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New Jersey Commission on Constitutional  
Amendments

DOCUMENT No. 2

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SPECIAL MESSAGE

OF HIS EXCELLENCY

JUL 17

GEO. C. LUDLOW,

Governor of New Jersey,

Presenting to the Legislature the Report of the  
Commission on Constitutional Amendments,  
together with the Assembly Bill intro-  
duced January 11th, 1882.

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## SPECIAL MESSAGE.

STATE OF NEW JERSEY, EXECUTIVE DEPARTMENT,  
Trenton, January 11, 1882.

*To the Senate:*

The President of the Commission appointed to prepare and suggest amendments to the Constitution of this State has transmitted to me, in accordance with the instructions of the Commission, a report of proceedings, accompanied by a series of amendments which has been adopted by it. I herewith present to you a copy of the report made to me and of the suggestions made by the Commission.

Respectfully,

G. C. LUDLOW,  
Governor.



# PROPOSED AMENDMENTS

TO THE

## CONSTITUTION,

REPORTED BY THE

Constitutional Commission to the Legislature  
of the State of New Jersey.

# Proposed Amendments to the Constitution

REPORTED BY THE CONSTITUTIONAL COMMISSION TO THE LEGISLATURE OF THE STATE OF NEW JERSEY.

## ARTICLE IV.

### LEGISLATIVE.

#### *Section I.*

Strike out paragraph 3 and insert as paragraph 3 a new paragraph, as follows:

"3. Members of the senate and general assembly shall be elected biennially, the former for terms of four years, and the latter for terms of two years, on the first Tuesday after the first Monday in November, or on such other day as the legislature may designate by law for holding such election; their terms of office shall begin on the first day of January next after their election. If vacancies happen, by resignation or otherwise, the persons chosen to supply such vacancies shall be elected for the unexpired term only; the two houses shall meet separately on the second Tuesday in January, in the year eighteen hundred and eighty-five, and every second year thereafter."

#### *Section II.*

Paragraph 1. Strike out the word "three" and insert in lieu thereof the word "four."

Strike out paragraph 2 and insert as paragraph 2 a new paragraph, as follows:

"2. The senate meeting in January, in the year eighteen hundred and eighty-four, shall so divide themselves that the seats of eleven senators shall be vacated at the expiration of said year, and the seats of the other senators shall be vacated at the expiration of the year eighteen hundred and eighty-six; the successors of the senators whose seats shall be so vacated shall be chosen at the general elections to be held in said years respectively, and every fourth year thereafter, for the term of four years."



*Section III.*

Paragraph 1. Strike out the word "annually," and insert in lieu thereof the word "biennially."

Paragraph 7. Strike out the words, "members of the senate and general assembly shall receive annually the sum of five hundred dollars," and insert in lieu thereof the words following:

"Members of the senate shall receive the sum of one thousand dollars, and members of the general assembly shall receive the sum of five hundred dollars."

*Section VII.*

Paragraph 11. Insert in the paragraph, after the words "may be provided for by general laws," the words following:

"But until general laws regulating all the internal affairs of towns and counties shall have been passed, local or special laws may be passed for that purpose (but not for the purpose of appointing local offices or commissions to regulate municipal affairs), with the assent of three-fifths of all the members elected to each house, which laws shall not take effect until they shall have been referred to the legislature then next to be chosen, and shall be agreed to by three-fifths of the members elected to each house thereof, and be then approved by the governor."

Insert as paragraph 13 a new paragraph, as follows:

"13. That no law shall be passed, or contract made by or on behalf of the State or any municipal corporation, by which the power of taxation shall in any way be impaired or abridged."

Insert as paragraph 14 a new paragraph, as follows:

"14. That any municipality may collect by suit any tax or assessment due by any corporation, or imposed upon property owned by it, without in any way impairing the lien thereof, or any other remedy provided by law."

Insert as paragraph 15 a new paragraph, as follows:

"15. That the rate of taxation for all municipal, State and county purposes (excepting for the purpose of raising the principal or interest on any debt heretofore incurred) shall

in no cases exceed, in any one year, the sum of two dollars on every one hundred dollars of assessed valuation."

Insert as paragraph 16 a new paragraph, as follows:

"16. No city shall lawfully use or exercise any of the powers conferred upon it by law involving the expenditure of any money, or the creating of any debt, unless its lawful authorities have previously provided for, or do simultaneously provide for raising, by tax, or otherwise, all the money required for the exercise of such power, and have appropriated, or do simultaneously appropriate, the money for that purpose; and any contract or agreement purporting to have been made with any city for furnishing materials or doing work for the same, or for any other matter in the course of the exercise by such city of any of the powers conferred upon it by law, the money necessary for the performance of which contract or agreement, or for defraying the expense of the exercise of which power has not been previously to, or is not simultaneously with, the making such contract or agreement, or the exercise of such power, provided to be appropriated and raised, shall be void and of no effect against any city or any department thereof, and that the officer or officers of such city who caused, procured or consented to such contract or agreement, or the exercise of such power, shall be personally liable for all work done or materials furnished thereon or therein."

Insert as paragraph 17 a new paragraph, as follows:

"17. That no bonds shall be issued by any city, or any officer or department thereof, or any debt be created, to a greater amount in the aggregate, including any indebtedness of such city now existing, than ten per centum of the average assessed valuation of taxable property within said city for the then next preceding five years; provided, however, that this prohibition shall not apply to bonds issued to renew or replace bonds heretofore issued, or to fund any floating indebtedness of such city now existing; and all bonds, obligations or contracts made or issued, and all debts created by any municipal corporation in contravention of any of the restrictions of this constitution or of any law hereafter passed by the legislature, shall be absolutely void and incapable of being enforced in the hands of any person whatever, and the power to raise by taxation any money to pay any such bonds, obligations, contracts or debts is expressly withheld."



Insert as paragraph 18 a new paragraph, as follows:

"18. No railway or railroad, other than a surface horse-car railroad, shall be constructed in or across any street or avenue of any city or town without just compensation being first made for all damages which shall result therefrom to the owners of property abutting on said street or avenue; nor shall any railway or railroad be constructed or operated in or through any public park or square of any city or town, or upon or over any drive or road in or through such park or square, without compensation to the city."

## ARTICLE V.

### EXECUTIVE.

Strike out paragraph 3 and insert as paragraph 3 a new paragraph, as follows:

"3. The governor to be next elected, and his successors in office, shall hold the office for four years, to commence on the third Tuesday of January next ensuing the election for governor by the people, and to end on the Monday preceding the third Tuesday of January, four years thereafter; and he and they shall be incapable of holding that office for four years next after their respective terms of office shall have expired; and no appointment or nomination to office shall be made by the governor during the last week of his term."

Paragraph 10. Strike out the word "six" immediately preceding the words "judges of the court of errors and appeals."

## ARTICLE VI.

### JUDICIARY.

#### Section I.

Strike out section 1 and insert as section 1 a new section, as follows:

#### "Section I.

"1. The judicial power shall be vested in a court of errors and appeals in the last resort in all cases, as heretofore; a court for the trial of impeachments; a court of chancery; a prerogative court and a supreme court; and in such inferior

courts as now exist, or as may be hereafter ordained and established by law; which inferior courts the legislature may alter or abolish, or ordain and establish in any county of the State, or in any judicial district (court) hereafter established by law."

#### Section II.

Strike out paragraph 1 and insert as paragraph 1 a new paragraph, as follows:

"1. The court of errors and appeals shall consist of four judges, who shall be counselors-at-law of the bar of this State of at least fifteen years' standing; a majority of their number shall constitute a quorum, and the court shall have power to try and determine, in a summary way, the eligibility of its members. The judges who shall be first appointed to be judges of this court shall hold their respective offices during the terms of seven, eight, nine and ten years, and the duration of the term of each shall be determined by lot at the first meeting of the court after the adoption of this amendment; each succeeding judge shall hold his office for the term of ten years; the disability of any member of the court continuing for more than one year shall vacate his office, and the fact of such continued disability shall be tried and determined by the court."

Strike out paragraph 2 and insert as paragraph 2 a new paragraph, as follows:

"2. The official terms of the judges of said court, as heretofore constituted, shall expire on the third Tuesday in February next succeeding the adoption of this amendment; the first term of said court shall begin on the first Tuesday in March next succeeding the adoption of this amendment; and thereafter the said court shall hold monthly terms, during ten months in each year."

Strike out paragraph 3 and insert as paragraph 3 as follows:

"3. All writs of error shall be brought only to the court of errors and appeals, and when a writ of error shall be brought, the reasons for the judgment pronounced in the court below, and the reasons for the dissenting opinion of any judge of said court, shall be assigned to the court of errors and appeals in writing; when an appeal from an order or decree of the court of chancery shall be heard, the chancellor or vice-chancellor who heard the cause below, shall assign to this court, in writing, the reasons for making such order or decree."



Strike out paragraph 4 and insert as paragraph 4 a new paragraph, as follows:

"4. When a final judgment or decree shall be pronounced in a cause in the court of errors and appeals, each judge who sat in the hearing of such cause shall announce in writing his reasons for uniting in or dissenting from the rendering of such judgment or decree, and the said reasons shall be read in open court, and shall thereafter be filed in the office of the clerk of the court."

Strike out paragraph 5 and insert as paragraph 5 a new paragraph, as follows:

"5. The secretary of state shall be the clerk of this court."

Strike out paragraph 6.

#### Section IV.

Paragraph 1. Insert after the word "chancellor" the words following: "and so many vice-chancellors as may from time to time be authorized by law to be appointed; the chancellor shall divide the State into circuits, in such manner that a stated session of the court for the final hearing of causes shall be held in each county at least twice in each year, at the county town thereof, and all causes shall be heard upon the examination of the witnesses therein *viva voce* in open court, unless the parties to the hearing, or their solicitors, agree in writing that a cause be heard upon depositions in writing as heretofore; commissions to take testimony may be issued as may be provided by law."

#### Section V.

Strike out paragraph 2 and insert as paragraph 2 a new paragraph, as follows:

"2. The existing circuit courts shall remain and continue until altered or abolished by law, and shall be held in every county of this State, so long as they continue, by one or more of the justices of the supreme court, or a judge appointed for that purpose, and shall in all cases within the county, except in those of a criminal nature, have common law jurisdiction concurrent with the supreme court; and any final judgment of a circuit court may be docketed in the supreme court and shall operate as a judgment obtained in the supreme court from the time of such docketing."

Strike out paragraph 3.

#### Section VI.

Strike out paragraph 1 and insert as paragraph 1 a new paragraph, as follows:

"1. The existing inferior courts of common pleas shall remain and continue until altered or abolished by law, and so long as they continue there shall be no more than five judges of said court in each of the counties of this State; one judge for each county shall be appointed every year, and no more, except to fill vacancies."

#### ARTICLE VII.

##### APPOINTING POWER AND TENURE OF OFFICE.

#### Section II.

Strike out paragraph 1 and insert as paragraph 1 a new paragraph, as follows:

"1. Judges of the court of errors and appeals, justices of the supreme court, chancellor, vice-chancellors, judges of the inferior court of common pleas (so long as said courts shall continue unaltered or unabolished by law), and judges of all inferior courts of record which may be hereafter ordained and established by law, shall be nominated by the governor and appointed by him, with the advice and consent of the senate; but the existing vice-chancellors shall hold their respective offices until the expiration of their present current terms of office; the judges of the court of errors and appeals shall hold their offices for the term of ten years, subject to the provisions of paragraph one of section two of the sixth article of the constitution; the justices of the supreme court, chancellor and vice-chancellors shall hold their offices for the term of seven years; they shall, at stated times, receive for their services a compensation which shall be fixed by law, and shall not be diminished during their respective terms of office; and they shall hold no other office under the government of this State, or of the United States."

Paragraph 2. Strike out the paragraph and insert as paragraph 2 a new paragraph, as follows:

"2. Judges of the existing courts of common pleas shall hold their offices for five years, unless said courts shall be sooner altered or abolished by law, but when appointed to

fill vacancies in unexpired terms, they shall hold for the unexpired term only."

Insert as paragraph 12 a new paragraph, as follows:

"12. No judge or judicial officer of any court of this State shall, during the term of his office, nor shall the attorney general, be a director, officer, trustee, receiver, counsel or attorney of any railroad or canal company exercising its franchises within this State; *provided, however*, that the prohibition to act as attorney or counsel of such corporations shall not apply to the judges of the existing inferior courts of common pleas."

## PROPOSED AMENDMENTS TO THE CONSTITUTION,

INTRODUCED BEFORE THE CONSTITUTIONAL COMMISSION OF  
1881.

### AMENDMENT No. 1.

*Introduced May 17, 1881, by Mr. Abbett.*

1. That the real and personal estate of every corporation, foreign and domestic, except that of municipal corporations of this State, shall be taxed the same as the real and personal estate of an individual, and all laws that establish a different rule are hereby repealed.

2. That no law shall be passed, or contract made by or on behalf of the State or any municipal corporation, by which the power of taxation shall in any way be impaired or abridged.

3. That the power of taxation shall be completely restored to the State by the condemnation of all rights to exemption from taxation, whether total or partial, which are not repealable at the will of the legislature or by the provisions of this constitutional amendment; this condemnation to be upon just compensation, to be paid out of the State Treasury. The attorney-general shall apply, on behalf of the State, to the supreme court to frame an issue in each case to determine the amount of said compensation to be paid to any person or corporation claiming any such exemption; this amount shall be determined by a jury, and the proceedings shall be conducted as near as may be as the trial of an action at law, and the determination in each case shall be entered as a judgment of the supreme court. The State treasurer shall pay the amount of every such judgment, on demand, out of any moneys in the State treasury. The legislature shall immediately provide by taxation or the issue of bonds, for the raising of money to pay all such judgments.



## AMENDMENT No. 2.

*Introduced July 2, 1881, by S. B. Ransom.*

Amend article four, section seven, paragraph eleven, by changing the fourth clause of said paragraph so as to read as follows:

"Regulating the internal affairs of towns and counties; appointing local officers or commissions to regulate municipal affairs, unless the legal voters of the county or town to be affected by such private, local or special law shall, by a majority vote at a general or special election, to be held in such town or county, assent to such law."

*Amendments to the Constitution of the State of New Jersey  
Proposed by the New Jersey Anti-monopoly Union.*

1. Amend article four, section seven, paragraph eight, by adding to the said paragraph the following:

"Nor shall any railway or railroad, other than a surface horse-car railroad, be constructed in any street or avenue without just compensation being first made for all damages which will result therefrom, to the owners of property abutting on such street or avenue; nor shall any railway or railroad be constructed or operated in or through any public park or square of any city or town, or upon or over any drive or road in or through such park or square."

2. Amend article four, section seven, paragraph twelve, by adding thereto the following:

"The real and personal estate of every corporation or joint stock company, foreign or domestic, organized or existing for the purposes of business, gain or profit, shall be subject to the same measure of taxation and taxed in the same manner as the real and personal estate of individuals."

3. Amend article four, section seven, by adding thereto new paragraphs, as follows:

"13. No railroad, canal, transportation, joint stock or other business corporation shall hereafter, either directly or indirectly, have power to take by purchase or condemnation, or to lease, hold or use, any lands or franchises not owned, leased, held or used by such corporation at the time of the

adoption of this amendment, unless such corporation shall first file in the office of the secretary of state a certificate, duly executed under the corporate seal of such corporation, forever renouncing all claim of exemption of any of the property, real or personal, of such corporation from local taxation, and also renouncing all claim to have any of their said property taxed in any manner different from the property of private individuals.

"14. No special tax levy shall be made; all moneys raised by taxation shall be raised by a general tax levy, which shall not be levied oftener than once in each year; and there shall not be raised in any one year in any municipality of this State, by taxation, more than one per centum of the taxable valuation of the taxable property in such municipality for State, county and municipal purposes; one per centum of such taxable valuation of taxable property for the payment of interest on any existing lawful indebtedness of such municipality, and one per centum of such taxable valuation of taxable property for the payment of the principal of any such existing indebtedness of such municipality; and all taxes levied for the purpose of paying such indebtedness and interest thereon shall be kept separate and distinct from moneys raised for other purposes, and shall in all cases be applied to the payment of such indebtedness and the interest accruing thereon, and to no other purpose whatever, under any circumstances whatever.

"15. No municipality shall have power to create any debt or debts, liability or liabilities of such municipality, or to issue any bond or other evidence of indebtedness, unless a law authorizing the same shall have been first passed by the legislature of the State by a three-fourths vote of all the members of each house; and the legislature shall not have power to authorize any municipality to create any debt or debts, liability or liabilities, or to issue any bond or other evidence of indebtedness (except to settle, pay or refund outstanding or maturing bonds) which shall, singly or in the aggregate with any previous debts or liabilities of such municipality, at any time exceed ten per centum of the value of the taxable property of such municipality as shown by the books of the last preceding tax levy."

4. Amend article seven, section two, by adding to said section a new paragraph, as follows:

"12. No judge or judicial officer shall, during the term of his office, be an officer, director, trustee, receiver, attorney or counsel of any railroad or canal company, and the same prohibition shall apply to the attorney general."



## AMENDMENT No. 3.

*Introduced July 22, 1881, by Mr. James Buchanan.*

CONCURRENT RESOLUTION proposing amendments to the constitution of this State.

1. *Resolved, by the Senate, the General Assembly concurring,* That the following amendments to the constitution of this State be agreed to:

Article VI. Strike out section 1 and insert as a new section the following section:

"1. The judicial power shall be vested in a court of appeals in the last resort in all causes, a court for the trial of impeachments, a court of chancery, county courts and such inferior courts as now exist, and as may be hereafter ordained and established by law, which inferior courts the legislature may alter or abolish, as the public good shall require."

Strike out section 2 and insert a new section, as follows:

"SECTION II. 1. The court of appeals shall be composed of six judges; in the first appointment of said judges, two shall be appointed for a term of three years, two for a term of six years, and two for a term of nine years; subsequent appointments, except to fill vacancies, shall be for a term of nine years; appointments to fill vacancies shall be for the unexpired term only; a major part of said judges shall be authorized to hold the court and transact all its business;

"2. The clerk of said court shall be appointed by the judges of the court, or a major part of them; he shall hold his office for the term of nine years;

"3. The president judge of said court shall be selected by the remaining members of the court."

Strike out section 4 and insert a new section as follows:

"SECTION IV. 1. The court of chancery shall consist of a chancellor, to be appointed for a term of nine years;

"2. The chancellor shall hear all appeals from the county courts in equity and orphans' court cases;

"3. The court of chancery shall have no original jurisdiction, and from any sentence, decree or order of said court

an appeal, under conditions to be from time to time imposed by the legislature, shall lie to the court of appeals;

"4. The clerk of the court of chancery shall be appointed by the chancellor, and hold his office during the pleasure of the chancellor."

Strike out section 5 and insert a new section as follows:

"SECTION V. 1. Circuit courts shall be held in each county of this State by judges appointed for that purpose; such courts shall have exclusive law and equity jurisdiction within their respective counties, except as to orphans' court matters and matters involving less than two hundred dollars;

"2. The legislature shall from time to time fix the number of county judges in the State; each county having over forty thousand inhabitants shall have one judge; each county having over one hundred thousand inhabitants may have two judges; in counties having less than forty thousand inhabitants, two or more counties may have but one judge;

"3. Judges of the circuit court shall be appointed for the term of seven years;

"4. The clerks of the several counties shall be the clerks of the circuit courts in said counties;

"5. Any judgment obtained in any circuit may be docketed in the office of the clerk of the court of appeals, and execution issue therefrom into any county of this State;

"6. Orphans' courts for each county within said circuits shall be held by the said circuit judges."

Strike out section 6;

Make section 7 section 6.

Article VII., section 2. Strike out paragraph 1 and insert a new paragraph as follows:

"1. The judges of the court of appeals and of the county courts, and the chancellor, shall be nominated by the governor, and appointed by him with the advice and consent of the senate;

"2. They shall, at stated times, receive for their services a stated compensation from the State, which shall be in lieu of all fees, and shall not be increased nor diminished during the term of their appointments; and they shall hold no other office under the government of this State or of the United States; an acceptance by any one of them of a nomination by any political party to any other office during his term of office shall work a forfeiture of his office."

Strike out paragraph 2.



## AMENDMENT No. 4.

*Introduced July 22, 1881, by David J. Pancoast.*

PROPOSED AMENDMENTS to the constitution of New Jersey  
relative to the judiciary.

Article VI., Section 1., Paragraph 1. Amend so as to read: "The judicial power shall be vested in a court of errors and appeals in the last resort in all causes as heretofore; a court for the trial of impeachments; a court of chancery; a prerogative court; a supreme court; courts of common pleas, and such inferior courts as now exist, and as may be hereafter ordained and established by law; which inferior courts the legislature may alter or abolish, as the public good shall require."

Section 2, Paragraph 1. Amend so as to read: "The court of errors and appeals shall consist of a president judge and four associate judges."

Paragraphs 2, 3, 5 and 6 to be stricken out; paragraph 4 to become paragraph 2.

Section 4, Paragraph 3. Amend by striking out the words "or circuit court."

Section 5, Paragraph 1. Amend so as to read: "The supreme court shall consist of a chief justice and four associate justices; the number of associate justices may be increased or decreased by law, but never shall be less than two nor more than six."

Paragraphs 2 and 3 to be stricken out.

Section 6, Paragraph 1. Amend so as to read: "There shall be in each county at least one court of common pleas to be held by a single judge, which court shall have and exercise exclusively all the powers and duties held and exercised by the circuit court, the inferior court of common pleas, the court of oyer and terminer and general jail delivery, the court of general and special quarter sessions of the peace at the time of the adoption of this amendment."

Paragraph 2. "The legislature shall provide by law where necessary for more than one court of common pleas in any county, with a separate judge for each court; and that the same judge shall hold the courts of common pleas in and for several counties."

Add as

Paragraph 3. "Any final judgment of the court of common pleas may be docketed in the supreme court, and shall operate as a judgment obtained in the supreme court from the time of such docketing."

Add as

Paragraph 4. "Final judgments in any court of common pleas may be brought by writ of error into the supreme court, or directly into the court of errors and appeals."

Add as

Paragraph 5. "The judge of any court of common pleas shall have power and authority to sit as judge in any other court of common pleas or orphans' court, and hold such court or courts in the place of the judge thereof whenever, for any good reason, he shall be requested so to do by the judge of such other court or courts, or in case of his absence or disability, by the governor."

Section 7 to be omitted.

Article VII., Section 2, Paragraph 1. Amend so as to read: "The governor shall nominate, and, by and with the advice and consent of the senate, appoint the judges of the court of errors and appeals, the chancellor, the justices of the supreme court and the judges of the courts of common pleas, who shall be men learned in the law, and members of the bar, who have resided in this State and practiced in its courts for at least ten years; they shall hold their office during good behavior, unless they shall have become mentally or physically incapacitated to perform the duties of their office, when they shall be retired upon half pay, upon their successors being nominated and appointed as herein provided; they shall, at stated times, receive for their services a fixed salary, which shall not be diminished during their continuance in office, and they shall not practice law in any court or hold or exercise any public office of profit, either while acting as judge or while retired upon half pay."

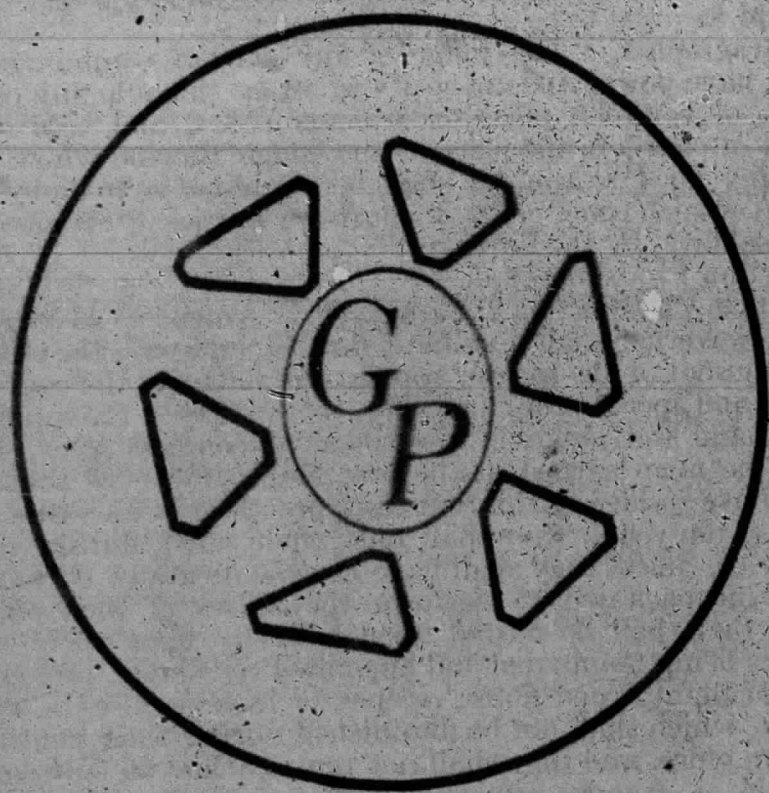
Paragraphs 2 and 8 to be omitted.

Article X., Paragraph 3. Amend so as to read: "The present governor, chancellor and ordinary, or surrogate general, the judges of the courts of errors and appeals, the supreme court and the courts of common pleas and treasurer shall continue in office until successors, elected or appointed under this constitution, shall be sworn or affirmed into office."

Paragraph 11. "Clerks of counties shall be clerks of the courts of common pleas of the several counties, and perform the duties and be subject to the regulations now required of them by law, until otherwise ordained by the legislature."



Article V., Paragraph 10. Amend so as to read: "The governor or person administering the government, the president judge of the court of errors and appeals, the chancellor, and the chief justice of the supreme court, or a major part of them, of whom the governor or person administering the government shall be one, may, for good cause, remit fines and forfeitures and grant pardons, after conviction, in all cases except impeachment."



## AMENDMENT No. 5.

*Introduced August 5, 1881, by Mr. Van Duyne.*

REGULATING the internal affairs of cities, towns or townships and counties, except as hereinafter provided.

The legislature may pass special laws regulating the internal affairs of any municipality only when such proposed law shall have been approved and asked for by the township committee, board of freeholders, common council or legislative body of such municipality; the same having been considered in at least two meetings of such body, and at least ten days' notice given between such meetings of the object of the proposed legislation, by advertisement in a paper printed in that locality, or by putting up notices in at least five of its prominent places.

The legislature may at any time repeal a special act heretofore or hereafter passed, but the title and date of the act repealed must be stated.



## AMENDMENT No. 6.

*Introduced September 30, 1881, by Dr. Charles F. Lehlbach.*

No law shall be passed, nor shall any existing law remain in force, which deprives any citizen of this State of the right of full enjoyment of life and the pursuit of happiness according to the dictates of his own conscience, so long as in such enjoyment or pursuit he does not conflict with the rights of others.

Neither the State nor any municipal corporation shall exempt from taxation the property of any church or religious corporation, of whatever denomination.

## AMENDMENT No. 7.

*Introduced September 30, 1881, by W. H. H. Bartram.*

Section 1. The manufacture of and traffic in distilled or fermented liquors shall be prohibited within this State, except for medicinal, mechanical, scientific or art purposes.

Section 2. It shall be the duty of the legislature to pass laws for the enforcement of this article.

## AMENDMENT No. 8.

*Introduced October 14, 1881, by Mr. Cortlandt Parker.*

The courts of New Jersey shall be courts of common pleas and general quarter sessions of the peace, oyer and terminer and general jail delivery within each county; circuit courts, also within the same; a supreme court, court of chancery and court of errors and appeals.

The court of common pleas and general quarter sessions of the peace shall consist of one judge, who shall be a counselor-at-law, appointed by the governor by and with the advice and consent of the senate, and shall hold his office for seven years.

The supreme court shall consist of a chief justice and so many associate justices as shall from time to time be determined by the legislature; they shall hold office for seven years, and shall be appointed by the governor with the advice and consent of the senate; the justices of the said supreme court shall be judges of the circuit courts and courts of oyer and terminer and general jail delivery in and for each county, and shall have the right, singly, to hold the same.

The court of chancery shall consist of a chancellor and of so many vice-chancellors as shall from time to time be determined by the legislature; they shall hold office for seven years; the chancellor shall be appointed by the governor by and with the advice and consent of the senate; the vice-chancellors shall be appointed by the chancellor; the chancellor or any one of the vice-chancellors shall be competent to make any order or decree of said court, but neither of them shall make any order or decree in any cause or matter, or upon any application first submitted to another member of said court, without his written consent.

There shall be a court of appeals in the last resort in all causes at law, in equity or ecclesiastical, as heretofore; it shall consist of six judges, or a majority of them; such judges shall be the chancellor, the chief justice, three associate justices of the supreme court and a vice-chancellor; said associate justices of the supreme court shall be designated as judges of said court of appeals by vote of the said court, and such vice-chancellor by that of the chancellor and the vice-chancellors; when so designated said persons shall continue judges of said court of appeals during their

subsisting terms of office as justices of the supreme court and in chancery; the said judges of the court of errors and appeals shall receive a compensation for their services therein, additional to their salaries as justices of supreme court or of chancery, which compensation shall be fixed by the legislature; no judge of the court of appeals shall vote upon appeal from a review of any decision which he shall have himself made, but he shall state in writing his reasons therefor, and may sit upon the hearing, and, publicly, during the same, orally explain or add thereto, but shall not confer thereon; every judge delivering a final decision in any court shall, if required, state his personal reasons therefor.

No person shall be appointed a judge of any court, either at law or in equity, except the court of small causes, who shall not be a counselor-at-law of at least six years' standing.



## AMENDMENT No. 9.

*Introduced November 25, 1881, by Mr. Gummere, from Judiciary Committee.*

Suggested amendment to Article V. of the constitution.

1. Strike out in paragraph 10 the word "six."

## AMENDMENT No. 10.

*Introduced November 25, 1881, by Mr. Gummere, from Judiciary Committee.*

Suggested amendment to Article VI. of the constitution.

1. Strike out section 1 and insert in place thereof the following section:

*"Section 1.*

"1. The judicial power shall be vested in a court of errors and appeals in the last resort in all cases, as heretofore; a court for the trial of impeachments; a court of chancery; a prerogative court, and a supreme court; and in such inferior courts as now exist, or as may be hereafter ordained and established by law; which inferior courts the legislature may alter or abolish, or ordain and establish, in any county of the State, or in any judicial district, as may be hereafter established by law."

2. Strike out paragraphs 1, 2 and 3 of section 2 of Article VI., and insert as paragraph 1 the following:

"1. The court of errors and appeals shall consist of four judges, who shall be counselors-at-law of the bar of this State of at least fifteen years' standing, and not more than two of whom shall be chosen from members of the same political party; a majority of their number shall constitute a quorum, and the court shall have power to try and determine, in a summary way, the eligibility of its members. The judges who shall be first appointed to be judges of this court shall hold their respective offices during the terms of seven, eight, nine, and ten years, and the duration of the term of each shall be determined by lot at the first meeting of the court after the adoption of this amendment; each succeeding judge shall hold his office for the term of ten years. The disability of any member of the court continuing for more than a year shall vacate his office, and the fact of such continued disability shall be tried and determined by the court."

Strike out paragraph 2 and insert the following:

- "2. The official terms of the judges of said court, as heretofore constituted, shall expire on the third Tuesday in



February next succeeding the adoption of this amendment, and thereafter the said court shall hold monthly terms, at the state house, during ten months in each year. The first term of said court shall begin on the first Tuesday in March next succeeding the adoption of this amendment."

Strike out paragraph 3 and insert the following:

"3. All writs of error shall be brought only to the court of errors and appeals, and when a writ of error shall be brought, the reasons for the judgment pronounced in the court below, and the reasons for the dissenting opinion of any judge of said court, shall be assigned to the court of errors and appeals in writing. When an appeal from an order or decree of the court of chancery shall be heard, the chancellor or vice-chancellor who heard the cause below shall assign to this court, in writing, the reasons for making such order or decree."

Strike out paragraph 4 and insert the following:

"4. When a final judgment or decree shall be pronounced in a cause in the court of errors and appeals, each judge who sat in the hearing of such cause shall announce in writing his reasons for uniting in or dissenting from the rendering of such judgment or decree, and the said reasons shall be read in open court, and shall thereafter be filed in the office of the clerk of the court."

Strike out paragraph 5 and insert the following:

"5. The secretary of state shall be clerk of this court."

Strike out paragraph 6.

In paragraph 1 of section 6, strike out the words "which shall be for the unexpired term only."

# AMENDMENT No. 11.

*Introduced November 25, 1881, by Mr. Gummere, from Judiciary Committee.*

## Suggested amendments to Article VII.

In the first clause of paragraph 1, after the word "chancellor," insert the words "vice-chancellors." After the word "senate" insert the words "the existing vice-chancellors shall hold their respective offices until the expiration of their present current terms of office."

In the second clause of paragraph 1, after the word "years" insert the words following: "and they, and the judges of the court of errors and appeals."

Strike out paragraph 2 of section II., and insert the following:

"Judges of the courts of common pleas shall hold their offices for five years, but when appointed to fill vacancies in unexpired terms, they shall hold for the unexpired term only."



## AMENDMENT No. 12.

*Introduced November 25, 1881, by Mr. Gummere, from Judiciary Committee.*

Suggested amendments to Section 4, of Article VI.

In paragraph 1, after the word "chancellor," add the words following: "and so many vice-chancellors as may from time to time be authorized by law to be appointed. The chancellor shall divide the State into circuits, in such manner that a stated session of the court for the final hearing of causes shall be held in each county at least twice in each year, at the county town thereof, and all causes shall be heard upon the examination of the witnesses therein *viva voce* in open court, unless the parties to the hearing, or their solicitors, agree in writing that a cause be heard upon depositions in writing as heretofore. Commissions to take testimony may be issued as may be provided by law."

## AMENDMENT No. 13.

*Introduced December 13, 1881, by Mr. Abbett, from Committee on Legislative Branch.*

Amend Article IV., section 7, by adding a new paragraph, as follows:

"13 That no law shall be passed, or contract made by or on behalf of the State, or any municipal corporation, by which the power of taxation shall in any way be impaired or abridged."

Amend Article IV., section 7, paragraph 11, by adding after the words "may be provided for by general laws," the following:

"Until general laws regulating the internal affairs of towns and counties shall have been passed, local laws may be passed for that purpose, with the assent of three-fifths of all the members elected to each house, which laws shall not take effect until they shall have been referred to the legislature then next to be chosen, and shall be agreed to by three-fifths of the members elected to each house thereof and be then approved by the governor."

Amend Article IV., section 7, by adding a new subdivision, as follows:

"14. That any municipality may collect by suit any tax or assessment due by any corporation, or imposed upon property owned by it, without in any way impairing the lien thereof, or any other remedy provided by law."

Amend Article IV., section 7, by adding as follows:

"15. That the rate of taxation for all municipal, State and county purposes (not including the principal or interest on any debt heretofore incurred) shall in no cases exceed, in one year, the sum of \_\_\_\_\_ on every one hundred dollars of assessed valuation."

Amend Article IV., section 7, by adding as follows:

"16. No city shall lawfully use or exercise any of the powers conferred upon it by law, involving the expenditure of any money, or the creating of any debt, unless its lawful authorities have previously provided for, or do simultaneously provide for raising by tax, or otherwise, all the money required for the exercise of such power, and have appropri-



ated, or do simultaneously appropriate, the money for that purpose. That any contract or agreement, purporting to be made with any city for furnishing materials or doing work for the same, or for any other matter arising out of the exercise by such city of any of the powers conferred upon it by law, made when the money for the exercise of such power has not been, previous to, or is not simultaneous with, the exercise of such power, provided to be raised and appropriated, shall be void and of no effect against any city or any department thereof, and that the officer or officers of such city who caused, procured or consented to such agreement, shall be personally liable thereon."

Amend Article IV., section 7, by adding as follows:

"17. That no bonds shall be issued in any city, or any debt created, to a greater amount in the aggregate, including any indebtedness of such city now existing, than ten per centum of the average assessed valuation of taxable property within said city for the then next preceding five years; *provided, however*, that this prohibition shall not apply to bonds issued to renew or replace bonds heretofore issued to fund any floating indebtedness of such city now existing, and all bonds, obligations, contracts and debts incurred in excess of, or in contravention of any of the restrictions of this constitution or of any law passed by the legislature, shall be absolutely void and incapable of being enforced in the hands of any person whatever, and the power to raise by taxation any money to pay any such bonds, obligations, contracts or debts is expressly withheld."

Amend Article IV., section 7, paragraph 8, by adding to said paragraph the following:

"Nor shall any railway or railroad, other than a surface horse-car railroad, be constructed in any street or avenue without just compensation being first made for all damages which shall result therefrom to the owners of property abutting on said street or avenue; nor shall any railway or railroad be constructed or operated in or through any public park or square of any city or town, or upon or over any drive or road in or through such park or square, without compensation to the city."

Amend Article VII., section 2, by adding a new paragraph as follows:

"12. No judge or judicial officer of any constitutional court of this State shall, during the term of his office, be an officer, director, trustee, receiver, attorney or counsel of any railroad or canal company; and the same prohibition shall apply to the attorney-general."

### AMENDMENT No. 14.

*Introduced December 13, 1881, by Mr. Gummere.*

Strike out in paragraph 2 of section 2, of Article VII., the words "shall be appointed by the senate and general assembly in joint meeting," and also strike out the word "they" in the next succeeding clause of the same paragraph.



## AMENDMENT No. 15.

*Introduced December 13, 1881, by Mr. Hobart.*

Amend Article IV., section 1, by striking out paragraph 3 and inserting new paragraph, as follows:

"3. Members of the senate and general assembly shall be elected biennially, the former for terms of four years, and the latter for terms of two years, on the first Tuesday after the first Monday in November, or on such other day as the legislature may designate by law for holding such election. Their terms of office shall begin on the first day of January next after their election. If vacancies happen, by resignation or otherwise, the persons chosen to supply such vacancies shall be elected for the unexpired term only. The two houses shall meet separately on the second Tuesday in January, in the year eighteen hundred and eighty-five, and every second year thereafter."

Amend Article IV., section 2, paragraph 1, by striking out the word "three" and inserting the word "four" in its stead.

Amend Article IV., section 2, by striking out paragraph 2 and inserting the following in its stead:

"2. The senate meeting in January, in the year eighteen hundred and eighty-four, shall so divide themselves that the seats of eleven senators shall be vacated at the expiration of said year, and the seats of the other senators shall be vacated at the expiration of the year eighteen hundred and eighty-six; the successors of the senators whose seats shall be so vacated shall be chosen at the general elections to be held in said years respectively, and every fourth year thereafter, for the term of four years."

Amend Article IV., section 3, paragraph 1, by striking out the word "annually" and inserting the word "biennially" in its stead.

Amend Article IV., section 4, paragraph 7, by striking out the word "annually" and inserting the word "biennially" in its stead.

## AMENDMENT No. 16.

*Introduced December 23, 1881, by Mr. Gummere, from Judiciary Committee.*

Strike out paragraph 2, of section 5, and insert as paragraph 2 the following:

"2. The existing circuit courts shall remain and continue until altered or abolished by law, and shall be held in every county of this State, so long as they continue, by one or more of the justices of the supreme court, or a judge appointed for that purpose, and shall in all cases within the county, except in those of a criminal nature, have common law jurisdiction concurrent with the supreme court, and any final judgment of a circuit court may be docketed in the supreme court, and shall operate as a judgment obtained in the supreme court from the time of such docketing."

Strike out paragraph 3 of section 5.

ASSEMBLY BILL

PROVIDING FOR A

NEW CONSTITUTION.



Assembly Bill Providing for a New Constitution.

[ASSEMBLY. No. 4—Second Reprint.]

STATE OF NEW JERSEY:

BY MR. M'ADOO.

*Introduced January 11, 1882.*

AN ACT to provide for the election of delegates to a convention to prepare a constitution for the government of this State, and for submitting the same to the people thereof for ratification or rejection.

1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That a convention to be composed of one delegate from each *county*, and one from each assembly district, to be elected in the manner herein provided, shall meet in the assembly chamber at the state house in Trenton on the fifteenth day of June next, for the purpose of framing a constitution for the government of this State, and shall continue in session from day to day, so long as may be necessary for the purpose.

2. *And be it enacted*, That the delegates to said convention shall be elected, one from each *county*, and one from each of the several assembly districts throughout the State, in the same manner as members of the general assembly are now elected; that such election shall be held on the seventeenth day of April next, and shall be conducted, and the result thereof canvassed, in the manner provided by law for

the election of members of the general assembly, by such officers as shall at that time be authorized to conduct and hold elections for members of the general assembly; that in such canvass of the votes cast in each district at such election, no ballot shall be counted which shall contain the names of more than two persons, and that the persons receiving the highest number of votes in each of the congressional and assembly districts shall be declared to have been elected as such delegates.

3. *And be it enacted*, That all qualified electors of this State shall be entitled to vote at such election, in the township, ward or district where such elector may reside, and no ballot shall contain more than two names, one at large in each congressional district, and one to represent each of the assembly districts.

4. *And be it enacted*, That the convention chosen pursuant to this act shall be the judge of the qualifications and election of its own members; it shall choose a president and all other necessary officers, who shall be members of said convention, and may make such rules and regulations for its government as may be determined on by a majority of the members thereof; before entering on the duties presented by this act, each member shall take and subscribe an oath or affirmation to support the constitution of the United States, and to honestly and faithfully perform the duties of his office to the best of his ability, knowledge and understanding, which oath or affirmation the members-elect of such convention are hereby empowered to administer to each other.

5. *And be it enacted*, That when said convention shall have agreed upon a constitution, pursuant to the provisions of this act, it shall cause the same to be engrossed and signed by the president and secretary thereof, and delivered to the governor or person administering the government of this State, who shall file it in the office of the secretary of state, whose duty it shall be to forthwith cause the same to be

published in such newspapers of the State as he shall designate, not exceeding three in each county.

6. *And be it enacted*, That the members of said convention shall not receive any compensation whatever for their services as members of such convention, and all contingent expenses of said convention, certified by the president thereof, shall be paid by the treasurer of the State upon a warrant of the comptroller.

7. *And be it enacted*, That a special election shall be held throughout this State on the tenth day of October next ensuing after the filing of such engrossed copy of said constitution so agreed upon, at such place in each township, ward or election district as may be designated by the proper authorities for that purpose, or, in the case of failure of such authorities to designate, at the place at which the last election shall have been had, at which election the constitution so agreed upon by said convention shall be submitted to the people of this State for ratification or rejection; and such election shall be by ballot, and be in all respects conducted in the manner required by the laws of this State regulating general elections, and the ballots of all persons voting in favor of the constitution so submitted shall contain the words "For the Constitution," and the ballots of all persons voting against the constitution shall contain the words "Against the Constitution," and in case a majority of all the votes cast throughout this State at such election shall be in favor thereof, then and in that case the same shall become and be declared to be the constitution of this State at such time as shall be determined by said convention.

8. *And be it enacted*, That the returns of said special election in the different townships, wards and election districts shall be made out in duplicate, in words at length, and signed by the officers of said election, one copy whereof shall be filed in the office of the clerk of the proper county and the other filed in the office of the secretary of state, within ten days after the close of such election, and in case the returns from



any such township, ward or election district shall not be filed within ten days from the expiration of the aforesaid term of ten days, it shall be the duty of the secretary of state to procure a certified copy of the returns as filed in the office of the county clerk, or, failing in that, an original or copy signed by the officers of election, if the same can be so procured, and he may take such measures and incur such reasonable expense to that end as he may deem necessary.

9. *And be it enacted*, That the governor or person administering the government of this State shall, by proclamation, convene the senate of this State as a board of canvassers, on some day to be specified in such proclamation, not less than three nor more than four weeks after the close of said special election, and shall cause the returns thereof, so far as filed in the office of the secretary of state, to be laid before them, and the senate shall then proceed to canvass such returns, and after casting up the whole number of votes, shall proceed to determine and truly declare whether a majority of them are in favor of or against the adoption of said constitution, or any part thereof that shall have been separately submitted to the people, and shall certify the result over the hands and seals of a majority of the members thereof, and cause their determination to be forthwith filed in the office of the secretary of state, and if such senate, as such board of canvassers, shall determine that a majority of the votes cast at such special election were in favor of the adoption of such constitution, the governor or person administering the government of this State, shall forthwith issue his proclamation declaring the said constitution to have been adopted by a majority of the people of this State, and to be the constitution thereof.

10. *And be it enacted*, That such constitution, if adopted, as hereinbefore provided for, shall be published by or under the direction of the secretary of state, in a manner provided by law for the publication of the laws of this State, in pamphlet form, for gratuitous distribution, the number of copies thereof not to exceed fifteen thousand.

11. *And be it enacted*, That in case the said convention shall provide that any number of articles of such constitution shall be submitted separately to the people of this State, then any person desiring to vote in favor of the constitution, but against any one or more of the articles submitted separately to the people of this State, then any person desiring to vote in favor of the constitution, but against any one or more of the articles separately submitted, shall plainly designate his intention by words "Against Article \_\_\_\_\_," specifying the number or title of the article or articles, provided that not more than three such articles shall be so separately submitted, and that all votes cast for the adoption of the constitution merely shall be deemed and taken to be cast in favor of all the articles of such constitution, including those separately submitted, and all votes cast against the constitution shall be deemed to be also cast against the adoption of the articles separately submitted.

The following sections were offered by Mr. Bell, of Monmouth, as amendments to the original bill, and were adopted:

12. *And be it enacted*, That for the ratification of such article or articles of the constitution, so agreed upon by said convention, as have reference to the representation of the State in the senate and general assembly, it shall require a majority of all the votes cast throughout this State, and also a majority of all the votes cast in each of not less than eleven counties in this State.

13. *And be it enacted*, That when the senate shall be convened, as provided for in section nine, if it shall be found that such article or articles, or section or sections, as have reference to the representation of the State in the legislature have not received such majority vote as is required by section twelve, then the senate thus convened as aforesaid shall be required to cause that article four, sections or



two and three of the constitution, ratified August thirteenth, one thousand eight hundred and forty-four, and amended September seventh, one thousand eight hundred and seventy-five, shall be incorporated as such part of the new constitution as has reference to the representation of the State in the senate and general assembly; the senators then in office continuing to hold for the terms for which they were elected.

14. *And be it enacted*, That this act shall take effect immediately.

The bill as above amended, passed the house by a vote of thirty-five ayes and fourteen nays, and went to the senate, where it remained in committee.