their duties, as if this Constitution had not been adopted.

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

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

7. All Special Masters in Chancery, Masters in Chancery, Supreme Court Commissioners and Supreme Court Examiners shall, until otherwise provided by rules of the Supreme Court, continue respectively as Special Masters, Masters, Commissioners and Examiners of the Superior Court, with appropriate similar functions and powers as if this Constitution had not been adopted.

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

(a) All causes and proceedings of whatever character pending in the Court of Errors and Appeals shall be transferred to the new Supreme Court;

(b) All causes and proceedings of whatever character pending on appeal or writ of error in the present Supreme Court and in the Prerogative Court and all pending causes involving the prerogative writs shall be transferred to the Appellate Division of the Superior Court;

(c) All causes and proceedings of whatever character pending in the Supreme Court other than those stated shall be transferred to the Superior Court;

(d) All causes and proceedings of whatever character pending in the Prerogative Court other than those stated shall be transferred to the Chancery Division of the Superior Court;

(e) All causes and proceedings of whatever character pending in all other courts which are abolished shall be transferred to the Superior Court.

For the purposes of this paragraph, paragraph 4 and paragraph 9, a cause shall be deemed to be pending notwithstanding that an adjudication has been

entered therein, provided the time limited for review has not expired or the adjudication reserves to any party the right to apply for further relief.

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

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

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

12. Upon the taking effect of the Judicial Article of this Constitution, the Clerk in Chancery shall become the Clerk of the Superior Court and shall serve as such Clerk until the expiration of the term for which he was appointed as Clerk in Chancery, and all employees of the Clerk in Chancery, the Court of Chancery, the Chancellor and the several Vice Chancellors shall be transferred to appropriate similar positions with similar compensation and civil service status under the Clerk of the Superior Court or the Superior Court, which shall be provided by law.

13. Appropriations made by law for judicial expenditures during the fiscal year one thousand nine hundred and forty-eight — one thousand nine hundred and forty-nine may be transferred to similar objects and purposes required by the Judicial Article.

14. The Judicial Article of this Constitution shall take effect on the fifteenth day of September, one thousand nine hundred and forty-eight, except that the Governor, with the advice and consent of the Senate, shall



have the power to fill vacancies arising prior thereto in the new Supreme Court and the Superior Court; and except further 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 the adoption of this Constitution.

Done in Convention, at Rutgers University, the State University of New Jersey, New Brunswick, on the tenth day of September, in the year of our Lord one thousand nine hundred and forty-seven, and of the independence of the United States of America the one hundred and seventy-second.

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*President of the Convention.*

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*Secretary of the Convention.*