

AMENDMENTS TO THE CONSTITUTION OF 1846

(FROM 1846 TO 1894)^[1]

A. THE JUDICIARY ARTICLE OF 1869^[2]

Section 1. [Assembly may impeach civil officers.]—The assembly shall have the power of impeachment, by a vote of the majority of all the members elected. The court for the trial of impeachments shall be composed of the president of the senate, the senators, or a major part of them, and the judges of the court of appeals, or the major part of them. On the trial of an impeachment against the governor, the lieutenant governor shall not act as a member of the court. No judicial officer shall exercise his office after articles of impeachment against him shall have been referred to the senate, until he shall have been acquitted. Before the trial of an impeachment, the members of the court shall take an oath or affirmation, truly and impartially to try the impeachment, according to the evidence; and no person shall be convicted without the concurrence of two thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under this state; but the party impeached shall be liable to indictment and punishment according to law.

§ 2. [Court of appeals.]—There shall be a court of appeals, composed of a chief judge and six associate judges, who shall be chosen by the electors of the state, and shall hold their office for the term of fourteen years from and including the first day of January next after their election. At the first election of judges under this Constitution, every elector may vote for the chief and only four of the associate judges. Any five members of the court shall form a quorum, and the concurrence of four shall be necessary to a decision. The court shall have the appointment, with the power of removal, of its reporter and clerk, and of such attendants as may be necessary.

§ 3. [Vacancies, how filled.]—When a vacancy shall occur otherwise than by expiration of term, in the office of chief or associate judge of the court of appeals, the same shall be filled, for a full term, at the next general election happening not less than three months after such vacancy occurs; and until the vacancy shall be so filled, the governor, by and with the advice and consent of the senate, if the senate shall be in session, or, if not, the governor alone, may appoint to fill such vacancy. If any such appointment of chief judge shall be made from among the associate judges, a temporary appointment of associate judge shall be made in like manner; but in such case, the person appointed chief judge shall not be deemed to vacate his office of associate judge any longer than until the expiration of his appointment as chief judge. The powers and jurisdiction of the court shall not be suspended for want of appointment or election, when the number of judges is sufficient to constitute a quorum. All appointments under this section shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

§ 4. [Transfer of causes; commission of appeals.]—Upon the organization of the court of appeals, under

this article, the causes then pending in the present court of appeals shall become vested in the court of appeals hereby established. Such of said causes as are pending on the first day of January, eighteen hundred and sixty-nine, shall be heard and determined by a commission, to be composed of five commissioners of appeals, four of whom shall be necessary to constitute a quorum; but the court of appeals hereby established may order any of said causes to be heard therein. Such commission shall be composed of the judges of the present court of appeals, elected or appointed thereto. and a fifth commissioner, who shall be appointed by the governor, by and with the advice and consent of the senate; or, if the senate be not in session, by the governor; but in such case, the appointment shall expire at the end of the next session.

§ 5. [Vacancies in commission.]—If any vacancy shall occur in the office of the said commissioners, it shall be filled by appointment by the governor, by and with the advice and consent of the senate; or, if the senate is not in session, by the governor; but in such case, the appointment shall expire at the end of the next session. The commissioners shall appoint, from their number, a chief commissioner, and may appoint and remove such attendants as may be necessary. The reporter of the court of appeals shall be the reporter of said commission. The decisions of the commission shall be certified to, and entered and enforced, as the judgments of the court of appeals. The commission shall continue until the causes committed to it are determined, but not exceeding three years; and all causes then undetermined shall be heard by the court of appeals.

§ 6. [Supreme court.]—There shall be the existing supreme court, with general jurisdiction in law and equity, subject to such appellate jurisdiction of the court of appeals as now is or may be prescribed by law; and it shall be composed of the justices now in office, who shall be continued during their respective terms, and of their successors. The existing judicial districts of the state are continued until changed pursuant to this section. Five of the justices shall reside in the district in which is the city of New York, and four in each of the other districts. The legislature may alter the districts, without increasing the number, once after every enumeration, under this Constitution, of the inhabitants of the state.

§ 7. [General and special terms; circuits; oyer and terminer.]—At the first session of the legislature, after the adoption of this article, and from time to time thereafter, as may be necessary, but not oftener than once in five years, provisions shall be made for organizing, in the supreme court, not more than four general terms thereof, each to be composed of a presiding justice, and not more than three other justices, who shall be designated, according to law, from the whole number of . justices. Each presiding justice shall continue to act as such during his term of office. Provisions shall be made by law for holding the general terms in each judicial district. Any justice of the supreme court may hold special terms and circuit courts, and may preside in courts of oyer and terminer, in any county.

§ 8. [Judge not to sit in review of his own decisions; proceedings in law and equity.]—No judge or justice shall sit, at a general term of any court, or in the court of appeals, in review of a decision made by him, or by any court of which he was at the time a sitting member. The testimony in equity cases shall be taken in like manner as in cases at law; and except as herein otherwise provided, the legislature shall have the same power to alter and regulate the jurisdiction and proceedings in. law and equity that they

have heretofore exercised.

§ 9. [Vacancies in supreme court.]—When a vacancy shall occur, otherwise than by expiration of term, in the office of justice of the supreme court, the same shall be filled, for a full term, at the next general election happening not less than three months after such vacancy occurs; and until any vacancy shall be so filled, the governor, by and with the advice and consent of the senate, if the senate shall be in session, or if not in session, the governor, may appoint to fill such vacancy. Any such appointment shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

§ 10. [Judges not to hold any, other office.]—The judges of the court of appeals, and the justices of the supreme court, shall not hold any other office or public trust. All votes for any of them, for any other than a judicial office, given by the legislature or the . people, shall be void.

§ 11. [Removal of judges.]—Judges of the court of appeals and justices of the supreme court may be removed by concurrent resolution of both houses of the legislature, if two thirds of all the members elected to each house concur therein. All judicial officers, except those mentioned in this section, and except justices of the peace and judges and justices of inferior courts not of record, may be removed by the senate, on the recommendation of the governor, if two thirds of all the members elected to the senate

concur therein. But no removal shall be made, by virtue of this section, unless the cause thereof be entered on the journals, nor unless the party complained of shall have been served with a copy of the charges against him, and shall have had an opportunity of being heard. On the question of removal, the yeas and nays shall be entered on the journal.

§ 12. [Certain local courts continued.]—The superior court of the city of New York, the court of common pleas for the city and county of New York, the superior court of Buffalo, and the city court of Brooklyn, are continued with the powers and jurisdiction they now severally have, and such further civil and criminal jurisdiction as may be conferred by law. The superior court of New York shall be composed of the six judges in office at the adoption of this article, and their successors. The court of common pleas of New York, of the three judges then in office and their successors, and three additional judges. The superior court of Buffalo, of the judges now in office, and their successors; and the city court of Brooklyn, of such number of judges, not exceeding three, as may be provided by law. The judges of said courts, in office at the adoption of this article, are continued until the expiration of their terms. A chief judge shall be appointed by the judges of each of said courts, from their own number, who shall act as such during his official term. Vacancies in the office of the judges named in this section, occurring otherwise than by expiration of term, shall be filled in the same manner as vacancies in the supreme court. The legislature may provide for detailing judges of the superior court and court of common pleas of New York to hold circuits and special terms of the supreme court in that city, as the public interest may require.

§ 13. [Judges, how chosen; term of office.]—Justices of the supreme court shall be chosen by the electors of their respective judicial districts. Judges of all the courts mentioned in the last preceding

section shall be chosen by the electors of the cities respectively in which the said courts are instituted. The official terms of the said justices and judges who shall be elected after the adoption of this article shall be fourteen years from and including the first day of January next after their election. But no person shall hold the office of justice or judge of any court longer than until and including the last day of December next after he shall be seventy years of age.

§ 14. [Compensation of judges.]—The judges and justices hereinbefore mentioned shall receive for their services a compensation to be established by law, which shall not be diminished during their official terms. Except the judges of the court of appeals and the justices of the supreme court, they shall be paid, and the expenses of their courts defrayed, by the cities or counties in which such courts are instituted, as shall be provided by law.

§ 15. [County courts.]—The existing county courts are continued, and the judges thereof in office at the adoption of this article shall hold their offices until the expiration of their respective terms. Their successors shall be chosen by the electors of the counties for the term of six years. The county courts shall have the powers and jurisdiction they now possess, until altered by the legislature. They shall also have original jurisdiction in all cases where the defendants reside in the county and in which the damages claimed shall not exceed one thousand dollars; and also such appellate jurisdiction as shall be provided by law, subject, however, to such provision as shall be made by law for the removal of causes into the supreme court. They shall also have such other original jurisdiction as shall, from time to time, be conferred upon them by the legislature. The county judge, with two justices of the peace, to be designated according to law, may hold courts of sessions, with such criminal jurisdiction as the legislature shall prescribe, and he shall perform such other duties as may be required by law. His salary, and the salary of the surrogate when elected as a separate officer, shall be established by law, payable out of the county treasury, and shall not be diminished during his term of office. The justices of the peace shall be paid, for services in courts of sessions, a per diem allowance out of the county treasury: The county judge shall also be surrogate of his county; but in counties having a population exceeding forty thousand, the legislature may provide for the election of a separate officer to be surrogate, whose term of office shall be the same as that of the county judge. The county judge of any county may preside at courts of sessions, or hold county courts, in any other county except New York and Kings, when requested by the judge of such other county.

§ 16. [Special county judge and surrogate.]—The legislature may, on application of the board of supervisors, provide for the election of local officers, not to exceed two in any county, to discharge the duties of county judge and of surrogate, in cases of their inability, or of a vacancy, and to exercise such other powers in special cases as may be provided by law.

§ 17. [People may determine that judges shall be appointed.]—The legislature shall provide for submitting to the electors of the state, at the general election in the year eighteen hundred and seventy-three, two questions, to be voted upon on separate ballots, as follows: First, "Shall the offices of chief judge and associate judge of the court of appeals, and of justice of the supreme court, be hereafter filled by appointment?" If a majority of the votes upon the question shall be in the affirmative, the said officers shall not thereafter be elective, but, as vacancies occur, they shall be filled by appointment by

the governor, by and with the advice and consent of the senate; or, if the senate be not in session, by the governor; but in such case, he shall nominate to the senate when next convened, and such appointment by the governor alone shall expire at the end of the session. Second, "Shall the offices of the judges, mentioned in sections twelve and fifteen of article six of the Constitution, be hereafter filled by appointment?" If a majority of the votes upon the question shall be in the affirmative, the said officers shall not thereafter be elective, but, as vacancies occur, they shall be filled in the manner in this section above provided.

§ 18. [Justices of the peace.]—The electors of the several towns shall, at their annual town meeting, and in such manner as the legislature may direct, elect justices of the peace, whose term of office shall be four years. In case of an election to fill a vacancy occurring before the expiration of a full term, they shall hold for the residue of the unexpired term. Their number and classification may be regulated by law. Justices of the peace, and judges or justices of inferior courts, not of record, and their clerks, may be removed, after due notice and an opportunity of being heard, by such courts as may be prescribed by law, for causes to be assigned in the order of removal. Justices of the peace and district court justices shall be elected in the different cities in this state, in such manner, and with such powers, and for such terms, respectively, as shall be prescribed by law; all other judicial officers in cities, whose election or appointment is not otherwise provided for in this article, shall be chosen by the electors of cities, or appointed by some local authorities thereof.

§ 19. [Inferior local courts.]—Inferior local courts of civil and criminal jurisdiction may be established by the legislature; and, except as herein otherwise provided, all judicial officers shall be elected or appointed at such times, and in such manner, as the legislature may direct.

§ 20. [Clerks of supreme court; clerk of court of appeals.]—Clerks of the several counties shall be clerks of the supreme court, with such powers and duties as shall be prescribed by law. The clerk of the court of appeals shall keep his office at the seat of government. His compensation shall be fixed by law, and paid out of the public treasury.

§ 21. [Judges not to receive fees or practise as attorneys.]—No judicial officer, except justices of the peace, shall receive to his own use any fees or perquisites of office; nor shall any judge of the court of appeals, justice of the supreme court, or judge of a court of record in the cities of New York, Brooklyn, or Buffalo, practise as an attorney or counselor in any court of record in this state, or act as referee..

§ 22. [Judgments of inferior courts may be removed to court of appeals for review.]—The legislature may authorize the judgments, decrees, or decisions of any court of record of original civil jurisdiction, established in a city, to be removed for review, directly into the court of appeals.

§ 23. [Publication of statutes; supreme court reporters.]—The legislature shall provide for the speedy publication of all statutes, and also for the appointment by the justices of the supreme court designated to hold general terms, of a reporter of the decisions of that court. All laws and judicial decisions shall be free for publication by any person.

§ 24. [First election of judges.]—The first election of judges of the court of appeals and of the three additional judges of the court of common pleas for the city and county of New York, shall take place on such day, between the first Tuesday of April and the second Tuesday in June next after the adaption of this article, as may be provided by law. The court of appeals, the commissioners of appeals, and the additional judges of the said court of common pleas, shall respectively enter upon their duties on the first Monday of July thereafter.

§ 25. [Certain officers to continue until expiration of term.]— Surrogates, justices of the peace, and local judicial officers provided for in section sixteen, in office when this article shall take effect, shall hold their respective offices until the expiration of their terms.

§ 26. [Special sessions.]—Courts of special sessions shall have such jurisdiction of offenses of the grade of misdemeanors as may be prescribed by law.

§ 27. [Relief of surrogates' courts.]—For the relief of surrogates' courts, the legislature may confer upon courts of record, in any county having a population exceeding four hundred thousand, the powers and jurisdiction of surrogates, with authority to try issues of fact by jury in probate causes.

B. THE AMENDMENTS OF 1874^[3]

Art. II, § 1. [Qualifications of voters.]—Every male citizen of the age of twenty-one years who shall have been a citizen for ten days and an inhabitant of this state one year next preceding an election, and for the last four months a resident of the county, and for the last thirty days a resident of the election district in which he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people, and upon all questions which may be submitted to the vote of the people, provided that in time of war no elector in the actual military service of the state, or of the United States, in the Army or Navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the legislature shall have power to provide the manner in which, and the time and place at which, such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.

Art. II, § 2. [Bribery at elections.]—No person who shall receive, expect, or offer to receive, or pay, offer, or promise to pay, contribute, offer, or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election; and upon challenge for such cause, the person so challenged, before the officers authorized for that purpose shall receive his vote, shall swear or affirm before such officers that he has not received or offered, does not expect to receive, has not paid, offered, or promised to pay, contributed, offered, or promised to contribute to another, to be paid or used, any money or other

valuable thing as a compensation or reward for the giving or withholding a vote at such election, and has not made any promise to influence the giving or withholding of any such vote, nor made or become directly or indirectly interested in any bet or wager depending upon the result of such election. The legislature, at the session thereof next after the adoption of this section, shall, and from time to time thereafter may, enact laws excluding from the right of suffrage all persons convicted of bribery or of any infamous crime.

Art. III, § 5. [Assembly reapportionment.]—The assembly shall consist of one hundred and twenty-eight members, elected for one year. The members of assembly shall be apportioned among the several counties of the state, by the legislature, as nearly as may be, according to the number of their respective inhabitants, excluding aliens, and shall be chosen by single districts. The assembly districts shall remain as at present organized, until after the enumeration of the inhabitants of the state, in the year eighteen hundred and seventy-five. The legislature, at its first session after the return of every enumeration, shall apportion the members of assembly among the several counties of the state, in manner aforesaid, and the board of supervisors in such counties as may be entitled under such apportionment to more than one member, except the city and county of New York, and in said city and county the board of aldermen of said city, shall assemble at such time as the legislature making such apportionment shall prescribe, and divide their respective counties into assembly districts, each of which districts shall consist of convenient and contiguous territory, equal to the number of members of assembly to which such counties shall be entitled, and shall cause to be filed in the offices of the secretary of state and the clerks of their respective counties a description of such districts, specifying the number of each district and the population thereof, according to the last preceding enumeration, as near as can be ascertained, and the apportionment and districts shall remain unaltered until another enumeration shall be made as herein provided. No town shall be divided in the formation of assembly districts. Every county heretofore established and separately organized, except the county of Hamilton, shall always be entitled to one member of the assembly, and no new county shall be hereafter erected, unless its population shall entitle it to a member. The county of Hamilton shall elect with the county of Fulton, until the population of the county of Hamilton shall, according to the ratio, be entitled to a member. But the legislature may abolish the said county of Hamilton, and annex the territory thereof to some other county or counties. Nothing in this section shall prevent division at any time of counties and towns, and the erection of new towns and counties by the legislature.

Art. III, § 6. [Compensation of members of legislature.]—Each member of the legislature shall receive for his services an annual salary of one thousand five hundred dollars. The members of either house shall also receive the sum of one dollar for every ten miles they shall travel, in going to and returning from their place of meeting, once in each session, on the most usual route, Senators, when the senate alone is convened in extraordinary session, or when serving as members of the court for the trial of impeachments, and such members of the assembly, not exceeding nine in number, as shall be appointed managers of an impeachment, shall receive an additional allowance of ten dollars a day.

Art. III, § 7. [Member of legislature not eligible to certain appointments.]—No member of the legislature shall receive any civil appointment within this state, or the Senate of the United States, from the governor, the governor and senate, or from the legislature, or from any city government during the time

for which he shall have been elected; and all such appointments and all votes given for any such member for any such office or appointment shall be void.

Art. III, § 8. [Certain Federal and city officers disqualified as members.]—No person shall be eligible to the legislature who, at the time of his election, is, or within one hundred days previous thereto has been, a member of Congress, a civil or military officer under the United States, or any officer under any city government. And if any person shall, after his election as a member of the legislature, be elected to Congress, or appointed to any office, civil or military, under the government of the United States, or under any city government, his acceptance thereof shall vacate his seat.

Art. III, § 17. [Existing laws not applicable by reference.]—No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of said act, or which shall enact that any existing law, or any part thereof, shall be applicable, except by inserting it in such act.

Art. III, § 18. [Private and local bills limited; street railroads.]—The legislature shall not pass a private or local bill in any of the following cases:

Changing the names of persons.

Laying out, opening, altering, working, or discontinuing roads, highways, or alleys, or for draining swamps or other low lands.

Locating or changing county seats.

Providing for changes of venue in civil or criminal cases.

Incorporating villages.

Providing for election of members of boards of supervisors.

Selecting, drawing, summoning, or impaneling grand or petit jurors.

Regulating the rate of interest on money.

The opening and conducting of elections or designating places of voting.

Creating, increasing, or decreasing fees, percentage, or allowances of public officers during the term for which said officers are elected or appointed.

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

Granting to any private corporation, association, or individual any exclusive privilege, immunity, or franchise whatever.

Providing for building bridges, and charter companies for such purposes, except on the Hudson river below Waterford, and on the East river, or over the waters forming a part of the boundaries of the state.

The legislature shall pass general laws providing for the cases enumerated in this section, and for all other cases which, in its judgment, may be provided for by general laws. But no law shall authorize the construction or operation of a street railroad except upon the condition that the consent of the owners of one half in value of the property bounded on, and the consent also of the local authorities having the control of, that portion of a street or highway upon which it is proposed to construct or operate such railroad, be first obtained, or, in case the consent of such property-owners cannot be obtained, the general term of the supreme court, in the district in which it is proposed to be constructed, may, upon application, appoint three commissioners, who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property-owners.

Art. III, § 19. [Private claims not to be audited by legislature.]—The legislature shall neither audit nor allow any private claim or account against this state, but may appropriate money to pay such claims as shall have been audited and allowed according to law.

Art. III, § 20. [Tax law to state amount and object of tax.]— Every law which imposes, continues, or revives a tax shall distinctly state the tax and the object to which it is to be applied, and it shall not be sufficient to refer to any other law to fix such tax or object.

Art. III, § 21. [Three-fifths bills.]—On the final passage, in either house of the legislature, of any act which imposes, continues, or revives a tax, or creates a debt or charge, or makes, continues, or revives any appropriation of public or trust money or property, or releases, discharges, or commutes any claim or demand of the state, the question shall be taken by yeas and nays, which shall be duly entered upon the journals, and three fifths of all the members elected to either house shall, in all such cases, be necessary to constitute a quorum therein.

Art. III, § 22. [Boards of supervisors.]—There shall be, in the several counties, except in cities whose boundaries are the same as those of the county, a board of supervisors, to be composed of such members, and elected in such manner, and for such period, as is or may be provided by law. In any such city the duties and powers of a board of supervisors may be devolved upon the common council or board of aldermen thereof.

Art. III, § 23. [Powers of boards of supervisors.]—The legislature shall, by general laws, confer upon the boards of supervisors of the several counties of the state such further powers of local legislation and administration as the legislature may, from time to time, deem expedient.

Art. III, § 24. [Extra compensation prohibited.]—The legislature shall not, nor shall the common council of any city, nor any board of supervisors, grant any extra compensation to any public officer, servant, agent, or contractor.

Art. III, § 25. [Statutory revision commission bills excepted from §§ 17 and 18.]—Sections seventeen and eighteen of this article shall not apply to any bill, or the amendments to any bill, which shall be reported to the legislature by commissioners who have been appointed pursuant to law to revise the statutes.

Art. IV, § 1. [Governor and lieutenant governor.]—The executive power shall be vested in a governor, who shall hold his office for three years; a lieutenant governor shall be chosen at the same time, and for the same term. The governor and lieutenant governor elected next preceding the time when this section shall take effect shall hold office during the term for which they were elected.

Art. IV, § 2. [Qualifications of governor and lieutenant governor.]—No person shall be eligible to the office, of governor or lieutenant governor, except a citizen of the United States, of the age of not less than thirty years, and who shall have been five years, next preceding his election, a resident of this state.

Art. IV, § 4. [Governor's general powers; compensation.]—The governor shall be commander-in-chief of the military and naval forces of the state. He shall have power to convene the legislature (or the senate only) on extraordinary occasions. At extraordinary sessions no subject shall be acted upon, except such as the governor may recommend for consideration. He shall communicate by message to the legislature, at every session, the condition of the state, and recommend such matters to them as he shall judge expedient. He shall transact all necessary business with the officers of government, civil and military. He shall expedite all such measures as may be resolved upon by the legislature, and shall take care that the laws are faithfully executed. He shall receive for his services an annual salary of ten thousand dollars, and there shall be provided for his use a suitable and furnished executive residence.

Art. IV, § 8. [Lieutenant governor's compensation.]—The lieutenant governor shall receive for his services an annual salary of five thousand dollars, and shall not receive or be entitled to any other compensation, fee, or perquisite for any duty or service he may be required to perform by the Constitution or by law.

Art. IV, § 9. [Executive consideration of bills; subsequent legislative action.]—Every bill which shall have passed the senate and assembly shall, before it becomes a law, be presented to the governor; if he approve he shall sign it; but if not, he shall return it with his objections to the house in which it shall have originated, which shall enter the objections at large on the journal, and proceed to reconsider it. If, after such reconsideration, two thirds of the members elected to that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two thirds of the members elected to that house, it shall become a law notwithstanding the objections of the governor. In all such cases, the votes in both houses shall be determined by yeas and nays, and the names of the members voting shall be entered on the journal of

each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature shall, by their adjournment, prevent its return; in which case it shall not become a law without the approval of the governor. No bill shall become a law after the final adjournment of the legislature, unless approved by the governor within thirty days after such adjournment. If any bill presented to the governor contain several items of appropriation of money, he may object to one or more of such items while approving of the other portion of the bill. In such case, he shall append to the bill, at the time of signing it, a statement of the items to which he objects; and the appropriation so objected to shall not take effect. If the legislature be in session, he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If, on reconsideration, one or more of such items be approved by two thirds of the members elected to each house, the same shall be part of the law, notwithstanding the objections of the governor. All the provisions of this section, in relation to bills not approved by the governor, shall apply in cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.

Art. VII, § 3. [Canal revenues.]—As amended in 1854, further amended by adding at the end the following clause:

No extra compensation shall be made to any contractor; but if, from any unforeseen cause, the terms of any contract shall prove to be unjust and oppressive, the canal board may, upon the application of the contractor, cancel such contract.

Art. VII, § 6. [Canals not to be disposed of; expenditures and revenues.]—The legislature shall not sell, lease, or otherwise dispose of the Erie canal, the Oswego canal, the Champlain canal, or the Cayuga and Seneca canal; but they shall remain the property of the state, and under its management forever. Hereafter the expenditures for collections, superintendence, ordinary and extraordinary repairs on the canals named in this section, shall not exceed, in any year, their gross receipts for the previous year. All funds that may be derived from any lease, sale, or other disposition of any canal, shall be applied in payment of the debt for which the canal revenues are pledged.

Art. VII, § 13. [State sinking funds to be kept separate.]—The sinking funds provided for the payment of interest and the extinguishment of the principal of the debts of the state shall be separately kept and safely invested, and neither of them shall be appropriated or used in any manner other than for the specific purpose for which it shall have been provided.

Art. VII, § 14. [Restriction on allowance of claims against state.]—Neither the legislature, canal board, canal appraisers, nor any person or persons acting in behalf of the state, shall audit, allow, or pay any claim which, as between citizens of the state, would be barred by lapse of time. The limitation of existing claims shall begin to run from the adoption of this section; but this provision shall not be construed to revive claims already barred by existing statutes, nor to repeal any statute fixing the time within which claims shall be presented or allowed, nor shall it extend to any claims duly presented

within the time allowed by law, and prosecuted with due diligence from the time of such presentment. But if the claimant shall be under legal disability, the claim may be presented within two years after such disability is removed.

Art. VIII, § 4. [Savings banks.]—The legislature shall, by general law, conform all charters of savings banks, or institutions for savings, to a uniformity of powers, rights, and liabilities, and all charters hereafter granted for such corporations shall be made to conform to such general law, and to such amendments as may be made thereto. And no such corporation shall have any capital stock, nor shall the trustees thereof, or any of them have any interest whatever, direct or indirect, in the profits of such corporation; and no director or trustee of any such bank or institution shall be interested in any loan or use of any money or property of such bank or institution for savings. The legislature shall have no power to pass any act granting any special charter for banking purposes; but corporations or associations may be formed for such purposes under general laws.

Art. VIII, § 10. [No state aid to individuals or corporations.]—Neither the credit nor the money of the state shall be given or loaned to or in aid of any association, corporation, or private undertaking. This section shall not, however, prevent the legislature from making such provision for the education and support of the blind, the deaf and dumb, and juvenile delinquents, as to it may seem proper. Nor shall it apply to any fund or property now held, or which may hereafter be held, by the state for educational purposes.

Art. VIII, § 11. [Municipal aid prohibited, except for public purposes.]—No county, city, town, 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, directly or indirectly, the owner of stock in or bonds of any association or corporation, nor shall any such county, city, town, or village be allowed to incur any indebtedness, except for county, city, town, or village purposes. This section shall not prevent such county, city, town, or village from making such provision for the aid or support of its poor as may be authorized by law.

Art. X, § 9. [Constitutional officers not to receive extra compensation.]—No officer whose salary is fixed by the Constitution shall receive any additional compensation. Each of the other state officers named in the Constitution shall, during his continuance in office, receive a compensation, to be fixed by law, which shall not be increased or diminished during the term for which he shall have been elected or appointed; nor shall he receive to his use, any fees or perquisites of office or other compensation.

Art. XII, § 1. [Oath of office.]—Members of the legislature (and all officers, executive and judicial, except such inferior officers as shall be by law exempted) 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 York, and that I will faithfully discharge the duties of the office of _____, according to the best of my ability;" and all such officers who shall have been chosen at any election shall, before they enter on the duties of their respective offices, take and subscribe the oath or affirmation above prescribed,

together with the following addition thereto, as part thereof:

"And I do further solemnly swear (or affirm) that I have not, directly or indirectly, paid, offered, or promised to pay, contributed, or offered or promised to contribute, any money or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, and have not made any promise to influence the giving or withholding any such vote," and no other oath, declaration, or test shall be required as a qualification for any office of public trust.

Art. XV, § 1. [Bribery of public officers.]—Any person holding office under the laws of this state, who, except in payment of his legal salary, fees, or perquisites, shall receive, or consent to receive, directly or indirectly, any thing of value or of personal advantage, or the promise thereof, for performing or omitting to perform any official act, or with the express or implied understanding that his official action or omission to act is to be in any degree influenced thereby, shall be deemed guilty of a felony. This section shall not affect the validity of any existing statutes in relation to the offense of bribery.

Art. XV, § 2. [Bribery, how punished.]—Any person who shall offer or promise a bribe to an officer, if it shall be received, shall be deemed guilty of a felony and liable to punishment, except as herein provided. No person offering a bribe shall, upon any prosecution of the officer for receiving such bribe, be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor, if he shall testify to the giving or offering of such bribe. Any person who shall offer or promise a bribe, if it be rejected by the officer to whom it is tendered, shall be deemed guilty of an attempt to bribe, which is hereby declared to be a felony.

Art. XV, § 3. [Accused a competent witness in his own behalf.]—Any person charged with receiving a bribe, or with offering or promising a bribe, shall be permitted to testify in his own behalf in any civil or criminal prosecution therefor.

Art. XV, § 4. [Delinquent district attorney may be removed from office.]—Any district attorney who shall fail faithfully to prosecute a person charged with the violation, in his county, of any provision of this article which may come to his knowledge, shall

be removed from office by the governor, after due notice and an opportunity of being heard in his defense. The expenses which shall be incurred by any county, in investigating and prosecuting any charge of bribery or attempting to bribe any person holding office under the laws of this state, within such county, or of receiving bribes by any such person in said county, shall be a charge against the state, and their payment by the state shall be provided for by law.

Art. XVI, § 1. [When amendments to take effect.]—All amendments to the Constitution shall be in force from and including the first day of January succeeding the election at which the same were adopted, except when otherwise provided by such amendments.

ARTICLE II.

[SUFFRAGE.]

§ 1. 1864. [Qualifications of voters.]—The following provision, relating to the right of soldiers to vote while absent from home, was added:

Provided, That in time of war no elector in the actual military service of the United States, in the Army or Navy thereof, shall be deprived of his vote by reason of his absence from the state; and the legislature shall have power to provide the manner in which, and the time and places at which, such absent electors may vote, and for the canvass and returns of their votes, in the election districts in which they respectively reside, or otherwise.

ARTICLE V.

[STATE OFFICERS.]

§ 3. 1876. [Superintendent of public works.]—A superintendent of public works shall be appointed by the governor, by and with the advice and consent of the senate, and hold his office until the end of the term of the governor by whom he was nominated, and until his successor is appointed and qualified. He shall receive compensation to be fixed by law. He shall be required by law to give security for the faithful execution of his office before entering upon the duties thereof. He shall be charged with the execution of all laws relating to the repair and navigation of the canals, and also of those relating to the construction and improvement of the canals, except so far as the execution of the laws relating to such construction or improvement shall be confided to the state engineer and surveyor; subject to the control of the legislature, he shall make the rules and regulations for the navigation or use of the canals. He may be suspended or removed from office by the governor whenever, in his judgment, the public interest shall so require; but, in case of the removal of such superintendent of public works from office, the governor shall file with the secretary of state a statement of the cause of such removal, and shall report such removal, and the cause thereof, to the legislature at its next session.

The superintendent of public works shall appoint not more than three assistant superintendents, whose duties shall be prescribed by him, subject to modification by the legislature, and who shall receive for their services a compensation to be fixed by law. They shall hold their office for three years, subject to suspension or removal by the superintendent of public works, whenever, in his judgment, the public interest shall so require. Any vacancy in the office of any such assistant superintendent shall be filled, for the remainder of the term for which he was appointed, by the superintendent of public works; but in case of the suspension or removal of any such assistant superintendent by him, he shall at once report to the governor, in writing, the cause of such removal. All other persons employed in the care and management of the canals, except collectors of tolls, and those in the department of the state engineer and surveyor, shall be appointed by the superintendent of public works, and be subject to suspension or

removal by him. The office of canal commissioner is abolished from and after the appointment and qualification of the superintendent of public works, until which time the canal commissioners shall continue to discharge their duties as now provided by law. The superintendent of public works shall perform all the duties of the canal commissioners, and board of canal commissioners, as now declared by law, until otherwise provided by the legislature. The governor, by and with the advice and consent of the senate, shall have power to fill vacancies in the office of superintendent of public works; if the senate, be not in session, he may grant commissions which shall expire at the end of the next succeeding session of the senate.

§ 4. 1876. [Superintendent of state prisons.]—A superintendent of state prisons shall be appointed by the governor, by and with the advice and consent of the senate, and hold his office for five years, unless sooner removed; he shall give security in such amount, and with such sureties, as shall be required by law, for the faithful discharge of his duties; he shall have the superintendence, management, and control of state prisons, subject to such laws as now exist, or may hereafter be enacted; he shall appoint the agents, wardens, physicians, and chaplains of the prisons. The agent and warden of each prison shall appoint all other officers of such prison, except the clerk, subject to the approval of the same by the superintendent. The comptroller shall appoint the clerks of the prisons. The superintendent shall have all the powers and perform all the duties not inconsistent herewith, which have heretofore been had and performed by the inspectors of state prisons; and from and after the time when such superintendent of state prisons shall have been appointed and qualified the office of inspector of state prisons shall be and hereby is abolished. The governor may remove the superintendent for cause at any time, giving to him a copy of the charges against him, and an opportunity to be heard in his defense.

ARTICLE VI.

[JUDICIARY.]

§ 6. 1879. [Supreme court.]—There shall be the existing supreme court, with general jurisdiction in law and equity, subject to such appellate jurisdiction of the court of appeals as now is or may be prescribed by law; and it shall be composed of the justices now in office, with one additional justice, to be elected as hereinafter provided, who shall be continued during their respective terms, and of their successors. The existing judicial districts of the state are continued until changed pursuant to this section. Five of the justices shall reside in the district in which is the city of New York, and five in the second judicial district, and four in each of the other districts. The legislature may alter the districts, without increasing the number, once after every enumeration, under this Constitution, of the inhabitants of the state.

§ 6. 1888. [Supreme court; adding the following paragraph providing for a second division of the court of appeals.]—Whenever, and as often as there shall be such an accumulation of causes on the calendar of the court of appeals that the public interests require a more speedy disposition thereof, the said court may certify such fact to the governor, who shall thereupon designate seven justices of the supreme court to act as associate judges, for the time being, of the court of appeals, and to form a second division of said court, and who shall act as such until all the causes upon the said calendar at the time of the making

of such certificate are determined, or the judges of said court, elected as such, shall certify to the governor that said causes are substantially disposed of, and on receiving such certificate, the governor may declare said second division dissolved, and the designation of justices to serve thereon shall thereupon expire. The second division of said court hereby authorized to be constituted shall be competent to determine any causes on said calendar which may be assigned to such division by the court composed of judges elected to serve in the court of appeals, and that court may, at any time before judgment, direct any of the causes so assigned to be restored to its calendar for hearing and decision. The rules of practice in both divisions shall be the same. Five members of the court shall be sufficient to form a quorum for said second division, and the concurrence of four shall be necessary to a decision. The judges composing said second division shall appoint from their number a chief judge of such division, and the governor may, from time to time, when, in his judgment, the public interest may require, change the designation of any justice of the supreme court to serve in such division, and may fill any vacancy occurring therein, by designating any justice of the supreme court to fill such vacancy. Said second division may appoint and remove a crier and such attendants as may be necessary. The judges composing said second division shall not, during the time of their service therein, exercise any of the functions of justices of the supreme court, nor receive any salary or compensation as such justices, but in lieu thereof shall, during such term of service, receive the same compensation as the associate judges of the court of appeals. They shall have power to appoint the times and places of their sessions, within this state, and the clerk and reporter of the court of appeals shall be clerk and reporter of said second division.

§ 12. 1880. [Local courts.]—The superior court of the city of New York, the court of common pleas for the city and county of New York, the superior court of Buffalo, and the city court of Brooklyn, are continued with the powers and jurisdiction they now severally have, and such further civil and criminal jurisdiction as may be conferred by law. The superior court of New York shall be composed of the six judges in office at the adoption of this article, and their successors. The court of common pleas of New York, of the three judges then in office, and their successors, and three additional judges. The superior court of Buffalo, of the judges now in office, and their successors; and the city court of Brooklyn, of such number of judges, not exceeding three, as may be provided by law. The judges of said courts, in office at the adoption of this article, are continued until the expiration of their terms. A chief judge shall be appointed by the judges of each of said courts, from their own number, who shall act as such during his official term. Vacancies in the office of the judges named in this section, occurring otherwise than by expiration of term, shall be filled in the same manner as vacancies in the supreme court. The legislature may provide for detailing judges of the superior court and court of common pleas of New York to hold circuits and special terms of the supreme court in that city; for detailing judges of the city court of Brooklyn, to hold circuits and special terms of the supreme court in Kings county, as the public interest may require.

§ 13. 1880. [Adding the following provision for judicial pension.]—The compensation of every judge of the court of appeals¹ and of every justice of the supreme court, whose term of office shall be abridged pursuant to this provision, and who shall have served as such judge or justice ten years or more, shall be continued during the remainder of the term for which he was elected.

§ 28. 1872. [Commission of appeals.]—The court of appeals may order any of the causes, not exceeding five hundred in number, pending in that court at the time of the adoption of this provision, to be heard and determined by the commissioners of appeals, and the legislature may extend the term of service of the commissioners of appeals, not exceeding two years.

§ 28. 1882. [General terms; additional justices.]—The legislature, at the first session thereof after the adoption of this amendment, shall provide for organizing the supreme court not more than five general terms thereof; and for the election at the general election next after the adoption of this amendment, by the electors of the judicial districts mentioned in this section respectively, of not more than two justices of the supreme court in addition to the justices of that court now in office in the first, fifth, seventh, and eighth, and not more than one justice of that court in the second, third, fourth, and sixth judicial districts. The justices so elected shall be invested with their offices on the first Monday of June next after their election.

§ 32. 1894. [Kings county court.]—A new section providing for two county judges in Kings county was submitted to the people at the general election in 1894 and adopted; but the new Constitution adopted at the same time provided by article 6, § 14, for an additional county judge in Kings county, and, by operation of article 14, § 3, the constitutional provision superseded the legislative amendment submitted at the same time; consequently this section did not go into effect.

ARTICLE VII.

[CANALS.]

§ 3. 1854. [Canal revenues.]—[The following substitute for the original § 3, article 7, was adopted February 15, 1854. It was abrogated by the adoption of another § 3, November 7, 1882.]

After paying the said expenses of collection, superintendence, and repairs of the canals, and the sums appropriated by the first and second sections of this article, there shall be appropriated and set apart, in each fiscal year, out of the surplus revenues of the canals, as a sinking fund, a sum sufficient to pay the interest, as it falls due, and extinguish the principal within eighteen years, of any loan made under this section; and if the said sinking fund shall not be sufficient to redeem any part of the principal at the stipulated times of payment, or to pay any part of the interest of such loans, as stipulated, the means to satisfy any such deficiency shall be procured on the credit of the said sinking fund. After complying with the foregoing provisions, there shall be paid annually out of said revenues, into the treasury of the state, two hundred thousand dollars to defray the necessary expenses of government. The remainder shall, in each fiscal year, be applied to meet appropriations for the enlargement and completion of the canals mentioned in this section, until the said canals shall be completed. In each fiscal year thereafter the remainder shall be disposed of in such manner as the legislature may direct, but shall at no time be anticipated or pledged for more than one year in advance. The legislature shall annually, during the next four years, appropriate to the enlargement of the Erie, the Oswego, the Cayuga and Seneca canals, and to the completion of the Black River and Genesee Valley canals, and for the enlargement of the locks of the

Champlain canal, whenever, from dilapidation or decay, it shall be necessary to rebuild them, a sum not exceeding two millions two hundred and fifty thousand dollars. The remainder of the revenues of the canals, for the current fiscal year in which such appropriation is made, shall be applied to meet such appropriation; and if the same shall be deemed insufficient, the legislature shall, at the same session, provide for the deficiency by loan. The legislature shall also borrow one million and five hundred thousand dollars, to refund to the holders of the canal revenue certificates, issued under the provisions of chapter four hundred and eighty-five of the Laws of the year one thousand eight hundred and fifty-one, the amount received into the treasury thereon. But no interest, to accrue after July first, one thousand eight hundred and fifty-five, shall be paid on such certificates. The provisions of section twelve of this article, requiring every law for borrowing money to be submitted to the people, shall not apply to the loans authorized by this section. No part of the revenues of the canals, or of the funds borrowed under this section, shall be paid or applied upon or in consequence of any alleged contract made under chapter four hundred and eighty-five of the Laws of the year one thousand eight hundred and fifty-one, except to pay for work done or materials furnished prior to the first day of June, one thousand eight hundred and fifty-two. The rates of toll on persons and property transported on the canals shall not be reduced below those for the year one thousand eight hundred and fifty-two, except by the canal board, with the concurrence of the legislature. All contracts for work or materials on any canal shall be made with the person who shall offer to do or provide the same at the lowest price, with adequate security for their performance.

§ 3. 1882. [Tolls abolished.]—The first and second sections of this article having been fully complied with, no tolls shall hereafter be imposed on persons or property transported on the canals, but all boats navigating the canals, and the owners and masters thereof, shall be subject to such laws and regulations as have been or may hereafter be enacted concerning the navigation of the canals. The legislature shall annually, by equitable taxes, make provision for the expenses of the superintendence and repairs of the canals. The canal debt contracted under the section hereby amended, which, on the first day of October, eighteen hundred and eighty, amounted to eight million nine hundred and eighty-two thousand, two hundred dollars, shall continue to be known as the "canal debt, under article seven, section three of the Constitution;" and the sinking fund applicable to the payment thereof, together with the contributions to be made thereto, shall continue to be known as the "canal debt sinking fund," and the principal and interest of said debt shall be met as provided in the fifth section of this article. All contracts for work or materials on any canals shall be made with the person who shall offer to do or provide the same at the lowest price, with adequate security for their performance.

No extra compensation shall be made to any contractor; but if, from any unforeseen cause, the terms of any contract shall prove to be unjust and oppressive, the canal board may, upon the application of the contractor, cancel such contract.

§ 5. 1882. [Appropriations for deficiency in canal revenues.]—There shall annually be imposed and levied a tax which shall be sufficient to pay the interest and extinguish the principal of the canal debt mentioned in the third section of this article, as the same shall become due and payable, and the proceeds of such tax shall, in each fiscal year, be appropriated and set apart for the sinking fund constituted for the payment of the principal and interest of the aforesaid debt. But the legislature may, in

its discretion, impose for the fiscal year, beginning on the first day of October, eighteen hundred and eighty-three, a state tax on each dollar of the valuation of the property in this state which may by law then be subject to taxation, sufficient, with the accumulations of the sinking fund applicable thereto, to pay in full both the principal and interest of the canal debt before mentioned, and the proceeds of such tax shall be appropriated and set apart for the sinking fund constituted for the payment of the principal and the interest of said debt. In the event of such action by the legislature, then the legislature shall, under the law directing the assessment and levy of such tax, make such provision for the retirement of the canal debt as it shall deem equitable and just to the creditors of the state.

§ 6. 1882. [Certain canals not to be disposed of.]—The legislature shall not sell, lease, or otherwise dispose of the Erie canal, the Oswego canal, the Champlain canal, the Cayuga and Seneca canal, or the Black River canal, but they shall remain the property of the state and under its management forever. All funds that may be derived from any lease, sale, or other disposition of any canal shall be applied in payment of the canal debt mentioned in the third section of this article.

ARTICLE VIII.

[CORPORATIONS.]

§ 11. 1884. [Municipal corporations, powers regulated.]—No county, city, town 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, directly or indirectly, the owner of stock in or bonds of any association or corporation, nor shall any such county, city, town, or village be allowed to incur any indebtedness, except for county, city, town, or village purposes. This section shall not prevent such county, city, town, or village from making such provision for the aid or support of its poor as may be authorized by law.

No county containing a city of over one hundred thousand inhabitants, or any such city, shall be allowed to become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed ten per centum of the assessed valuation of the real estate of such county or city subject to taxation, as it appeared by the assessment-rolls of said county or city on the last assessment for state or county taxes prior to the incurring of such indebtedness; and all indebtedness in excess of such limitation, except such as may now exist, shall be absolutely void, except as herein otherwise provided. No such county or such city whose present indebtedness exceeds ten per centum of the assessed valuation of its real estate subject to taxation shall be allowed to become indebted in any further amount until such indebtedness shall be reduced within such limit. This section shall not be construed to prevent the issuing of certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes for amounts actually contained, or to be contained, in the taxes for the year when such certificates or revenue bonds are issued and payable out of such taxes. Nor shall this section be construed to prevent the issue of bonds to provide for the supply of water, but the term of the bonds issued to provide for the supply of water shall not exceed twenty years, and a sinking fund shall be created on the issuing of said bonds for their redemption, by raising annually a sum which will produce

an amount equal to the sum of the principal and interest of said bonds at their maturity. The amount hereafter to be raised by tax for county or city purposes, in any county containing a city of over one hundred thousand inhabitants or any such city of this state, in addition to providing for the principal and interest of existing debt, shall not, in the aggregate exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city, to be ascertained as prescribed in this section in respect to county or city debt.

* * * * *

Footnotes

Footnote 1: During the period from 1846 to 1894, a great mass of amendments to the Constitution were proposed. This was in large part attributable to the efforts of three important bodies which functioned during this period, namely the Convention of 1867, the Constitutional Commission of 1872, and the Judiciary Commission of 1890. The first of these bodies proposed a new constitution, but, except for the judiciary article, it was rejected. Many of its recommendations, however, were resubmitted with considerable success by the Constitutional Commission of 1872. The Judiciary Commission of 1890, as its name indicates, confined itself to a consideration of the judiciary article, and although its work was not immediately accepted, it had great influence in shaping the judiciary article as presented later by the Convention of 1894. (On the Convention of 1867, the Constitutional Commission of 1872, and the Judiciary Commission of 1890, see respectively, Lincoln II:241-463, 464-574, and 682-725. On constitutional changes generally from 1874 to 1894, see Lincoln II:575-681.) Many constitutional amendments were also proposed in the legislature during this period and, on the whole, a large number of important changes were adopted. These amendments may conveniently be grouped as follows: A. The Judiciary Article of 1869; B. The Amendments of 1874; and C. Miscellaneous Amendments.

Footnote 2: This Article was part of the Constitution proposed by the Convention of 1867, but was submitted separately and adopted in 1869. The Article was amended several times prior to the Constitution of 1894, and these amendments are listed in Group C, below. On the Convention of 1867, see Lincoln II:241-463.

Footnote 3: The Constitutional Commission of 1872 mentioned in an earlier note, recommended numerous constitutional amendments to the Legislature of 1873. The majority of these recommendations were agreed to with some modifications. In the 1874 Legislature the greater part of these were passed and the final result was submitted to the people and adopted at the general election in November 1874. Amendments to these provisions adopted prior to 1874 are listed in Group C. (On the Constitutional Commission of 1872, see Lincoln II:464-574.)

Footnote 4: These amendments are arranged in the order of articles and sections, and according to the date of adoption.
