

NEW YORK STATE
CONSTITUTION
ANNOTATED



NEW YORK STATE
CONSTITUTIONAL CONVENTION COMMITTEE
1938

GENERAL INTRODUCTION

Governor Herbert H. Lehman on July 8, 1937 announced the appointment of the New York State Constitutional Convention Committee:

“The people of the State by their affirmative vote at the polls last November have asked for a reappraisal and, if advisable, a revision of their government at a Constitutional Convention to be held next April.

“To do the essential preliminary and preparatory work for the Constitutional Convention of 1894 and of 1915, the Legislature established special commissions. This year in my annual message a similar proposal was submitted. The Legislature failed to adopt my recommendation.

“The Constitutional Convention will cost the taxpayers at least one million dollars. For a period of four or five months it will conscript the efforts of one hundred and sixty-eight men and women, who will be chosen at the next general election to serve as delegates.

“It is incumbent, in respect and obedience to the freely determined wishes of the electorate, that we conduct a constructively successful convention—one in which the delegates will be prepared to discharge their duties wisely, deliberately and without waste of time and money.

“Without adequate preparation there will inevitably be great waste of money, time and effort to the end that the very objects of the Convention may well be defeated.

“As Governor, I, therefore, feel it my duty to establish an unofficial committee, non-partisan and non-political in character and in motive, to undertake and direct the preparation and publication of accurate, thorough, and above all, impartial factual studies on the important phases of government, certain to be considered at the Constitutional Convention.

“Among other duties, the committee will brief the principal questions that were debated and considered at previous state Conventions and sessions of the Legislature. It will collect and collate data on the operation of the

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important changes that have been made in our structure of government since the adoption of the present Constitution in 1894. It will collect data on the constitutional amendments proposed and adopted in other states on subjects of substantial interest to the people of our own state.

“Let me make emphatically clear that the function of this committee will not be to determine an agenda for the Convention. It is elementary that only the Convention can do that. Nor will the committee presume to prescribe in advance for the delegates the policies the Convention should adopt. Its functions will be confined to fact finding studies and to the collection of data.

“The Committee, in my mind, has the opportunity of rendering a vital and constructive service. To serve on it, I am inviting persons irrespective of who may eventually be chosen as delegates to the Convention. The work of the committee stands apart in its own importance and value.

“I am making the committee sufficiently large so that the members can, if they so desire, divide themselves into smaller groups for the preliminary study of particular phases of government. In that way no unduly heavy burden need be placed on any member of the committee.

“I regret it is not possible for me to invite many other men and women who are especially competent to serve on this committee and who, I know, would willingly give of their time and effort.”

The Governor appointed the following persons as members of the Committee:

WINTHROP W. ALDRICH	WARNICK J. KERNAN
JOHN J. BENNETT, JR.	FRANCIS D. McCURN
GEORGE H. BOND	GEORGE MEANY
JOSEPH M. CALLAHAN	GEORGE Z. MEDALIE
WILLIAM P. CAPES	FRANK C. MOORE
WILLIAM C. CHANLER	WILLIAM J. O'SHEA, JR.
FREDERICK E. CRANE	PERLEY A. PITCHER
DAVID DIAMOND	CHARLES POLETTI
JOHN J. DUNNIGAN	JUSTINE WISE POLIER
HENRY EPSTEIN	ANNA M. ROSENBERG

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MORRIS L. ERNST	LEONARD S. SAXE
JAMES A. FOLEY	JOHN GODFREY SAXE
EDWARD S. FOSTER	CHARLES B. SEARS
GEORGE H. HALLETT, JR.	FRANCIS M. SHEA
OSWALD D. HECK	CLARENCE J. SHEARN
ELINORE M. HERRICK	IRWIN STEINGUT
CHARLES EVANS HUGHES, JR.	HENRY L. STIMSON
IRVING M. IVES	GERARD SWOPE
MEYER JACOBSTEIN	THOMAS D. THACHER
JOHN B. JOHNSTON	LOUIS WALDMAN
DANIEL J. KENEFICK	WALTER WHITE

The Committee was convened by the Governor for its first meeting on August 6, 1937. Governor Lehman opened the meeting by outlining his reasons for the appointment of the Committee and also his views of its functions and his hopes of its achievements.

The following action was taken by the Committee at this meeting:

1. That the Committee should be divided into six sub-committees:

Bill of Rights and General Welfare

Legislative Powers and Functions

Executive Powers and Functions

Judicial Powers and Administration

Taxation and Finance

Home Rule and Local Government

2. That Charles Poletti, as Chairman of the Committee, should designate the chairman and members of each sub-committee and that he should also serve as a member *ex officio* of each sub-committee.

3. That each sub-committee determine for itself what specific subjects should be studied and how the research thereon ought to be conducted, that is, whether in cooperation with a governmental agency or directly by the research staff of the sub-committee.

4. That the sub-committees avoid research for research sake but rather devote themselves impartially to practical studies of definite problems of importance.

5. That each member send to the Chairman or to the chairmen of the sub-committees the subjects and problems which he believes merit study.

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6. That the Chairman of each sub-committee be authorized to appoint research assistants.

7. That all studies completed by a sub-committee should be approved by the Committee of the Whole.

8. That the Chairman be authorized to initiate and direct the preparation of these general reference volumes:

- (1) New York State Constitution Annotated
- (2) Amendments Proposed to New York Constitution 1895-1937
- (3) Constitutions of the States and United States
- (4) State and Local Government in New York
- (5) New York City Government—Functions and Problems

Pursuant to the direction given at this meeting, the Chairman designated the chairman and members of the six sub-committees. These sub-committees are listed according to the order in which the provisions to be dealt with by them appear in the existing State Constitution.

The sub-committees are as follows:

Bill of Rights and General Welfare

Chairman

ANNA M. ROSENBERG

Members

WINTHROP W. ALDRICH	WILLIAM J. O'SHEA, JR.
JOHN J. DUNNIGAN	JUSTINE WISE POLIER
EDWARD S. FOSTER	FRANCIS M. SHEA
ELINORE M. HERRICK	GERARD SWOPE
GEORGE MEANY	LOUIS WALDMAN
WALTER WHITE	

Legislative Powers and Functions

Chairman

IRWIN STEINGUT

Members

JOSEPH M. CALLAHAN	OSWALD, D. HECK
WILLIAM C. CHANLER	MEYER JACOBSTEIN
MORRIS L. ERNST	WILLIAM J. O'SHEA, JR.
GEORGE H. HALLETT, JR.	PERLEY A. PITCHER
LOUIS WALDMAN	

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*Executive Powers and Functions**Chairman*

JOHN J. BENNETT, JR.

Members

GEORGE H. BOND	IRVING M. IVES
JOHN J. DUNNIGAN	GEORGE Z. MEDALIE
HENRY EPSTEIN	JUSTINE WISE POLIER
MORRIS L. ERNST	FRANCIS M. SHEA

*Judicial Powers and Administration**Chairman*

FREDERICK E. CRANE

Members

GEORGE H. BOND	JOHN B. JOHNSTON
JOSEPH M. CALLAHAN	LEONARD S. SAXE
JAMES A. FOLEY	CHARLES B. SEARS
CHARLES EVANS HUGHES, JR.	CLARENCE J. SHEARN

*Taxation and Finance**Chairman*

THOMAS D. THACHER

Members

WINTHROP W. ALDRICH	GEORGE Z. MEDALIE
WILLIAM P. CAPES	FRANK C. MOORE
OSWALD D. HECK	JOHN GODFREY SAXE
WARNICK J. KERNAN	HENRY L. STIMSON

*Home Rule and Local Government**Chairman*

DANIEL J. KENEFICK

Members

WILLIAM P. CAPES	MEYER JACOBSTEIN
DAVID DIAMOND	FRANCIS D. McCURN
EDWARD S. FOSTER	FRANK C. MOORE
GEORGE H. HALLETT, JR.	PERLEY A. PITCHER

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Offices for the Committee were opened in Rooms 874-876 of the State Office Building in New York City.

The Committee was faced with the problem of procuring funds to undertake its work. In accordance with a resolution adopted at the first meeting, the Chairman appointed a sub-committee for this purpose, consisting of Winthrop W. Aldrich, John Godfrey Saxe, Henry L. Stimson, and Gerard Swope. Attempts were unsuccessfully made to procure funds from private foundations. With the assistance of the Governor, it was then arranged with the legislative leaders of both parties and with the Chairman of the Senate Finance Committee and of the Assembly Ways and Means Committee to appropriate to our Committee the sum of \$25,000. At this point it should also be stated that the Governor recommended in his Executive Budget of this year the additional sum of \$40,000 to be used for the printing of the studies and reports of the Committee. This appropriation was subsequently made by the Legislature. For all this the Committee expresses its appreciation to the Governor and to the Legislature.

At a meeting of the entire Committee, held on March 5, 1938, the Chairman reported to the Committee in considerable detail on the progress made in the preparation of both the general reference volumes and of the studies and reports of the six sub-committees.

The following action was taken by the Committee at this meeting:

1. The Committee authorized the publication of the five general reference volumes prepared under the direction of the Chairman.
2. The Committee authorized the publication of the studies and reports prepared by and under the direction of the six sub-committees. It was agreed that such studies and reports were to be published, when approved by the members of the sub-committee which prepared them, and that they need not be submitted to all the members of the entire Committee for individual approval. The Committee adopted this course in order to help achieve the publication of the volumes by the time the Convention met. The Chairman was directed to prepare an introductory note for each volume, pointing out therein what studies and reports are contained and how they were prepared.
3. That the Chairman prepare for the approval of the Committee a general introduction to be printed in the first volume of

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the Committee's reports and that the general introduction should set forth the scope of the work of the Committee and how it was performed.

4. That three thousand copies of the Committee's reports be printed and distributed to the delegates to the Convention, the Governor and other elected state officers, Members of the Legislature, Members of the Committee and to certain other officers, libraries and organizations particularly interested in the deliberations of the Convention.

The reports of the Committee are being printed as a series of twelve volumes:

- Vol. I The New York State Constitution Annotated.
- Vol. II Amendments Proposed to New York Constitution, 1895-1937.
- Vol. III Constitutions of the States and United States.
- Vol. IV State and Local Government in New York.
- Vol. V New York City Government—Functions and Problems.
- Vol. VI Problems Relating to Bill of Rights and General Welfare.
- Vol. VII Problems Relating to Legislative Organization and Powers.
- Vol. VIII Problems Relating to Executive Administration and Powers.
- Vol. IX Problems Relating to Judicial Administration and Organization.
- Vol. X Problems Relating to Taxation and Finance.
- Vol. XI Problems Relating to Home Rule and Local Government.
- Vol. XII General Index.

Volumes I to V inclusive are general reference volumes prepared under the direction of the Chairman in accordance with the request made of him by the Committee. More specifically, Volumes I and II were prepared by the staff of the Law Revision Commission of the State of New York; Volume III by Professor Rodney L. Mott and Wilbert L. Hindman of Colgate University; Volume IV by the research staff of the New York State Commission on the Revision of the Tax Laws; and Volume V by certain New York City officials.

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Volumes VI to XI inclusive contain the studies and reports of the six sub-committees. They are the result of many meetings held during the Fall and Winter months. They include discussions of more than one hundred and fifty subjects.

The six sub-committees, with the assistance of their research staffs, have undertaken the preparation of impartial and objective studies on practical and concrete problems. No inference is to be drawn from the fact that a sub-committee has made a study of a particular problem. The sole test in selecting a subject was simply this,—Was it one likely to be advanced at the Constitutional Convention or to be submitted to it by a body of responsible public opinion? Even so, the Committee realizes that there may well have been omitted from its studies and reports a few subjects in which some delegates might be interested.

In presenting these studies, prepared by and under the direction of the sub-committees, there is no intention on the part of the members of the particular sub-committee or of the entire Committee to recommend or even to evidence approval or disapproval of any proposal. The Committee has sought scrupulously to present the facts surrounding a problem and, where possible, to list the arguments advanced by the sponsors of a proposal, and likewise to list the arguments made by the opponents.

In conclusion, the Chairman wishes to express his heartfelt gratitude to each member of the Committee for his generous cooperation and for the splendid contribution each member rendered towards the performance of the task imposed upon the Committee by the Chief Executive of the State. The Chairman also conveys his appreciation to the scores and scores who have given abundantly of their time and abilities. Their names are too numerous to mention here, but well deserved acknowledgment is made to each of them in those volumes in the preparation of which they assisted.

The Committee, after these months of work, feels that the non-partisan basis upon which its membership was selected has made possible a thorough exploration of all sides of the problems which may come before the Constitutional Convention and disinterested presentation of the relevant materials and considerations pertinent to such problems. As a consequence of this experience, the Committee has been most favorably impressed with the quality of Governor Lehman's statesmanship in this respect and it wishes to commend him for the way in which he has proceeded. The members of the

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Committee wish individually to express their appreciation to the Governor for the honor and privilege bestowed upon them by his appointment. The members of the Committee have enjoyed the opportunity of rendering this public service and they hope the result of their labors will prove useful to the delegates to the Convention and to the many others interested in its deliberations.

CHARLES POLETTI

Chairman, New York State Constitutional Convention Committee



INTRODUCTORY NOTE TO VOLUME I.

This volume presents some of the basic reference materials essential to undertake constitutional revision.

Part I sets forth the present text of the Constitution of New York State with notes to serve as guides to its origin and historical development.

Under each provision are found citations to its origin and existence in previous Constitutions. References are given to the records of the debates of the previous State Constitutional Conventions where the provisions may have been proposed or discussed. References are also made to the various constitutional treatises in which such provision is discussed. References are made to the Public Papers of the Governors and to official legislative documents where the provision is mentioned. The same is true with documents of the 1915 Constitutional Convention. Finally, the volume contains references to the texts of all amendments that may have been proposed to the provision since 1895. The texts themselves are found in Volume II.

Parts II and III, which are primarily for reference purposes, contain respectively the Constitutions of the State of New York prior to the existing one of 1894 with the amendments thereto and the Constitution of the United States as it is in force today.

Volume II, containing Part IV, gives the text and history of all the amendments to the New York Constitution proposed in the Legislature from 1895 to 1937 inclusive, comprising those proposed by the Legislature and adopted or rejected by the people and those considered by the Legislature but not submitted to the people, and lastly those proposed by the Constitutional Convention of 1915 but rejected by the people.

The purpose and relation of Part I, which is in this volume, to Part IV, which is in Volume II, are explained in detail in the explanatory notes to those parts.

An attempt has been made to arrange and classify the material in such a way that all sources pertaining to a particular subject would be directed to the attention of the reader with the least amount of effort. There have been included, in addition, tables of contents and indexes.

INTRODUCTORY NOTE TO VOLUME I

The New York State Constitutional Convention Committee, with the approval of Governor Lehman, requested the New York State Law Revision Commission to arrange to have part of its research staff compile this volume. The Law Revision Commission gladly consented to do so and our Committee wishes to express its warm appreciation to the members of the Commission: Charles K. Burdick, Chairman; Warnick J. Kernan, Philip M. Kleinfeld, Walter H. Pollak, Harry A. Reoux, Bruce Smith, Young B. Smith.

The preparation of this volume has been an enormous and most difficult task. The work was principally organized and directed by Professor John W. MacDonald, Executive Secretary and Director of Research of the Law Revision Commission. Our Committee commends him upon the fine service he has rendered.

Merited acknowledgment is also made to Jacob Abramson, research assistant of the Law Revision Commission and to Laura Taylor Mulvaney, assistant to the director of research of the Commission, both of whom performed not only research but also work of a supervisory character; Parker Bailey, Kurt Borchardt, Irving K. Butler, Maurice Dekoven, Nathaniel Fensterstock, James Flynn, Philip Marcus, Vladimir Terentiev, Frederick Whiteside, members of the research staff of the Commission; Miriam Friedman and Gabriel Meckenberg, special assistants to the research staff of the Commission and to Francis M. McCann, Chief Clerk of the Commission for his administrative supervision of the publication.

Acknowledgment is also made to the Office of the Secretary of State in Albany for the very great help given by it in furnishing copies of hundreds of proposed constitutional amendments and in supplying photostatic copies of material otherwise unavailable.

Acknowledgment is also made to the Legislative Index Company for making available a set of its indexes.

Special acknowledgment is made to Frederick D. Colson of the New York State Library. For the delegates to the Constitutional Convention of 1915 Mr. Colson prepared an annotated state constitution volume. In the compilation of our Volumes I and II, there have been incorporated the material and the references contained in his work. The Committee wishes to express its deep appreciation to him.

CHARLES POLETTI

Chairman, New York State Constitutional Convention Committee

NEW YORK STATE CONSTITUTION ANNOTATED

VOLUME I

- PART I The Constitution of New York State Text in Force
January 1, 1938 with Notes.
- PART II Constitutions of New York State, 1777-1894, with
Amendments thereto.
- PART III The Constitution of the United States of America.

AMENDMENTS PROPOSED TO NEW YORK CONSTITUTION 1895 — 1937

VOLUME II

- PART IV Amendments to the Constitution Proposed in the Legis-
lature, 1895-1937, Including Those Adopted by the
People, Those Rejected by the People, and Those
Proposed but not Submitted to the People, and the
Amendments to the Constitution Adopted by the Con-
stitutional Convention of 1915 But Rejected by the
People.



PART I

THE CONSTITUTION OF NEW YORK STATE

TEXT IN FORCE JANUARY 1, 1938, WITH NOTES

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EXPLANATORY NOTE TO PART I

Part I of this work sets forth the complete text of the New York State Constitution as amended and in force on January 1, 1938, with notes, the nature and scope of which are explained herein.

The present text of the Constitution is set forth section by section. For the authentic text of those sections which have remained unchanged from the time of the adoption of the Constitution of 1894, a photostatic copy of the original constitution, obtained from the Secretary of State, has been used. The texts of those sections which have been amended since 1894 have been taken from the appropriate session laws.

The object of the notes in Part I is to give references to material on the historical origin and development of the present provisions of the Constitution. This reference material is listed, after the text of each section, under the following headings: Source, Historical References, Legislative Documents, Debates of Constitutional Conventions, Documents of the 1915 Constitutional Convention, and Texts of Proposed Amendments.

The "Source" subdivision gives the origin of each section of the Constitution and its subsequent history in the constitutions of New York State. Where a section has been introduced by the Constitution of 1894, the "Source" reads "New"; where a section has been introduced by an amendment since 1894, the "Source" reads "Added", and the date of the amendment by which it was added to the Constitution is given. Whenever a section has been amended, either by separate amendment or by a new constitution, this is indicated in the "Source" by the word "amended", and the means of the amendment.

The "Historical References" subdivision contains references to historical material in the following works: Charles Z. Lincoln, *The Constitutional History of New York* (1906), 5 vols.; J. Hampden Dougherty, *Constitutional History of New York State*, (1915); Alden Chester, *Courts & Lawyers of New York*, (1925); Alexander C. Flick, *The History of the State of New York*, (1933-1937), 10 vols.

These works have been used because they are the best available sources of historical material on the New York State Constitution. They are referred to as "Lincoln", "Dougherty", "Chester", and "Flick" respectively. Following these names appear the volume

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number, in roman numerals, if the work consists of more than one volume, and the page numbers in arabic.

Under the subheading "References to constitutional conventions and commissions" are listed references to the above works for historical material relating to the various constitutional conventions and commissions that have taken place. References to the records of the constitutional conventions for discussions and debates on the various articles and sections of the Constitution are listed in the separate category headed "Debates of Constitutional Conventions." So that the references in the aforementioned two categories may be better understood, brief reference should be made to the past constitutional conventions and commissions in this State and the records kept by them.

The Constitution of 1777 was framed, adopted and put in operation by the Fourth Provincial Congress. The journal of this Congress which as a part, and a part only, of its functions, acted as the first Constitutional Convention in this State, was printed from the original manuscript for the first time by the State in 1842; but unfortunately there is nothing giving the debates of this body, and even the journal entries relating to the work of the Congress as a Constitutional Convention are scattered among the entries relating to the other functions of the Congress. For this reason the references in Part I to the Convention of 1777 are necessarily confined to the parts of the various historical works where the history of that Convention may be found.

While the journal of the Constitutional Convention of 1801 was printed (first in 1801, and then reprinted in 1821 for the use of the Convention held in the latter year), no debates were ever published, and therefore the references in Part I to this Convention are also only to the historical works.

There are, however, printed debates as well as journals for the Constitutional Conventions of 1821, 1846, 1867-68 and 1894.

The debates of the 1821 Convention are found in two publications. One was edited by Nathaniel H. Carter and William L. Stone, reporters, and Marcus T. C. Gould, stenographer, and published in one volume in Albany in 1821. The other was edited by L. H. Clarke and published in one volume in New York in 1821.

The Carter, Stone and Gould edition is the edition to which reference is made in the notes; but in order to permit of the use of the Clarke edition and partly also in order to get the benefit of

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matter appearing only in this edition, the page references to the edition first referred to are followed in parentheses by the Convention dates.

Similarly, the debates of the 1846 Convention are found in two publications. One was edited by William G. Bishop and William H. Attree, and printed in one volume at the office of the Evening Atlas, Albany, 1846. This edition is sometimes called the Bishop and Attree edition, and sometimes the Atlas edition. The other publication was edited by S. Crosswell and R. Sutton, and printed in one volume at the office of the Albany Argus in 1846. This edition is sometimes called the Crosswell and Sutton edition, and sometimes the Argus edition. As the time limitation on the preparation of the present publication forbade reference to both editions, and as the Atlas edition seems to contain slightly more matter than the Argus edition, the former edition is the one to which reference is made in the notes; but for the reasons already stated in explaining the two publications of the 1821 debates, the page references to the Atlas edition are followed in parentheses by the Convention dates.

As the debates of the 1867-68 Convention were published only in one edition (in five volumes in 1868), there is no occasion for any parallel reference.

The debates of the 1894 Convention are found in two publications, each called the Record. The original Record was published from day to day during the course of the Convention, and was subsequently bound in six large but thin quarto volumes. The Record of this Convention was revised by William H. Steele, vice-president of the Convention, pursuant to chapter 21 of the Laws of 1898, and published in 1900 in five volumes under the direction of Charles E. Fitch, secretary of the Convention, pursuant to chapter 419 of the Laws of 1900. Reference is made in the notes to Part I both to the original edition and to the Revised Record. The references first given are to the volume and page of the Revised Record; the references in parentheses are to the original Record.

Concerning the 1915 references, it should be mentioned that the debates of the 1915 Constitutional Convention are found in two publications, an Unrevised Record and a Revised Record, both published by J. B. Lyon Co., Albany, N. Y., 1916. References are made to the Revised Record only. However, pp. 2817-2848 of the first volume of the Revised Record were not bound with that volume;

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reference to the debates reported in these pages is made, therefore, to the Unrevised Record, Volume III, pp. 2737-2766.

In addition to the Constitutional Conventions above referred to, there have been in this State some very important constitutional commissions established for the purpose of recommending constitutional amendments to the Legislature. The first was created by chapter 884 of the Laws of 1872 and is customarily referred to as the Constitutional Commission of 1872. As its functions were extended by chapter 6 of the Laws of 1873, it had power to suggest amendments to any part of the Constitution. The second was created by chapter 189 of the Laws of 1890, and as its powers were limited to proposing amendments to Article VI of the Constitution, it is generally known as the Judiciary Commission of 1890. While both these bodies published journals of their proceedings, unfortunately their debates were never printed. Consequently the references to these commissions in the notes to Part I of the present work are necessarily confined to the parts of the historical works dealing with them.

In 1921 there was held a Judiciary Constitutional Convention. In the second volume of Chester's work there is a chapter on the Constitutional Convention of 1915 and one on the Judiciary Act of 1925. The chapter on the Judiciary Act of 1925 discusses the work of the Judiciary Constitutional Convention of 1921. The reference to the Judiciary Constitutional Convention is under the year 1925 rather than 1921, because the chapter in Chester discusses the Convention of 1921 only incidentally to the Judiciary Act of 1925.

Among the historical references have been included some references to periodical literature on the State Constitution.

The note headed "Legislative Documents" contains references to pertinent material in legislative documents published from 1895-1937. The public papers of the Governors which are printed as legislative documents are of course, included among these references.

In the subdivision headed "Documents of the 1915 Constitutional Convention" are references to a bound volume of documents (1-54), entitled, *Documents of the Constitutional Convention of the State of New York 1915* and published by J. B. Lyon Co., 1915.

In the category entitled "Texts of Proposed Amendments" reference is made to all the amendments to the Constitution proposed in the Conventions of 1894 and 1915, and in the Legislature, 1895-1937. The references to the amendments proposed in the 1894

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Convention are by overture numbers. The reason for this is that the amendments to the Constitution proposed in the Constitutional Convention of 1894 were subsequently bound in three volumes entitled on the outside "Proposed Constitutional Amendments."¹ These proposed amendments are designated in the Revised Record of that Convention as overtures, and are referred to by introductory and print numbers, following the legislative practice as to bills. In footnotes is indicated which of these overtures were adopted by the 1894 Convention and accordingly became part of the Constitution.

The proposed amendments of the 1915 Convention appear in two bound volumes entitled *Proposed Amendments of the Constitutional Convention of the State of New York 1915*, also published by J. B. Lyon Co., 1915. They are referred to under two subdivisions: (1) Amendments adopted by the Convention, (2) Amendments proposed but not adopted by the Convention. The texts of the amendments adopted by the 1915 Convention are set forth in Part IV which is contained in Volume II of the New York State Constitutional Convention Committee reports. The texts of the amendments proposed but not adopted by the 1915 Convention may only be found in the 1915 volumes just mentioned. Inasmuch as those proposed amendments are there arranged in numerical order according to the last print number, only the last print number of each of the bills is given herein.

The texts of the amendments proposed in the Legislature 1895-1937 are set forth in Part IV, which is contained in Volume II of the Committee's reports, and under the heading "Texts of Proposed Amendments" in Part I of Volume I are given the pages in Part IV where such proposed amendments to the Constitution appear.

In the course of research references were found to many matters not dealt with at all in the Constitution as it exists to-day, or dealt with only indirectly, and also to many matters which, although having some relation, more or less close, to existing provisions, could not be assigned to any particular section of the present Constitution. These have been inserted either in the notes or in foot-

¹ There are no title pages to these volumes and no complete index. Any particular proposed amendment can be located only by means of its introductory or print number. The daily calendars of the 1894 Convention will be found in the latter part of the third volume.

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notes to the various articles and sections to which they are most applicable. Many other helpful and interesting references which could not be assigned specifically to any particular section have been inserted in a general footnote to the Article under which they properly fall.

To make this collection of materials as useful as possible, a very elaborate index has been prepared. All the material in Part I in the footnotes as well as the body has been referred to in the index. To facilitate finding the subject referred to, the reference is by category heading, article, section, and page.

PART I

THE CONSTITUTION OF NEW YORK STATE

TEXT IN FORCE JANUARY 1, 1938, WITH NOTES

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PART I

THE CONSTITUTION OF NEW YORK STATE

TEXT IN FORCE JANUARY 1, 1938, WITH NOTES *

1 We, the people of the State of New York, grateful to Al-
2 mighty God for our freedom, in order to secure its blessings,
3 do establish this Constitution.

Source

Const. 1821; amended, Const. 1846.

Historical References

For historical comment on the preamble to the New York Constitution, and for general discussion of the nature of a constitution, its purpose and the principles governing its construction, see Lincoln IV:3-10.

References to constitutional conventions and commissions.

1867. Lincoln II:289.

1894. Lincoln III:66.

Debates of Constitutional Conventions

1867. V:3234-3239.

1894. I:1037-1052 (II:545-552); IV:1099-1101 (VI:2593-2594).

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 170. See also Overture No. 104.

ARTICLE I¹

1 Section 1. No member of this State shall be disfranchised, Security in
2 or deprived of any of the rights or privileges secured to any rights and
privileges

* The text in force is the Constitution of 1894 (see Part II, p. 104), as amended (see Part IV). For an explanation of the purpose and plan of this Part of the work, and of the references therein, see the Explanatory Note to this Part.

¹ For a history of the origin and development of the constitutional and statutory provisions which constitute the bill of rights in this state, down to 1905, see Lincoln I:715-743. Most of the constitutional provisions are found in this article; for the existing statutory provisions, see the Civil Rights Law, Laws 1909, chapter 14, constituting chapter 6 of the consolidated laws. As to the necessity

Article I, § 2

3 citizen thereof, unless by the law of the land, or the judgment
4 of his peers. ²

Source

Const. 1777, Art. XIII; amended, Const. 1821, Art. VII, § 1; Const. 1846, Art. I, § 1.

Historical References

For comment on this section, see Lincoln IV:30.

References to constitutional conventions and commissions.

1777. Lincoln I:522; Dougherty, 55.

1846. Lincoln II:109-110.

1867. Lincoln II:293-294.

Debates of Constitutional Conventions

1846. 453 (July 28); 537-543 (Aug. 6-7).

1867. V:3530-3531, 3557-3558.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 502, 752, 808.

Trial by
jury

1 § 2. The trial by jury in all cases in which it has been
2 heretofore used shall remain inviolate forever; but a jury

Waiver

3 trial may be waived in the manner to be prescribed by law by
4 the parties in all civil cases and by the defendant in all crim-

for a bill of rights, see: Convention debates (1821) 171-173 (Sept. 18). For discussion of what bill of rights means generally, see: Convention debates (1915) I:64-67.

For references to the following subjects coming within the general scope of Art. I but not relating specifically to any particular section thereof, see: Aliens, naturalization: Lincoln (1777) I:547-552; civil process, exemption from: Convention debates (1846) 1064-1065 (Oct. 6); fisheries, international: Lincoln (1867) II:293, Convention debates (1867) V:3261-3262, 3554-3555; imprisonment for debt: Lincoln (1894) III:72-73; intoxicating liquors: see Art. III, footnote 1; labor, relation to capital: Lincoln (1894) III:70-72; remedies, impairment of: Lincoln (1867) II:293, Convention debates (1846) 828-830 (Sept. 9); rights, equal: Convention debates (1915) II:1874-1913, 1914-1943, 2178-2222; riot, damages from: Lincoln (1867) II:294, Convention debates (1867) V:3257-3260; slavery: Lincoln (1777) I:553-554, (see also Lincoln IV:305-307, Convention debates (1821) 167 (Sept. 17), 485-486 (Oct. 19), 497-498 (Oct. 20).); test oath, as qualification for suffrage: Convention debates (1857) V:3530, 3557-3558; treason, definition of: Lincoln (1872) II:474; women, rights of married: Lincoln (1846) II:112-114, Convention debates (1846) 1038-1042 (Oct. 2), 1056-1061 (Oct. 5).

Amendments coming within the general scope of Art. I, but not relating specifically to any particular section thereof, proposed but not adopted by the Constitutional Convention of 1915, are: Pr. Nos. 46, 197, 300, 397, 401, 407, 420, 434, 452, 487, 561, 569, 612, 613, 677, 688, 691, 701, 719.

² Prohibition of class legislation; Convention debates (1915) III:2249-2255.

Article I, § 2

5 inal cases, except those in which the crime charged may be
 6 punishable by death. The legislature may provide, however,
 7 by law, that a verdict may be rendered by not less than five-^{Five-}
 8 sixths of the jurymen constituting a jury in any civil case. ^{sixths}
 verdict

Source

Const. 1777, Art. XLI; amended, Const. 1821, Art. VII, § 2; amended,
 Const. 1846, Art. I, § 2; Const. 1894, Art. 1, § 2; amended, 1935;³
 amended, 1937.⁴

Historical References

For history of this section, see IV:38-41.

References to constitutional conventions and commissions.

1777. Lincoln I:547; Dougherty, 54.

1846. Lincoln II:110.

1867. Lincoln II:290-291.

1872. Lincoln II:474.

1894. Lincoln III:67-68.

Legislative Documents

Recommendations and discussions of proposed amendments to this
 section in relation to right of trial by jury:

Waiver of trial by jury except in murder cases: Leg. Doc. Senate
 (1917) No. 52, p. 61; Leg. Doc. (1926) No. 84, p. 18; Leg. Doc.
 (1928) No. 23, p. 20; Leg. Doc. (1928) No. 92, p. 48; Leg. Doc.
 (1929) No. 98, pp. 72-73; Leg. Doc. (1929) No. 99, pp. 57, 98,
 105-106; Leg. Doc. (1930) No. 98, pp. 23, 27, 71-73; Leg. Doc.
 (1931) No. 114, pp. 30-31; Leg. Doc. (1935) No. 20, p. 26; Leg.
 Doc. (1936) No. 48, pp. 95-102; Leg. Doc. (1936) No. 57, p. 20.

Verdict by five-sixths vote in trial by jury: Leg. Doc. (1930) No.
 98, pp. 27, 83; Leg. Doc. (1931) No. 114, p. 30; Leg. Doc. (1934)
 No. 50 (D) p. 54; Leg. Doc. (1935) No. 20, pp. 26-27; Leg. Doc.
 (1935) No. 48, pp. 10, 41; Leg. Doc. (1935) No. 71, p. 8; Leg.
 Doc. (1936) No. 20, p. 25; Leg. Doc. (1936) No. 57, p. 18.

Abolition of trial by jury in inferior courts: Leg. Doc. (1934) No.
 50 (D), p. 52.

Abolition of trial by jury in civil cases involving \$250 or less: Leg.
 Doc. (1934) No. 50 (N), p. 77; Leg. Doc. (1935) No. 48, pp. 10,
 42-43.

Debates of Constitutional Conventions

1821. 169 (Sept. 17).

1846. 543-550 (Aug. 7-8); selection: 111-112 (June 17).

1867. I:265-266; V:3552; compensation of jurors: V:3263-3264;
 number of jurors: V:3239.

1894. Substitute jurors: I:778-781 (I:407-408); unanimity of ver-
 dict: I:761-778 (I:397-407), I:781-802 (I:408-419).

³ For the text, legislative history, and action of the people on the 1935 amend-
 ment, see Part IV, p. 9.

⁴ For the text, legislative history, and action of the people on the 1937
 amendment, see Part IV, pp. 10-11.

 Article I, § 3

Documents of 1915 Constitutional Convention

Trial by jury in contempt cases: Doc. 17.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 7, 17, 28, 36, 53, 75, 185 (Int. 184).

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 17, 43, 45, 132, 189, 198, 207, 218, 235, 240, 271, 295, 350, 354, 374, 398, 408.

In the legislature, 1895-1937: see Part IV, pp. 1-11.

Religious
liberty

1 § 3. The free exercise and enjoyment of religious pro-
2 fession and worship, without discrimination or preference,
3 shall forever be allowed in this State to all mankind; and no
4 person shall be rendered incompetent to be a witness on
5 account of his opinions on matters of religious belief; but the
6 liberty of conscience hereby secured shall not be so construed
7 as to excuse acts of licentiousness, or justify practices incon-
8 sistent with the peace or safety of this State.⁵

Competency
of wit-
nesses

Abuse of
liberty

Source

Const. 1777, Art. XXXVIII; amended, Const. 1821, Art. VII, § 3;
amended, Const. 1846, Art. I, § 3.

Historical References

For history of this section, see Lincoln IV:54-55, 56-58, 60-61.

References to constitutional conventions and commissions.

1777. State religion prohibited: Lincoln I:541-545; Dougherty, 55.

1846. Witnesses: Lincoln IV:60.

1867. Lincoln II:291.

Debates of Constitutional Conventions

1821. State religion prohibited: 462-464 (Oct. 17); witnesses: 574-576 (Oct. 30); Quakers exempted from military service: 577-580 (Oct. 31).

1846. Witnesses: 550 (Aug. 8), 1054-1055 (Oct. 5).

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 24, 36, 145, 213-413 (Int. 211).

In the Constitutional Convention of 1915:

Amendment proposed but not adopted by the Convention: Pr. No. 173.

⁵ For references relating to the ineligibility of the clergy to hold office in this state, see: Lincoln (1777) I:545-546, (1846) II:111-112, (1872) II:474, Convention debates (1846) 551-552 (Aug. 8). For exemptions from military services, see also the notes to Art. XI, § 1.

Article I, § 5

- 1 § 4. The privilege of the writ of habeas corpus shall not ^{Habeas}
 2 be suspended, unless when, in cases of rebellion or invasion, ^{corpus}
 3 the public safety may require its suspension.

Source

Const. 1821, Art. VII, § 6; Const. 1846, Art. I, § 4.

Historical References

References to constitutional conventions and commissions.

1867. Freedom from arbitrary arrest: Lincoln II:289.

Debates of Constitutional Conventions

1867. Freedom from arbitrary arrests: V:3239-3244.

1915. Military tribunals: IV:4041-4043, 4057-4062, 4065-4066, 4224.

Documents of 1915 Constitutional Convention

Military tribunals, habeas corpus: Docs.: 17, 49.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos.
 177, 435, 506.

In the legislature, 1895-1937: see Part IV, p. 11.

- 1 § 5. Excessive bail shall not be required nor excessive ^{Excessive}
 2 fines imposed, nor shall cruel and unusual punishments be in- ^{bail, fines,}
 3 flicted, nor shall witnesses be unreasonably detained. ^{and punish-} ^{ments; de-} ^{tention of} ^{witnesses} ⁶

Source

Const. 1846, Art. I, § 5.

Historical References

For history of this section, see Lincoln IV:65-66.

References to constitutional conventions and commissions.

1846. Detention of witnesses: Lincoln II:114.

1867. Detention of witnesses: Lincoln II:294.

Debates of Constitutional Conventions

1867. Detention of witnesses: V:3321-3327, 3539-3541.

1915. Imprisonment in civil actions: IV:4044-4045, 4140-4145, 4225.

Documents of 1915 Constitutional Convention

Capital punishment: Docs.: 17, 48.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional
 Amendments, Overtures Nos. 203 (Int. 201), 315 (Int. 309).

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr.
 Nos. 24, 361, 677.

⁶ On the subject of the abolition of capital punishment, see: Lincoln (1894) III:72, Convention debates (1894) I:1036-1037 (II:544-545), II:148-164 (II:704-712), Convention debates (1915) I:795, IV:4043-4044, 4067-4083, 4137-4140.

Article I, § 6

Rights of
accused
in criminal
actions

1 § 6. No person shall be held to answer for a capital or
 2 otherwise infamous crime (except in cases of impeachment.
 3 and in cases of militia when in actual service, and the land
 4 and naval forces in time of war, or which this State may
 5 keep with the consent of Congress in time of peace, and in
 6 cases of petit larceny, under the regulation of the Legisla-
 7 ture), unless on presentment or indictment of a grand jury.
 8 and in any trial in any court whatever the party accused
 9 shall be allowed to appear and defend in person and with
 10 counsel as in civil actions. No person shall be subject to be
 11 twice put in jeopardy for the same offense; nor shall he be
 12 compelled in any criminal case to be a witness against him-
 13 self; nor be deprived of life, liberty or property without
 14 due process of law; nor shall private property be taken for
 15 eminent domain public use without just compensation.⁷

Due process
of lawEminent
domain**Source**

Const. 1821, Art. VII, § 7; amended, Const. 1846, Art. I, § 6.

Historical References

For history of this section, see Lincoln IV: 69-70, 83-85.

References to constitutional conventions and commissions.

1777. Lincoln I:539-540.

1867. Lincoln II:291-292.

1894. Lincoln III:68-69.

Legislative Documents

Recommendations and discussions of proposed amendment to this section permitting district attorney to file information against an accused person when he waives prosecution by indictment: Leg. Doc. Senate (1915) No. 51, p. 355; Leg. Doc. Senate (1917) No. 52, p. 61; Leg. Doc. Senate (1918) No. 57, pp. 454-457; Leg. Doc. (1929) No. 98, pp. 72-73; Leg. Doc. (1929) No. 99, pp. 57, 98, 105; Leg. Doc. (1930) No. 98, pp. 71-72; Leg. Doc. (1935) No. 20, p. 26; Leg. Doc. (1936) No. 20, p. 24; Leg. Doc. (1936) No. 57, p. 18.

Debates of Constitutional Conventions

1821. 163-167 (Sept. 17).

1867. V:3244-3247, 3541-3544.

1915. Indictment and jury trial: IV:4045-4046, 4062-4063, 4146-4148, 4158, 4161-4162; right of appeal: IV:4148-4157, 4170-4171; property damaged by change of grade: IV:4047, 4157, 4158-4160; equal protection: IV:4047.

⁷ For notes relating to the last clause of this section (eminent domain), see Art. I, § 7.

Article I, § 7

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 58-449 (Int. 58), 76, 96, 120-389 (Int. 120), 191 (Int. 190), 236 (Int. 234), 263-412 (Int. 261), 282 (Int. 280), 319 (Int. 311), 352 (Int. 343), 379 (Int. 367), 414 (Int. 380).

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 870. See Part IV, pp. 25-26.

Amendments proposed but not adopted by the Convention: Pr. Nos. 5, 11, 16, 59, 76, 117, 204, 234, 240, 241, 264, 267, 270, 309, 337, 352, 358, 361, 363, 373, 404, 406, 453, 454, 473, 506, 512, 589, 613, 619, 649, 652, 751.

In the legislature, 1895-1937: see Part IV, pp. 12-26.

- 1 § 7. When private property shall be taken for any public Eminent domain
 2 use, the compensation to be made therefor, when such com-
 3 pensation is not made by the state, shall be ascertained by a
 4 jury, or by the supreme court with or without a jury, but
 5 not with a referee, or, in proceedings affecting property lo-
 6 cated within the city of New York and to be acquired by the
 7 city of New York, by a term of said court to consist of one
 8 or more justices thereof without a jury, or by not less than
 9 three commissioners appointed by a court of record, as shall
 10 be prescribed by law. Private roads may be opened in the Private roads
 11 manner to be prescribed by law; but in every case the neces-
 12 sity of the road and the amount of all damage to be sustained
 13 by the opening thereof shall be first determined by a jury
 14 of freeholders, and such amount, together with the expenses
 15 of the proceedings, shall be paid by the person to be bene-
 16 fited. The use of property for the drainage of swamp or Property used for drainage of lands of a public use; special laws prescribed
 17 agricultural lands is declared to be a public use and general
 18 laws may be passed permitting the owners or occupants of
 19 swamp or agricultural lands to construct and maintain for
 20 the drainage thereof, necessary drains, ditches and dykes
 21 upon the lands of others, under proper restrictions on
 22 making just compensation, and such compensation together
 23 with the cost of such drainage may be assessed, wholly or
 24 partly, against any property benefited thereby; but no
 25 special laws shall be enacted for such purposes.
 26 The legislature may authorize cities and counties to take Excess condemnation in cities
 27 more land and property than is needed for actual construc-

Article I, § 7

28 tion in the laying out, widening, extending or relocating
 29 parks, public places, highways or streets; provided, however,
 30 that the additional land and property so authorized to be
 31 taken shall be no more than sufficient to form suitable build-
 32 ing sites abutting on such park, public place, highway or
 33 street. After so much of the land and property has been
 34 appropriated for such park, public place, highway or street,
 35 as is needed therefor, the remainder may be sold or leased.

Source

Const. 1846, Art. I, § 7; amended, Const. 1894, Art. I, § 7; amended,
 1913;⁸ amended, 1919;⁹ amended, 1927;¹⁰ amended, 1933.¹¹

Historical References

For discussion of 1913 amendment, see Dougherty, 359.

References to constitutional conventions and commissions.

1846. Lincoln II:188; condemnation by cities: Lincoln II:198-199.

1867. Agricultural drains: Lincoln II:292; condemnation by rail-
 roads, nature of title taken: Lincoln II:292.

1872. Compensation: Lincoln II:475; agricultural drains: Lincoln
 II:476-477.

1894. Appraisal: Lincoln III:69-70; agricultural drains: Lincoln
 III:31-33.

Legislative Documents

Recommendation of proposed amendment to this section in relation to
 condemnation for water power development: Leg. Doc. Senate
 (1912) No. 18, p. 82.

Discussion of need for an amendment in relation to condemnation
 proceedings: Leg. Doc. Assembly (1910) No. 2, p. 34.

Debates of Constitutional Conventions

1846. Condemnation, appraisal: 118 (June 19); condemnation, special
 laws: 983-984 (Sept. 26).

1867. Condemnation, appraisal: V:3247-3254; private roads and
 agricultural drains: V:3254-3257, 3544-3549; condemnation by
 railroads, nature of title taken: V:3254.

1894. Condemnation, appraisal: I:807-830 (I:423-435), II:627-637
 (II:962-967), II:639-669 (II:969-985), II:672-679 (II:988-992);
 agricultural drains: IV:847-856 (V:2445-2450), IV:1047-1063)
 (VI:2562-2592).

⁸ For the text, legislative history, and action of the people on the 1913 amend-
 ment, see Part IV, pp. 31-32.

⁹ For the text, legislative history, and action of the people on the 1919 amend-
 ment, see Part IV, pp. 35-36.

¹⁰ For the text, legislative history and action of the people on the 1927
 amendment, see Part IV, pp. 36-37.

¹¹ For the text, legislative history, and action of the people on the 1933
 amendment, see Part IV, pp. 38-39.

Article I, § 8

1915. Ascertainment of damages: II:1948, III:2413-2414, 2427-2428, 2564-2569, 2571-2611, 2617, IV:3884, 4048; time of payment: IV:4171-4178; assessment against property benefited: IV:4050, 4178; taking by owner of water power site: IV:4051-4053, 4178-4184; property in abandoned streets: IV:4053; cost of local municipal improvements: IV:4053, 4185-4193; apportionment of cost of stream regulation: IV:4054, 4193-4197; excess condemnation: IV:4185.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 15, 133, 141, 230 (Int. 228), 333-420 (Int. 325), 335-417 (Int. 327),¹² 385-426 (Int. 364).

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 870. See Part IV, pp. 33-34.

Amendments proposed but not adopted by the Convention: Pr. Nos. 27, 71, 97, 169, 220, 285, 325, 326, 407, 453, 454, 465, 487, 495, 496, 501, 512, 524, 558, 561, 612, 633, 649, 656, 686, 687, 688, 705, 707, 848.

In the legislature, 1895-1937: see Part IV, pp. 27-33, 35-39.

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

Source

Const. 1821, Art. VII, § 8; amended, Const. 1846, Art. I, § 8.

Historical References

For historical comment on libel laws 1777-1821, see Dougherty, 114-116.

References to constitutional conventions and commissions.

1821. Dougherty, 115-116.

1894. Libel, costs: Lincoln III:72.

Debates of Constitutional Conventions

1821. Libel, truth and motive: 167-169 (Sept. 17); function of jury: 487-496 (Oct. 20).

¹² This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article I, § 9

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 240 (Int. 238).

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 101, 614, 694.

In the legislature, 1895-1937: see Part IV, pp. 39-40.

Right to
assemble
and
petition

Divorce

Gambling

- 1 § 9. No law shall be passed abridging the right of the
2 people peaceably to assemble and to petition the government,
3 or any department thereof;¹³ nor shall any divorce¹⁴ be
4 granted otherwise than by due judicial proceedings; nor shall
5 any lottery or the sale of lottery tickets, pool-selling, book
6 making, or any other kind of gambling hereafter be authorized
7 or allowed within this State; and the Legislature shall pass
8 appropriate laws to prevent offenses against any of the pro-
9 visions of this section.

Source

Const. 1846, Art. I, § 10; amended, Const. 1894, Art. I, § 9. See also Const. 1821, Art. VII, § 11 (lotteries prohibited).

Historical References

For historical sketch of the constitutional and statutory provisions in this colony and state relating to gambling (with special reference to lotteries) from 1721 to 1894, together with historical comments on other aspects of this subject, see Lincoln III:33-52; Dougherty, 298-299.

References to constitutional conventions and commissions.

1821. Lincoln I:217, 750; Dougherty, 298.

1894. Lincoln III:47-52; Dougherty, 298, 357.

Debates of Constitutional Conventions

1821. Right to assemble and petition: 170 (Sept. 17); lotteries prohibited: 461 (Oct. 17), 566-572 (Oct. 30).

1894. Gambling: IV:971-979 (VI:2517-2522), IV:1079-1088 (VI:2581-2585), IV:1110-1131 (VI:2599-2610).

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 196 (Int. 195), 222 (Int. 220), 232 (Int. 230), 425 (Int. 384).¹⁵

In the Constitutional Convention of 1915:

¹³ For discussion of direct primary, see Convention debates (1915) I:1036-1038.

¹⁴ On causes for divorce, see Convention debates (1867) II:1378-1379, 1383-1385, V:3549-3550.

¹⁵ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article I, § 11

Amendments proposed but not adopted by the Convention: Pr. Nos. 139, 181, 204, 284, 596, 659, 660, 813.
In the legislature, 1895-1937: see Part IV, pp. 40-44.

1 § 10. The people of this State, in their right of sovereignty,^{Sovereignty}
2 are deemed to possess the original and ultimate property in^{in lands}
3 and to all lands within the jurisdiction of the State; and all^{Escheat}
4 lands the title to which shall fail, from a defect of heirs, shall
5 revert, or escheat to the people.¹⁶

Source

Const. 1846, Art. I, § 11.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 221, 590.

1 § 11. All feudal tenures of every description, with all their^{Feudal}
2 incidents, are declared to be abolished, saving however, all^{tenures}
3 rents and services certain which at any time heretofore have^{abolished}
4 been lawfully created or reserved.¹⁷

Source

Const. 1846, Art. I, § 12.

Historical References

Reference to constitutional conventions and commissions.
1846. Lincoln II:115-118.

Debates of Constitutional Conventions

1846. 1051-1052 (Oct. 3), 1062 (Oct. 6).
1867. V:3550-3552.

¹⁶ On the subject of title to land by aliens, see: Lincoln (1867) II:294, (1872) II:475, Convention debates (1867) V:3257-3260, 3555-3556; prohibition of private bills releasing escheated lands: Lincoln (1867) II:327, Convention debates (1867) II:1381-1383, V:3603-3604; registration of land titles: Convention debates (1915) III:2849-2850; Unrevised Record, III:2758-2866, Documents of 1915 Constitutional Convention, Doc. 40. For a history of the events which led to the introduction of this section into the Constitution, see the notes to Art. I, § 13.

¹⁷ For a history of the events which led to the introduction of this section into the Constitution, see the notes to Art. I, § 13.

Article I, § 12

Allodial
tenure

1 § 12. All lands within this State are declared to be allodial,
2 so that, subject only to the liability to escheat, the entire and
3 absolute property is vested in the owners, according to the
4 nature of their respective estates.¹⁸

Source

Const. 1846, Art. I, § 13.

Historical References

Reference to constitutional conventions and commissions.
1846. Dougherty, 176.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 97.

In the Constitutional Convention of 1915:

Amendment proposed but not adopted by the Convention: Pr. No. 300.

Leases of
agricultural
lands
limited

1 § 13. No lease or grant of agricultural land, for a longer
2 period than twelve years, hereafter made, in which shall be
3 reserved any rent or service of any kind, shall be valid.

Source

Const. 1846, Art. I, § 14.

Historical References

For a history of the events which led to the introduction into the Constitution of this section, and also of sections 10-12 of this Article, see Lincoln II:10-27; Dougherty, 176-180.

References to constitutional conventions and commissions.
1846. Lincoln II:115-118; Dougherty, 176.

Debates of Constitutional Conventions

1846. 1052-1053 (Oct. 3), 1062-1063 (Oct. 6).

1915. I:506-526, 713-733.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 12, 107, 186 (Int. 185).

In the Constitutional Convention of 1915:

Amendment proposed but not adopted by the Convention: Pr. No. 34.

¹⁸ For suggested prohibition of private bills releasing escheated lands, see footnote 16. For a history of the events which led to the introduction of this section into the Constitution, see the notes to Art. I, § 13.

Article I, § 15

1 § 14. All fines, quarter sales, or other like restraints upon Restraints
 2 alienation, reserved in any grant of land hereafter to be made, on aliena-
 3 shall be void.¹⁹ tion pro-

Source

Const. 1846, Art. I, § 15.

Historical References

Reference to constitutional conventions and commissions.

1846. Dougherty, 176.

1 § 15. No purchase or contract for the sale of lands in this Indian
 2 State, made since the fourteenth day of October, one thousand land
 3 seven hundred and seventy-five; or which may hereafter be transactions
 4 made, of, or with the Indians, shall be valid, unless made under
 5 the authority, and with the consent of the Legislature.²⁰

Source

Const. 1777, Art. XXXVII; amended, Const. 1821, Art. VII, § 12;
 amended, Const. 1846, Art. I, § 16.

Historical References

For history of the relations between the Indians and the state from
 1626 to 1875, see Lincoln III:392 and IV:152-164.

References to constitutional conventions and commissions.

1777. Dougherty, 55.

1867. Relations of Indians to the state: Lincoln II:389-390.

Debates of Constitutional Conventions

1867. Indian reservations: IV:2925-2926, 2881, V:3435-3448.

Documents of 1915 Constitutional Convention

Abolition of Indian courts, extension of laws of state to Indians:
 Doc. 26.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitu-
 tional Amendments, Overture No. 244 (Int. 242).

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 799. See Part
 IV, p. 46.

Amendments proposed but not adopted by the Convention: Pr. Nos.
 282, 451.

In the legislature, 1895-1937: see Part IV, pp. 45-46.

¹⁹ For references to provisions regulating the transfer of title to real prop-
 erty, see Convention debates (1894) I:999-1010 (II:529-534).

²⁰ On abolition of Indian tribal courts, see Convention debates (1915) II:
 1233-1237, 1570-1586.

Article I, § 16

Existing
and future
law of state

1 § 16. Such parts of the common law, and of the acts of
 2 the Legislature of the colony of New York, as together did
 3 form the law of the said colony, on the nineteenth day of
 4 April, one thousand seven hundred and seventy five, and the
 5 resolutions of the Congress of the said colony, and of the
 6 convention of the State of New York, in force on the twen-
 7 tieth day of April, one thousand seven hundred and seventy-
 8 seven, which have not since expired, or been repealed or
 9 altered; and such acts of the Legislature of this State as are
 10 now in force, shall be and continue the law of this State,
 11 subject to such alterations as the Legislature shall make
 12 concerning the same. But all such parts of the common law,
 13 and such of the said acts, or parts thereof, as are repugnant
 14 to this Constitution, are hereby abrogated.

Source

Const. 1777, Art. XXXV; amended, Const. 1821, Art. VII, § 13;
 amended, Const. 1846, Art. I, § 17; amended, Const. 1894, Art.
 I, § 16.

Historical References

For history of this section, see Lincoln IV:175-176.

References to constitutional conventions and commissions.

1777. Lincoln I:540-541; Dougherty, 54.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitu-
 tional Amendments, Overtures 36, 86-429 (Int. 86),²¹ 167, 415
 (Int. 381).

In the legislature, 1895-1937: see Part IV, p. 47.

Royal and
state grants
and
charters
preserved

1 § 17. All grants of land within this State, made by the
 2 king of Great Britain, or persons acting under his authority,
 3 after the fourteenth day of October, one thousand seven
 4 hundred and seventy-five, shall be null and void; but nothing
 5 contained in this Constitution shall affect any grants of land
 6 within this State, made by the authority of the said king or
 7 his predecessors, or shall annul any charters to bodies politic
 8 and corporate, by him or them made, before that day; or
 9 shall affect any such grants or charters since made by this
 10 State, or by persons acting under its authority; or shall im-

²¹ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article I, § 18

- 11 pair the obligation of any debts contracted by the State, or
 12 individuals, or bodies corporate, or any other rights of prop-
 13 erty, or any suits, actions, rights of action, or other proceed-
 14 ings in courts of justice.

Obligation
of debts,
property
rights and
judicial
proceedings
preserved

Source

Const. 1777, Art. XXXVI; amended, Const. 1821, Art. VII, § 14;
 Const. 1846, Art. I, § 18.

Historical References

For comment on this section and court decisions construing it, see
 Lincoln IV:178.

References to constitutional conventions and commissions.

1777. Dougherty, 54.

1846. Royal grants and charters: Lincoln II:114-115.

Debates of Constitutional Conventions

1846. Royal city charters: 117-118 (June 19), 160-163 (June 25);
 royal grants: 139-140 (June 23), 160-163 (June 25).

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos.
 119, 542.

- 1 § 18. The right of action now existing to recover damages
 2 for injuries resulting in death, shall never be abrogated; and
 3 the amount recoverable shall not be subject to any statutory
 4 limitation.

Damages
for injuries
causing
death

Source

New.

Historical References

For historical statement relative to the action to recover damages for
 injuries resulting in death, see Lincoln III:57-60.

References to constitutional conventions and commissions.

1894. Limitation of damages: Lincoln III:60-65; Dougherty, 349,
 356.

Debates of Constitutional Conventions

1894. Right of action: II:55-56 (II:651); limitation of damages:
 I:1101-1130 (II:581-595), II:603-626 (II:947-962), IV:401-414
 (V:2189-2195).

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitu-
 tional Amendments, Overtures Nos. 192-380 (Int. 191),²² 347 (Int.
 338).

²² This overture in its final form is not included in the Proposed Constitu-
 tional Amendments. It will be found, however, in the Revised Record, vol. 4, at
 p. 403.

Article I, § 19

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 865. See Part IV, p. 48.

Amendments proposed but not adopted by the Convention: Pr. Nos. 18, 418.

In the legislature, 1895-1937: see Part IV, p. 48.

Workmen's
compensa-
tion

1 § 19. Nothing contained in this constitution shall be con-
2 strued to limit the power of the legislature to enact laws for
3 the protection of the lives, health, or safety of employees; or
4 for the payment, either by employers, or by employers and
5 employees or otherwise, either directly or through a State or
6 other system of insurance or otherwise, of compensation for
7 injuries to employees or for death of employees resulting
8 from such injuries without regard to fault as a cause thereof,
9 except where the injury is occasioned by the willful intention
10 of the injured employee to bring about the injury or death
11 of himself or of another, or where the injury results solely
12 from the intoxication of the injured employee while on duty;
13 or for the adjustment, determination and settlement, with or
14 without trial by jury, of issues which may arise under such
15 legislation; or to provide that the right of such compensation,
16 and the remedy therefor shall be exclusive of all other rights
17 and remedies for injuries to employees or for death resulting
18 from such injuries; or to provide that the amount of such
19 compensation for death shall not exceed a fixed or determin-
20 able sum; provided that all moneys paid by an employer to
21 his employees or their legal representatives, by reason of the
22 enactment of any of the laws herein authorized, shall be held
23 to be a proper charge in the cost of operating the business
24 of the employer.²³

Source

Added, 1913.²⁴

Historical References

For historical comment on this section, see Dougherty, 363-366; Flick VII, 263-264.

²³ On power of legislature to prohibit manufacturing in tenement houses, see: Convention debates (1915) I:970, IV:3915-3936, 4098-4102, 4104-4119; zoning regulations: Convention debates (1915) IV:4202-4203; minimum wage legislation for women and children: Convention debates (1915) III:2249-2255, IV:4204-4222.

²⁴ For the text, legislative history, and action of the people on this section, see Part IV, pp. 50-51.

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Legislative Documents

Recommendations and discussions of proposed amendments to this section in relation to:

Workmen's Compensation Law and Labor Laws: Leg. Doc. Senate (1912) No. 2, p. 12, Leg. Doc. Assembly (1912) No. 2, p. 12.

Employers' liability: Leg. Doc. Senate (1911) Vol. 25, pp. 6-7, 9-11.

Discussion of problems relating to employers' liability: Leg. Doc. Senate (1911) Vol. 25.

Debates of Constitutional Conventions

1915. Occupational diseases: IV:3936-3951, 4120.

Documents of 1915 Constitutional Convention

Workmen's compensation: Doc. 17; prohibition of manufacture in tenement houses: Docs.: 30, 31; occupational diseases: Doc. 38; living wage: Doc. 38; welfare of employees: Doc. 39.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 52, 448 (Int. 52-130).

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 865. See Part IV, pp. 52-53.

Amendments proposed but not adopted by the Convention: Pr. Nos. 18, 23, 196, 197, 204, 383, 400, 417, 420, 434, 560, 569, 617, 618, 772, 791.

In the legislature, 1895-1937: see Part IV, pp. 49-53.

ARTICLE II¹

- 1 **Section 1. Every citizen of the age of twenty-one years,**
- 2 **who shall have been a citizen for ninety days, and an inhabi-**
- 3 **tant of this state one year next preceding an election, and**
- 4 **for the last four months a resident of the county and for the**
- 5 **last thirty days a resident of the election district in which he**
- 6 **or she may offer his or her vote, shall be entitled to vote at**
- 7 **such election in the election district of which he or she shall**

¹ For references to the following subjects coming within the general scope of Art. II but not relating specifically to any particular section thereof, see: Direct primary: Art. I, footnote 13; disqualification of United States officers to hold state office: Lincoln (1846) II:119, 126; eligibility of every voter to every office: Lincoln (1846) II:119, 126; qualifications for local offices: Lincoln (1846) II:119, 126; suffrage, constitutional regulation: Convention debates (1867) V:3557-3558; suffrage, state authority over: Convention debates (1867) I:544-545 (see also footnote 14); suffrage, test oath as qualification for: Art. I, footnote 1; regulation of campaign expenditures of candidates: Art. XIII, footnote 2.

Amendments coming within the general scope of Art. II, but not relating specifically to any particular section thereof, proposed but not adopted by the Constitutional Convention of 1915, are: Pr. Nos. 135, 140, 142, 366, 389, 729, 742, 745.

Article II, § 1

8 at the time be a resident, and not elsewhere, for all officers
 9 that now are or hereafter may be elective by the people, and
 10 upon all questions which may be submitted to the vote of
 11 the people, **provided however that a citizen, by marriage shall**
 12 **have been an inhabitant of the United States for five years;**
 13 **and provided that in time of war no elector in the actual**
 14 **military service of the state, or of the United States, in the**
 15 **army or navy thereof, shall be deprived of his or (her) vote by**
 16 **reason of his or her absence from such election district; and**
 17 **the legislature shall have power to provide the manner in**
 18 **which and the time and place at which such absent electors**
 19 **may vote, and for the return and canvass of their votes.**
 20 **Notwithstanding the foregoing provisions, after January**
 21 **first, one thousand nine hundred and twenty-two, no person**
 22 **shall become entitled to vote by attaining majority, by natu-**
 23 **ralization or otherwise, unless such person is also able, except**
 24 **for physical disability, to read and write English; and suit-**
 25 **able laws shall be passed by the legislature to enforce this**
 26 **provision.**

Soldier and
sailor vote
in war time

Ability to
read and
write
English
prerequi-
site;
exception

Source

Const. 1777, Art. VII; amended, Const. 1821, Art. II, § 1; amended, 1826;² amended, Const. 1846, Art. II, § 1; amended, 1864;³ amended, 1874;⁴ amended, Const. 1894, Art. II, § 1; amended, 1917;⁵ amended, 1921.⁶

Historical References

For a discussion of the meaning of the term "suffrage," and a history of the limitations upon the right of suffrage in this state down to and under the Constitution of 1821, see Lincoln I:640-668 and Dougherty, 43, 50, 210-211. For special reference to the limitations upon the right to vote for senators, see Lincoln I:643-652 and

² For the text of the constitutional amendment of 1826, see Part II, p. 41.

³ For the text of the constitutional amendment of 1864, adding the provision relating to the right of soldiers to vote while absent from home, see Part II, pp. 47-48. For the history of the movement leading up to this constitutional amendment and the legislation in connection with this subject, see Lincoln II:235-240.

⁴ For the text of the constitutional amendment of 1874, see Part II, p. 84.

⁵ For the text, legislative history, and action of the people on the 1917 amendment, see Part IV, p. 64.

⁶ For the text, legislative history, and action of the people on the 1921 amendment, see Part IV, p. 68.

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Dougherty, 50, 210; and to the limitations upon the colored vote, see Lincoln I:652-666.

For a discussion of the qualifications of voters on questions submitted, including the history of the Constitutional Amendment of 1874 adding the words "and upon all questions which may be submitted to the vote of the people," see Lincoln II:480-481 and IV:185-191.

For history of woman suffrage in this state from 1848 to 1905, see Lincoln II:305-313.

For a historical discussion of literacy tests and a comment on the New York State requirement, see Crawford, *The New York State Literacy Test*, (1923) 17 American Political Science Review, 260-263; Crawford, *The New York State Literacy Test*, (1925) 19 American Political Science Review, 788-790.

References to constitutional conventions and commissions.

1821. Qualifications generally: Lincoln I:666-667, Dougherty, 111, 113-114 and note 114, 138, 211; qualifications of colored voters: Lincoln I:661-667, Dougherty, 111-112; qualifications of voters for senators: Lincoln I:643-652, Dougherty, 113, 210.

1846. Qualifications generally: Lincoln II:118-119, Dougherty, 211; citizenship qualifications: Lincoln II:123-125; qualifications of colored voters: Lincoln II:119-123, 212-213, Dougherty, 169; educational qualifications: Lincoln II:125-126; residence qualifications: Lincoln II:125.

1867. Qualifications generally: Lincoln II:294-301, Dougherty, 207-208; citizenship qualifications: Lincoln II:303; qualifications of colored voters: Lincoln II:314-317, Dougherty, 206-209, 223; educational qualifications: Lincoln II:304-305, Dougherty, 206, 209-210; qualifications on questions submitted: Lincoln IV:185-191; residence qualifications: Lincoln II:301-303; woman suffrage: Lincoln II:305-313, Dougherty, 206-210.

1872. Qualifications on questions submitted: Lincoln II:480-481; woman suffrage: Dougherty, 229.

1894. Citizenship qualifications: Lincoln III:74-80, Dougherty, 354; woman suffrage: Lincoln III:80-84, Dougherty, 349.

Legislative Documents

Recommendation of proposed amendments to this section in relation to: Woman suffrage: Leg. Doc. Assembly (1913) No. 2, p. 8.

Discussion of merits of literacy test and aid given by the Vocational and Extension Education Division to those taking test: Leg. Doc. (1925) No. 18, pp. 10-11, 177.

Debates of Constitutional Conventions

1821. Qualifications generally: 178-183 (Sept. 19); qualification of color: 183-202 (Sept. 19-20), 364-365 (Oct. 6), 369-370 (Oct. 6), 374-377 (Oct. 8); military service qualification: 210-214 (Sept. 21), 271-287 (Sept. 26-28); property qualification: 357-364 (Oct. 6), 676 (Appendix); residence qualification: 210-214 (Sept. 21);

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- qualifications for voters for senators: 215-231 (Sept. 22), 234-270 (Sept. 24-25); paying highway tax: 366-368 (Oct. 6); working on highways: 271-287 (Sept. 26-28).
1846. Qualifications generally: 81-85 (June 11), 1013-1020 (Sept. 30); citizenship qualification, 81-85 (June 11); qualification of color: 1026-1036 (Oct. 1), 1042-1043 (Oct. 2), 1045-1048 (Oct. 2), 1078-1079 (Oct. 9); educational qualifications: 1066 (Oct. 6); naturalization qualification: 105-106 (June 15); residence qualification: 1036-1037, 1043-1045 (Oct. 1-2).
1867. Qualifications generally: I:199-214, 219-232, 513-514, 517-519; age, I:489-491, 540-541; citizenship qualification: I:531-533, 542-543, 546; qualification of color: I:235-249, 253-264, 266-283, 290-302, 310-348, 380-391, 417-427, 453-454, 462-465, 496-501, 528-531, 542; educational qualifications: I:491-496, 549-550, V:3560-3561, 3563-3564; paying poll tax: III:1946-1947; qualifications on questions submitted: I:548-549; residence qualifications: I:533-536; woman suffrage: I:126-127, 364-391, 427-444, 454-462, 465-470, 537-540, 547, V:3562-3563.
1894. Qualifications generally: II:165-166 (II:713), IV:461-478 (V:2220-2229); citizenship qualification: I:618-637 (I:319-329), III:933-941 (IV:1800-1805); woman suffrage: I:6 (I:7), II:45-47 (II:647-648), 193-223 (II:727-743), 268-303 (II:769-788), 405-446 (II:843-865), 491-552 (II:887-925).
1915. Literacy test: III:2999-3020, 3022-3055, 3151-3168; woman suffrage: I:53-54.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 8-401 (Int. 8), 21, 31, 45, 57, 60, 100-400 (Int. 100),⁷ 106, 118, 121, 143, 150, 177 (Int. 176), 195 (Int. 194), 224 (Int. 222), 226 (Int. 224), 234 (Int. 232), 301 (Int. 297), 340 (Int. 331).

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the convention: Pr. Nos. 35, 140, 171, 227, 274, 290, 298, 357, 390, 451, 566, 611, 670, 679, 695, 752, 776, 821.

In the legislature, 1895-1937: see Part IV, pp. 53-75.

Absentee
voting

- 1 § 1-a. The legislature may, by general law, provide a man-
- 2 ner in which, and the time and place at which, qualified voters
- 3 who may, on the occurrence of any general election, be un-
- 4 avoidably absent from the state or county of their residence

⁷ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article II, § 2

5 because they are inmates of a soldiers' and sailors' home or
 6 of a United States veterans' bureau hospital, or because their
 7 duties, occupation or business require them to be elsewhere
 8 within the United States, may vote, and for the return and
 9 convass * of their votes in the election district in which they
 10 respectively reside.⁸

Source

Added, 1919;⁹ amended, 1923;¹⁰ amended, 1929.¹¹

Legislative Documents

Recommendation of proposed amendment to this section enabling veterans in Veterans' Hospitals to vote as absentees: Leg. Doc. (1929) No. 3, p. 12.

Debates of Constitutional Conventions

1915. Absentee voting: I:895-918.

Texts of Proposed Amendments

In the legislature, 1895-1937: see Part IV, pp. 75-79.

1 § 2. No person who shall receive, accept, or offer to re-
 2 ceive, or pay, offer or promise to pay, contribute, offer or
 3 promise to contribute to another, to be paid or used, any
 4 money or other valuable thing as a compensation or reward
 5 for the giving or withholding a vote at an election, or who
 6 shall make any promise to influence the giving or withhold-
 7 ing any such vote, or who shall make or become directly or
 8 indirectly interested in any bet or wager depending upon
 9 the result of any election, shall vote at such election; and
 10 upon challenge for such cause, the person so challenged,
 11 before the officers authorized for that purpose shall receive
 12 his vote, shall swear or affirm before such officers that he has
 13 not received or offered, does not expect to receive, has not
 14 paid, offered or promised to pay, contributed, offered or

Persons
 excluded
 from right
 of suffrage

* So in session law.

⁸ For references pertinent to this section, see Historical References to section 3 of this Art.

⁹ For the text, legislative history, and action of the people on the 1919 amendment, see Part IV, pp. 75-76.

¹⁰ For the text, legislative history, and action of the people on the 1923 amendment, see Part IV, pp. 76-77.

¹¹ For the text, legislative history, and action of the people on the 1929 amendment, see Part IV, p. 78.

Article II, § 3

15 promised to contribute to another, to be paid or used, any
 16 money or other valuable thing as a compensation or reward
 17 for the giving or withholding a vote at such election, and has
 18 not made any promise to influence the giving or withholding
 19 of any such vote, nor made or become directly or indirectly
 20 interested in any bet or wager depending upon the result of
 21 such election. The Legislature shall enact laws excluding
 22 from the right of suffrage all persons convicted of bribery
 23 or of any infamous crime.

Source

Const. 1821, Art. II, § 2; amended, Const. 1846, Art. II, § 2; amended,
 1874;¹² amended, Const. 1894, Art. II, § 2.

Historical References

References to constitutional conventions and commissions.

1867. Disqualifications: Lincoln II:303-304.

1872. Bribery at elections: Lincoln II:481-482; Dougherty, 229.

1894. Bribery, generally and at elections: Lincoln III:84-85.

Debates of Constitutional Conventions

1867. Disqualifications: I:136, 470-485, 487-489, 515-517, 547-551,
 555-568; bribery generally: I:501-508; bribery at elections: I:501-
 508, V:3565-3569; deserters: I:519-527, 562-563; idiots and luna-
 tics: I:559-560; rebels: I:519-527, 553-554.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional
 Amendments, Overtures Nos. 29, 157.

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the convention: Pr. Nos.
 611, 668, 752.

Voting
 residence

1 § 3. For the purpose of voting, no person shall be deemed
 2 to have gained or lost a residence, by reason of his presence
 3 or absence, while employed in the service of the United States;
 4 nor while engaged in the navigation of the waters of this
 5 State, or of the United States, or of the high seas; nor while
 6 a student of any seminary of learning; nor while kept at any
 7 alms-house, or other asylum, or institution wholly or partly

¹² For the text of the constitutional amendment of 1874, see Part II,
 pp. 84-85.

Article II, § 4

8 supported at public expense, or by charity; nor while confined
9 in any public prison.

Source

Const. 1846, Art. II, § 3; amended, Const. 1894, Art. II, § 3.

Historical References

For purpose of the amendment to this section made by the Constitution of 1894, see Lincoln III:85-87.

Reference to constitutional conventions and commissions.

1894. Lincoln III:85-91.

Debates of Constitutional Conventions

1867. I:568-570; V:3569-3570.

1894. II:866-884 (III:1094-1103); IV:416-420 (V:2196-2198).

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 119-399 (Int. 119),¹³ 138, 159, 251 (Int. 249), 343 (Int. 334).

In the legislature, 1895-1937: see Part IV, pp. 79-81.

1 § 4. Laws shall be made for ascertaining, by proper ^{Registration}
2 proofs, the citizens who shall be entitled to the right of ^{of}
3 suffrage hereby established, and for the registration of ^{voters}
4 voters; which registration shall be completed at least ten
5 days before each election. Such registration shall not be
6 required for town and village elections except by express
7 provision of law. In cities and villages having five thousand
8 inhabitants or more, voters shall be registered upon personal
9 application only; but voters not residing in such cities or
10 villages shall not be required to apply in person for registra-
11 tion at the first meeting of the officers having charge of the
12 registry of voters. The number of such inhabitants shall be
13 determined according to the latest census or enumeration,
14 federal or state, showing the population of the city or vil-
15 lage, except that the federal census shall be controlling unless
16 such state enumeration, if any, shall have been taken and
17 returned two or more years after the return of the preceding
18 federal census.¹⁴

¹³ This overture was adopted by the Convention and accordingly became a part of the Constitution.

¹⁴ On compulsory voting, see: Lincoln (1894) III:131-133, Convention debates (1894) I:1058-1100 (II:566-578). For other references pertinent to this section, see footnote 1, under the title, Suffrage.

Article II, § 4

Source

Const. 1821, Art. II, § 3; Const. 1846, Art. II, § 4; amended, Const. 1894, Art. II, § 4; amended, 1931.¹⁵

Historical References

For historical statement relative to the requirement of registration of voters in this state from 1821 to 1894, see Lincoln III:91-102.

References to constitutional conventions and commissions.

1821. Lincoln I:667-668.

1867. Lincoln II:296, 304.

1872. Dougherty, 230.

1894. Lincoln III:102-108; Dougherty, 354.

Legislative Documents

Recommendations and discussions of proposed amendments to this section in relation to:

Electoral reforms: Leg. Doc. Senate (1913) No. 2, pp. 7-8.

Requirement of personal registration throughout state: Leg. Doc. Assembly (1911) No. 2, pp. 11-12; Leg. Doc. (1936) No. 3, pp. 17-18.

Substitution of enumeration of federal census for state census as basis for registration of voters: Leg. Doc. (1926) No. 3, p. 48; Leg. Doc. (1928) No. 3, p. 91; Leg. Doc. (1929) No. 3, p. 12; Leg. Doc. (1931) No. 3, p. 12.

Direct nominations, primary elections, personal registration and simplified ballot: Leg. Doc. Assembly (1911) No. 2, pp. 11-12; Leg. Doc. Senate (1913) No. 2, pp. 7-8.

Debates of Constitutional Conventions

1821. 203-204 (Sept. 20), 370-374 (Oct. 8).

1867. I:508-513, 570-605, 616-624; V:3570-3585.

1894. III:942-950 (IV:1805-1809); IV:99-122 (V:2032-2044); IV:716-724 (V:2366-2371).

1915. Regulation of registration, absentee registration: I:895-918, II:1249-1250, 1587-1605, 1788-1789, 1801-1822, IV:3628-3632, 3738-3751.

Documents of 1915 Constitutional Convention

Personal registration: Doc. 37.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 64-316 (Int. 64), 109, 187 (Int. 186), 241 (Int. 239), 255-402 (Int. 253),¹⁶ 291 (Int. 287), 334 (Int. 326).

¹⁵ For the text, legislative history, and action of the people on the 1931 amendment, see Part IV, pp. 93-94.

¹⁶ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article II, § 5

In the Constitutional Convention of 1915:

Amendment adopted by the convention: Pr. No. 844. See Part IV, pp. 92-93.

Amendments proposed but not adopted by the convention: Pr. Nos. 142, 165, 298, 468, 507, 667, 695, 729, 742, 745.

In the legislature, 1895-1937: see Part IV, pp. 81-97.

1 § 5. All elections by the citizens, except for such town ^{Manner}
 2 officers as may by law be directed to be otherwise chosen, of voting
 3 shall be by ballot, or by such other method as may be pre-
 4 scribed by law, provided that secrecy in voting be preserved.

Source

Const. 1777, Art. VI; amended, Const. 1821, Art. II, § 4; Const. 1846, Art. II, § 5; amended, Const. 1894, Art. II, § 5.

Historical References

For historical statement on the method of voting in this state from 1777 to 1894, see *Lincoln* I:667-668 and III:108-109.

References to constitutional conventions and commissions.

1777. *Lincoln* I:507-514, 667.

1821. *Lincoln* I:668.

1894. *Lincoln* III:108-114; Dougherty, 354.

Legislative Documents

Recommendations and discussions of proposed amendment to this section in relation to adoption of short ballot: *Leg. Doc. Assembly* (1911) No. 2, pp. 11-12; *Leg. Doc. Senate* (1913) No. 2, pp. 7-8.

Debates of Constitutional Conventions

1821. 205-206 (Sept. 21).

1867. I:605-606.

1894. I:917-928 (I:484-489), I:1173-1183 (II:616-620); III:82-105 (III:1324-1336); IV:431-448 (V:2205-2213).

Documents of 1915 Constitutional Convention

Nomination by convention: Doc. 37.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see *Proposed Constitutional Amendments, Overtures* Nos. 98, 184-289-303-381 (Int. 183),¹⁷ 225 (Int. 223).

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the convention: Pr. Nos. 113, 135, 405, 729, 730, 745.

¹⁷ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article II, § 6

Bipartisan
election
boards

1 § 6. All laws creating, regulating or affecting boards or
2 officers charged with the duty of registering voters, or of
3 distributing ballots at the polls to voters, or of receiving,
4 recording or counting votes at elections, shall secure equal
5 representation of the two political parties which, at the
6 general election next preceding that for which such boards
7 or officers are to serve, cast the highest and the next highest
8 number of votes. All such boards and officers shall be ap-
9 pointed or elected in such manner, and upon the nomination
10 of such representatives of said parties respectively, as the
11 Legislature may direct. Existing laws on this subject shall
12 continue until the Legislature shall otherwise provide. This
13 section shall not apply to town meetings, or to village
14 elections.¹⁸

Exceptions

Source

New.

Historical References

For historical sketch of the development of the policy of bipartisan representation in the conduct of elections in this state from 1778 to 1894, see Lincoln III:114-127.

References to constitutional conventions and commissions.

1894. Lincoln III:127-131; Dougherty, 349, 354.

Legislative Documents

Recommendation and discussion of proposed amendment to this section in relation to change in partisan boards of election existing in Nassau, Oneida, Suffolk, Westchester, Niagara and Monroe counties: Leg. Doc. (1934) No. 3, p. 17.

Debates of Constitutional Conventions

1894. III:110-116 (III:1341-1344); III:244-272 (III:1412-1427); IV:536-545 (V:2263-2267).

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 260-317 (Int. 258),¹⁹ 331 (Int. 323.)

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 38, 228, 238, 298, 509, 695.

In the legislature, 1895-1937: see Part IV, pp. 97-98.

¹⁸ On bipartisan election boards in cities, see Art. XII, footnote 1. On prohibition of legislature from favoring any political party, see Art. III, footnote 23.

¹⁹ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article III, § 1

ARTICLE III¹

1 Section 1. The legislative power of this State shall be Legislative power
2 vested in the Senate and Assembly.²

Source

Const. 1777, Art. II; amended, Const. 1821, Art. I, § 1; amended, Const. 1846, Art. III, § 1; amended, Const. 1894, Art. III, § 1.

Historical References

For comment on this section, see Lincoln I:295 and IV:197-200.

References to constitutional conventions and commissions.

1777. Lincoln I:501-505.

¹ For references to the following subjects coming within the general scope of Art. III but not relating specifically to any particular section thereof, see: Attorneys, fees: Lincoln (1846) II:209, Convention debates (1846) 1013 (Sept. 30); attorneys, qualifications: Convention debates (1846) 779-780 (Aug. 3); impeachment: see Art. VI, § 10; intoxicating liquors, regulation of sale of: Lincoln (1872) II:385-386, 475-476, (1894) III:299-300 (see also Lincoln II:230, 665-667), Convention debates (1867) III:2274-2275, IV:2791-2795, V:3265-3282, 3285-3297, 3666-3671, Convention debates (1894) II:87-91 (II:671-672), II:767-773 (III:1039-1043), II:791-797 (III:1053-1057); legislature's power of appointment, in general: Convention debates (1821) 599-600 (Nov. 1); legislature's power of appointment, certain officers not otherwise specified: see Art. X, § 2; legislature's power of appointment, certain vacancies: see Art. X, § 5; legislature's power of appointment, civil officers: Convention debates (1821) 302-307 (Oct. 1); legislature's power of removal, in general: Lincoln (1821) I:673-674, (1894) III:369, IV:554-590; legislature's power of removal, judges of court of appeals: see Art. VI, § 9; legislature's power of removal, justices of supreme court: see Art. VI, § 9; Niagara river, diversion of waters of: Convention debates (1894) III:808-874 (IV:1731-1767), IV:164-174 (V:2067-2072), IV:181-194 (V:2076-2083), IV:200-205 (V:2087-2090), IV:610-644 (V:2305-2325); pensions: see Art. V, footnote 15, and Art. XI, footnote 1; taxation, method of assessment: Convention debates (1867) V:3484-3500, 3757-3762; taxation, basis of: Convention debates (1867) III:2261-2263, 2265-2272, 2303-2340; taxation, county tax: see Art. VII, footnote 1; taxation, equalization of: Convention debates (1846) 86 (June 11), 969 (Sept. 25), 1068-1069 (Oct. 7); taxation, of mortgaged property: Convention debates (1846) 128-129 (June 22), 175-176 (June 27); taxation, of personal property: Lincoln (1867) II:359-361, Convention debates (1846) 118-123 (June 20), Convention debates (1867) III:1900-1910, 1919-1948, 1951-1954, 1978-1990, 2261-2263, 2265-2272; taxation, power of legislature over: Lincoln (1894) IV:308-309; taxation, of real property: Lincoln (1867) II:359-361, Convention debates (1867) III:1900-1910, 1919-1948, 1951-1954, 1978-1990 (see also Art. VII, footnote 1, under the title, Taxation); wills, power of legislature over: Lincoln (1894) IV:332.

Amendments coming within the general scope of Art. III, but not relating specifically to any particular section thereof, proposed but not adopted by the Constitutional Convention of 1915, are: Pr. Nos. 58, 69, 70, 92, 130, 162, 184, 196, 217, 248, 314, 322, 359, 393, 400, 433, 437, 441, 444, 463, 498, 504, 507, 535, 537, 539, 540, 562-564, 571, 589, 591, 595, 596, 599, 601, 602, 635, 638, 641, 648, 669, 686, 687, 689, 726, 733, 748, 750-753, 765, 772, 791, 808, 848.

² For references to the subject of initiative and referendum, see: Lincoln (1894) III:300-302, Convention debates (1894) II:797-817 (III:1057-1067), III:106-109 (III:1337-1338).

Article III, § 2

Debates of Constitutional Conventions

1915. Unicameral legislature: I:348-351.

Documents of 1915 Constitutional Convention

Abolition of power of court to declare laws unconstitutional: Doc. 17; initiative and referendum: Doc. 17; reasonableness in exercise of police power: Doc. 22; delegation of legislative power in matters affecting employees: Doc. 30; prohibition of manufacture in tenements: Doc. 31.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 18, 219 (Int. 217), 292 (Int. 288).

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 41, 58, 121, 186, 196, 204, 232, 253, 303, 399, 400, 433, 498, 504, 569, 571, 572, 573, 589, 655, 676, 689, 701, 718, 720, 751, 752, 765, 791.

In the legislature, 1895-1937: see Part IV, pp. 99-111.

Senators
and assem-
blymen;
number
and terms

1 § 2. The senate shall consist of fifty members, except as
2 hereinafter provided. The senators elected in the year one
3 thousand eight hundred and ninety-five shall hold their offices
4 for three years, and their successors shall be chosen for two
5 years. The assembly shall consist of one hundred and fifty
6 members. The assemblymen elected in the year one thousand
7 nine hundred and thirty-eight, and their successors, shall be
8 chosen for two years.

Source

Senate: Const. 1777, Art. X; amended, 1801;³ amended, Const. 1821, Art. I, § 2; amended, Const. 1846, Art. III, § 2; amended, Const. 1894, Art. III, § 2.

Assembly: Const. 1777, Art. IV; amended, 1801; amended, Const. 1821, Art. I, § 2; amended, Const. 1846, Art. III, § 2; amended, Const. 1894, Art. III, § 2; amended, 1937.⁴

Historical References

For brief explanation of this section, see Lincoln IV:334; for historical comment on this section, see Dougherty, 354.

³ For the text of the constitutional amendment of 1801, see Part II, p. 22.

⁴ For the text, legislative history, and action of the people on the 1937 amendment, see Part IV, p.

Article III, § 2

References to constitutional conventions and commissions.

1777. Composition of legislature generally: Dougherty, 50-51; number of members of assembly: Dougherty, 214.
 1801. Number of members of assembly: Dougherty, 214.
 1821. Composition of legislature generally: Lincoln I:638, 672, Dougherty, 113-114; number of members of assembly: Dougherty, 214.
 1846. Lincoln II:126-129; Dougherty, 169.
 1867. Lincoln II:318-320; Dougherty, 227; senate term: Dougherty, 211, 213; number of members of assembly: Dougherty, 214.
 1872. Lincoln II:483-487; senate term; Dougherty, 230.
 1894. Lincoln IV:334; Dougherty, 348-349, 354-355; number of members of assembly: Dougherty, 214, note.

Legislative Documents

Recommendations and discussions of proposed amendments to this section in relation to:

- Two-year term for assemblymen: Leg. Doc. (1926) No. 3, p. 45; Leg. Doc. (1935) No. 3, p. 10; Leg. Doc. (1936) No. 3, p. 17.
 Four-year term for senators: Leg. Doc. (1926) No. 3, p. 45.
 Biennial sessions of legislature: Leg. Doc. Assembly (1899) No. 2, p. 21; Leg. Doc. (1927) No. 3, p. 11; Leg. Doc. (1928) No. 3, p. 95.

Debates of Constitutional Conventions

1821. 398-416 (Oct. 11-12).
 1846. Senators, number and terms: 373-383 (July 21), 395-408 (July 23), 455-458 (July 29); rotation in office: 415-419 (July 24), 464-465 (July 30); assemblymen, number and terms: 373-383 (July 21).
 1867. Senators, number: II:875; assemblymen, number: I:304-306.
 1894. Senators and assemblymen, number and terms: III:343-348 (III:1467-1470); IV:644-694 (V:2325-2354).
 1915. Senators and assemblymen, number: IV:3955-3956, 3990-3999.

Documents of 1915 Constitutional Convention

Terms of senators: Doc. 17.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 13, 32, 83, 91, 103, 219 (Int. 217), 229 (Int. 227), 280 (Int. 278), 292 (Int. 288), 359 (Int. 350), 404-454 (Int. 376).⁵

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 869. See Part IV, p. 122.

Amendments proposed but not adopted by the Convention: Pr. Nos. 30, 32, 47, 93, 135, 166, 246, 279, 303, 429, 471, 615, 642, 723.

In the legislature, 1895-1937: see Part IV, pp. 111-123.

⁵ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article III, § 3

- Senate districts 1 § 3. The State shall be divided into fifty districts ⁶ to be
2 called senate districts, each of which shall choose one sena-
3 tor. The districts shall be numbered from one to fifty, in-
4 clusive.
- Dist. No. 1 5 District number one (1) shall consist of the counties of
6 Suffolk and Richmond.
- Dist. No. 2 7 District number two (2) shall consist of the county of
8 Queens.
- Dist. No. 3 9 District number three (3) shall consist of that part of the
10 county of Kings comprising the first, second, third, fourth,
11 fifth and sixth wards of the city of Brooklyn.
- Dist. No. 4 12 District number four (4) shall consist of that part of the
13 county of Kings comprising the seventh, thirteenth, nine-
14 teenth and twenty-first wards of the city of Brooklyn.
- Dist. No. 5 15 District number five (5) shall consist of that part of the
16 county of Kings comprising the eighth, tenth, twelfth and
17 thirtieth wards of the city of Brooklyn, and the ward of the
18 city of Brooklyn which was formerly the town of Gravesend.
- Dist. No. 6 19 District number six (6) shall consist of that part of the
20 county of Kings comprising the ninth, eleventh, twentieth
21 and twenty-second wards of the city of Brooklyn.
- Dist. No. 7 22 District number seven (7) shall consist of that part of the
23 county of Kings comprising the fourteenth, fifteenth, six-
24 teenth and seventeenth wards of the city of Brooklyn.
- Dist. No. 8 25 District number eight (8) shall consist of that part of the
26 county of Kings comprising the twenty-third, twenty-fourth,
27 twenty-fifth and twenty-ninth wards of the city of Brook-
28 lyn, and the town of Flatlands.
- Dist. No. 9 29 District number nine (9) shall consist of that part of the
30 county of Kings comprising the eighteenth, twenty-sixth,
31 twenty-seventh and twenty-eighth wards of the city of
32 Brooklyn.
- Dist. No. 10 33 District number ten (10) shall consist of that part of the
34 county of New York within and bounded by a line beginning
35 at Canal street and the Hudson river, and running thence
36 along Canal street, Hudson street, Dominick street, Varick
37 street, Broome street, Sullivan street, Spring street, Broad-
38 way, Canal street, the Bowery, Division street, Grand street

⁶ Superseded in effect, by the apportionment made by L. 1917, ch. 798; *cf.* § 4 of this Art.

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39 and Jackson street, to the East river and thence around the
40 southern end of Manhattan Island, to the place of begin-
41 ning, and also Governor's, Bedlow's and Ellis islands.

42 District number eleven (11) shall consist of that part of ^{Dist. No. 11}
43 the county of New York lying north of district number ten,
44 and within and bounded by a line beginning at the junction
45 of Broadway and Canal street, and running thence along
46 Broadway, Fourth street, the Bowery and Third avenue, St.
47 Mark's place, Avenue A, Seventh street, Avenue B, Clinton
48 street, Rivington street, Norfolk street, Division street, Bow-
49 ery and Canal street, to the place of beginning.

50 District number twelve (12) shall consist of that part of ^{Dist. No. 12}
51 the county of New York lying north of districts numbers ten
52 and eleven, and within and bounded by a line beginning at
53 Jackson street and the East river, and running thence
54 through Jackson street, Grand street, Division street, Nor-
55 folk street, Rivington street, Clinton street, Avenue B, Sev-
56 enth street, Avenue A, St. Mark's place, Third avenue, East
57 Fourteenth street to the East river, and along the East
58 river, to the place of beginning.

59 District number thirteen (13) shall consist of that part of ^{Dist. No. 13}
60 the county of New York lying north of district number ten,
61 and within and bounded by a line beginning at the Hudson
62 river at the foot of Canal street, and running thence along
63 Canal street, Hudson street, Dominick street, Varick street,
64 Broome street, Sullivan street, Spring street, Broadway,
65 Fourth street, the Bowery and Third avenue, Fourteenth
66 street, Sixth avenue, West Fifteenth street, Seventh avenue,
67 West Nineteenth street, Eighth avenue, West Twentieth
68 street, and the Hudson river, to the place of beginning.

69 District number fourteen (14) shall consist of that part of ^{Dist. No. 14}
70 the county of New York lying north of districts numbers
71 twelve and thirteen, and within and bounded by a line be-
72 ginning at East Fourteenth street and the East river, and
73 running thence along East Fourteenth street, Irving place,
74 East Nineteenth street, Third avenue, East Twenty-third
75 street, Lexington avenue, East Fifty-third street, Third
76 avenue, East Fifty-second street, and the East river, to the
77 place of beginning.

78 District number fifteen (15) shall consist of that part of ^{Dist. No. 15}

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79 the county of New York lying north of district number thir-
80 teen, and within and bounded by a line beginning at the
81 junction of West Fourteenth street and Sixth avenue, and
82 running thence along Sixth avenue, West Fifteenth street,
83 Seventh avenue, West Fortieth street, Eighth avenue, and
84 the transverse road across Central park at Ninety-seventh
85 street, Fifth avenue, East Ninety-sixth street, Lexington
86 avenue, East Twenty-third street, Third avenue, East Nine-
87 teenth street, Irving place and Fourteenth street, to the
88 place of beginning.

Dist. No. 16

89 District number sixteen (16) shall consist of that part of
90 the county of New York lying north of district number thir-
91 teen, and within and bounded by a line beginning at Seventh
92 avenue and West Nineteenth street, and running thence
93 along West Nineteenth street, Eighth avenue, West Twen-
94 tieth street, the Hudson river, West Forty-sixth street, Tenth
95 avenue, West Forty-third street, Eighth avenue, West For-
96 tieth street and Seventh avenue, to the place of beginning.

Dist. No. 17

97 District number seventeen (17) shall consist of that part
98 of the county of New York lying north of district number
99 sixteen, and within and bounded by a line beginning at the
100 junction of Eighth avenue and West Forty-third street, and
101 running thence along West Forty-third street, Tenth avenue,
102 West Forty-sixth street, the Hudson river, West Eighty-
103 ninth street, Tenth or Amsterdam avenue, West Eighty-sixth
104 street, Ninth or Columbus avenue, West Eighty-first street
105 and Eighth avenue, to the place of beginning.

Dist. No. 18

106 District number eighteen (18) shall consist of that part of
107 the county of New York lying north of district number four-
108 teen, and within and bounded by a line beginning at the
109 junction of East Fifty-second street and the East river, and
110 running thence along East Fifty-second street, Third ave-
111 nue, East Fifty third street, Lexington avenue, East Eighty
112 fourth street, Second avenue, East Eighty third street and
113 the East river, to the place of beginning; and also Black-
114 well's island.

Dist. No. 19

115 District number nineteen (19) shall consist of that part of
116 the county of New York lying north of district number sev-
117 enteen, and within and bounded by a line beginning at West
118 Eighty-ninth street and the Hudson river, and running

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119 thence along the Hudson river and Spuyten Duyvil creek
120 around the northern end of Manhattan island; thence south-
121 erly along the Harlem river to the north end of Fifth ave-
122 nue; thence along Fifth avenue, East One Hundred and
123 Twenty-ninth street, Fourth or Park avenue, East One Hun-
124 dred and Tenth street, Fifth avenue, the transverse road
125 across Central park at Ninety-seventh street, Eighth avenue,
126 West Eighty-first street, Ninth or Columbus avenue, West
127 Eighty sixth street, Tenth or Amsterdam avenue and West
128 Eighty-ninth street, to the place of beginning.

129 District number twenty (20) shall consist of that part Dist. No. 20
130 the county of New York lying north of districts numbers
131 eighteen and fifteen, and within and bounded by a line be-
132 ginning at East Eighty-third street and the East river, run-
133 ning thence through East Eighty-third street, Second avenue,
134 East Eighty-fourth street, Lexington avenue, East Ninety-
135 sixth street, Fifth avenue, East One Hundred and Tenth
136 street, Fourth or Park avenue, East One Hundred and Nine-
137 teenth street to the Harlem river, and along the Harlem and
138 East rivers, to the place of begining*; and also Randall's
139 island and Ward's island.

140 All of the above districts in the county of New York
141 bounded upon or along the boundary waters of the county,
142 shall be deemed to extend to the county line.

143 District number twenty one (21) shall consist of that part Dist. No. 21
144 of the county of New York lying north of districts numbers
145 nineteen and twenty, within and bounded by a line begin-
146 ning at East One Hundred and Nineteenth street and the
147 Harlem river, and running thence along East One Hundred
148 and Nineteenth street, Fourth or Park avenue, One Hundred
149 and Twenty-ninth street, Fifth avenue and the Harlem river,
150 to the place of beginning; and all that part of the county of
151 New York not hereinbefore described.

152 District number twenty-two (22) shall consist of the Dist. No. 22
153 county of Westchester.

154 District number twenty-three (23) shall consist of the Dist. No. 23
155 counties of Orange and Rockland.

* So in original.

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- Dist. No. 24 156 District number twenty-four (24) shall consist of the
157 counties of Dutchess, Columbia and Putnam.
- Dist. No. 25 158 District number twenty-five (25) shall consist of the coun-
159 ties of Ulster and Greene.
- Dist. No. 26 160 District number twenty-six (26) shall consist of the coun-
161 ties of Delaware, Chenango and Sullivan.
- Dist. No. 27 162 District number twenty-seven (27) shall consist of the
163 counties of Montgomery, Fulton, Hamilton and Schoharie.
- Dist. No. 28 164 District number twenty-eight (28) shall consist of the
165 counties of Saratoga, Schenectady and Washington.
- Dist. No. 29 166 District number twenty-nine (29) shall consist of the
167 county of Albany.
- Dist. No. 30 168 District number thirty (30) shall consist of the county of
169 Rensselaer.
- Dist. No. 31 170 District number thirty-one (31) shall consist of the coun-
171 ties of Clinton, Essex and Warren.
- Dist. No. 32 172 District number thirty-two (32) shall consist of the coun-
173 ties of St. Lawrence and Franklin.
- Dist. No. 33 174 District number thirty-three (33) shall consist of the coun-
175 ties of Otsego and Herkimer.
- Dist. No. 34 176 District number thirty-four (34) shall consist of the
177 county of Oneida.
- Dist. No. 35 178 District number thirty-five (35) shall consist of the coun-
179 ties of Jefferson and Lewis.
- Dist. No. 36 180 District number thirty-six (36) shall consist of the county
181 of Onondaga.
- Dist. No. 37 182 District number thirty-seven (37) shall consist of the
183 counties of Oswego and Madison.
- Dist. No. 38 184 District number thirty-eight (38) shall consist of the coun-
185 ties of Broome, Cortland and Tioga.
- Dist. No. 39 186 District number thirty-nine (39) shall consist of the coun-
187 ties of Cayuga and Seneca.
- Dist. No. 40 188 District number forty (40) shall consist of the counties
189 of Chemung, Tompkins and Schuyler.
- Dist. No. 41 190 District number forty-one (41) shall consist of the coun-
191 ties of Steuben and Yates.
- Dist. No. 42 192 District number forty-two (42) shall consist of the coun-
193 ties of Ontario and Wayne.
- Dist. No. 43 194 District number forty three (43) shall consist of that part
195 of the county of Monroe comprising the towns of Brighton,

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196 Henrietta, Irondequoit, Mendon, Penfield, Perinton, Pitts-
 197 ford, Rush and Webster, and the fourth, sixth, seventh,
 198 eighth, twelfth, thirteenth, fourteenth, sixteenth, seventeenth
 199 and eighteenth wards of the city of Rochester, as at present
 200 constituted.

201 District number forty-four (44) shall consist of that part Dist. No. 44
 202 of the county of Monroe comprising the towns of Chili,
 203 Clarkson, Gates, Greece, Hamlin, Ogden, Parma, Riga,
 204 Sweden and Wheatland, and the first, second, third, fifth,
 205 ninth, tenth, eleventh, fifteenth, nineteenth and twentieth
 206 wards of the city of Rochester, as at present constituted.

207 District number forty-five (45) shall consist of the coun- Dist. No. 45
 208 ties of Niagara, Genesee and Orleans.

209 District number forty-six (46) shall consist of the counties Dist. No. 46
 210 of Allegany, Livingston and Wyoming.

211 District number forty-seven (47) shall consist of that part Dist. No. 47
 212 of the county of Erie comprising the first, second, third,
 213 sixth, fifteenth, nineteenth, twentieth, twenty-first, twenty-
 214 second, twenty-third and twenty-fourth wards of the city of
 215 Buffalo, as at present constituted.

216 District number forty-eight (48) shall consist of that part Dist. No. 48
 217 of the county of Erie comprising the fourth, fifth, seventh,
 218 eighth, ninth, tenth, eleventh, twelfth, thirteenth, four-
 219 teenth and sixteenth wards of the city of Buffalo, as at pres-
 220 ent constituted.

221 District number forty-nine (49) shall consist of that part Dist. No. 49
 222 of the county of Erie comprising the seventeenth, eighteenth
 223 and twenty-fifth wards of the city of Buffalo, as at present
 224 constituted; and all the remainder of the said county of
 225 Erie not hereinbefore described.

226 District number fifty (50) shall consist of the counties of Dist. No. 50
 227 Chautauqua and Cattaraugus.

Source

Const. 1777, Art. XII; amended, 1801;⁷ amended, Const. 1821, Art. I,
 § 5; amended, Const. 1846, Art. III, § 3; amended, Const. 1894,
 Art. III, § 3.

⁷ For the text of the constitutional amendment of 1801, see Part II, p. 22.

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Historical References

For an exhaustive historical and statistical statement (including tables of population and apportionments) of the senate apportionments in this state from 1777 to 1905, consult the following references:

Under the first Constitution, 1777: Lincoln III:168-175, IV:341-342.

Under the second Constitution, 1821: Lincoln III:175-181, IV:342.

Under the third Constitution, 1846: Lincoln III:181-192, IV:342.

The apportionment of 1892: Lincoln III:192-204.

The apportionment of 1894: Lincoln III:204-230, IV:342-344.

The apportionment of 1917: Laws of 1917, chapter 798.

References to constitutional conventions and commissions.

1777. Lincoln I:517-522; Dougherty, 51.

1821. Lincoln I:638-639; Dougherty, 114.

1846. Lincoln II:127; Dougherty, 169.

1867. Lincoln II:317-319; Dougherty, 211-213, 227.

1872. Dougherty, 230.

1894. Lincoln III:206-229, IV:342-345.

Legislative Documents

Discussion relating to reapportionment of legislative districts: Leg. Doc. (1934) No. 3, pp. 17-18.

Debates of Constitutional Conventions

1821. 418-419 (Oct. 13), 428-430 (Oct. 15), 466-478 (Oct. 18), 559-560 (Oct. 29).

1846. 419-422 (July 24), 430-431 (July 27), 458-461 (July 29), 465-468 (July 30).

1867. I:675-699, 702-716, 748-749, 758-789; II:819-848, 869-873; V:3586-3588, 3678-3682, 3866-3867.

1894. III:343-348 (III:1467-1471); III:987-1215 (IV:1830-1964); III:1223-1242 (IV:1969-1979); IV:6-37 (IV:1982-1999); IV:48-56 (IV:2004-2009); IV:78-96 (V:2021-2030); IV:644-694 (V:2325-2354).

1915. I:426-430, 481-495.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 132, 219 (Int. 217), 229 (Int. 227), 292 (Int. 288), 359 (Int. 350), 404-454 (Int. 376).³

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 869. See Part IV, p. 130.

Amendments proposed but not adopted by the Convention: Pr. Nos. 232, 279, 396, 507, 723.

In the legislature, 1895-1937: see Part IV, pp. 129-130.

³ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article III, § 4

1 § 4. Except as herein otherwise provided, the federal
 2 census taken in the year nineteen hundred thirty and each
 3 federal census taken decennially thereafter shall be control-
 4 ling as to the number of inhabitants in the state or any part
 5 thereof for the purposes of the apportionment of members
 6 of assembly and readjustment or alteration of senate and
 7 assembly districts next occurring, in so far as such census
 8 and the tabulation thereof purport to give the information
 9 necessary therefor. The legislature, by law, shall provide for
 10 the making and tabulation by state authorities of an enumer-
 11 ation of the inhabitants of the entire state to be used for such
 12 purposes, instead of a federal census, if the taking of a fed-
 13 eral census in any tenth year from the year nineteen hundred
 14 thirty be omitted or if the federal census fails to show the
 15 number of aliens or Indians not taxed. If a federal census,
 16 though giving the requisite information as to the state at
 17 large, fails to give the information as to any civil or terri-
 18 torial divisions which is required to be known for such pur-
 19 poses, the legislature, by law, shall provide for such an
 20 enumeration of the inhabitants of such parts of the state
 21 only as may be necessary, which shall supersede in part the
 22 federal census and be used in connection therewith for such
 23 purposes. The legislature, by law, may provide in its dis-
 24 cretion for an enumeration by state authorities of the inhabi-
 25 tants of the state, to be used for such purposes, in place of a
 26 federal census, when the return of a decennial federal census
 27 is delayed so that it is not available at the beginning of the
 28 regular session of the legislature in the second year after
 29 the year nineteen hundred thirty or after any tenth year
 30 therefrom, or if an apportionment of members of assembly
 31 and reajstment* or alteration of senate districts is not made
 32 at or before such a session. At the regular session in the
 33 year nineteen hundred thirty-two, and at the first regular
 34 session after the year nineteen hundred forty and after
 35 each tenth year therefrom the senate districts shall be read-
 36 justed or altered, but if, any decade, counting from and
 37 including that which begins with the year nineteen hundred
 38 thirty-one, such a readjustment or alteration is not made at

Federal
census con-
trolling as
to number
of inhabi-
tants for
apportion-
ment

State enu-
meration;
when to
be used

Readjust-
ment of
senate
districts

* So in session law.

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39 the time above prescribed, it shall be made at a subsequent
 40 session occurring not later than the sixth year of such
 41 decade, meaning not later than nineteen hundred thirty-six,
 42 nineteen hundred forty-six, nineteen hundred fifty-six, and
 43 so on; provided, however, that if such districts shall have
 44 been readjusted or altered by law in either of the years nine-
 45 teen hundred thirty or nineteen hundred thirty-one, they shall
 46 remain unaltered until the first regular session after the
 47 year nineteen hundred forty. Such districts shall be so re-
 48 adjusted or altered that each senate district shall contain
 49 as nearly as may be an equal number of inhabitants, exclud-
 50 ing aliens, and be in as compact form as practicable, and
 51 shall remain unaltered until the first year of the next decade
 52 as above defined, and shall at all times consist of contigu-
 53 ous territory, and no county shall be divided in the forma-
 54 tion of a senate district except to make two or more senate
 55 districts wholly in such county. No town, and no block in
 56 a city enclosed by streets or public ways, shall be divided
 57 in the formation of senate districts; nor shall any district
 58 contain a greater excess in population over an adjoining
 59 district in the same county, than the population of a town
 60 or block therein adjoining such district. Counties, towns or
 61 blocks which, from their location, may be included in either
 62 of two districts, shall be so placed as to make said districts
 63 most nearly equal in number of inhabitants, excluding
 64 aliens.

65 No county shall have four or more senators unless it shall
 66 have a full ratio for each senator. No county shall have
 67 more than one-third of all the senators; and no two counties
 68 or the territory thereof as now organized, which are adjoin-
 69 ing counties, or which are separated only by public waters,
 70 shall have more than one-half of all the senators.

71 The ratio for apportioning senators shall always be ob-
 72 tained by dividing the number of inhabitants, excluding
 73 aliens, by fifty, and the senate shall always be composed of
 74 fifty members, except that if any county having three or
 75 more senators at the time of any apportionment shall be
 76 entitled on such ratio to an additional senator or senators,
 77 such additional senator or senators shall be given to such
 78 county in addition to the fifty senators, and the whole num-
 79 ber of senators shall be increased to that extent.

Manner of
readjust-
ment

Number of
senators in
counties

Ratio for
apportion-
ing sena-
tors

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80 The senate districts, including the present ones, as existing ^{Senate}
 81 immediately before the enactment of a law readjusting or ^{districts}
 82 altering the senate districts, shall continue to be the senate
 83 districts of the state until the expirations of the terms of the
 84 senators then in office, except for the purpose of an election
 85 of senators for full terms beginning at such expirations, and
 86 for the formation of assembly districts.

Source

Const. 1821, Art. I, § 6; amended, Const. 1846, Art. III, § 4; amended,
 Const. 1894, Art. III, § 4; amended, 1931.⁹ See also Const. 1777,
 Art. V, and amendments of 1801.¹⁰

Historical References

For comment on this section, see Lincoln IV:345-346. See also the
 Historical References to the preceding section.

References to constitutional conventions and commissions.

1894. Dougherty, 349.

Legislative Documents

Recommendations and discussions of proposed amendments to this
 section in relation to:

Substitution of federal census for state census for purposes of
 apportionment of districts for election of senators and assembly-
 men: Leg. Doc. (1926) No. 3, p. 48; Leg. Doc. (1928) No. 3,
 p. 91; Leg. Doc. (1929) No. 3, p. 12; Leg. Doc. (1931) No. 3,
 p. 12.

Power of reapportionment being vested in court of appeals instead
 of legislature: Leg. Doc. (1936) No. 3, pp. 18-19.

Increase of New York City representation: Leg. Doc. Senate (1916)
 No. 25, p. 55.

Discussions relating to reapportionment: Leg. Doc. (1934) No. 3, pp.
 17-18; Leg. Doc. (1934) No. 105, p. 1; Leg. Doc. (1935) No. 85,
 pp. 7-29; Leg. Doc. (1935) No. 87, pp. 13-16; Leg. Doc. (1935)
 No. 89, pp. 3-17.

Debates of Constitutional Conventions

1821. 399-416 (Oct. 11-12).

1846. 383-395 (July 21-22), 408-414 (July 23), 465-468 (July 30).

1867. II:873-875, 1195-1196.

1894. III:343-348 (III:1467-1470); III:987-1215 (V:1830-1964);
 III:1223-1242 (IV:1969-1979); IV:6-37 (IV:1982-1999); IV:56-
 57 (IV:2009); IV:78-96 (V:2021-2030); IV:357-376 (V:2164-
 2174); IV:644-694 (V:2325-2354).

⁹ For the text, legislative history, and action of the people on the 1931
 amendment, see Part IV, pp. 147-149.

¹⁰ For the text of the constitutional amendments of 1801, see Part II, p.
 22.

Article III, § 5

1915. Alteration of senate districts: I:426-430, 481-495, 533-573, 578-678, 681-682; IV:3951-3959, 4001-4023, 4134-4137; meaning of "now organized": IV:3989.

Documents of 1915 Constitutional Convention

Doc. 46.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 48, 92, 132, 219 (Int. 217), 229 (Int. 227), 292 (Int. 288), 359 (Int. 350), 404-454 (Int. 376).¹¹

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 869. See Part IV, p. 146.

Amendments proposed but not adopted by the Convention: Pr. Nos. 230, 232, 233, 262, 279, 302, 359, 396, 507, 574, 647, 697, 704, 722, 723.

In the legislature, 1895-1937: see Part IV, pp. 131-154.

- Assembly apportionment
- 1 § 5. The members of the assembly shall be chosen by
 2 single districts and shall be apportioned by the legislature
 3 at each regular session at which the senate districts are read-
 4 justed or altered, and by the same law, among the several
 5 counties of the state, as nearly as may be according to the
 6 number of their respective inhabitants, excluding aliens.
 7 Every county heretofore established and separately organ-
 8 ized, except the county of Hamilton, shall always be entitled
 9 to one member of assembly, and no county shall hereafter be
 10 erected unless its population shall entitle it to a member.
 11 The county of Hamilton shall elect with the county of Fulton,
 12 until the population of the county of Hamilton shall, accord-
 13 ing to the ratio, entitle it to a member. But the legislature
 14 may abolish the said county of Hamilton and annex the
 15 territory thereof to some other county or counties.
- Ratio for apportionment
- 16 The quotient obtained by dividing the whole number of
 17 inhabitants of the state, excluding aliens, by the number of
 18 members of assembly, shall be the ratio for apportionment,
 19 which shall be made as follows: One member of assembly
 20 shall be apportioned to every county, including Fulton and
 21 Hamilton as one county, containing less than the ratio and
 22 one-half over. Two members shall be apportioned to every

¹¹ This overture was adopted by the Convention and accordingly became a part of the Constitution.

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23 other county. The remaining members of assembly shall be
 24 apportioned to the counties having more than two ratios
 25 according to the number of inhabitants, excluding aliens.
 26 Members apportioned on remainders shall be apportioned to
 27 the counties having the highest remainders in the order
 28 thereof respectively. No county shall have more members of
 29 assembly than a county having a greater number of inhabi-
 30 tants, excluding aliens.

31 The assembly districts, including the present ones, as ex-
 32 isting immediately before the enactment of a law making an Assembly districts
 33 apportionment of members of assembly among the counties,
 34 shall continue to be the assembly districts of the state until
 35 the expiration of the terms of members then in office, except
 36 for the purpose of an election of members of assembly for
 37 full terms beginning at such expirations.

38 In any county entitled to more than one member, the board Division of counties into assembly districts
 39 of supervisors, and in any city embracing an entire county
 40 and having no board of supervisors, the common council,
 41 or if there be none, the body exercising the powers of a com-
 42 mon council, shall assemble at such times as the legislature
 43 making an apportionment shall prescribe, and divide such
 44 counties into assembly districts as nearly equal in number of
 45 inhabitants, excluding aliens, as may be, of convenient and
 46 contiguous territory in as compact form as practicable, each
 47 of which shall be wholly within a senate district formed
 48 under the same apportionment, equal to the number of
 49 members of assembly to which such county shall be entitled,
 50 and shall cause to be filed in the office of the secretary of
 51 state and of the clerk of such county, a description of such
 52 districts, specifying the number of each district and of the
 53 inhabitants thereof, excluding aliens, according to the census
 54 or enumeration used as the population basis for the forma-
 55 tion of such districts and such apportionment and districts
 56 shall remain unaltered until after the next reapportionment
 57 of members of assembly. In counties having more than one Number of assembly districts within senatorial districts
 58 senate district, the same number of assembly districts shall
 59 be put in each senate district, unless the assembly districts
 60 cannot be evenly divided among the senate districts of any
 61 county, in which case one more assembly district shall be put
 62 in the senate district in such county having the largest, or

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63 one less assembly district shall be put in the senate district
 64 in such county having the smallest number of inhabitants,
 65 excluding aliens, as the case may require. No town, and no
 66 block in a city inclosed by streets or public ways, shall be
 67 divided in the formation of assembly districts, nor shall any
 68 districts contain a greater excess in population over an ad-
 69 joining district in the same senate district, than the popula-
 70 tion of a town or block therein adjoining such assembly dis-
 71 trict. Towns or blocks which, from their location may be
 72 included in either of two districts, shall be so placed as to
 73 make said districts most nearly equal in number of inhab-
 74 itants, excluding aliens. Nothing in this section shall pre-
 75 vent the division, at any time, of counties and towns, and the
 76 erection of new towns by the legislature.

Rules as to
 formation
 of assembly
 districts

Review of
 apportion-
 ment by
 supreme
 court

77 An apportionment by the legislature, or other body, shall
 78 be subject to review by the supreme court, at the suit of any
 79 citizen, under such reasonable regulations as the legislature
 80 may prescribe; and any court before which a cause may be
 81 pending involving an apportionment, shall give precedence
 82 thereto over all other causes and proceedings, and if said
 83 court be not in session it shall convene promptly for the
 84 disposition of the same.

Source

Const. 1821, Art. I, § 7; amended, Const. 1846, Art. III, § 5; amended,
 1874;¹² amended, Const. 1894, Art. III, § 5; amended, 1931.¹³ See
 also Const. 1777, Art. V, and amendments of 1801.¹⁴

Historical References

For an exhaustive historical and statistical statement (including tables
 of population and apportionments) of assembly apportionments in
 this colony and state, see Lincoln III:134-137; IV:350-352, and
 also the following references:

During the colonial period: Lincoln III:137-151.

Under the first Constitution, 1777: Lincoln III:152-159.

From the second Constitution, 1821, to 1894: Lincoln III:159-167.

For a statement of the rules to follow in determining the number of
 assemblymen to be apportioned to each county, see Lincoln III:229-
 230 (these rules are repeated in Lincoln IV:351).

¹² For the text of the constitutional amendment of 1874, see Part II, pp. 85-86.

¹³ For the text, legislative history, and action of the people on the 1931 amendment, see Part IV, pp. 184-187.

¹⁴ For the text of the constitutional amendments of 1801, see Part II, pp. 22-23.

Article III, § 6

References to constitutional conventions and commissions.

1777. Lincoln I:505-507; Dougherty, 214.

1821. Lincoln I:639.

1846. Lincoln II:128-132; Dougherty, 169, 214.

1867. Lincoln II:319-320; Dougherty, 211, 213, 214, 227.

1872. Lincoln II:487-490; Dougherty, 230-231.

1894. Lincoln IV:350-352; Dougherty, 349.

Legislative Documents

Recommendations and discussions of proposed amendments to this section in relation to:

Substitution of federal census for state census for purpose of apportionment of districts for election of assemblymen: Leg. Doc. (1926) No. 3, p. 48; Leg. Doc. (1928) No. 3, p. 91; Leg. Doc. (1929) No. 3, p. 12; Leg. Doc. (1931) No. 3, p. 12.

Increase of New York City representation: Leg. Doc. Senate (1916) No. 25, p. 55.

Discussions relating to reapportionment: Leg. Doc. (1934) No. 3, pp. 17-18; Leg. Doc. (1934) No. 105, p. 1; Leg. Doc. (1935) No. 85, pp. 7-29; Leg. Doc. (1935) No. 87, pp. 13-16; Leg. Doc. (1935) No. 89, pp. 3-17.

Debates of Constitutional Conventions

1821. 399-416 (Oct. 11-12).

1846. 422-429 (July 24-25), 444-453 (July 28), 468-469 (July 30), 477-478 (July 31).

1867. I:304-306; II:852-867, 875-877, 1195-1196; V:3589-3591.

1894. III:343-348 (III:1467-1470); III:987-1215 (IV:1830-1964); III:1223-1242 (IV:1969-1979); IV:6-37 (IV:1982-1999), 78-96 (V:2021-2030); IV:357-376 (V:2164-2174); IV:644-694 (V:2325-2354).

1915. Assembly districts: I:426-430, 481-495; IV: 3951-3959, 4023-4030, 4134-4137.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 48, 132, 165, 219 (Int. 217), 229 (Int. 227), 292 (Int. 288), 359 (Int. 350), 404-454 (Int. 376).¹⁵

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 869. See Part IV, p. 184.

Amendments proposed but not adopted by the Convention: Pr. Nos. 174, 321, 339, 359, 396, 411, 425, 507, 601, 602.

In the legislature, 1895-1937: see Part IV, pp. 154-192.

- 1 § 6. Each member of the legislature shall receive for
2 his services an annual salary of two thousand five hundred

Compensation of members of legislature

¹⁵ This overture was adopted by the Convention and accordingly became a part of the Constitution.

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3 dollars. The members of either house shall also receive the
 4 sum of one dollar for every ten miles they shall travel in
 5 going to and returning from their place of meeting, once in
 6 each session on the most usual route. Senators, when the
 7 senate alone is convened in extraordinary session, or when
 8 serving as members of the court for the trial of impeach-
 9 ments, and such members of the assembly, not exceeding
 10 nine in number, as shall be appointed managers of an im-
 11 peachment, shall receive an additional allowance of ten dol-
 12 lars a day.

Source

Const. 1821, Art. I, § 9; amended, Const. 1846, Art. III, § 6; amended,
 1874; Const. 1894, Art. III, § 6; amended, 1927.¹⁰

Historical References

References to constitutional convention and commissions.

1821. Lincoln I:639.

1846. Lincoln II:132-133.

1867. Lincoln II:320-321.

1872. Lincoln II:490-491.

Debates of Constitutional Conventions

1821. 420-423 (Oct. 13).

1846. 431-436 (July 27), 470-474 (July 31).

1867. I:761; II:877-878, 1013; V:3456-3457, 3591-3593, 3606.

1894. III:356 (III:1474).

1915. Compensation of legislators: I:800-804; II:1203-1232, 1242-
 1246; III:2353-2355, 2359, 2363-2366, 3178-3201; IV:3646-3648;

expenses of legislators: I:801-804; II:1206-1208, 1229-1232; III:
 2355-2366, 3178-3201; IV:3646-3648.

Documents of 1915 Constitutional Convention

Compensation of legislators: Doc. 17.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitu-
 tional Amendments, Overtures Nos. 16-456 (Int. 16), 27, 219 (Int.
 217), 292 (Int. 288).

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 835. See Part
 IV, pp. 200-201.

Amendments proposed but not adopted by the Convention: Pr. Nos.
 30, 48, 93, 96, 133, 232, 297, 403, 654.

In the legislature, 1895-1937: see Part IV, pp. 192-203.

¹⁰ For the text, legislative history, and action of the people on the 1927 amendment, see Part IV, p. 202.

Article III, § 8

1 § 7. No member of the Legislature shall receive any civil
 2 appointment within this State, or the Senate of the United
 3 States, from the Governor, the Governor and Senate, or from
 4 the Legislature, or from any city government, during the time
 5 for which he shall have been elected; and all such appoint-
 6 ments and all votes given for any such member for any such
 7 office or appointment shall be void.

Member of legislature not to hold other civil office

Source

Const. 1821, Art. I, § 10; amended, Const. 1846, Art. III, § 7; amended, 1874.

Historical References

For history of this section and comment thereon, see Lincoln IV:356-360.
 References to constitutional conventions and commissions.
 1821. Lincoln I:639, IV:356-357.
 1846. Lincoln IV:357.
 1872. Lincoln IV:358.

Debates of Constitutional Conventions

1821. 424-428 (Oct. 13).
 1867. II:878-879; V:3607-3608.
 1915. Repeal of section: IV:3951-3959, 4133.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 219 (Int. 217).
 In the Constitutional Convention of 1915:
 Amendment adopted by the Convention: Pr. No. 869. See Part IV, p. 205.
 Amendments proposed but not adopted by the Convention: Pr. Nos. 130, 206, 230, 513, 669.
 In the legislature, 1895-1937: see Part IV, pp. 203-205.

1 § 8. No person shall be eligible to the Legislature, who
 2 at the time of his election, is, or within one hundred days pre-
 3 vious thereto has been, a member of Congress, a civil or mili-
 4 tary officer under the United States, or an officer under any
 5 city government. And if any person shall, after his election
 6 as a member of the Legislature, be elected to Congress, or
 7 appointed to any office, civil or military, under the government
 8 of the United States, or under any city government*, his ac-
 9 ceptance thereof shall vacate his seat.¹⁷

Certain officers disqualified as members

* So in original.

¹⁷ On certain proposed qualifications for members of the legislature, see: Lincoln (1867) II:320, Convention debates (1867) II:868.

Article III, § 9

Source

Const. 1821, Art. I, § 11; amended, Const. 1846, Art. III, § 8; amended, 1874.

Historical References

References to constitutional conventions and commissions.

1821. Lincoln I:639; Dougherty, 231.

1872. Lincoln II:492-493; Dougherty, 231.

Debates of Constitutional Conventions

1821. 431-434 (Oct. 15).

1846. 436-443 (July 27).

1915. Eligibility of federal and municipal officials: IV:3951-3959, 4032-4034, 4133, 4134.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 71, 131-455 (Int. 131), 219 (Int. 217).

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 869. See Part IV, p. 207.

Amendments proposed but not adopted by the Convention: Pr. Nos. 3, 130, 230.

In the legislature, 1895-1937: see Part IV, pp. 206-207.

Time of
elections of
members of
legislature

1 § 9. The elections of senators and members of assembly,
2 pursuant to the provisions of this Constitution, shall be held
3 on the Tuesday succeeding the first Monday of November,
4 unless otherwise directed by the Legislature.

Source

Const. 1821, Art. I, § 15; amended, Const. 1846, Art. III, § 9.

Historical References

For a chronological sketch of the statutory and constitutional provisions in this state from 1778 regulating the time of election of the members of the legislature, see Lincoln IV:361-363.

References to constitutional conventions and commissions.

1821. Lincoln IV:362.

Debates of Constitutional Conventions

1867. II:880.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 219 (Int. 217).

In the Constitutional Convention of 1915:

Amendment proposed but not adopted by the Convention: Pr. No. 230.

In the legislature, 1895-1937: see Part IV, pp. 207-209.

Article III, § 11

1 § 10. A majority of each house shall constitute a quorum Quorum of
 2 to do business. Each house shall determine the rules of its each house
 3 own proceedings, and be the judge of the elections, returns Powers of
 4 and qualifications of its own members; shall choose its own each house
 5 officers; and the Senate shall choose a temporary president Temporary
 6 to preside in case of the absence or impeachment of the Lieu- president
 7 tenant-Governor, or when he shall refuse to act as president, of senate
 8 or shall act as Governor.

Source

Const. 1821, Art. I, § 3; amended, Const. 1846, Art. III, § 10;
 amended, Const. 1894, Art. III, §10. See also Const. 1777, Art. IX.

Historical References

For comment on this section, see Lincoln IV:363.

For history of the provision relating to the temporary president of
 the senate from 1777 to 1894, see Lincoln III:230-235.

For history of the movement to amend this section by depriving the
 legislature of the power to determine the election and qualifications
 of its own members and transferring jurisdiction in such cases to
 the courts, see Lincoln II:576, 581-582.

References to constitutional conventions and commissions.
 1777. Dougherty, 51.

Debates of Constitutional Conventions

1867. Powers of senate and assembly: II:880-881.

1894. President pro tem of the senate: II:26-31 (II:637-639);
 II:484-489 (II:882-885); IV:414-416 (V:2195-2196).

1915. Voluntary sessions of legislature: I:830-847, 848-849; III:
 2380-2408; IV:3635, 3984; president pro tem of senate: I:780-781;
 speaker of assembly: I:780-781; IV:3736, 3984.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitu-
 tional Amendments, Overtures Nos. 149, 218-382 (Int. 216),¹⁸ 219
 (Int. 217).

In the Constitutional Convention of 1915:

Amendments adopted by the Convention: Pr. Nos. 819, 841. See
 Part IV, pp. 210-211.

Amendment proposed but not adopted by the Convention: Pr. No.
 230.

In the legislature, 1895-1937: see Part IV, pp. 209-211.

1 § 11. Each house shall keep a journal of its proceedings, Journals of
 2 and publish the same, except such parts as may require each house

¹⁸ This overture was adopted by the Convention and accordingly became
 a part of the Constitution.

Article III, § 12

Open
sessions
Adjourn-
ments

3 secrecy. The doors of each house shall be kept open, except
4 when the public welfare shall require secrecy. Neither house
5 shall, without the consent of the other, adjourn for more than
6 two days.

Source

Const. 1777, Art. XV; amended, Const. 1821, Art. 1, § 4; Const. 1846, Art. III, § 11.

Historical References

For comment upon this section, especially with respect to the power of the assembly during the colonial period to fix the times of its own meetings and adjourn from time to time at its own pleasure, see Lincoln IV:365.

Debates of Constitutional Conventions

1867. Adjournments: II:881-882.

1915. Daily publication of legislative journals; IV:3809, 3816-3819, 3823, 3984.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 219 (Int. 217).

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 861. See Part IV, p. 211.

Amendments proposed but not adopted by the Convention: Pr. Nos. 192, 230.

Privileges
of members

1 § 12. For any speech or debate in either house of the Leg-
2 islatre, the members shall not be questioned in any other
3 place.

Source

Const. 1846, Art. III, § 12.

Historical References

For brief historical note on this section, see Lincoln IV:365-366.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 219 (Int. 217).

In the Constitutional Convention of 1915:

Amendment proposed but not adopted by the Convention: Pr. No. 230.

Article III, § 14

- 1 § 13. Any bill may originate in either house of the Legis- Bills may
 2 lature, and all bills passed by one house may be amended by originate or
 3 the other.¹⁹ be amended
 in either
 house

Source

Const. 1821, Art. I, § 8; Const. 1846, Art. III, § 13.

Historical References

For historical statement of the exclusive right claimed by the colonial assembly to originate money bills, see *Lincoln IV*: 367-368.

References to constitutional conventions and commissions.

1821. *Lincoln I*:639; *IV*:366-367.

Debates of Constitutional Conventions

1867. *IV*:2754.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 146-390 (*Int.* 146), 155, 219 (*Int.* 217).

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: *Pr.* Nos. 168, 182, 193, 230, 683.

- 1 § 14. The enacting clause of all bills shall be "The People Enacting
 2 of the State of New York, represented in Senate and Assem- clause
 3 bly, do enact as follows," and no law shall be enacted except of bills
 4 by bill.

Source

Const. 1777, Art. XXXI (omitted in Const. 1821); amended, Const. 1846, Art. III, § 14.

Historical References

For historical statement of the enacting clause in early English statutes, in the colony of New York, and in this state down to 1846 (from which time there has been no change), see *Lincoln IV*:369-376.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 219 (*Int.* 217).

In the Constitutional Convention of 1915:

Amendment proposed but not adopted by the Convention: *Pr.* No. 230.

In the legislature, 1895-1937: see Part IV, p. 212.

¹⁹ On limitation upon the time of the introduction of bills, see: *Lincoln (1872) II*:495-497, Convention debates (1867) *II*:1294-1305.

Article III, § 15

Manner of
passing
bills

1 § 15. No bill shall be passed or become a law unless it
 2 shall have been printed and upon the desks of the members,
 3 in its final form, at least three calendar legislative days prior
 4 to its final passage, unless the Governor, or the acting Gov-
 5 ernor, shall have certified to the necessity of its immediate
 6 passage, under his hand and the seal of the State; nor shall
 7 any bill be passed or become a law, except by the assent of
 8 a majority of the members elected to each branch of the
 9 Legislature; and upon the last reading of a bill, no amend-
 10 ment thereof shall be allowed, and the question upon its final
 11 passage shall be taken immediately thereafter, and the yeas
 12 and nays entered on the journal.²⁰

Source

Const. 1846, Art. III, § 15; amended, Const. 1894, Art. III, § 15.

Historical References

For discussion of the subject of the consideration and passage of bills, see Lincoln III:235-244.

References to constitutional conventions and commissions.

1867. Lincoln II:321-322.

1872. Lincoln II:494-495; Dougherty, 232-233.

1894. Lincoln III:235-244; Dougherty, 353.

Legislative Documents

Recommendation and discussion of proposed amendment to this section providing that in even-numbered years no legislation shall be enacted except that necessary for the support of government unless specifically recommended by the governor: Leg. Doc. (1926) No. 3, p. 45; Leg. Doc. (1928) No. 3, p. 95.

Debates of Constitutional Conventions

1867. Signing of bills and resolutions by presiding officer in the presence of the house: II:1302-1304.

1894. I:6 (I:7); I:478-490 (I:246-252); I:671-676 (I:348-351); I:695-696 (I:362); I:887-917 (I:468-483).

1915. Amendment of bills on third reading: IV:3820-3823, 3984; passage of bills under emergency message from governor: I:765-780, 817-826; III:2341-2343.

Documents of 1915 Constitutional Convention

Emergency message: Doc. 17.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 73-173-290-365 (Int. 73),²¹ 219 (Int. 217), 248 (Int. 246), 288-396 (Int. 286).

²⁰ On suggested restrictions upon the manner of passing local or private bills, see: Lincoln (1872) II:495-497, (1894) III:302, Convention debates (1867) II:1371-1378, Convention debates (1894) II:476-482 (II:878-881).

²¹ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article III, § 17

In the Constitutional Convention of 1915:

Amendments adopted by the Convention: Pr. Nos. 746, 861. See Part IV, p. 215.

Amendments proposed but not adopted by the Convention: Pr. Nos. 69, 112, 120, 184, 193, 230, 328, 342, 562, 599, 604, 616, 631, 632, 638, 644, 683.

In the legislature, 1895-1937: see Part IV, pp. 213-215.

- 1 § 16. No private or local bill, which may be passed by the
 2 Legislature, shall embrace more than one subject, and that
 3 shall be expressed in the title.

Private or local bills limited to one subject to be expressed in title

Source

Const. 1846, Art. III, § 16.

Historical References

For historical basis of this section, see Lincoln IV:377-378.

References to constitutional conventions and commissions.

1872. Lincoln II:493-494; Dougherty, 231-232.

Debates of Constitutional Conventions

1846. 176-177 (June 27).

1867. III:2102-2104.

1894. Certain limitations proposed as to general bills: III:142-155 (III:1358-1365).

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 11-418 (Int. 11), 63, 154, 214-388 (Int. 212), 219 (Int. 217), 201-427 (Int. 200), 306 (Int. 300), 330-407 (Int. 322).

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 230, 743.

- 1 § 17. No act shall be passed which shall provide that any
 2 existing law, or any part thereof, shall be made or deemed a
 3 part of said act, or which shall enact that any existing law,
 4 or part thereof, shall be applicable, except by inserting it in
 5 such act.

Existing laws not applicable by reference

Source

Added, amendment of 1874.

Article III, § 18

Historical References

For comment upon this section, see IV:410-411.

References to constitutional conventions and commissions.

1872. Lincoln II:494; Dougherty, 232.

Debates of Constitutional Conventions

1915. I:826-830.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 219 (Int. 217), 283 (Int. 281).

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 328, 700.

In the legislature, 1895-1937: see Part IV, pp.

Cases in which private or local bills shall not be passed

1 § 18. The legislature shall not pass a private or local bill
 2 in any of the following cases:²² Changing the names of per-
 3 sons. Lay-* out, opening, altering, working or discontinuing
 4 roads, highways or alleys, or for draining swamps or other
 5 low lands. Locating or changing county seats. Providing
 6 for changes of venue in civil or criminal cases. Incorporating
 7 villages. Providing for election of members of boards of
 8 supervisors. Selecting, drawing, summoning or impaneling
 9 grand or petit jurors. Regulating the rate of interest on
 10 money. The opening and conducting of elections or desig-
 11 nating places of voting. Creating, increasing or decreasing
 12 fees, percentage* or allowances of public officers, during the
 13 term for which said officers are elected or appointed. Grant-
 14 ing to any corporation, association or individual the right
 15 to lay down railroad tracks. Granting to any private cor-
 16 poration, association or individual any exclusive privilege,
 17 immunity or franchise whatever.²³ Granting to any person,
 18 association, firm or corporation an exemption from taxation
 19 on real or personal property. Providing for building bridges,
 20 and chartering companies for such purposes, except on the

²² On private or local bills, prohibited in disposition of infant's real property, see: Convention debates (1867) II:1386-1387; private or local bills, authorized as to commissioners of jurors: Lincoln (1894) III:298-299, Convention debates (1894) I:951-973 (I:501-513), (see also Art. VI, footnote 1). On other suggested restrictions upon the manner of passing local or private bills, see footnote 1, under the title, Intoxicating Liquors, and footnote 20. See also Art. I, footnote 16.

* So in session law.

²³ For discussion of equal rights, see Art. I, footnote 1. On legislature not to favor any political party, see Convention debates (1915) I:1032-1036.

Article III, § 18

21 Hudson river below Waterford, and on the East river, or
 22 over the waters forming a part of the boundaries of the
 23 state. The legislature shall pass general laws providing for
 24 the cases enumerated in this section, and for all other cases
 25 which in its judgment may be provided for by general laws. General laws to provide for enumerated cases
 26 But no law shall authorize the construction or operation of
 27 a street railroad except upon the condition that the consent Restrictions on laws governing street railroads
 28 of the owners of one-half in value of the property bounded
 29 on, and the consent also of the local authorities having the
 30 control of that portion of a street or highway upon which
 31 it is proposed to construct or operate such railroad be first
 32 obtained, or in case the consent of such property owners
 33 cannot be obtained, the appellate division of the supreme
 34 court, in the department in which it is proposed to be con-
 35 structed, may, upon application, appoint three commission-
 36 ers who shall determine, after a hearing of all parties inter-
 37 ested, whether such railroad ought to be constructed or oper-
 38 ated, and their determination, confirmed by the court, may
 39 be taken in lieu of the consent of the property owners.

Source

Added, amendment of 1874; Const. 1894, Art. III, §18; amended, 1901.²⁴

Historical References

For historical comment on this section, see Lincoln IV:417-418.

References to constitutional conventions and commissions.

1867. Lincoln II:323-327.

1872. Lincoln II:497-501; Dougherty, 231.

Legislative Documents

Recommendations of proposed amendments to this section in relation to:

Exemptions from taxation: Leg. Doc. Senate (1916) No. 29, p. 47.

Manner of assessment and officers to execute assessment laws: Leg. Doc. (1920) No. 80, p. 107.

Determination by legislature of tax district areas: Leg. Doc. Senate (1917) No. 14, pp. 47-48.

Debates of Constitutional Conventions

1867. II:1379-1381, 1385-1386; III:2102-2128; IV:2777-2785, 2801-2803, 3111-3117; V:3603-3609, 3683-3685.

1915. Private and local bills: I:744-749.

²⁴ For explanation of the 1901 amendment, see Lincoln III:680-681. For its history and text, see Part IV, pp. 217-219.

Article III, § 19

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 87, 115-424 (Int. 115), 116-386 (Int. 116), 124, 147, 219 (Int. 217), 299 (Int. 295), 309 (Int. 303), 320 (Int. 312), 354 (Int. 345), 369 (Int. 362).

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 861. See Part IV, p. 224.

Amendments proposed but not adopted by the Convention: Pr. Nos. 44, 54, 70, 92, 135, 162, 217, 248, 350, 386, 387, 441, 537, 563, 564, 581, 582, 595, 600, 636, 656, 672, 738, 748, 750, 759.

In the legislature, 1895-1937: see Part IV, pp. 218-224.

Private claims against state not to be audited by legislature

1 § 19. The Legislature shall neither audit nor allow any
 2 private claim or account against the State, but may appro-
 3 priate money to pay such claims as shall have been audited
 4 and allowed according to law.²⁵

Source

Added, amendment of 1874.

Historical References

References to constitutional conventions and commissions.

1872. Lincoln II:501-502; Dougherty, 220.

1872. Dougherty, 220, 230.

Debates of Constitutional Conventions

1867. II:1319-1348; IV:2755.

1915. Allowance of private claims against state or civil divisions: II:1756-1758; IV:3809-3816, 3984.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 217-391 (Int. 215), 219 (Int. 217).

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 861. See Part IV, p. 225.

Amendment proposed but not adopted by the Convention: Pr. No. 732.

In the legislature, 1895-1937: see Part IV, pp. 224-225.

Appropriation of public property for local or private purposes; two-thirds vote required

1 § 20. The assent of two-thirds of the members elected to
 2 each branch of the Legislature shall be requisite to every
 3 bill appropriating the public moneys or property for local
 4 or private purposes.

²⁵ On the court of claims see Art. VI, § 23.

Article III, § 21

Source

Const. 1821, Art. VII, § 9; amended, Const. 1846, Art. I, § 9.

Historical References

For comment on this section, see Lincoln IV:435.

References to constitutional conventions and commissions.

1821. Dougherty, 116.

Debates of Constitutional Conventions

1915. Plans, estimate, and certificate of necessity for public improvement by superintendent of public works: III:2339-2340, 3124-3142; IV:3756-3759, 3962-3963; provision in budget for appropriations for private and local purposes: II:1651-1660, 1667-1668, 1671-1672, 1712, 1749; appropriations for purposes not directly benefiting whole state: II:1728, 1749-1753, 1763-1768, 1773, 1787; III:2370-2372, 2379-2381.

Documents of 1915 Constitutional Convention

Appropriations for local improvements: Doc. 44.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 81, 219 (Int. 217).

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 854. See Part IV, p. 226.

Amendments proposed but not adopted by the Convention: Pr. Nos. 176, 230, 269, 342, 646, 748, 808.

In the legislature, 1895-1937: see Part IV, p. 226.

1 § 21. No money shall ever be paid out of the treasury ^{Appropriation bills}
 2 of this State, or any of its funds, or any of the funds under
 3 its management, except in pursuance of an appropriation
 4 by law; nor unless such payment be made within two years
 5 next after the passage of such appropriation act; and every
 6 such law making a new appropriation, or continuing or re-
 7 viving an appropriation, shall distinctly specify the sum ap-
 8 propriated, and the object to which it is to be applied; and
 9 it shall not be sufficient for such law to refer to any other
 10 law to fix such sum.

Source

Const. 1846, Art. VII, § 8.

Historical References

References to constitutional conventions and commissions.

1846. Lincoln II:182-184.

Debates of Constitutional Conventions

1846. 940-943 (Sept. 22).

1867. III:1840.

Article III, § 22

1915. Time of making payments pursuant to appropriations: II:1137-1139, 1155; III:2383; time limit for incurring obligations: II:1644, 1753-1754, 1755-1758, 1782.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 219 (Int. 217).

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 809. See Part IV, p. 229.

Amendments proposed but not adopted by the Convention: Pr. Nos. 79, 158, 330, 342, 470.

In the legislature, 1895-1937: see Part IV, pp. 227-229.

Appropriation bills not to embrace other subjects

1 § 22. No provision or enactment shall be embraced in the
2 annual appropriation or supply bill, unless it relates specifi-
3 cally to some particular appropriation in the bill; and any
4 such provision or enactment shall be limited in its operation
5 to such appropriation.

Source

New.

Historical References

References to constitutional conventions and commissions.

1894. Lincoln III:244-245.

Debates of Constitutional Conventions

1894. II:599-601 (II:945-946).

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 11-418 (Int. II),²⁰ 299 (Int. 295).

In the Constitutional Convention of 1915:

Amendment proposed but not adopted by the Convention: Pr. No. 470.

In the legislature, 1895-1937: see Part IV, pp. 230-232.

Statutory revision bills excepted from certain sections

1 § 23. Sections seventeen and eighteen of this article shall
2 not apply to any bill, or the amendments to any bill, which
3 shall be reported to the Legislature by commissioners who
4 have been appointed pursuant to law to revise the statutes.

²⁰ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article III, § 24

Source

Added, amendment of 1874.

Historical References

For comment upon this section, see Lincoln IV:441.

References to constitutional conventions and commissions.

1872. Lincoln II:505-507.

Debates of Constitutional Conventions

1915. Statutory revision commission: IV:3809, 3819, 3984.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 154, 299 (Int. 295).

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 861. See Part IV, p. 233.

Amendment proposed but not adopted by the Convention: Pr. No. 184.

- 1 § 24. Every law which imposes, continues or revives a tax
 2 shall distinctly state the tax and the object to which it is to
 3 be applied, and it shall not be sufficient to refer to any other
 4 law to fix such tax or object.

Tax laws
to state
amount
and object

Source

Const. 1846, Art. VII, § 13; continued without change in amendments of 1874, Art. III, § 20.

Historical References

References to constitutional conventions and commissions.

1846. Lincoln II:182.

Debates of Constitutional Conventions

1867. III:1881-1882.

1915. Centralization and uniformity of administration of assessment and collection of taxes: I:941-946, 998-1009, 1039-1054, 1057-1058; II:1182-1200, 1823-1824, 1829-1874; IV:3668-3684, 4124; exemptions from taxation: I:946-952, 992-998, 1039, 1109-1120; II:1121-1132, 1162-1179; power of taxation not to be surrendered: I:991-992; II:1132-1135, 1163-1179; review of assessment of property of municipal corporations: I:1054-1057.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 257 (Int. 255).

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 834. See Part IV, pp. 1218-1219.

Amendments proposed but not adopted by the Convention: Pr. Nos. 46, 286, 307, 322, 342, 346, 441, 462, 541, 591, 635, 636, 648, 733.

In the legislature, 1895-1937: see Part IV, p. 234.

Article III, § 25

Quorum of three-fifths necessary for passing certain bills

1 § 25. On the final passage, in either house of the Legisla-
 2 ture, of any act which imposes, continues or revives a tax, or
 3 creates a debt or charge, or makes, continues or revives any
 4 appropriation of public or trust money or property, or re-
 5 leases, discharges or commutes any claim or demand of the
 6 State, the question shall be taken by yeas and nays, which shall
 7 be duly entered upon the journals, and three-fifths of all the
 8 members elected to either house shall, in all such cases, be
 9 necessary to constitute a quorum therein.

Source

Const. 1846, Art. VII, § 14; continued without change in the amend-
 ments of 1874, Art. III, § 21.

Debates of Constitutional Conventions

1867. III:1992-2018, 2250-2259.

1915. Quorum for passage of certain bills: IV:3809-3810, 3816,
 3819-3820, 3823-3827, 3830-3841, 3984.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 861. See Part
 IV, p. 234.

Amendments proposed but not adopted by the Convention: Pr. Nos.
 112, 230.

Boards of supervisors

1 § 26. Subdivision 1. There shall be in each county, ex-
 2 cept in a county wholly included in a city, a board of super-
 3 visors, or other elective body, to be composed of such mem-
 4 bers and elected in such manner and for such period as is or
 5 may be provided by law.

Organiza-
 tion and
 govern-
 ment of
 counties

6 2. The legislature shall provide by law for the organiza-
 7 tion and government of counties and shall provide by law
 8 alternative forms of government for counties except counties
 9 wholly included in a city and for the submission of one or
 10 more such forms of government to the electors residing in
 11 such counties. No such form of government shall become
 12 operative in any such county unless and until adopted at a
 13 general election held in such county by receiving a majority
 14 of the total votes cast thereon in (1) the county, (2) every
 15 city containing more than twenty-five per centum of the
 16 population of the county according to the last preceding

Require-
 ment of
 general
 election in
 the county

Article III, § 26

17 federal census, and (3) that part of the county, if any, out-
 18 side of such cities. Any such form of government shall set
 19 forth the structure of the county government and the man-
 20 ner in which it is to function. Any such form of govern-
 21 ment may provide for the appointment of any county officers
 22 or their selection by any method of nomination and election,
 23 or the abolition of their offices, and may also provide for
 24 the exercise by the board of supervisors or other elective
 25 body of powers of local legislation and administration and
 26 the transfer of any or all of the functions and duties of the
 27 county and the cities, towns, villages, districts and other
 28 units of government contained in such county to each other
 29 or to the state, and for the abolition of offices, departments,
 30 agencies or units of government when all of their functions
 31 are so transferred without regard to the provisions of article
 32 ten or any other provisions of this constitution inconsistent
 33 herewith. The boards of supervisors or other elective bodies
 34 of any two or more such counties may by agreement provide
 35 for the discharge within the territorial limits of such counties
 36 or parts thereof of one or more governmental functions.

37 3. Nothing herein contained shall be deemed to impair
 38 or restrict the existing power of the legislature to enact laws
 39 relating to the government of a county or the cities, towns,
 40 villages, districts or other units of government therein con-
 41 tained until the adoption of a form of government by such
 42 county pursuant to subdivision two of this section.

Existing
legislative
power over
counties

43 4. After the adoption of a form of government by a county
 44 pursuant to subdivision two of this section, the legislature
 45 shall not pass any law relating to the property, affairs or
 46 government of such county, which shall be special or local
 47 either in its terms or in its effect, but shall act in relation to
 48 the property, affairs or government of any such county only
 49 by general laws which shall in terms and in effect apply alike
 50 to all such counties except on message from the governor
 51 declaring that an emergency exists and the concurrent action
 52 of two-thirds of the members of each house of the legislature
 53 and no law, special or local in its terms or in its effect, which
 54 abolishes or creates an elective office or changes the voting or
 55 veto power of or the method of removing an elective officer,
 56 changes the term of office or reduces the salary of an elec-

Special or
local laws
prohibited
after
county's
adoption of
form of
govern-
ment;
exceptions

Article III, § 26

57 tive officer during his term of office, abolishes, transfers or
 58 curtails any power of an elective officer, changes the form
 59 or composition of the elective body of such county, or pro-
 60 vides a new form of government for such county, shall be-
 61 come effective without adoption by the electors of such county
 62 in the manner prescribed in subdivision two of this section
 63 for the adoption of a form of government for such county
 64 pursuant thereto. Nothing herein contained shall impair or
 65 restrict the power of the legislature to enact laws relating
 66 to matters other than the property, affairs or government of
 67 such county.

Powers
 and duties
 of board of
 supervis-
 ors, if
 abolished,
 devolve
 upon
 elective
 body

68 5. If under a form of government, adopted by a county
 69 pursuant to subdivision two of this section, the board of
 70 supervisors be abolished, the powers and duties of the board
 71 of supervisors, as prescribed by the constitution, or by statute
 72 if not provided for by such form of government, shall de-
 73 velop upon the elective body in such county.

Devolution
 of powers
 and duties
 of board of
 supervisors
 in city
 including
 entire
 county

74 6. In a city which includes an entire county, or two or
 75 more entire counties, the powers and duties of a board of
 76 supervisors may be devolved upon the municipal assembly,
 77 common council, board of aldermen or other legislative body
 78 of the city.

Existing
 laws
 continued
 until re-
 pealed, etc.

79 7. Existing laws applicable to the government of counties
 80 and the cities, towns, villages, districts and other units of
 81 government therein contained shall continue in force until
 82 repealed, amended, modified or superseded by law or by a
 83 form of government and nothing contained in this section
 84 shall be construed to impair the provisions of article twelve
 85 of this constitution.²⁷

Source

Added, amendments of 1874; Const. 1894, Art. III, § 26; amended,
 1899;²⁸ amended, 1921;²⁹ amended, 1929³⁰; amended, 1935.³¹

²⁷ On prohibition of alteration of counties by legislature, see Convention debates (1867) II:1232-1233.

²⁸ For the text, legislative history, and action of the people on the 1899 amendment, see Part IV, p. 235.

²⁹ For the text, legislative history, and action of the people on the 1921 amendment, see Part IV, pp. 239-240.

³⁰ For the text, legislative history, and action of the people on the 1929 amendment, see Part IV, pp. 244-246.

³¹ For the text, legislative history, and action of the people on the 1935 amendment, see Part IV, pp. 261-265.

Article III, § 26

Historical References

For history of the legislation relating to New York city and to the erection of the county of Nassau, resulting from the situation created by this constitutional provision, see Lincoln IV:445-447; for discussion of the 1899 amendment, see Dougherty, 357-358.

For comment on the 1935 amendment, and discussion of the problem of reorganization of local government in this state, see: Flick VII: 277; Mastick, *New York's Struggle for County Home Rule*, 25 National Municipal Review (1936), 572-576; McCombs, *Reorganizing of Local Government in New York State*, 22 National Municipal Review (1933) 129-132; Smith, *New York County Home Rule Amendment to be Submitted to Electorate*, 24 National Municipal Review (1935), 121.

References to constitutional conventions and commissions.

1867. Lincoln II:348-351.

1872. Lincoln II:502-504.

Legislative Documents

Recommendations and discussions of proposed amendments to this section in relation to:

Reorganization of town and county government: Leg. Doc. (1923) No. 55, p. 42; Leg. Doc. (1926) No. 80, pp. 3-8; Leg. Doc. (1931) No. 3, p. 12; Leg. Doc. (1934) No. 3, p. 12; Leg. Doc. (1934) No. 83, pp. 3-5.

Change in county charters: Leg. Doc. (1934) No. 3, pp. 8-10.

Manner of assessment and officers to execute assessment laws: Leg. Doc. (1920) No. 80, p. 107; Leg. Doc. (1921) No. 57, pp. 49, 61, 67; Leg. Doc. (1933) No. 56, pp. 200-203; Leg. Doc. (1935) No. 63, pp. 16-17, 23.

Discussions of county government and proposed reorganization of local government: Leg. Doc. (1927) No. 82, pp. 3-4; Leg. Doc. (1933) No. 56, pp. 88-90; Leg. Doc. (1934) No. 11, pp. 24-30; Leg. Doc. (1934) No. 68, pp. 3-5; Leg. Doc. (1934) No. 99, pp. 3-4; Leg. Doc. (1934) No. 104, pp. 3-5; Leg. Doc. (1935) No. 87, pp. 11-13.

Debates of Constitutional Conventions

1846. 1069-1070 (Oct. 7).

1867. V:3509-3523, 3653-3663.

1915. Optional forms of county government: IV:3778-3805; local and special laws relating to counties: IV:3778, 3785-3786, 3787, 3789-3793, 3795, 3797-3801, 3802-3805, 3983.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 55, 286 (Int. 284), 341 (Int. 332).

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 853. See Part IV, p. 239.

Article III, § 27

Amendments proposed but not adopted by the Convention: Pr. Nos. 12, 115, 135, 178, 203, 268, 291, 318, 535, 538, 539, 568, 641, 650, 671, 726.

In the legislature, 1895-1937: see Part IV, pp. 235-265.

Delegation
of local
legislative
and admin-
istrative
powers

1 § 27. The legislature shall, by general laws, confer upon
2 the boards of supervisors, or other governing elective bodies,
3 of the several counties of the state such further powers of
4 local legislation and administration as the legislature may,
5 from time to time, deem expedient. In counties which now
6 have, or hereafter have, county auditors or other fiscal offic-
7 ers, authorized to audit bills, accounts, charges, claims or
8 demands against the county, the legislature may confer such
9 powers upon such auditors, or fiscal officers, as the legisla-
10 ture may, from time to time, deem expedient.³²

Source

Const. 1846, Art. III, § 17; amended, 1874; Const. 1894, Art. III,
§ 27; amended, 1909;³³ amended, 1921.³⁴

Historical References

For comment upon this section, see Lincoln IV:448.

References to constitutional conventions and commissions.

1867. Dougherty, 211.

1872. Lincoln II:504; Dougherty, 232.

Legislative Documents

Recommendation and discussion of proposed amendment to this
section in relation to governing bodies of Westchester and Nassau
counties: Leg. Doc. (1927) No. 82, pp. 3-4.

Debates of Constitutional Conventions

1846. 1069-1070 (Oct. 7).

1867. I:756-757.

1915. Transfer of duties of towns and town officers to county officers:
IV:3780-3781, 3802, 3805-3806, 3979-3984.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitu-
tional Amendments, Overture No. 250 (Int. 248).

³² On local option in the sale of intoxicating liquors, see footnote 1, under the title, Intoxicating Liquors.

³³ For the text, legislative history, and action of the people on the 1909 amendment, see Part IV, p. 265.

³⁴ For the text, legislative history, and action of the people on the 1921 amendment, see Part IV, p. 269.

Article III, § 29

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 853. See Part IV, p. 268.

Amendments proposed but not adopted by the Convention: Pr. Nos. 58, 178, 203, 291, 535, 726.

In the legislature, 1895-1937: see Part IV, pp. 265-271.

- 1 § 28. The Legislature shall not, nor shall the common
 2 council of any city, nor any board of supervisors, grant any
 3 extra compensation to any public officer, servant, agent or
 4 contractor.⁸⁵

Extra compensation to public officers prohibited

Source

Added amendments of 1874.

Historical References

References to constitutional conventions and commissions.

1867. Lincoln II:322-323, 327-328.

1872. Lincoln II:504-505; Dougherty, 232.

1894. III:297-298.

Debates of Constitutional Conventions

1867. IV:2776-2777; V:3870-3873.

1894. I:1184-1190 (II:621-624); II:704-746 (III:1011-1027); II:748-765 (III:1027-1038).

1915. Granting of extra compensation to public officers: I:416, 733-738, 755-765, 816-817; II:2387-2388.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 800. See Part IV, p. 272.

Amendments proposed but not adopted by the Convention: Pr. Nos. 36, 386, 387.

In the legislature, 1894-1937: see Part IV, p. 272.

- 1 § 29. The Legislature shall, by law, provide for the oc-
 2 cupation and employment of prisoners sentenced to the sev-
 3 eral state prisons, penitentiaries, jails and reformatories in
 4 the State; and on and after the first day of January, in the
 5 year one thousand eight hundred and ninety-seven, no per-
 6 son in any such prison, penitentiary, jail or reformatory,
 7 shall be required or allowed* to work while under sentence
 8 thereto, at any trade, industry or occupation, wherein or
 9 whereby his work, or the product or profit of his work, shall

Prison labor

Contract system abolished

⁸⁵ See notes to Art. X, § 9, and to § 18, lines 16-18, of this Art.; *cf.* end of Art. XII, § 1.

* So in original.

Article IV, § 1

10 be farmed out, contracted, given or sold to any person, firm,
 11 association or corporation. This section shall not be con-
 12 structed to prevent the Legislature from providing that con-
 13 victs may work for, and that the products of their labor may
 14 be disposed of to, the State or any political division thereof,
 15 or for or to any public institution owned or managed and
 16 controlled by the State, or any political division thereof.

Source

New.

Historical References

For an exhaustive history of legislation in this state on the subject of convict labor, including references to governors' messages and special reports, from 1796 to 1894, see Lincoln III:246-287.

References to constitutional conventions and commissions.

1894. Lincoln III:287-297; Dougherty, 349-350.

Legislative Documents

Constitutional phases of program for state control of all convicted persons: Leg. Doc. (1925) No. 17, p. 53.

Debates of Constitutional Conventions

1894. III:163-238 (III:1369-1409); IV:513-533 (V:2248-2259);
 IV:1236-1249 (VI:2670-2679).

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 117-392 (Int. 117).⁸⁰

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 245, 768.

In the legislature, 1895-1937: see Part IV, pp. 273-274.

ARTICLE IV¹

1 Section 1. The executive power shall be vested in the gov-
 2 ernor, who shall hold his office for four years; the lieutenant-
 3 governor shall be chosen at the same time, and for the same
 4 term. The governor and lieutenant-governor chosen at the
 5 general election in nineteen hundred and thirty-six shall hold
 6 office until and including the thirty-first day of December,
 7 nineteen hundred and thirty-eight. Their successors shall be

⁸⁰ This overture was adopted by the Convention and accordingly became a part of the Constitution.

¹ Amendments coming within the general scope of Art. IV, but not relating specifically to any particular section thereof, proposed but not adopted by the Constitutional Convention of 1915, are: Pr. Nos. 13, 19, 82, 212, 296, 404, 510, 555, 639.

Work for
state or
political
subdivi-
sions
excepted

Governor
and
lieutenant-
governor;
term of
office

Article IV, § 1

8 chosen at the general election held in that year and each
9 fourth year thereafter.

Source

Const. 1777, Arts. XVII and XX; amended, Const. 1821, Art. III, § 1; amended, Const. 1846, Art. IV, § 1; amended, 1874;² amended, Const. 1894, Art. IV, § 1; amended, 1937.³

Historical References

For historical statement on the office of governor from 1621 to 1894, with comment thereon, see Lincoln IV:454-461. For corresponding statement on the office of lieutenant-governor from 1697 to 1777, see Lincoln IV:461-463.

References to constitutional conventions and commissions.

1777. Lincoln I:524-527; Dougherty, 51, 54.

1821. Lincoln I:668, 672; Dougherty, 51, 111.

1846. Lincoln II:133, 135.

1872. Lincoln II:511-512; Dougherty, 235-236.

1894. Lincoln III:306-309; Dougherty, 349.

Legislative Documents

Recommendations and discussions of proposed amendments to this section in relation to:

Election of governor for a four year term in years when there is no election for president: Leg. Doc. (1924) No. 3, pp. 16-17; Leg. Doc. (1925) No. 3, p. 48; Leg. Doc. (1926) No. 3, p. 44; Leg. Doc. (1927) No. 3, pp. 10-11; Leg. Doc. (1929) No. 3, p. 7; Leg. Doc. (1929) No. 76, p. 1; Leg. Doc. (1930) No. 3, p. 10; Leg. Doc. (1931) No. 3, p. 11; Leg. Doc. (1932) No. 3, p. 13; Leg. Doc. (1933) No. 3, p. 10; Leg. Doc. (1934) No. 3, p. 17; Leg. Doc. (1935) No. 3, p. 10; Leg. Doc. (1936) No. 3, p. 17.

Reorganization of state government with provision for reduction of elective state officers to governor, lieutenant-governor and comptroller with four year term for each; comptroller to be independent auditor without administrative functions: Leg. Doc. (1923) No. 3, p. 6.

Debates of Constitutional Conventions

1821. 137-141 (Sept. 12), 145-158 (Sept. 13), 174-177 (Sept. 18), 546-551 (Oct. 27).

1846. 167-172 (June 26).

1867. II:884-885, 888-893.

1894. IV:208-218 (V:2091-2097); IV:724-727 (V:2371-2373).

1915. Four year term of governor: I:866, 868-869; IV:3842-3860.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 4, 43, 129, 275 (Int. 273), 35-457 (Int. 35).⁴

² For the text of the amendment of 1874, see Part II, p. 89.

³ For the text, legislative history, and action of the people on the 1937 amendment, see Part IV, p. 279.

⁴ This overture was adopted by the Convention and accordingly became a part of the Constitution.

 Article IV, § 2

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 868. See Part IV, p. 278.

Amendments proposed but not adopted by the Convention: Pr. Nos. 49, 87, 431, 510, 555.

In the legislature, 1895-1937: see Part IV, pp. 274-279.

1 § 2. No person shall be eligible to the office of Governor
 2 or Lieutenant-Governor, except a citizen of the United States,
 3 of the age of not less than thirty years, and who shall have
 4 been five years next preceding his election a resident of this
 5 State.⁵

Source

Const. 1777, Art. XVII; amended, Const. 1821, Art. III, § 2;
 amended, Const. 1846, Art. IV, § 2; amended, 1874.

Historical References

For a brief historical statement of the constitutional qualifications of governor from 1777, see Lincoln IV:463-464; for property qualifications of governor, see Lincoln II:7-9.

References to constitutional conventions and commissions.

1777. Dougherty, 51.

1821. Lincoln I:668; Dougherty, 111, 114.

1846. Lincoln II:133, 135.

1872. Lincoln II:512.

Legislative Documents

Recommendation of proposed amendment to this section in relation to the reorganization of state government with provision for reduction of elective state officers to governor, lieutenant-governor and comptroller with four year term for each; comptroller to be independent auditor without administrative functions: Leg. Doc. (1923) No. 3, p. 6.

Debates of Constitutional Conventions

1846. Necessity for restrictive qualifications: 177-182 (June 27), 186-220 (June 29-July 1), 227-265 (July 7-8); age: 186-220 (June 29-July 1), 227-265 (July 7-8), 268-278 (July 9-10); residence: 186-220 (June 29-July 1), 227-265 (July 7-8), 339-346 (July 17); native born: 172-175 (June 26).

1867. II:893-894.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

⁵ On eligibility of the governor to other offices, see Lincoln (1846) II:135, Convention debates (1846) 310-320 (July 15), 358-360 (July 20).

Article IV, § 4

Amendments proposed but not adopted by the Convention: Pr. Nos. 74, 510, 555.

1 § 3. The Governor and Lieutenant-Governor shall be ^{Election of}
 2 elected at the times and places of choosing members of the ^{governor}
 3 Assembly. The persons respectively having the highest num- ^{and}
 4 ber of votes for Governor and Lieutenant-Governor shall be ^{lieutenant-}
 5 elected; but in case two or more shall have an equal and the ^{governor}
 6 highest number of votes for Governor, or for Lieutenant- ^{Tie vote}
 7 Governor, the two houses of the Legislature at its next annual
 8 session shall forthwith, by joint ballot, choose one of the said
 9 persons so having an equal and the highest number of votes
 10 for Governor or Lieutenant-Governor.

Source

Const. 1777, Art. XVII; amended, Const. 1821, Art. III, § 3; Const. 1846, Art. IV, § 3.

Historical References

For historical statement of the times for electing the governor and lieutenant-governor from 1778, see Lincoln IV:464-465.

Legislative Documents

Recommendation of proposed amendment to this section in relation to the reorganization of state government with provision for reduction of elective state officers to governor, lieutenant-governor and comptroller with four year term for each; comptroller to be independent auditor without administrative functions: Leg. Doc. (1923) No. 3, p. 6.

Debates of Constitutional Conventions

1821. 123-124 (Sept. 10), 136 (Sept. 12).

1867. II:894; V:3621-3622.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 35-457 (Int. 35), 332 (Int. 324).

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 510, 555.

In the legislature, 1895-1937: see Part IV, pp. 280-281.

1 § 4. The governor shall be commander-in-chief of the ^{Governor;}
 2 military and naval forces of the state. He shall have power ^{powers and}
 3 to convene the legislature, or the senate only, on extraor- ^{duties}

Article IV, § 4

4 dinary occasions. At extraordinary sessions no subject shall
 5 be acted upon, except such as the governor may recommend
 6 for consideration. He shall communicate by message to the
 7 legislature at every session the condition of the state, and
 8 recommend such matters to it as he shall judge expedient.
 9 He shall transact all necessary business with the officers of
 10 government, civil and military. He shall expedite all such
 11 measures as may be resolved upon by the legislature, and
 12 shall take care that the laws are faithfully executed. He shall
 13 receive for his services an annual salary of twenty-five thou-
 14 sand dollars, and there shall be provided for his use a suitable
 15 and furnished executive residence.^a

Salary

Executive
residence

^a See the following references: former council of appointment: Lincoln (1777) I:531-535, 577-581, (1801) I:610-612, 615-620, (1821) I:596-607, 749-750; removal by council of appointment: Lincoln III:317, IV:555-556, Convention debates (1821) 296-301 (Oct. 1), 309-327 (Oct. 2-3), 674-676 (Appendix); governor's power of appointment, in general: Lincoln (1872) II:468-469, 520-532, Convention debates (1821) 589-592 (Nov. 1), 674-676 (Appendix), Convention debates (1867) II:1235-1269, 1272-1280; governor's power of appointment, judges of court of appeals, vacancies (when senate not in session): see Art. VI, § 6; governor's power of appointment, justices of the appellate division: see Art. VI, § 2; governor's power of appointment, certain other judges: see Art. VI, § 16; governor's power of appointment, military officers: see Art. XI, § 4; governor's power of appointment, police officers in cities: Lincoln (1894) III:642-643, Convention debates (1894) III:372-419 (III:1482-1509), III:432-448 (III:1518-1526); governor's power of appointment, with consent of senate, judges of court of appeals, vacancies: see Art. VI, § 6; governor's power of appointment, with consent of senate, certain other judges: see Art. VI, § 16; governor's power of appointment, with consent of senate, military officers: see Art. XI, § 4; governor's power of appointment, with consent of senate, heads of various state departments: see Art. V, § 4; governor's power of appointment, with consent of senate, state board of social welfare: see Art. VIII, §§ 11, 12; governor's power of appointment, with consent of senate, state department of mental hygiene: see Art. VIII, §§ 11, 12; governor's power of appointment, with consent of senate, state commission of correction: see Art. VIII, §§ 11, 12; governor's power of extradition: Lincoln IV:476-477, Convention debates (1846) 320-322 (July 15); governor's power of filling vacancies: Lincoln (1872) II:538; governor's power of removal, in general: Lincoln (1821) I:674, IV:578, 721, 724-733, 736, (1872) II:523-524, 536-537; governor's power of removal, certain judicial officers: see Art. VI, § 9; governor's power of removal, certain military officers: see Art. XI, § 4; governor's power of removal, commissioned officers: see Art. XI, § 6; governor's power of removal, county clerk: see Art. X, § 1; governor's power of removal, county register: see Art. X, § 1; governor's power of removal, district attorney: see Art. X, § 1, and Art. XIII, § 6; governor's power of removal, mayor of cities: Convention debates (1867) IV:3156, Convention debates (1894) III:358-370 (III:1474-1481); governor's power of removal, police officers: Convention debates (1894) III:372-419 (III:1482-1509), III:424-448 (IV:1518-1526), III:458-472 (IV:1532-1539); governor's power of removal, sheriff: see Art. X, § 1; governor's power of removal, heads of various state departments: see Art. V, § 4; governor's power of removal, state board of social welfare: see Art. VIII, §§ 11, 12; governor's power of removal, state department of mental hygiene: see Art. VIII, §§ 11, 12; governor's power of removal, state commission of correction: see Art. VIII, §§ 11, 12.

Article IV, § 5

Source

Const. 1777, Art. XVIII; amended, Const. 1821, Art. III, § 4; Const. 1846, Art. IV, § 4; amended, 1874;⁷ amended, Const. 1894, Art. IV, § 4; amended, 1927.⁸

Historical References

See the following topics in Lincoln: military authority: IV:466-467; extraordinary sessions of the legislature: IV:467-469; messages and recommendations to the legislature: IV:469-470; transaction of public business: IV:470; expedite public measures: IV:470-471; "take care that the laws are faithfully executed": IV:471; compensation: IV:471-472.

References to constitutional conventions and commissions.

1777. General powers: Lincoln I:526-528; Dougherty, 51.

1821. General powers: Lincoln I:668-669; messages: Lincoln I:670-671; compensation: Lincoln I:669-670.

1846. General powers: Lincoln II:134; compensation: Lincoln II:133.

1867. Extraordinary sessions: Lincoln II:330-331.

1872. General powers and compensation: Lincoln II:512-517.

Debates of Constitutional Conventions

1821. Messages: 173-174 (Sept. 18).

1846. General powers: 152-156 (June 24); military authority: 349-350 (July 18); compensation: 163-164 (June 25), 284-288 (July 11).

1867. General powers: II:1131-1132; compensation: I:666-667, II:885-886, 894, V:3611-3612, 3629-3630; extraordinary sessions: V:3612-3614, 3614-3617.

1915. Voluntary sessions of the legislature: I:830-847, 848-849, III:2389-2408, IV:3635; salary of governor: I:866, 868, IV:3860-3863, 4036, 4086-4088, 4131-4132.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendments adopted by the Convention: Pr. Nos. 819, 868. See Part IV, p. 284.

Amendments proposed but not adopted by the Convention: Pr. Nos. 50, 111, 156, 182, 223, 404, 470, 484, 510, 555, 567, 622, 639.

In the legislature, 1895-1937: see Part IV, pp. 281-286.

- 1 § 5. The Governor shall have the power to grant re-
 2 pries, commutations and pardons after conviction, for all
 3 offenses except treason and cases of impeachment, upon such
 4 conditions and with such restrictions and limitations, as he

Reprieves;
 commuta-
 tions;
 pardons

⁷ For the text of the constitutional amendment of 1874, see Part II, p. 89.

⁸ For the text, legislative history, and action of the people on the 1927 amendment, see Part IV, pp. 284-285.

Article IV, § 5

5 may think proper, subject to such regulations as may be
 6 provided by law relative to the manner of applying for
 7 pardons. Upon conviction for treason,^o he shall have power
 8 to suspend the execution of the sentence, until the case shall
 9 be reported to the Legislature at its next meeting, when the
 10 Legislature shall either pardon, or commute the sentence,
 11 direct the execution of the sentence, or grant a further re-
 12 prieve. He shall annually communicate to the Legislature
 13 each case of reprieve, commutation or pardon granted, stat-
 14 ing the name of the convict, the crime of which he was con-
 15 victed, the sentence and its date, and the date of the com-
 16 mutation, pardon or reprieve.

Treason;
 special
 provisions
 relating to

Annual
 communi-
 cation to
 legislature
 of re-
 pries, etc.

Source

Const. 1777, Art. XVIII; amended, Const. 1821, Art. III, § 5;
 amended, Const. 1846, Art. IV, § 5.

Historical References

For brief historical note on this section, see Lincoln IV:473-475, 532,
 730.

References to constitutional conventions and commissions.

1821. Dougherty, 102; murder included: Lincoln I:669.

1846. Report to legislature: Lincoln II:135-136.

1867. Board of pardons: Lincoln II:329-330.

1894. Lincoln III:310-311.

Legislative Documents

Recommendations and discussions of proposed amendments to this
 section in relation to:

Pardon of persons convicted of murder in the first degree: Leg.
 Doc. (1925) No. 17, p. 120.

Creation of a board of pardons: Leg. Doc. (1922) No. 14, pp. 91-
 92.

Debates of Constitutional Conventions

1821. Murder included: 124 (Sept. 10); impeachment excepted: 124
 (Sept. 10); report to legislature: 125-128 (Sept. 10); exclusive
 power: 129-133 (Sept. 11).

1846. Report to legislature: 290-304 (July 13-14), 350-357 (July
 18-20).

1867. Executive power: II:933-935; limitation: II:1206; report to
 legislature: II:1207-1210, V:3617-3618; board of pardons:
 II:1196-1206, 1181-1192.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitu-
 tional Amendments, Overtures Nos. 14, 30, 78, 135, 152, 161, 191
 (Int. 190), 204 (Int. 202), 220 (Int. 218).

^o On definition of treason, see Art. I, footnote 1.

Article IV, § 7

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 82, 510, 555, 643, 771.

In the legislature, 1895-1937: see Part IV, pp. 286-291.

1 § 6. In case of the impeachment of the Governor, or his ^{When}
 2 removal from office, death, inability to discharge the powers ^{lieutenant-}
 3 and duties of the said office, resignation, or absence from the ^{governor}
 4 State, the powers and duties of the office shall devolve upon ^{to act as}
 5 the Lieutenant-Governor for the residue of the term, or ^{governor}
 6 until the disability shall cease. But when the Governor shall, ^{When}
 7 with the consent of the Legislature, be out of the State, in ^{governor}
 8 time of war, at the head of a military force thereof, he shall ^{continues}
 9 continue Commander-in-Chief of all the military force of ^{as com-}
 10 the State. ^{mander-in-}
^{chief}
^{though out}
^{of state}

Source

Const. 1777, Art. XX; amended, Const. 1821, Art. III, § 6; amended, Const. 1846, Art. IV, § 6.

Historical References

For historical statement of the succession to the governorship under the Constitution in this state, see Lincoln IV:477-481.

References to constitutional conventions and commissions.

1777. Lincoln I:528-530.

1821. Lincoln I:669.

1846. Lincoln II:133.

Debates of Constitutional Conventions

1846. 304-308 (July 14).

1915. Succession to office of governor, IV:3737.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 244, 404, 510, 528, 555.

In the legislature, 1895-1937: see Part IV, p. 292.

1 § 7. The Lieutenant-Governor¹⁰ shall possess the same ^{Lieutenant-}
 2 qualifications of eligibility for office as the Governor. He ^{governor;}
 3 shall be president of the Senate, but shall have only a casting ^{qualifica-}
 4 vote therein. If during a vacancy of the office of Governor, ^{tions}

¹⁰ On suggested abolition of office of lieutenant-governor, see notes to Art. IV, § 1.

Article IV, § 8

5 the Lieutenant-Governor shall be impeached, displaced, re-
 6 sign, die, or become incapable of performing the duties of his
 7 office, or be absent from the State, the President of the Senate
 8 shall act as Governor until the vacancy be filled or the dis-
 9 ability shall cease; and if the President of the Senate for any
 10 of the above causes shall become incapable of performing
 11 the duties pertaining to the office of Governor, the Speaker
 12 of the Assembly shall act as Governor until the vacancy be
 13 filled or the disability shall cease.

President of senate

Succession to office of governor

Source

Const. 1877, Art. XX; amended, Const. 1821, Art. III, § 7; amended,
 Const. 1846, Art. IV, § 7; amended, Const. 1894, Art. IV, § 7.

Historical References

For comment upon the provision giving the lieutenant-governor a casting vote: see Lincoln IV:482.

For history of the office of temporary president of the senate and the succession to the governorship of the temporary president: see Lincoln IV:483-491.

For history of the provision extending the succession to the speaker of the Assembly: see Lincoln IV:491.

References to constitutional conventions and commissions.

1777. Succession to governorship: Lincoln I:530-531; qualifications: Lincoln I:528-530; Dougherty, 54.

1821. Qualifications: Lincoln I:669.

1894. Succession to governorship: Lincoln III:309-310; president of the senate: Lincoln IV:482-483.

Debates of Constitutional Conventions

1894. Succession to governorship: I:939-950 (I:495-501); IV:397-401 (V:2186-2188).

1915. Succession to governorship: IV:3737.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 271-368 (Int. 269).¹¹

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 393, 510, 529, 555.

In the legislature, 1895-1937: see Part IV, pp. 293-294.

1 § 8. The lieutenant-governor shall receive for his services
 2 an annual salary of ten thousand dollars, and shall not receive
 3 or be entitled to any other compensation, fee or perquisite, for

¹¹ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Salary of lieutenant-governor

Article IV, § 9

4 any duty or service he may be required to perform by the
5 constitution or by law.

Source

Const. 1846, Art. IV, § 8; amended, 1874; Const. 1894, Art. IV, § 8;
amended, 1927.¹²

Historical References

For historical statement of the compensation of the lieutenant-gov-
ernor in this colony and state, see Lincoln IV:492-493.

References to constitutional conventions and commissions.

1846. Lincoln II:133.

1872. Lincoln II:517-518.

Debates of Constitutional Conventions

1846. 163-164 (June 25).

1867. II:886, 894.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos.
510, 555.

In the legislature, 1895-1937: see Part IV, pp. 294-295.

1 § 9. Every bill which shall have passed the Senate and
2 Assembly shall, before it becomes a law, be presented to the Governor's
power over
legislation
3 Governor; if he approve, he shall sign it; but if not, he shall
4 return it with his objections to the house in which it shall
5 have originated, which shall enter the objections at large on
6 the journal, and proceed to reconsider it. If after such re- Passage of
bills over
veto
7 consideration, two-thirds of the members elected to that house
8 shall agree to pass the bill, it shall be sent together with
9 the objections to the other house by which it shall likewise
10 be reconsidered; and if approved by two-thirds of the mem-
11 bers elected to that house, it shall become a law notwith-
12 standing the objections of the Governor. In all such cases
13 the votes in both houses shall be determined by yeas and
14 nays, and the names of the members voting shall be entered
15 on the journal of each house respectively. If any bill shall Ten day
bills
16 not be returned by the Governor within ten day* (Sundays
17 excepted) after it shall have been presented to him, the same
18 shall be a law in like manner as if he had signed it, unless

¹² For the text, legislative history, and action of the people on the 1927
amendment, see Part IV, p. 295.

* So in original.

Article IV, § 9

19 the Legislature shall, by their adjournment, prevent its re-
 20 turn, in which case it shall not become a law without the
 21 approval of the Governor. No bill shall become a law after
 22 the final adjournment of the Legislature, unless approved
 23 by the Governor within thirty days after such adjournment.
 24 If any bill presented to the Governor contain several items
 25 of appropriation of money, he may object to one or more of
 26 such items while approving of the other portion of the bill.
 27 In such case, he shall append to the bill, at the time of signing
 28 it, a statement of the items to which he objects; and the ap-
 29 propriation so objected to shall not take effect. If the Legis-
 30 lature be in session, he shall transmit to the house in which
 31 the bill originated a copy of such statement, and the items
 32 objected to shall be separately reconsidered. If on recon-
 33 sideration one or more of such items be approved by two-
 34 thirds of the members elected to each house, the same shall
 35 be part of the law, notwithstanding the objections of the
 36 Governor. All the provisions of this section, in relation to
 37 bills not approved by the Governor, shall apply in cases in
 38 which he shall withhold his approval from any item or items
 39 contained in a bill appropriating money.¹³

Thirty day
bills

Appropriation bills;
governor
may object
to one or
more items

Source

Const. 1821, Art. I, § 12; amended, Const. 1846, Art. IV, § 9;
 amended, 1874. See also, Const. 1777, Art. III.

Historical References

For general discussion of the governorship as a part of the legislative system of the state, including his veto power and that formerly exercised by the Council of Revision, see Lincoln IV:494-497. For further references on the veto power, see below.

See the following topics in Lincoln: presentment of bills to the governor: IV:497-498; consideration of bills by the governor: IV:498-499; recall of bills from the governor: IV:499-501; action on bills by the governor, including ten-day period and thirty-day period: IV:501-507.

For detailed history of the causes leading up to the constitutional amendment of 1874 establishing the thirty-day period for executive consideration of bills after the adjournment of the legislature, see II:331-338.

¹³ On the former council of revision; see: Lincoln (1777) I:504-505, (1820) I:620-621, 626-628, (1821) I:743-749, (1872) II:507-511.

Article IV-A, § 1

References to constitutional conventions and commissions.

1777. Council of revision: Lincoln I:554-556, IV:555; Dougherty, 51-52.
1821. Abolition of council of revision and transfer of veto power to the governor: Lincoln I:639-640; Dougherty, 86-91, 102, 105-111.
1846. Executive action on bills after adjournment of legislature and re-passage of vetoed bills: Lincoln II:134-135.
1867. Veto power of governor (including power to veto specific portions of a bill), and re-passage of vetoed bills: Lincoln II:339-343, III:245; Dougherty, 216-218.
1872. Changes in veto power of the governor (incorporated in the constitutional amendments of 1874), including power to veto separate items in appropriation bills: Lincoln II:518-520; Dougherty, 235; proposal to establish a council of revision: Lincoln II:507-511; Dougherty, 234.
1894. Proposal to establish a council of revision, executive consideration of bills, and re-passage of vetoed bills: Lincoln III:311-312.

Debates of Constitutional Conventions

1821. Veto power: 44-120 (Sept. 4-8), 545 (Oct. 27).
1846. Veto power and re-passage of vetoed bills: 324-337 (July 16), 360-370 (July 20).
1867. Re-passage of vetoed bills: I:667, II:886-888, 1109-1131; time limit: II:894-895, V:3619-3621; limited to constitutionality of bills: I:668-669; veto of specific items: II:1109-1131.

Texts of Proposed Amendments

- In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 35-457 (Int. 35), 151, 188 (Int. 187), 205 (Int. 203), 231 (Int. 229).
- In the Constitutional Convention of 1915:
 Amendments proposed but not adopted by the Convention: Pr. Nos. 13, 157, 210, 212, 308, 347, 510, 555, 571, 631, 632, 740.
 In the legislature, 1895-1937: see Part IV, pp. 296-301.

ARTICLE IV-A¹

- 1 Section 1. On or before the fifteenth day of October in the
 2 year nineteen hundred and twenty-eight and in each year
 3 thereafter the head of each department of the state govern-
 4 ment, except the legislature and judiciary, shall submit to
 5 the governor itemized estimates of appropriations to meet
 6 the financial needs of such department, including a statement

Submission
of estimates
by depart-
ments

¹ This article was added to the constitution by the amendment of 1927.

Article IV-A, § 1

7 in detail of all moneys for which any general or special ap-
 8 propriation is desired at the ensuing session of the legisla-
 9 ture, classified according to relative importance and in such
 10 form and with such explanation as the governor may require.
 11 Copies of such estimates shall be simultaneously furnished
 12 to the designated representatives of the appropriate com-
 13 mittees of the legislature for their information.

Hearings; revision 14 The governor, after hearings thereon, at which he may re-
 15 quire the attendance of heads of departments and their sub-
 16 ordinates, shall revise such estimates according to his judg-
 17 ment. The representatives aforesaid of the committees of
 18 the legislature shall be invited to attend such hearings, and
 19 under regulations to be provided by law shall be entitled to
 20 make inquiry in respect to the estimates and the revision
 21 thereof.

Legislative and judicial estimates 22 Itemized estimates of the financial needs of the legislature
 23 certified by the presiding officer of each house and of the
 24 judiciary certified by the comptroller shall be transmitted to
 25 the governor on or before said fifteenth day of October for
 26 inclusion in the budget without revision but with such recom-
 27 mendation as he may think proper.

Source

Added, 1927.²

Historical References

Flick VII: 250-251; Buck, *The Budget Fight in New York State*,
 (1929) 18 National Municipal Review, 352-354. For comment on
 the need for a proper budget, see Dougherty, 321.

Debates of Constitutional Conventions

1915. Estimates: II:1778-1780, 1781, 1786.

Documents of 1915 Constitutional Convention

Docs.: 11, 13, 14, 15, 32, 35.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendments adopted by the Convention: Pr. No. 809. See Part
 IV, p. 229.

Amendments proposed but not adopted by the Convention: Pr. Nos.
 19, 182, 223, 345, 428, 470.

In the legislature, 1895-1937: see Part IV, p. 303.

² For the legislative history, and action of the people on this section, see
 Part IV, p. 303.

Article IV-A, § 2

1 § 2. On or before the fifteenth day of January next suc-
 2 ceeding (except in the case of a newly elected governor and
 3 then on or before the first day of February) he shall submit
 4 to the legislature a budget containing a complete plan of
 5 proposed expenditures and estimated revenues. It shall con-
 6 tain all the estimates so revised or certified and clearly item-
 7 ized, and shall be accompanied by a bill or bills for all pro-
 8 posed appropriations and reappropriations; it shall show the
 9 estimated revenues for the ensuing fiscal year and the esti-
 10 mated surplus or deficit of revenues at the end of the current
 11 fiscal year, together with the measures of taxation, if any,
 12 which the governor may propose for the increase of the
 13 revenues. It shall be accompanied by a statement of current
 14 assets, liabilities, reserves and surplus or deficit of the state;
 15 statements of the debts and funds of the state; an estimate
 16 of its financial condition as of the beginning and end of the
 17 ensuing fiscal year; and a statement of revenues and expendi-
 18 tures for the two fiscal years next preceding said year in
 19 form suitable for comparison. The governor may before final
 20 action by the legislature thereon, and not more than thirty
 21 days after submission thereof, amend or supplement the bud-
 22 get; he may also with the consent of the legislature, submit
 23 such amendment or a supplemental bill at any time before
 24 the adjournment of the legislature. A copy of the budget
 25 and of any amendments or additions thereto shall be forth-
 26 with transmitted by the governor to the comptroller.

Submission
of budget,
etc., to
legislature
by gov-
ernor

Amendment
of budget

Transmis-
sion to
comptroller

Source

Added, 1927.³

Legislative Documents

Recommendations and discussions of proposed amendment to this section in relation to the establishment of an executive budget: Leg. Doc. Senate (1913) No. 19, p. 7; Leg. Doc. Senate (1916) No. 1, pp. 3-4; Leg. Doc. (1923) No. 3, p. 6; Leg. Doc. (1924) No. 3, p. 16; Leg. Doc. (1925) No. 3, pp. 50-52; Leg. Doc. (1926) No. 3, p. 43.

³ For the legislative history, and action of the people on this section, see Part IV, p. 303.

 Article IV-A, § 3

Debates of Constitutional Conventions

1915. Submission of budget by governor: II:1137-1158, 1607-1717, 1748-1749, 1759-1760, 1772, 1776; III:2335-2339, 2384.

Documents of 1915 Constitutional Convention

Docs.: 11, 13, 14, 15, 32, 35.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 809. See Part IV, p. 229.

Amendments proposed but not adopted by the Convention: Pr. Nos. 13, 19, 156, 182, 444, 470, 510, 555, 646.

In the legislature, 1895-1937: see Part IV, p. 303.

Legislative
hearings

Powers of
legislature

Necessity
for execu-
tive ap-
proval of
bill
when
passed

1 § 3. The governor and the heads of departments shall
2 have the right, and it shall be the duty of the heads of de-
3 partments when requested by either house of the legislature,
4 to appear and be heard in respect to the budget during the
5 consideration thereof, and to answer inquiries relevant there-
6 to. The procedure for such appearance and inquiries shall
7 be provided by law. The legislature may not alter an ap-
8 propriation bill submitted by the governor except to strike
9 out or reduce items therein, but it may add thereto items of
10 appropriation provided that such additions are stated sepa-
11 rately and distinctly from the original items of the bill and
12 refer each to a single object or purpose; none of the restric-
13 tions of this provision, however, shall apply to appropriations
14 for the legislature or judiciary. Such a bill when passed by
15 both houses shall be a law immediately without further action
16 by the governor, except that appropriations for the legisla-
17 ture and judiciary and separate items added to the governor's
18 bills by the legislature shall be subject to his approval as
19 provided in section nine of article four.

Source

Added, 1927.⁴

Debates of Constitutional Conventions

1915. Appearance of governor and heads of departments at hearings:

⁴ For the legislative history, and action of the people on this section, see Part IV, p. 303.

Article IV-A, § 4

II:1643, 1686, 1706-1707, 1728, 1729-1740, 1760-1761, 1774-1775, 1783-1784, 1786, 1787; power of legislature to alter budget: II: 1651-1686, 1697-1701, 1776-1777, 1785; III: 2385-2386.

Documents of 1915 Constitutional Convention

Docs.: 11, 13, 14, 15, 32, 35.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 809. See Part IV, p. 229.

Amendments proposed but not adopted by the Convention: Pr. Nos. 19, 157, 182, 225.

In the legislature, 1895-1937: see Part IV, p. 303.

1 § 4. Neither house shall consider further appropriations ^{Further}
 2 until the appropriation bills proposed by the governor shall ^{appropri-}
 3 have been finally acted on by both houses; nor shall such ^{ations}
 4 further appropriations be then made except by separate bills
 5 each for a single work or object, which bills shall be subject
 6 to the governor's approval as provided in section nine of
 7 article four. Nothing herein contained shall be construed ^{Bills for}
 8 to prevent the governor from recommending that one or ^{immediate}
 9 more of his proposed bills be passed in advance of the others ^{need}
 10 to supply the immediate needs of government or to meet an
 11 emergency.

Source

Added, 1927.⁵

Debates of Constitutional Conventions

1915. Priority of appropriation bill proposed by governor: II:1729; additional appropriations: II:1651-1686, 1697-1701, 1754, 1763-1770, 1779-1780, III:2376-2379.

Documents of 1915 Constitutional Convention

Docs.: 11, 13, 14, 15, 32, 35.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 809. See Part IV, p. 229.

Amendments proposed but not adopted by the Convention: Pr. Nos. 19, 470, 748.

In the legislature, 1895-1937: see Part IV, p. 303.

⁵ For the legislative history, and action of the people on this section, see Part IV, p. 303.

Article V, § 1

ARTICLE V¹

1 Section 1. The comptroller and attorney-general shall be
 2 chosen at a general election, at the times and places of elect-
 3 ing the governor and lieutenant-governor, and shall hold
 4 office for the same term as the governor and lieutenant-
 5 governor.² The comptroller shall be required: (1) To audit
 6 all vouchers before payment and all official accounts; (2) to
 7 audit the accrual and collection of all revenues and receipts;
 8 and (3) to prescribe such methods of accounting as are
 9 necessary for the performance of the foregoing duties. In
 10 such respect the legislature shall define his powers and duties

Election and terms of comptroller and attorney-general

Duties of comptroller

Legislature may assign additional duties to comptroller

¹ For references to the following subjects coming within the general scope of Art. V but not relating specifically to any particular section thereof, see: Congressional delegates, how chosen: Lincoln (1777) I:536-537; police, in general: Convention debates (1867) IV:2935-2948, 2972-2980, Convention debates (1894) II:116-123 (II:686-689), II:169 (II:714-715), II:231 (II:749), II:242-243 (II:755), II:335-337 (II:803-805), II:340 (II:806), II:354-357 (II:815-816), II:360-362 (II:818-819), II:383-385 (II:830-831), II:401 (II:839); capitol police: Convention debates (1867) IV:2938-2946; capitol police district: Convention debates (1867) IV:2936, 2949-2959; police, commissions: Convention debates (1867) IV:2937-2938, 3141-3142; police, districts: Convention debates (1867) IV:2935-2936, 2965-2966, 3134-3140, Convention debates (1894) III:531-541 (IV:1574-1579); frontier police: Convention debates (1867) IV:2946-2948; police, officers, how chosen: Art. IV, footnote 6; police, officers, removal by governor: Art. IV, footnote 6; state constabulary: Lincoln (1867) II:346-348, Convention debates (1867) III:1776-1777; state officers, canal auditor: Convention debates (1867) III:2035-2038, 2345-2347; state officers, department of statistics: Convention debates (1867) II:1285-1286; state officers, engineer and surveyor: Convention debates (1846) 505-508 (Aug. 4), 520-526 (Aug. 5), Convention debates (1867) II:1280-1283, 1286-1287, Convention debates (1894) IV:724-727 (V:2371-2373); state officers, prisons, board of managers: Lincoln II:464, Convention debates (1867) IV:3182-3200, V:3817-3819; prisons, management of: Lincoln (1867) II:374-378; state officers, prison inspectors: see Art. VIII, footnote 13; state officers, property qualifications: Lincoln II:7-9; state officers, receiver-general: Convention debates (1867) V:3728-3729; state officers, state treasurer and secretary of state: see references to canal board, commissioners of canal fund and land office, footnote 9; state officers, superintendent of public works: see footnote 11; state officers, surveyor-general: Lincoln (1846) II:138; general discussion of removal of state officers: Lincoln (1821) I:673-674, Convention debates (1846) 156-160 (June 25).

Amendments coming within the general scope of Art. V, but not relating specifically to any particular section thereof, proposed but not adopted by the Constitutional Convention of 1915, are: Pr. Nos. 80, 110, 127, 129, 150, 161, 186, 221, 225, 239, 249, 261, 273, 345, 428, 494, 510, 555, 560, 584, 586, 598, 617, 625, 646, 655, 661, 672, 692, 708, 715, 718, 856.

² On the appointment and removal of state officers and filling of vacancies, and for references to the former council of appointment, see Art. IV, footnote 6 and Art. III, footnote 1, under the titles, Power of Appointment and Power of Removal.

Article V, § 1

11 and may also assign to him supervision of the accounts of
 12 any political subdivision of the state, but shall assign to him
 13 no administrative duties, excepting such as may be inciden-
 14 tal to the performance of these functions, any other provi-
 15 sion of this constitution to the contrary notwithstanding.
 16 Each of the officers in this article named shall, at stated
 17 times during his continuance in office, receive for his services
 18 a compensation which shall not be increased or diminished ^{Compensation}
 19 during the term for which he shall have been elected; nor
 20 shall he receive to his use any fees or perquisites of office or
 21 other compensation.

Source

Const. 1821, Art. IV, § 6; amended, Const. 1846, Art. V, §§ 1 and 2;
 amended, Const. 1894, Art. V, § 1; amended, 1925.³ See also, Const.
 1777, Art. XXIII; amendments of 1801, Art. V.⁴

Historical References

For remarks on state officers in general, with special reference to the
 appointment of some of them by the governor instead of their elec-
 tion by the people, see Lincoln II:520-532, and IV:456-458.

References to constitutional conventions and commissions.

1821. State officers, how chosen: Lincoln I:671; term: Lincoln
 I:672.

1846. State officers: Lincoln II:136-137.

1867. Attorney-general: Lincoln II:343-346; Dougherty, 215-216;
 compensation: Lincoln II:327-328; election of comptroller and
 attorney-general: Dougherty, 220; term: Lincoln II:401.

1872. Dougherty, 235; compensation: Dougherty, 241.

1894. Election of comptroller and attorney-general: Dougherty,
 220.

Legislative Documents

Recommendations and discussions of proposed amendments to this
 section in relation to:

Reorganization of state government with provision for reduction
 of elective state officers to governor, lieutenant-governor and
 comptroller with four year term for each; comptroller to be
 independent auditor without administrative function: Leg. Doc.
 (1923) No. 3, p. 6.

Elective officers of the state: Leg. Doc. (1928) No. 90, pp. 3-7.

Making head of Department of Farms and Markets an elective
 office: Leg. Doc. (1919) No. 59, p. 227.

³ For the text, legislative history, and action of the people on the 1925
 amendment, see Part IV, p. 311.

⁴ For the text of the amendments of 1801, see Part II, p. 23.

Article V, § 2

Debates of Constitutional Conventions

1821. State officers, how chosen: 302-307 (Oct. 1).

1846. State officers, how chosen: 480-481 (July 31); term: 480-481 (July 31); compensation: 150-151 (June 24), 480-481 (July 31), 496-501 (Aug. 3), 517-520 (Aug. 5).

1867. State officers: II:1009-1011; how chosen: II:1235-1269, 1272-1280; time of election: V:3631-3632; compensation: II:1285; comptroller: III:1990, 2259-2261; attorney-general: II:1272-1282, 1284-1285, IV:2773-2776.

1894. Term: IV:724-727 (V:2371-2373); compensation: IV:724-727 (V:2371-2373).

1915. Compensation of public officers: I:958-960; election of comptroller and attorney-general: III:3330-3336, IV:3368, 3375-3377, 3455, 3461, 3464-3467, 3475-3479, 3498, 3525-3538, 3540-3559, 3562; office and duties of comptroller: III:3319-3321, IV:3380, 3455-3456, 3475-3483, 3535-3537, 3541-3542, 3549, 3551-3559, 3564, 3566.

Documents of 1915 Constitutional Convention

Docs.: 11, 13, 14, 17, 40, 41, 50.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 35-457 (Int. 35),⁵ 37, 43, 362 (Int. 353).

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 863. See Part IV, p. 311.

Amendments proposed but not adopted by the Convention: Pr. Nos. 73, 80, 85, 109, 110, 125, 134, 179, 224, 249, 331, 334, 336, 368, 387, 427, 428, 430, 484, 510, 555, 570, 598, 620, 651, 692, 727.

In the legislature, 1895-1937: see Part IV, pp. 304-314.

Departments of state government

- 1 § 2. There shall be the following civil departments in the
 2 state government: First, executive; second, audit and con-
 3 trol; third, taxation and finance; fourth, law; fifth, state;
 4 sixth, public works; seventh, architecture; eighth, conserva-
 5 tion; ninth, agriculture and markets; tenth, labor; eleventh,
 6 education; twelfth, health; thirteenth, mental hygiene; four-
 7 teenth, social welfare; fifteenth, correction; sixteenth, pub-
 8 lic service; seventeenth, banking; eighteenth, insurance; nine-
 9 teenth, civil service; twentieth, military and naval affairs.⁶

⁵ This overture was adopted by the Convention and accordingly became a part of the Constitution.

⁶ On department of excise: Convention debates (1915) IV:3385-3388; on department of conservation, see Art. VII, § 7. The number of departments was reduced to eighteen by L. 1926, ch. 343.

Article V, § 2

Source

Const. 1894, Art. V, § 2; amended, 1925;⁷ amended, 1931.⁸

Historical References

For discussion of cabinet of state officers: see Dougherty, 215-216 and note, p. 215.

For historical comment on administrative reorganization and the short ballot in New York State, see: Flick VII:244-250. On administrative reorganization, see also: Childs, *Administrative Consolidation Advances in New York*, (1923) 12 National Municipal Review, 329; Childs, *New York State Reorganizes*, (1926) 15 National Municipal Review, 265-269; Cleveland, *The Short Ballot and the New York Constitution*, (Aug. 1915) Review of Reviews, 195-198; Crawford, *New York State Reorganization*, (1926) 20 American Political Science Review, 76-79; Crawford, *Administrative Reorganization of New York State*, (1927) 21 American Political Science Review, 349-359; Roosevelt, *Results in New York State Vindicate Administrative Reorganization*, (1930) 19 National Municipal Review, 223-225.

Legislative Documents

Recommendations and discussions of proposed amendment to this section in relation to:

Consolidation of all legal affairs of state in Law Department: Leg. Doc. (1934) No. 10, pp. 26-27; Leg. Doc. (1936) No. 20, p. 25.

Establishment of a state Department of Justice: Leg. Doc. (1936) No. 57, pp. 17-18.

Reorganization and consolidation of state departments: Leg. Doc. (1921) No. 3, pp. 17-19; Leg. Doc. (1923) No. 3, p. 6; Leg. Doc. (1924) No. 3, p. 15; Leg. Doc. (1925) No. 3, p. 48; Leg. Doc. (1925) No. 94, p. 4.

Reorganization of the state government: Leg. Doc. (1920) No. 51, pp. 3-6.

Discussions relating to:

Constitutional and statutory requirement that Board of Charities maintain supervision over charitable, correctional and reformatory institutions and agencies: Leg. Doc. (1922) No. 17, pp. xi, 18.

Child welfare: Leg. Doc. (1922) No. 84, pp. 23-34.

Change of name of State Department of Charities to State Department of Social Welfare: Leg. Doc. (1932) No. 22, p. 1.

Constitutional phases of program for state control of all convicted persons: Leg. Doc. (1925) No. 17, p. 58.

⁷ For the text, legislative history, and action of the people on the 1925 amendment, see Part IV, p. 319. It substituted a new section for former § 2.

⁸ For the text, legislative history, and action of the people on the 1931 amendment, see Part IV, p. 323.

 Article V, § 3

Debates of Constitutional Conventions

1915. Reorganization and simplification of state government: III: 3316-3319, 3327-3329, 3337-3338, 3341-3346, 3347-3352, 3355, 3377-3380, 3452-3453, 3570-3571, 3572; department of public works: III:3322-3326, 3348, IV:3381, 3457-3459, 3485, 3585, 3586-3590, 3593-3596; departments of charities and correction: IV:3598-3606.

Documents of 1915 Constitutional Convention

Reorganization of state government: Docs. 11, 13, 14, 40, 41, 50;
 Department of Labor: Doc. 17; Conservation Department: Doc. 28.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 863. See Part IV, p. 319.

Amendments proposed but not adopted by the Convention: Pr. Nos. 25, 75, 80, 81, 83, 85, 86, 100, 121, 127, 129, 134, 154, 161, 172, 186, 221, 249, 273, 303, 331, 333, 334, 336, 369, 371, 416, 427, 446, 448, 450, 494, 510, 525, 555, 560, 569, 570, 584, 586, 593, 598, 617, 625, 637, 653, 655, 656, 661, 672, 684, 708, 715, 718, 727, 856.

In the legislature, 1895-1937: see Part IV, pp. 314-323.

Assignment
of func-
tions of
state gov-
ernment

1 § 3. At the session immediately following the adoption
 2 of this article the legislature shall provide by law for the
 3 appropriate assignment, to take effect not earlier than the
 4 first day of July, one thousand nine hundred and twenty-six,
 5 of all the civil, administrative and executive functions of the
 6 state government, to the several departments in this article
 7 provided. Subject to the limitations contained in this con-
 8 stitution, the legislature may from time to time assign by
 9 law new powers and functions to departments, officers,
 10 boards or commissions continued or created under this
 11 constitution, and increase, modify or diminish their powers
 12 and functions. No specific grant of power herein to a de-
 13 partment shall prevent the legislature from conferring addi-
 14 tional powers upon such department. No new departments
 15 shall be created hereafter, but this shall not prevent the
 16 legislature from creating temporary commissions for special
 17 purposes and nothing contained in this article shall prevent
 18 the legislature from reducing the number of departments
 19 as provided for in this article, by consolidation or otherwise.
 20 The elective state officers in office at the time this article as
 21 amended takes effect shall continue in office until the end
 22 of the terms for which they were elected. Pending the

Legislature
may confer
additional
powers
upon de-
partments

No new de-
partments
to be
created;
legislature
may reduce
number

Article V, § 3

23 assignment of the civil, administrative and executive func-
 24 tions by the legislature pursuant to the directions of this
 25 section, the powers and duties of the several departments,
 26 boards, commissions and officers now existing are continued.
 27 Subject to the power of the legislature to reduce the num-
 28 ber of officers, when the powers and duties of any existing
 29 office are assigned to any department, the officers exercising
 30 such powers shall continue in office in such department, and
 31 their term of office shall not be shortened by such assign-
 32 ment.⁹

Source

Added, 1925.¹⁰

Historical References

See references to section 2 of this Article.

Legislative Documents

Recommendations of proposed amendments to this section in relation to:

State Probation Commission as a constitutional body: Leg. Doc. Senate (1916) No. 44, p. 61.

Discussion of plan for an administrative judge: Leg. Doc. (1934) No. 50 (I), pp. 7-37.

Debates of Constitutional Conventions

1915. Assignment of duties to departments: III:3316-3318, IV:3519-3524; creation of new departments: III:3318, 3347, IV:3377, 3454.

Documents of 1915 Constitutional Convention

Docs.: 11, 13, 14, 17, 40, 41, 50.

⁹ See the following references: Canal board, canal commissioners, commissioners of canal fund, commissioners of land office: Lincoln I:696-697, (1846) II:137, (1872) II:535, 538, III:393, IV:164, (1894) IV:513, Convention debates (1846) 534 (Aug. 6), Convention debates (1867) III:2019-2035, 2343-2345, 2349-2354, Convention debates (1894) IV:164-174 (V:2067-2072), IV:181-194 (V:2076-2083), IV:200-205 (V:2087-2090), Convention debates (1915) I:1058-1059, IV:4039-4041, 4121; canal board, canal commissioners, commissioners of canal fund, commissioners of land office, powers and duties: Lincoln II:539, Convention debates (1846) 536-537 (Aug. 6-7). [These officers are now statutory; see State Departments Law, §§ 83, 194, and 222.] Civil service commissioners: Convention debates (1915) III:3350-3352, 3615-3616; commissions, abolition of: Convention debates (1894) II:843-859 (III:1081-1090); public service commissions: Convention debates (1915) I:956-958, II:2236-2240, III:2241-2247, 2256-2293, 2298-2334, 3094-3124, IV:3754-3756; railroads, creation of commissions: Convention debates (1867) V:3649-3651; state tax commission: Convention debates (1915) I:390-391, 942-943, 947.

¹⁰ For the text, legislative history, and action of the people on the 1925 amendment, see Part IV, p. 327. It substituted a new section for former § 3.

Article V, § 4

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendments adopted by the Convention: Pr. Nos. 852, 857, 863.

See Part IV, p. 326.

Amendments proposed but not adopted by the Convention: Pr. Nos. 25, 81, 154, 162, 172, 186, 225, 248, 249, 334, 369, 416, 430, 446, 510, 555, 569, 570, 584, 589, 593, 598, 656, 692, 856.

In the legislature, 1895-1937: see Part IV, pp. 325-328.

1 § 4. The head of the executive department shall be the
2 governor. The head of the department of audit and control
3 shall be the comptroller and of the department of law, the
4 attorney-general. The head of the department of education
5 shall be the regents of the university of the state of New
6 York, who shall appoint and at pleasure remove a commis-
7 sioner of education to be the chief administrative officer of
8 the department. The head of the department of agriculture
9 and markets shall be appointed in a manner to be prescribed
10 by law. Except as otherwise provided in this constitution,
11 the heads of all other departments and the members of all
12 boards and commissions mentioned in this article, excepting
13 temporary commissions for special purposes, shall be ap-
14 pointed by the governor by and with the advice and consent
15 of the senate and may be removed by the governor, in a
16 manner to be prescribed by law.¹¹

Source

Added, 1925;¹² amended, 1927.¹³

Historical References

See historical references to section 2 of this Article.

Legislative Documents

Recommendation of proposed amendment to this section in relation to making head of Department of Farms and Markets an elective office: Leg. Doc. (1919) No. 59, p. 227.

¹¹ On former superintendent of public works, see Lincoln (1846) II:137-138, (1867) II:355-357, 401, (1872) II:535, (1894) III:313, Dougherty 213, Convention debates (1867) II:1067-1068, III:2038-2057, 2347-2355, V:3633-3638, 3651-3652, Convention debates (1894) IV:218-224 (V:2091-2100); on superintendent of public instruction and state superintendent of schools, see Art. IX, footnote 4.

¹² For the text, legislative history, and action of the people on the 1925 amendment, see Part IV, p. 331. It substituted a new section for former § 4.

¹³ For the text, legislative history, and action of the people on the 1927 amendment, see Part IV, pp. 331-332.

Article V, § 5

Debates of Constitutional Conventions

1915. Appointment and removal of heads of departments by governor: III:3330, 3331-3336, 3346, 3353-3360, IV:3361-3376, 3381-3383, 3388-3389, 3402-3447, 3453-3454, 3456-3457, 3459-3474, 3485-3512, 3564, 3568, 3578-3583, 3585-3586, 3608-3610, 3966-3979; impeachment of heads of departments: III:3329, 3459, 3537-3538.

Documents of 1915 Constitutional Convention

Docs.: 11, 13, 14, 17, 40, 41, 50.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 863. See Part IV, pp. 330-331.

Amendments proposed but not adopted by the Convention: Pr. Nos. 25, 75, 80, 81, 83, 85, 109, 111, 121, 125, 127, 129, 134, 154, 161, 172, 179, 221, 224, 225, 249, 273, 296, 308, 331, 333, 334, 345, 368, 369, 371, 428, 430, 446, 448, 484, 494, 510, 525, 555, 567, 569, 570, 586, 593, 617, 620, 625, 636, 639, 651, 653, 655, 672, 684, 692, 715, 718, 727, 856.

In the legislature, 1895-1937: see Part IV, pp. 329-333.

- 1 § 5. All offices for the weighing, gauging, measuring, cull- Weighing,
 2 ing or inspecting any merchandise, produce, manufacture or measuring
 3 commodity whatever, are hereby abolished; and no such office and inspect-
 4 shall hereafter be created by law; but nothing in this section ing commo-
 5 contained shall abrogate any office created for the purpose of dities;
 6 protecting the public health or the interests of the state in its offices
 7 property, revenue, tolls or purchases, or of supplying the peo- abolished
 8 ple with correct standards of weights and measures, or shall
 9 prevent the creation of any office for such purposes hereafter.

Source

Const. 1846, Art. V, § 8; Const. 1894, Art. V, § 8; amended, 1925.¹⁴

Historical References

Lincoln II:383.

Debates of Constitutional Conventions

1846. 510-517 (Aug. 4-5).

1867. II:1366-1371; IV:2785-2789.

1915. Repeal of section, inspection and grading of food products: IV:3864-3876, 4088-4097.

Documents of 1915 Constitutional Convention

Non-compulsory inspection of food products: Doc. 38.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

¹⁴ For the text, legislative history, and action of the people on the 1925 amendment, see Part IV, p. 342. This is former § 8 renumbered 5.

Article V, § 6

Amendments adopted by the Convention: Pr. Nos. 857, 860. See Part IV, pp. 334-336.

Amendments proposed but not adopted by the Convention: Pr. Nos. 368, 510, 555, 597, 860.

In the legislature, 1895-1937: see Part IV, pp. 334-336.

§ 6. Appointments and promotions in the civil service of the state, and of all the civil divisions thereof, including cities and villages, shall be made according to merit and fitness to be ascertained, so far as practicable, by examinations, which, so far as practicable, shall be competitive; provided, however, any honorably discharged soldiers, sailors, marines or nurses of the army, navy or marine corps of the United States disabled in the actual performance of duty* in any war, to an extent recognized by the United States Veterans' Bureau, who are citizens and residents of this state and were at the time of their entrance into the military or naval service of the United States, and whose disability exists at the time of his or her application for such appointment or promotion, shall be entitled to preference in appointment and promotion, without regard to their standing on any list from which such appointment or promotion may be made. Laws shall be made to provide for the enforcement of this section.¹⁵

Source

Const. 1894, Art. V, § 9; amended, 1925;¹⁶ amended, 1929.¹⁷

Historical References

For history of civil service in this state from 1777 to 1894, see Lincoln III:313-334.

References to constitutional conventions and commissions.

1894. Lincoln III:328-334; Dougherty, 348.

Legislative Documents

Recommendation and discussion of proposed amendment to this section extending to veterans of the Spanish-American War and other

* So in session law.

¹⁵ On civil service pensions, see: Lincoln (1867) II:293, Convention debates (1867) IV:3064, V:3262-3263, 3448-3452; on pensions prohibited except in certain cases, see: Lincoln (1894) III:299, Convention debates (1894) I:856-872 (II:450-458), I:978-998 (II:518-523).

¹⁶ For the text, legislative history, and action of the people on the 1925 amendment, see Part IV, pp. 360-361. This is former § 9, amended and renumbered 6.

¹⁷ For the text, legislative history, and action of the people on the 1929 amendment, see Part IV, p. 364.

Former section 7 of this Art. was omitted by the amendment of 1925. For the legislative history and text of this amendment, see Part IV, pp. 338-341.

Civil
servicePreference
to honor-
ably dis-
charged
soldiers,
sailors, ma-
rines and
nurses

 Article VI, § 1

wars the preference for appointment and promotion in the civil service of the state and its municipalities granted to Civil War Veterans: Leg. Doc. Assembly (1916) No. 31, pp. 73, 75, 100, 165; Leg. Doc. (1929) No. 30, p. 77.

Discussion of civil service preference for war veterans: Leg. Doc. Assembly (1911) No. 33, p. 39; Leg. Doc. (1922) No. 75, pp. 23, 75, 79, 82, 84; Leg. Doc. (1922) No. 112, pp. 104-120.

Debates of Constitutional Conventions

1894. Appointments: IV:834-847 (V:2438-2445), IV:1016-1047 (VI:2545-2562); veterans: IV:1016-1047 (VI:2545-2562).

1915. Employees of conservation department: III:1425-1436; preference to Spanish War veterans: IV:4124-4129.

Documents of 1915 Constitutional Convention

Doc. 47.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 208-393 (Int. 206).¹⁸

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 863. See Part IV, p. 338.

Amendments proposed but not adopted by the Convention: Pr. Nos. 27, 53, 77, 138, 142, 239, 261, 266, 268, 284, 287, 301, 355, 439, 510, 517, 520, 543, 555, 630, 634, 657, 658, 673, 674, 736, 840.

In the legislature, 1895-1937: see Part IV, pp. 336-338, 343-367.

ARTICLE VI¹

- 1 Section 1. The supreme court is continued with general^{Supreme} jurisdiction in law and equity, subject to such appellate jur-^{court; how}
- 2 isdiction of the court of appeals as now is or hereafter may be^{constituted; judicial}
- 3 ^{districts}

¹⁸ This overture was adopted by the Convention and accordingly became a part of the Constitution.

¹ For references to the following subjects coming within the general scope of Art. VI but not relating specifically to any particular section thereof, see: Commissioners of jurors: Convention debates (1915) III:2794-2797, 2798-2816, Unrevised Record III:2737-2741. (See also Art. III, footnote 22); courts, court of claims: see section 23 of this Art. and footnote 75: court of conciliation: Lincoln (1867) II:163-164, Convention debates (1846) 588-590 (Aug. 12), 798-804 (Sept. 3), 833-834 (Sept. 10), Convention debates (1867) IV:2704-2707; custody of money paid into court: Convention debates (1846) 822-823 (Sept. 8), Convention debates (1867) V:3728-3731; courts, jurisdiction, transfer of causes: Lincoln (1890) II:698; circuit courts, historical references: Lincoln II:264-265, (1821) I:681, 688, (1894) III:369, Convention debates (1821) 520-522 (Oct. 23), 604-621 (Nov. 2-3), Convention debates (1894) II:900-901 (III:1112-1113), II:978 (III:1156); court of oyer and terminer: Lincoln (1821) I:677-678, Convention debates (1894) II:900-901 (III:1112-1113), II:978 (III:1156); court of sessions: Lincoln I:458, 459, 461, III:361; criminal law, suspended sentence: Convention debates (1867) I:125; judges, qualifications of: Convention debates (1846) 830 (Sept. 9); judgments, execution of: Convention debates (1846) 820-821

Article VI, § 1

4 prescribed by law not inconsistent with this article.² The
 5 existing judicial districts of the state are continued until
 6 changed as hereinafter provided. The supreme court shall
 7 consist of the justices now in office and their successors, to-
 8 gether with such additional justices as may be authorized by
 9 law. The successors of said justices shall be chosen by the
 10 electors of their respective judicial districts. The legisla-
 11 ture may alter the judicial districts once after every federal
 12 census or state enumeration, each district being bounded by
 13 county lines, and thereupon re-apportion the justices to be
 14 thereafter elected in the districts so altered.

Justices;
number and
election

Alteration
of judicial
districts,
reapportion-
ment of
justices

Increase in
number of
justices

15 The legislature may from time to time increase the num-
 16 ber of justices in any judicial district, except the number of
 17 justices in any district shall not be increased to exceed one
 18 justice for each sixty thousand, or fraction over thirty-five
 19 thousand, of the population thereof as shown by the last
 20 federal census or state enumeration. Any justice of the
 21 supreme court, except as otherwise provided in this article,
 22 may perform the duties of his office or hold court in any
 23 county.

(Sept. 8); judicial system, in general: Lincoln (1821) I:677-684, II:140-144, (1867) I:248-259, 281, II:247-249, 285, Convention debates (1821) 528-538 (Oct. 25), Convention debates (1846) 481-495 (Aug. 1), 528-530 (Aug. 6), 567-682 (Aug. 11-19), 687-750 (Aug. 20-24), 807-812 (Sept. 4), Convention debates (1867) II:1306-1309, 1352, III:1625-1628, V:3457-3461, 3773-3776, Convention debates (1894) II:461-468, II:567-568, IV:576-607 (V:2286-2303); litigants to contribute to expense of administering justice: Convention debates (1846) 823-825, 827-828 (Sept. 8-9); jury exemptions: Convention debates (1915) III:2425-2426, 2569-2570, 2799-2800, 2801, Unrevised Record III:2741-2758, Documents of 1915 Constitutional Convention, Doc. 40; pensions, judicial: Lincoln (1890) II:713-716, 724, (1894) III:366-368, Convention debates (1846) 777-779 (Aug. 31), Convention debates (1867) IV:2438-2443, 2446-2460, 2708, Convention debates (1894) II:1123-1157 (III:1237-1256), II:1159-1169 (III:1258-1263); procedure, questions of procedure appealable to supreme court: Convention debates (1867) V:3729-3730, 3859-3861; uniform procedure: Convention debates (1846) 587-588 (Aug. 11), 590-682 (Aug. 12-19), 687-750 (Aug. 20-24), 838-840 (Sept. 10); referees, official: Convention debates (1915) III:2414, 2568, 2572-2573, 2575-2579, 2581-2611, 2852-2858, IV:3449-3450, 3696-3699, 3700-3701, 3884; registration of land titles: see Art. I, footnote 16; revision of Code of Civil Procedure and rules of practice: Convention debates (1915) III:2412-2413, 2507-2526; suspended sentence: Convention debates (1867) I:125.

Amendments coming within the general scope of Art. VI, but not relating specifically to any particular section thereof, proposed but not adopted by the Constitutional Convention of 1915, are: Pr. Nos. 1, 2, 9, 20, 22, 56, 119, 170, 183, 185, 190, 265, 280, 282, 312, 353, 356, 364, 405, 414, 455, 511, 527, 542, 553, 556, 559, 702, 712, 720.

²On the former court of chancery, see: Lincoln (1821) I:672-674, 677, 679-681, II:66-68, 72, (1846) II:140-144, 217, Convention debates (1821) 500-523 (Oct. 22-24), 671-673 (Appendix), Convention debates (1846) 559-582 (Aug. 10-11), 834-836 (Sept. 10).

Article VI, § 1

Source

Const. 1821, Art. V, § 4; amended, Const. 1846, Art. VI, § 3; amended, Judiciary Article, 1869,³ Art. VI, § 6; amended, 1879;⁴ amended, 1888;⁵ amended, Const. 1894, Art. VI, § 1; amended, 1905;⁶ amended, 1925.⁷

Historical References

For historical comment, mainly on the period from 1812 to 1847, see Lincoln II:64-73; Dougherty, 86, 120, 335-337.

References to constitutional conventions and commissions.

1777. Lincoln I:535; Dougherty, 53-54.

1821. Lincoln I:674-690; Dougherty, 122-123, 124-128.

1846. Lincoln II:140-144, 150-153, 217; Dougherty, 170, 187-190; method of choosing judges: Dougherty, 196-198.

1867. Lincoln II:247-249, 264-271; Dougherty, 195-196; method of choosing judges: Lincoln II:285-288.

1890. Lincoln II:701-703; Dougherty, 332.

1894. Lincoln III:335-341, 352-353; Dougherty, 331.

1915. Chester II:750.

1925. Chester II:783.

Legislative Documents

Discussion relating to jurisdiction of the supreme court, appointive versus elective judiciary, ratio of justices of the supreme court to population, and continuation of existing judicial districts: Leg. Doc. (1922) No. 37, pp. 7-14; Leg. Doc. (1922) No. 67, pp. 4-5.

Debates of Constitutional Conventions

1821. Reorganization: 501 (Oct. 22); legislative power to create: 602-604 (Nov. 2); number of justices: 621-623 (Nov. 3), 653-654 (Nov. 9).

1846. How constituted: 773-777 (Aug. 29-31), 762-764 (Aug. 26-27); jurisdiction: 559-582 (Aug. 10-11), 590-596 (Aug. 12); justices, how chosen: 111-112 (June 17), 140-142 (June 23), 787-794 (Sept. 1-2); additional justices: 794-796 (Sept. 2-3), 1123-1124 (Appendix); judicial districts: 766-768 (Aug. 27), 771-772 (Aug. 28).

³ The Constitution proposed by the Constitutional Convention of 1867-68 was not submitted to the people until the general election in November, 1869. For the full text (except Art. VI) of this proposed Constitution, see Lincoln II:423-463. It was all rejected except the Judiciary Article (Art. VI). This article as adopted by the people is given in full in Part II, pp. 76-84.

⁴ For the text of the constitutional amendment of 1879, see Part II, p. 96.

⁵ For the text of the constitutional amendment of 1888, see Part II, pp. 96-97.

⁶ For the text, legislative history, and action of the people on the 1905 amendment, see Part IV, pp. 376-377.

⁷ For the text, legislative history, and action of the people on the 1925 amendment, see Part IV, pp. 464-465. In most instances it embodies the proposals of the Judiciary Constitutional Convention of 1921, Leg. Doc. (1922) No. 37, Appendix A.

Article VI, § 2

1867. How constituted: IV:2408-2426, 2452-2478, 2495-2524, 2530-2541, 2644-2650, V:3709-3713; justices, number: V:3708-3709, 3719-3720; justices, how chosen: IV: 2551-2560, 2574-2591, 2665-2668, 2707-2708; time of election: V:3737-3738.

1894. Justices, number: II:892-893 (III:1108-1109), II:906-915 (III:1116-1120), II:919-922 (III:1124-1126), III:55-56 (II:1310).

1915. Jurisdiction of Indian tribal courts to rest in courts of state: II:1233-1237, 1570-1586; successors to offices of judges assigned to court of appeals: III:2435-2437.

Documents of 1915 Constitutional Convention

Abolishing power of courts to declare laws unconstitutional: Doc. 17; non-partisan election of judges: Docs.: 8, 17, 42, 43.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 269 (Int. 267), 279 (Int. 277), 422 (Int. 383).⁸

In the Constitutional Convention of 1915:

Amendments adopted by the Convention: Pr. Nos. 799-850. See Part IV, p. 381.

Amendments proposed but not adopted by the Convention: Pr. Nos. 1, 2, 7, 15, 20, 60, 64, 65, 95, 119, 123, 190, 231, 265, 280, 282, 306, 310, 312, 313, 351, 396, 405, 414, 433, 443, 451, 464, 477, 497, 511, 542, 556, 622, 626, 680, 712.

In the legislature, 1895-1937: see Part IV, pp. 368-381, 465-467.

Judicial
depart-
ments;
alteration

Appellate
division;
justices;
number
and
quorum

Designation
by gov-
ernor

1 § 2. The division of the state into four judicial depart-
2 ments is continued as now constituted by law. Once every
3 ten years, the legislature may alter the boundaries of the
4 judicial departments, but without increasing the number
5 thereof, and each department shall be bounded by the lines
6 of judicial districts. The appellate divisions of the supreme
7 court are continued, and shall consist of seven justices of
8 the supreme court in each of the first and second depart-
9 ments, and five justices in each of the other departments. In
10 each appellate division, four justices shall constitute a
11 quorum, and the concurrence of three shall be necessary to
12 a decision. No more than five justices shall sit in any case.
13 The governor shall designate the presiding justice of each
14 appellate division, who shall act as such during his term of
15 office and shall be a resident of the department. The other

⁸ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article VI, § 2

16 justices of the appellate divisions shall be designated by the
17 governor, from all the justices elected to the supreme court,
18 for terms of five years or the unexpired portions of their
19 respective terms of office, if less than five years. The justices Terms
20 heretofore designated shall continue to sit in the appellate
21 divisions until the terms of their respective designations shall
22 expire. From time to time as the terms of the designations
23 expire, or vacancies occur, the governor shall make new
24 designations. He may also, on request of any appellate di- Temporary and additional designations
25 vision, make temporary designations in case of the absence
26 or inability to act of any justice in such appellate division,
27 for service only during such absence or inability to act. In
28 case any appellate division shall certify to the governor
29 that one or more additional justices are needed for the
30 speedy disposition of the business before it, the governor
31 shall designate an additional justice or additional justices;
32 but when the need for such additional justice or justices shall
33 no longer exist, the appellate division shall so certify to
34 the governor, and thereupon service under such designation
35 or designations shall cease. A majority of the justices desig- Residence requirements
36 nated to sit in any appellate division shall at all times be
37 residents of the department. Whenever the appellate divi- Transfer of appeals to other departments
38 sion in any department shall be unable to dispose of its busi-
39 ness within a reasonable time, a majority of the presiding
40 justices of the several departments, at a meeting called by
41 the presiding justice of the department in arrears, may trans-
42 fer any pending appeals from such department to any other
43 department for hearing and determination. The several ap-
44 pellate divisions, except as hereinafter provided, shall have
45 and exercise such original or appellate jurisdiction as is now
46 or may hereafter be prescribed by law. Each appellate Clerk and attendants
47 division shall have power to appoint and remove its clerk
48 and attendants. No justice of the appellate division shall, Powers and duties of justices
49 within the department to which he may be designated to
50 perform the duties of an appellate justice, exercise any of
51 the powers of a justice of the supreme court, other than
52 those of a justice out of court, and those pertaining to the
53 appellate division, except that he may decide causes or pro-
54 ceedings theretofore submitted, or hear and decide motions
55 submitted by consent of counsel, but any such justice, when

Article VI, § 2

56 not actually engaged in performing the duties of such appel-
 57 late justice in the department to which he is designated, may
 58 hold any term of the supreme court and exercise any of the
 59 powers of a justice of the supreme court in any judicial
 60 district in any other department of the state. From and
 61 after the last day of December, eighteen hundred and ninety-
 62 five, the appellate division shall have the jurisdiction now
 63 exercised by the supreme court at its general terms and by
 64 the general terms of the court of common pleas for the
 65 city and county of New York, the superior court of the city
 66 of New York, the superior court of Buffalo and the city of
 67 Brooklyn, and such additional jurisdiction as may be con-
 68 ferred by the legislature.⁹ The justices of the appellate
 69 division in each department shall have power to fix the times
 70 and places for holding special and trial terms of the supreme
 71 court held therein and to assign the justices in the depart-
 72 ments to hold such terms; or to make rules therefor.

Jurisdiction

Appellate division justices to fix special and trial terms

Source

Const. 1846, Art. VI, § 6; amended, Judiciary Article, 1869,¹⁰ Art. VI, § 7; amended, Const. 1894, Art. VI, § 2; amended, 1899;¹¹ amended, 1905;¹² amended, 1925.¹³

Historical References

For historical sketch of the evolution of the appellate division, see Lincoln III:353-355.

References to constitutional conventions and commissions.

1846. General term: Dougherty, 189.

1867. Departments: II:251, 265-269, 271; election of justices: Dougherty, 195.

1890. General term: Lincoln II:693-695, 697-698, 700, 723; departments: Lincoln II:702-704; Dougherty, 326; justices, election: Lincoln II:695-697, 699, 700-707, 723; justices, powers: Lincoln II:701, 724; justices, designation: Lincoln II:701.

⁹ On the history of the court of common pleas, the superior courts of New York, Buffalo and Brooklyn, see Lincoln II:274-279; on the abolition of superior courts, see: Lincoln (1890) II:707-710, 724-725, (1894) III:362-364, Convention debates (1867) IV:2437-2438, 2547-2551, 2661-2665, Convention debates (1894) II:890-892 (III:1108), II:967-968 (III:1150-1156).

¹⁰ See footnote 3.

¹¹ For the text, legislative history, and action of the people on the 1899 amendment, see Part IV, pp. 383-384.

¹² For the text, legislative history, and action of the people on the 1905 amendment, see Part IV, pp. 388-390.

¹³ For the text, legislative history, and action of the people on the 1925 amendment, see Part IV, pp. 467-469. In most instances it embodies the proposals of the Judiciary Constitutional Convention of 1921, Leg. Doc. (1922) No. 37, Appendix A.

Article VI, § 2

1894. Lincoln III:355-360; appellate division: Dougherty, 330-331; departments: Dougherty, 330.

1915. Chester II:751.

1925. Chester II:783-784.

Legislative Documents

Recommendations and discussions of proposed amendments to this section in relation to:

Temporary assignment of judges in case of emergency: Leg. Doc. (1935) No. 48, pp. 46-47; Leg. Doc. (1936) No. 48 (A), pp. 3-6.

Permitting justices of appellate division to assign county judges within New York City to sit temporarily in city court: Leg. Doc. (1935) No. 48, p. 48.

Discussion relating to power of the governor to designate additional justices when necessary for the speedy disposition of cases pending before any appellate division; majority of justices in any appellate division to be residents of the department; appellate division justices in each department permitted to fix time and place for holding special and trial terms and to assign justices; governor authorized to designate extraordinary terms: Leg. Doc. (1922) No. 37, pp. 15-16.

Debates of Constitutional Conventions

1846. Judges, powers limited: 789 (Sept. 2).

1867. Judicial departments: IV:2693-2695; general term: IV:2541-2544, 2547, 2650-2651, 2677-2683, 2693-2695.

1894. How constituted: II:923-934 (III:1126-1132), III:33-34 (III:1296-1297), III:36-52 (III:1300-1308); justices, number: IV:547-558 (V:2269-2274); justices, duties: III:52-55 (III:1308-1310).

1915. Justices, number: II:1949-1950, III:2414-2416, 2444-2445; assignment of additional justices: II:1950, III:2416; holding of terms during summer: III:2453-2455; alteration of boundaries of departments: III:2445-2450; power of appellate division to reduce sentences: III:2450-2452.

Documents of 1915 Constitutional Convention

Docs.: 8, 42, 43.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 101, 128, 163, 422 (Int. 383).¹⁴

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 850. See Part IV, p. 398.

Amendments proposed but not adopted by the Convention: Pr. Nos. 26, 148, 183, 185, 231, 265, 306, 315, 340, 364, 421, 457, 458, 464, 497, 536, 606, 626.

In the legislature, 1895-1937: see Part IV, pp. 383-398, 469.

¹⁴ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article VI, § 3

Appellate term; how constituted; designation; residence requirements

1 § 3. The appellate divisions in the first and second de-
 2 partments shall severally have power to establish an appel-
 3 late term of the supreme court to be held in and for its
 4 department, to be constituted of not less than three nor more
 5 than five justices of the supreme court, who shall be desig-
 6 nated from time to time by such appellate division and shall
 7 be residents of the department. Any such appellate term
 8 may be discontinued and reestablished as said appellate di-
 9 visions, respectively, from time to time shall determine, and
 10 any designation to service therein may be revoked at any
 11 time by the appellate division so designating. In each ap-
 12 pellate term, no more than three justices assigned thereto
 13 shall sit in any case; two of such justices shall constitute a
 14 quorum, and the concurrence of two shall be necessary to a
 15 decision. Such appellate terms shall have jurisdiction to
 16 hear and determine all appeals now or hereafter authorized
 17 by law to be taken to the supreme court or to the appellate
 18 division other than appeals from the supreme court, a sur-
 19 rogate's court, or the court of general sessions of the city
 20 of New York, as may from time to time be directed by the
 21 appellate division establishing such appellate term. The
 22 appellate term or the appellate division establishing it may
 23 allow an appeal from such appellate term to such appellate
 24 division whenever in the opinion of either a question of law
 25 or fact is involved which ought to be reviewed.

Jurisdic-
 tion

Appeal to
 appellate
 division

Source

Added, 1925.¹⁵

Historical References

Chester II: 784-785.

Legislative Documents

Recommendation of proposed amendment to this section permitting justices of the appellate division to assign county judges and surrogates to sit temporarily as justices of the supreme court: Leg. Doc. (1935) No. 48, pp. 46-47.

Discussion relating to appellate terms: Leg. Doc. (1922) No. 37, pp. 16-17.

¹⁵ For the text, legislative history and action of the people on this amendment, see Part IV, pp. 470-471. It embodies the proposal of the Judiciary Constitutional Convention of 1921, Leg. Doc. (1922) No. 37, Appendix A, 6. Former § 3 is now embodied in § 19 and § 20.

Article VI, § 4

Debates of Constitutional Conventions

1915. Appeals from appellate term: III:2460-2461, 2464-2467, 2468-2478, 2481-2495, 2496-2502; assignment of justices to appellate term: II:1951, III:2416; jurisdiction of appellate term: II:1951, III:2416, 2461-2462; power to reduce sentences: III:2462-2463, 2467-2468, 2469, 2472-2473, 2478-2483, 2492, 2495.

Documents of 1915 Constitutional Convention

Docs.: 8, 42, 43.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 850. See Part IV, p. 913.

Amendment proposed but not adopted by the Convention: Pr. No. 458.

In the legislature, 1895-1937: see Part IV, pp. 913 (§ 3), 940 (§ 4), 962 (§ 3), 978 (§ 3).

1 § 4. The official terms of the justices of the supreme
 2 court shall be fourteen years from and including the first
 3 day of January next after their election.¹⁶ When a vacancy
 4 shall occur otherwise than by expiration of term in the office
 5 of justice of the supreme court, the same shall be filled for a
 6 full term at the next general election held not less than three
 7 months after such vacancy occurs; and, until the vacancy
 8 shall be so filled, the governor, by and with the advice and
 9 consent of the senate, if the senate shall be in session, or if
 10 not in session, the governor may fill such vacancy by ap-
 11 pointment, which shall continue until and including the last
 12 day of December next after the election at which the vacancy
 13 shall be filled.

Supreme
 court jus-
 tices;
 terms;
 vacancies

Source

Const. 1846, Art. VI, § 13; amended, Judiciary Article, 1869,¹⁷ Art. VI, § 9; amended, Const. 1894, Art. VI, § 4; amended, 1925.¹⁸
 See also Const. 1777, Art. XXIV, and Const. 1821, Art. IV, § 7.

Historical References

For historical comment on length of term of office, see Dougherty, 191-192.

¹⁶ On age limitation of judges, see Art. VI, § 19.

¹⁷ See footnote 3.

¹⁸ For the text, legislative history, and action of the people on the 1925 amendment, see Part IV, pp. 471-472. It embodies the proposal of the Judiciary Constitutional Convention of 1921, Leg. Doc. (1922) No. 37.

Article VI, § 5

References to constitutional conventions and commissions.

1821. Lincoln I:672, 675.

1846. Dougherty, 198-199.

1867. Lincoln II:250-262, 266, 268-271; Dougherty, 195.

1890. II:718.

Debates of Constitutional Conventions

1846. 769-770 (Aug. 28).

1867. IV:2544-2547, 2551-2560, 2574-2592, 2651-2654, 2665-2668.

1894. II:934-945 (III:1132-1138).

Documents of 1915 Constitutional Convention

Docs.: 8, 42, 43.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 70, 77, 102, 422 (Int. 383).¹⁹

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 850. See Part IV, p. 915 (§ [4] 5).

Amendments proposed but not adopted by the Convention: Pr. Nos. 26, 64, 124, 231, 306, 405, 503, 515, 680.

In the legislature, 1895-1937: see Part IV, pp. 400-402, 471-472.

- Court of appeals; judges, terms, quorum, etc.
- 1 § 5. The court of appeals is continued.²⁰ It shall consist
- 2 of the chief judge, the six elected associate judges now in
- 3 office, who shall hold their offices until the expiration of their
- 4 respective terms, and their successors, who shall be chosen
- 5 by the electors of the state, and such justices of the supreme
- 6 court as may be designated for service in said court as here-
- 7 inafter provided. The official terms of the chief judge and
- 8 elected associate judges shall be fourteen years from and in-
- 9 cluding the first day of January next after their election.
- 10 Five members of the court shall constitute a quorum, and
- 11 the concurrence of four shall be necessary to a decision; but
- 12 no more than seven judges shall sit in any case. In case of
- 13 the temporary absence or inability to act of any judge of the
- 14 court of appeals, the court may designate any justice of
- 15 the supreme court to serve as associate judge of the court
- 16 during such absence or inability to act. The court shall have
- 17 power to appoint and to remove its clerk and attendants.
- 18 Whenever and as often as the court of appeals shall certify
- Temporary designation of supreme court justices to serve as associate judges
- Clerk and attendants

¹⁹ This overture was adopted by the Convention and accordingly became a part of the Constitution.

²⁰ On the former commission of appeals, see Lincoln (1867) II:262-264, 465, Convention debates (1867) III:2383-2390, IV:2407-2408, 2641-2644.

Article VI, § 5

19 to the governor that the court is unable, by reason of the
 20 accumulation of causes pending therein, to hear and dispose
 21 of the same with reasonable speed, the governor shall desig-
 22 nate such number of justices of the supreme court as may
 23 be so certified to be necessary, but not more than four, to
 24 serve as associate judges of the court of appeals. The jus-
 25 tices so designated shall be relieved, while so serving, from
 26 their duties as justices of the supreme court, and shall serve
 27 as associate judges of the court of appeals until the court
 28 shall certify that the need for the services of any such jus-
 29 tices no longer exists, whereupon they shall return to the
 30 supreme court. The governor may fill vacancies among
 31 such designated judges. No such justice shall serve as asso-
 32 ciate judge of the court of appeals except while holding the
 33 office of justice of the supreme court. The designation of a
 34 justice of the supreme court as an associate judge of the
 35 court of appeals shall not be deemed to affect his existing
 36 office any longer than until the expiration of his designation
 37 as such associate judge, nor to create a vacancy.

Designation of supreme court justices to serve as associate judges

Source

Const. 1846, Art. VI, § 2; amended, Judiciary Article, 1869,²¹ Art. VI, § 2; amended, Const. 1894, Art. VI, § 7; amended, 1899;²² amended, 1925.²³ See also Judiciary Article, 1869, Art. VI, § 4; amendment of 1872, § 28;²⁴ amendment of 1888, § 6.²⁵

Historical References

For historical comment on the period from 1689 to 1846, see Dougherty, 182-184; from 1847 to 1890, see Dougherty, 322-324.

For comment on the dissatisfaction felt in 1846 with the court for the correction of errors, which led to the creation of the court of appeals, see Lincoln II:145-146; Dougherty, 186. For the evolution of the court of appeals from 1847 to 1867, see Lincoln II:227-229; from 1867 to 1894, see Lincoln III:341-342. See also Lincoln II:284-285.

²¹ See footnote 3.

²² For the text, legislative history, and action of the people on the 1899 amendment, see Part IV, p. 406.

²³ For the text, legislative history, and action of the people on the 1925 amendment, see Part IV, pp. 472-474. It embodies the proposals of the Judiciary Constitutional Convention of 1921, Leg. Doc. (1922) No. 37, Appendix A, 8-9. This is former § 7, renumbered 5; former § 5 was omitted.

²⁴ For the text of the constitutional amendment of 1872, see Part II, p. 98.

²⁵ For the text of the constitutional amendment of 1888, see Part II, pp. 96-97.

Article VI, § 6

References to constitutional conventions and commissions.

1846. Lincoln II:146-150; Dougherty, 187-188.

1867. Lincoln II:249-262, 284-285; Dougherty, 193-194, 199-201.

1890. Lincoln II:686-691, 722; Dougherty, 325.

1894. Lincoln III:341-352, 373; Dougherty, 328-329.

1915. Chester II:751.

1925. Chester II:785-786.

Legislative Documents

Discussion relating to the composition of the court of appeals and designation of supreme court justices to serve therein: Leg. Doc. (1922) No. 37, pp. 17-18.

Debates of Constitutional Conventions

1846. Organization: 558-559 (Aug. 10); election of judges: 751-763 (Aug. 25-26); clerk: 821-822 (Sept. 8).

1867. Organization: IV:2635-2644; sessions: III:2165-2167; judges, tenure of office: III:2164-2228, 2281-2303, 2359, IV:2404, 2547, V:3726-3727; number of judges: III:2167-2181, IV:2450-2452, V:3706-3707; election of judges: III:2200-2203; quorum: III:2404-2407; chief judge, how chosen: III:2190-2197.

1894. Number of judges: II:979-1028 (III:1156-1183), II:1029-1057 (III:1185-1200), II:1060-1087 (III:1203-1217); quorum: II:902-903 (III:1113), II:986-988 (III:1159-1161); organization, division: II:893-900 (III:1109-1112), V:559-566 (V:2275-2279); court of criminal appeals: I:734-738 (I:384-386).

1915. Organization: II:1951-1954, III:2416-2418, 2437-2438, 2619-2630; rules governing admission of attorneys: II:1949, III:2414, 2640-2641.

Documents of 1915 Constitutional Convention

Docs.: 8, 42, 43; non-partisan election of judges: Doc. 17.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 19, 33, 42, 268 (Int. 266), 311 (Int. 305), 336 (Int. 328), 422 (Int. 383).²⁶

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 850. See Part IV, p. 919 (§ [7] 9).

Amendments proposed but not adopted by the Convention: Pr. Nos. 20, 21, 26, 147, 199, 231, 237, 306, 310, 313, 409, 457, 497, 511, 536, 556, 559, 605, 622, 626, 680.

In the legislature, 1895-1937: see Part IV, pp. 406-414, 474.

Vacancies
in court
of appeals;
election;
appoint-
ment

1 § 6. When a vacancy shall occur otherwise than by ex-
2 piration of term, in the office of chief or elected associate

²⁶ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article VI, § 6

3 judge of the court of appeals, the same shall be filled, for a
4 full term, at the next general election held not less than three
5 months after such vacancy occurs; and until the vacancy
6 shall be so filled, the governor, by and with the advice and
7 consent of the senate if the senate shall be in session, or if
8 not in session, the governor may fill such vacancy by appoint-
9 ment. If any such appointment be made from among the
10 justices of the supreme court, such appointment shall not
11 be deemed to affect his existing office any longer than until
12 the expiration of his appointment as such associate judge,
13 nor to create a vacancy. If any such appointment of chief
14 judge shall be made from among the associate judges, a tem-
15 porary appointment of associate judge shall be made in like
16 manner; but, in such case, the appointment shall not be
17 deemed to affect his office of associate judge any longer than
18 until the expiration of his appointment as chief judge, nor
19 to create a vacancy. The powers and jurisdiction of the
20 court shall not be suspended for want of appointment or
21 election when the number of judges is sufficient to constitute
22 a quorum. All appointments under this section shall con-
23 tinue until and including the last day of December next after
24 the election at which the vacancy shall be filled.

Source

Const. 1846, Art. VI. § 13; amended, Judiciary Article, 1869,²⁷ Art.
VI, § 3; amended, Const. 1894, Art. VI, § 8; amended, 1925.²⁸
See also Const. 1821, Art. IV, § 7.

Historical References

References to constitutional conventions and commissions.
1867. Vacancies: Lincoln II:260.

Debates of Constitutional Conventions

1867. Vacancies: IV:2544-2547, 2652-2654; V:3727.
1894. Vacancies: II:1088 (III:1217).

Documents of 1915 Constitutional Convention

Docs.: 8, 42, 43.

²⁷ See footnote 3.

²⁸ For the text, legislative history, and action of the people on the 1925 amendment, see Part IV, pp. 474-475. It embodies the proposals of the Judiciary Constitutional Convention of 1921, Leg. Doc. (1922) No. 37, Appendix A, 9-10. This is former § 8, renumbered 6; former § 6 was omitted.

Article VI, § 7

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 77, 422 (Int. 383).²⁰

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 850. See Part IV, p. 922.

Amendments proposed but not adopted by the Convention: Pr. Nos. 26, 199, 231, 306, 405, 514, 680.

In the legislature, 1895-1937: see Part IV, pp. 415-417, 475.

Jurisdiction of court of appeals

1 § 7. The jurisdiction of the court of appeals, except
2 where the judgment is of death, or where the appellate
3 division, on reversing or modifying a final judgment in an
4 action or a final order in a special proceeding, makes new
5 findings of fact and renders final judgment or a final order
6 thereon, shall be limited to the review of questions of law;
7 but the right to appeal shall not depend upon the amount
8 involved.

Criminal cases

9 Appeals may be taken to the court of appeals in the classes
10 of cases enumerated in this section.

Civil cases and proceedings

11 In criminal cases, directly from a court of original jurisdic-
12 tion where the judgment is of death, and in other criminal
13 cases from an appellate division or otherwise as the legisla-
14 ture may from time to time provide.

Construction of constitutions; dissent by justice of appellate division; reversal or modification

15 In civil cases and proceedings as follows:

16 (1) As of right, from a judgment or order entered upon
17 the decision of an appellate division of the supreme court
18 which finally determines an action or special proceeding
19 wherein is directly involved the construction of the constitu-
20 tion of the state or of the United States, or where one or
21 more of the justices of the appellate division dissents from
22 the decision of the court, or where the judgment or order is
23 one of reversal or modification.

New trial if judgment absolute stipulated for

24 (2) As of right, from an order of the appellate division
25 granting a new trial where the appellant stipulates that, upon
26 affirmance, judgment absolute shall be rendered against him.

²⁰ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article VI, § 7

27 (3) As of right, from a judgment or order of a court of Constitutional
 28 record of original jurisdiction which finally determines an validity of
 29 action or special proceeding where the only question in statute
 30 involved on the appeal is the validity of a statutory provision
 31 of the state or of the United States under the constitution
 32 of the state or of the United States; and on any such appeal
 33 only the constitutional question shall be considered and
 34 determined by the court.

35 (4) From a determination of the appellate division of the
 36 supreme court in any department, other than a judgment or
 37 order which finally determines an action or special proceed-
 38 ing, where the appellate division allows the same and cer- Certifica-
 39 tifies that one or more questions of law have arisen which, tion of
 40 in its opinion, ought to be reviewed by the court of appeals, question of
 41 but in such case the appeal shall bring up for review only the law by
 42 question or questions so certified; and the court of appeals, appellate
 43 shall certify to the appellate division its determination upon division
 44 such question or questions.

45 (5) From a judgment or order entered upon the decision Certifica-
 46 of an appellate division of the supreme court which finally tion of
 47 determines an action or special proceeding but which is not question of
 48 appealable under subdivision one of this section where the law by
 49 appellate division shall certify that in its opinion a question appellate
 50 of law is involved which ought to be reviewed by the court division
 51 of appeals, or where, in case of the refusal so to certify, an one;
 52 appeal is allowed by the court of appeals. Such an appeal appeal
 53 shall be allowed when required in the interest of substantial allowed
 54 justice. The legislature may further restrict the jurisdiction by court
 55 of the court of appeals and the right of appeal thereto. No of appeals
 56 appeal shall be taken to said court of appeals from a final Restriction
 57 judgment or order of the appellate division in any civil case of jurisdic-
 58 or proceeding originally commenced in any court other than tion by
 59 the supreme court, a county court, a surrogate's court, or legislature
 60 a court of claims or board of audit unless the appellate When cer-
 61 division of the supreme court shall certify that in its opinion tification
 62 a question of law is involved which ought to be reviewed by by
 63 the court of appeals. appellate
 division
 necessary

Article VI, § 7

Source

Const. 1894, Art. VI, § 9; amended, 1925.⁸⁰ Compare §§ 588, 589 of Civil Practice Act (1917).

Historical References

References to constitutional conventions and commissions.
 1867. Lincoln II:260.
 1890. Lincoln II:686-690, 722.
 1894. Lincoln III:346-347, 349-352; Dougherty, 329.
 1925. Chester II:786-787.

Legislative Documents

Recommendations of proposed amendments to this section in relation to:

Permitting questions of law to be appealed directly to the court of appeals: Leg. Doc. (1934) No. 50 (D) p. 64; Leg. Doc. (1935) No. 48, pp. 10, 41-42; Leg. Doc. (1935) No. 71, p. 8.

Appellate review in court of appeals and appellate division to prevent delays: Leg. Doc. (1919) No. 3, p. 18.

Discussion relating to jurisdiction of the court of appeals: Leg. Doc. (1922) No. 37, pp. 19-20; Leg. Doc. (1922) No. 67, p. 5.

Debates of Constitutional Conventions

1846. Power to issue state writs: 837-838 (Sept. 10).

1867. IV:2699; V:3738-3739; Power to declare laws unconstitutional: V:3283-3284, 3356-3365.

1894. II:902 (III:1113); II:1088-1121 (III:1217-1235); III:64-65 (III:1314-1315); IV:558-559 (V:2275).

1915. II:1951, 1952-1954; III:2421-2423, 2621, 2632-2640, 2642-2651.

Documents of 1915 Constitutional Convention

Docs.: 8, 42, 43.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 422 (Int. 383).⁸¹

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 850. See Part IV, p. 922.

Amendments proposed but not adopted by the Convention: Pr. Nos. 9, 21, 147, 160, 265, 306, 310, 440, 458, 559, 626.

In the legislature, 1895-1937: see Part IV, pp. 418-426, 478-481.

⁸⁰ For the text, legislative history, and action of the people on the 1925 amendment, see Part IV, 476-478. It embodies some of the proposals of the Executive Committee of the Judiciary Constitutional Convention of 1921, Supplemental Report, Leg. Doc. (1922). No. 67, p. 5. This is former § 9, renumbered 7; former § 7 is now § 5.

⁸¹ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article VI, § 9

1 § 8. Upon an appeal from a judgment or an order, any
 2 appellate court to which the appeal is taken which is author- Appeal: reversal or
 3 ized to review such judgment or order may reverse or affirm, wholly or
 4 wholly or in part, or may modify the judgment or order ap- in part;
 5 pealed from, and each interlocutory judgment or intermediate modification; judg-
 6 or other order which it is authorized to review, and as to ment; new
 7 any or all of the parties. It shall thereupon render judg- trial
 8 ment of affirmance, judgment of reversal and final judgment
 9 upon the right of any or all of the parties, or judgment of
 10 modification thereon according to law, except where it may
 11 be necessary or proper to grant a new trial or hearing, when
 12 it may grant a new trial or hearing.

Source

Added, 1925.³²

Documents of 1915 Constitutional Convention

Docs.: 8, 42, 43.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendment proposed but not adopted by the Convention: Pr. No. 356.

In the legislature, 1895-1937: see Part IV, p. 964.

1 § 9. Judges of the court of appeals and justices of the Removal
 2 supreme court may be removed by concurrent resolution of of judges
 3 both houses of the legislature, if two-thirds of all the mem-
 4 bers elected to each house concur therein. All other judicial
 5 officers, except justices of the peace, justices of the muni-
 6 cipal court of the city of New York, and judges or justices
 7 of inferior courts not of record, may be removed by the
 8 senate, on the recommendation of the governor, if two-thirds
 9 of all the members elected to the senate concur therein. But
 10 no officer shall be removed by virtue of this section except
 11 for cause, which shall be entered on the journals, nor unless
 12 he shall have been served with a statement of the cause
 13 alleged, and shall have had an opportunity to be heard. On

³² For the legislative history and action of the people on this section, see Part IV, p. 481. Former § 8 is now § 6.

Article VI, § 9

14 the question of removal, the yeas and nays shall be entered
15 on the journal.³³

Source

Const. 1846, Art. VI, § 11; amended, Judiciary Article, 1869,³⁴ Art. VI, § 11; amended, Const. 1894, Art. VI, § 11; amended, 1925.³⁵
See also Const. 1821, Art. I, § 13; amendment of 1845.³⁶

Historical References

For a history of the legislature's power of removal and the cases in which this power has been invoked, from 1777 to 1905, see Lincoln IV:554-590. For particular reference to the senate's power of removal, see Lincoln IV:577-590.

References to constitutional conventions and commissions.

1777. Lincoln IV:554-556.
1821. Lincoln I:674, IV:556-563.
1846. Lincoln IV:563-565.
1867. Lincoln IV:565-566.
1894. Lincoln III:369, IV:566-567.
1925. Chester II:787.

Legislative Documents

Discussion relating to the removal of municipal court justices: Leg. Doc. (1922) No. 67, pp. 5-6.

Debates of Constitutional Conventions

1821. 443-445 (Oct. 15).
1846. 785-787 (Sept. 1).
1894. II:1122-1123 (III:1236-1237).
1915. Convening of legislature for removal of judge: I:830-847; III:2389-2408.

Documents of 1915 Constitutional Convention

Docs.: 8, 42, 43.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 422 (Int. 383).³⁷

In the Constitutional Convention of 1915:

Amendments adopted by the Convention: Pr. Nos. 819, 850. See Part IV, p. 426.

Amendments proposed but not adopted by the Convention: Pr. Nos. 306, 391, 421, 469, 479, 534.

In the legislature, 1895-1937: see Part IV, pp. 427-428, 482.

³³ For other references to the removal of judges, see Art. III, footnote 1, and Art. IV, footnote 6, under the title, Power of Removal. See section 10 of this article for removal by impeachment, and section 17 for removal of justices of the peace.

³⁴ See footnote 3.

³⁵ For the text, legislative history, and action of the people on the 1925 amendment, see Part IV, pp. 481-482. It embodies the suggestion of the Executive Committee, Judiciary Constitutional Convention of 1921, Supplemental Report, Leg. Doc. (1922) No. 67, p. 6. This is former § 11 renumbered 9; former § 9 is now 7.

³⁶ For the text of the constitutional amendment of 1845, see Part II, p. 43.

³⁷ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article VI, § 10

1 § 10. The assembly shall have the power of impeachment ^{Impeach-}
 2 by a vote of a majority of all the members elected thereto. ^{ment}
 3 The court for the trial of impeachments shall be composed
 4 of the president of the senate, the senators, or the major
 5 part of them, and the judges of the court of appeals, or the
 6 major part of them. On the trial of an impeachment against ^{Court for}
 7 the governor or lieutenant-governor, neither the lieutenant- ^{the trial of}
 8 governor nor the temporary president of the senate shall act ^{impeach-}
 9 as a member of the court. No judicial officer shall exercise ^{ments;}
 10 his office after articles of impeachment against him shall ^{how con-}
 11 have been preferred to the senate, until he shall have been ^{stituted}
 12 acquitted. Before the trial of an impeachment, the members ^{Proce-}
 13 of the court shall take an oath or affirmation truly and im- ^{dure: oath;}
 14 partially to try the impeachment according to the evidence, ^{two-thirds}
 15 and no person shall be convicted without the concurrence of ^{Vote re-}
 16 two-thirds of the members present. Judgment in cases of ^{quired}
 17 impeachment shall not extend further than to removal from ^{Judgment;}
 18 office, or removal from office and disqualification to hold and ^{liability of}
 19 enjoy any public office of honor, trust, or profit under this ^{party im-}
 20 state; but the party impeached shall be liable to indictment ^{peached}
 21 and punishment according to law.

Source

Const. 1777, Art. XXXIII; amended, Const. 1821, Art. V, § 2;
 amended, Const. 1846, Art. VI, § 1; amended, Judiciary Article,
 1869,³⁸ Art. VI, § I; Const. 1894, Art. VI, § 13; amended, 1925.³⁹

Historical References

For historical sketch of the power of impeachment in this state, including impeachment trials, see Lincoln IV:599-612.

References to constitutional conventions and commissions.

1777. Lincoln I:538-540; Dougherty, 54.

1821. Lincoln I:673, IV:600-602.

1846. Lincoln II:144-145, IV:602-603.

1867. Lincoln II:249.

1894. Lincoln IV:602-603.

1915. Chester II:752.

1925. Chester II:787.

Legislative Documents

Discussion relating to impeachment of governor or lieutenant-governor: Leg. Doc. (1922) No. 37, p. 21.

³⁸ See footnote 3.

³⁹ For the text, legislative history, and action of the people on the 1925 amendment, see Part IV, pp. 482-483. It embodies the proposals of the Judiciary Constitutional Convention of 1921, Leg. Doc. (1922) No. 37, Appendix A, p. 13. This is former § 13 renumbered 10; former § 10 is included in § 19.

Article VI, § 11

Debates of Constitutional Conventions

1821. 435-440 (Oct. 15).

1846. 555-558 (Aug. 10).

1867. III:2164; IV:2635; V:3727-3728, 3776.

1894. II:1169 (III:1263).

1915. Testimony before court for trial of impeachments: II:1957, III:2419, 2663-2674; successor to officer impeached not to participate in trial: III:2663; convening of Assembly for impeachment: I:830-847, III:2389-2408.

Documents of 1915 Constitutional Convention

Docs.: 8, 42, 43.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 338.

In the Constitutional Convention of 1915:

Amendments adopted by the Convention: Pr. Nos. 819, 850. See Part IV, p. 925.

Amendments proposed but not adopted by the Convention: Pr. Nos. 39, 137, 141, 155, 243, 265, 306, 530, 731.

In the legislature, 1895-1937: see Part IV, pp. 435-436, 483-484.

County
courtsJudges;
number,
election,
termJurisdiction
of
county
courts
outside
New
York
City

1 § 11. The existing county courts are continued, and the
 2 judges thereof now in office shall hold their offices until the
 3 expiration of their respective terms. In the county of Kings
 4 there shall be five county judges and in the county of Bronx
 5 two county judges. The number of county judges in any
 6 county may also be increased, from time to time, by the leg-
 7 isature, to such number that the total number of county
 8 judges in any one county shall not exceed one for every two
 9 hundred thousand, or major fraction thereof, of the popula-
 10 tion of such county. The additional county judge in the
 11 county of Bronx shall be chosen at the general election held
 12 in the first odd-numbered year after the adoption of this
 13 amendment. The additional county judges whose offices may
 14 be created by the legislature shall be chosen at the general
 15 election held in the first odd-numbered year after the crea-
 16 tion of such office. All county judges, including successors
 17 to existing judges, shall be chosen by the electors of the
 18 counties for the term of six years from and including the
 19 first day of January following their election except that in
 20 counties within the city of New York the term shall be four-
 21 teen years. County courts in counties outside the city of
 22 New York shall have the powers and jurisdiction now pre-
 23 scribed by law, and also original jurisdiction in actions for

Article VI, § 11

24 the recovery of money only, where all the defendants reside
 25 in the county and in which the complaint demands judgment
 26 for a sum not exceeding three thousand dollars; but, if, in any
 27 action brought in said court, a counterclaim for more than
 28 three thousand dollars shall be interposed, the supreme court,
 29 on the application of either party made in the judicial dis-
 30 trict embracing the county, may remove the cause to the
 31 supreme court, whereupon such action shall proceed and be
 32 heard as if originally brought therein. The legislature may
 33 hereafter enlarge or restrict the jurisdiction of the county
 34 courts provided, however, that their jurisdiction shall not
 35 be so extended as to authorize an action therein for the re-
 36 covery of money only in which (1) the sum demanded exceeds
 37 three thousand dollars, or (2) in which any person not a
 38 resident of the county is a defendant, unless such defendant
 39 have an office for the transaction of business within the
 40 county and the cause of action arose therein. From and
 41 after the first day of January in the second year following
 42 the adoption of this article, all the jurisdiction in civil actions
 43 or proceedings now vested in the county courts of the coun-
 44 ties of Kings, Bronx, Queens and Richmond shall be with-
 45 drawn from such county courts and vested in the city court
 46 of the city of New York as constituted in and by section
 47 fifteen of this article, and said county courts shall thereafter
 48 be vested with jurisdiction only in criminal prosecutions or
 49 proceedings as now or hereafter provided by law. County
 50 judges shall perform such duties as may be prescribed by
 51 law, and their compensation, as established by law, shall be
 52 payable out of the county treasury. A county judge of any
 53 county outside the city of New York may hold the county
 54 court in any other county when requested by the county
 55 judge of such other county;⁴⁰ and, in case of the death,
 56 absence, or incapacity of a county judge, in a county having
 57 no special county judge then able to serve, the governor may
 58 designate a county judge of another county to hold the
 59 county court during such vacancy, absence, or inability to
 60 act.

Removal of
cause to
supreme
court

Power of
legislature
to vary
jurisdic-
tion of
county
courts

Civil jurisdic-
tion of
Kings,
Bronx,
Queens and
Richmond
county
courts
transferred
to city
court of
New York

County
judges;
duties,
compensa-
tion, power
to hold
county
court in
other
counties;
temporary
designa-
tion by
governor

⁴⁰ On associate county judges, see: Convention debates (1846) 825-827 (Sept. 9), Convention debates (1867) IV:2602-2609, 2668-2670.

Article VI, § 11

Source

Const. 1846, Art. VI, § 14; amended, Judiciary Article, 1869, ⁴¹ Art. VI, § 15; amended, Const. 1894, Art. VI, § 14; amended, 1913;⁴² amended, 1925.⁴³ See also Const. 1777, Art. XXIV, and Const. 1821, Art. V, § 6.

Historical References

For historical sketch of the county court from 1691 to 1894, see Lincoln II:153-159.

References to constitutional conventions and commissions.

1777. Lincoln I:153-154.

1821. Lincoln I:673, 677.

1846. Lincoln II:142-143, 155-157.

1867. Lincoln II:272-274, 279-284; Dougherty, 202.

1890. Lincoln II:710-713, 725.

1894. Lincoln III:36-361, 373.

1915. Chester II:752.

1925. Chester II:777-778, 787.

Legislative Documents

Recommendation of proposed amendment to this section in relation to:

Permitting county judges to preside at trial terms of supreme court until calendars are cleared: Leg. Doc. Assembly (1902) No. 2, p. 13.

Permitting justices of the appellate division to assign county judges within New York City to sit temporarily in city court: Leg. Doc. (1935) No. 48, p. 48.

Discussion relating to the continuation of county courts, increasing their jurisdiction to \$3000, giving jurisdiction in actions against certain non-residents, and permitting transfer of causes to supreme court where counterclaim is for more than \$3000: Leg. Doc. (1922) No. 37, p. 21; Leg. Doc. (1922) No. 67, p. 7.

Debates of Constitutional Conventions

1846. Organization: 684-688 (Aug. 18), 691 (Aug. 19), 797-798 (Sept. 3), 803-807 (Sept. 4); jurisdiction: 697-698 (Aug. 19), 710-711 (Aug. 20), 741-746 (Aug. 24), 803-807 (Sept. 4).

1867. Jurisdiction: II:272-274, IV:2592-2602, 2671-2676, 2697-2698; duties of judge: IV:2696-2697; term: II:274; compensation: II:274.

1894. Organization: III:65-66 (III:1315-1316); jurisdiction: II:1169-1186 (III:1263-1272); compensation of judge: III:24-31 (III:1292-1295), V:3734, 3736-3737.

⁴¹ See footnote 3.

⁴² For the text, legislative history, and action of the people on the 1913 amendment, see Part IV, pp. 448-450.

⁴³ For the text, legislative history, and action of the people on the 1925 amendment, see Part IV, pp. 484-486. In some instances it embodies the proposals of the Judiciary Constitutional Convention of 1921, Leg. Doc. (1922) No. 37, Appendix A, pp. 13-14, and the Executive Committee, Judiciary Constitutional Convention of 1921, Supplemental Report, Leg. Doc. (1922) No. 67, p. 7. This is former § 14 renumbered 11; former § 11 is now § 9.

Article VI, § 12

1915. Jurisdiction of county courts: II:1955, III:2419-2420, 2675-2676, 2677-2678; compensation of county judges: II:1956, III:2675-2677.

Documents of 1915 Constitutional Convention

Docs.: 8, 42, 43; non-partisan election of judges: Doc. 17.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 41, 79, 126, 172, 180 (Int. 179), 269 (Int. 267), 422 (Int. 383).⁴⁴

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 850. See Part IV, pp. 926-927.

Amendments proposed but not adopted by the Convention: Pr. Nos. 14, 61, 62, 149, 152, 216, 254, 265, 312, 405, 422, 426, 488, 497, 503, 626, 628, 685.

In the legislature, 1895-1937: see Part IV, pp. 450-451, 486-495.

1 § 12. The legislature, on application of the board of
 2 supervisors or other body exercising similar powers, may,
 3 in any county having a county court, provide for the election
 4 of a special county judge or special surrogate, not to exceed
 5 two in any county, to discharge the duties of county judge
 6 or of surrogate in such cases as may be provided by law.
 7 Any such special county judge or surrogate shall be chosen
 8 at the general election held in the first odd-numbered year
 9 after the creation of any such office, to take office on the
 10 first day of January following such election, but no appoint-
 11 ment shall be made by the governor to such office meantime.

Special
county
judge or
special
surrogate;
election,
etc.

Source

Const. 1846, Art. VI, § 15; Judiciary Article, 1869,⁴⁵ Art. VI, § 16;
 Const. 1894, Art. VI, § 16; amended, 1925.⁴⁶

Historical References

References to constitutional convention and commissions.

1846. Lincoln II:163.

1894. Lincoln III:369.

⁴⁴ This overture was adopted by the Convention and accordingly became a part of the Constitution.

⁴⁵ See footnote 3.

⁴⁶ For the text, legislative history, and action of the people on the 1925 amendment, see Part IV, p. 496. In most instances it embodies the proposals of the Judiciary Constitutional Convention of 1921, Leg. Doc. (1922), Appendix A, pp. 14-15. This is former § 16 renumbered 12; former § 12 is included, in part, in § 19.

Article VI, § 13

Legislative Documents

Discussion relating to prohibition of governor from making an appointment pending the election of a special county judge or special surrogate to fill an office newly created: Leg. Doc. (1922) No. 37, pp. 21-22.

Debates of Constitutional Conventions

1867. IV:2609-2610, 2709-2710; V:3847-3848.

1894. II:1189 (III:1273).

Documents of 1915 Constitutional Convention

Docs.: 8, 42, 43.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 162, 166, 269 (Int. 267).

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 850. See Part IV, p. 928.

Amendments proposed but not adopted by the Convention: Pr. Nos. 478, 626.

In the legislature, 1913-1937, see Part IV, pp. 450-451, 496.

Surrogates' courts

Surrogates; election, terms

Jurisdiction and powers

County judge as surrogate

Separate officer as surrogate; compensation

County judge and surrogate may be same person

Powers of surrogates may be conferred on supreme court in certain counties

1 § 13. The existing surrogates' courts are continued, and
 2 the surrogates now in office shall hold their offices until the
 3 expiration of their respective present terms. Their successors
 4 shall be chosen by the electors of their respective counties,
 5 and their terms of office shall be six years, except in the
 6 counties of New York, Kings, Bronx and Queens, where they
 7 shall hereafter be elected for terms of fourteen years. The
 8 legislature may provide for the election of an additional
 9 surrogate in any county having a population of more than one
 10 million. Surrogates and surrgates' courts shall have the
 11 jurisdiction, legal and equitable, and powers now established
 12 by law until otherwise provided by the legislature. The
 13 county judge shall be and serve as surrogate of his county
 14 except where a separate surrogate has been or shall be
 15 elected. In any county having a population exceeding forty
 16 thousand wherein there is now no separate surrogate, the
 17 legislature may provide for the election of a separate officer
 18 to be surrogate, whose term of office shall be six years. When
 19 the surrogate shall be elected as a separate officer, his com-
 20 pensation shall be established by law, and shall be payable
 21 out of the county treasury.

22 The legislature may at any time provide that the duties
 23 of county judge and surrogate in any county be discharged
 24 by the same person. For the relief of surrogates' courts,

Article VI, § 13

25 the legislature may confer upon the supreme court in any
26 county having a population exceeding four hundred thou-
27 sand, the powers and jurisdiction of surrogates.⁴⁷

Source

Const. 1846, Art. VI, § 14; amended, Judiciary Article, 1869,⁴⁸ Art. VI, § 15; amended, Const. 1894, Art. VI, § 15; amended, 1925.⁴⁹
See also Const. 1777, Art. XXIV, and Const. 1821, Art. V, § 6.

Historical References

For historical sketch of surrogates' courts from 1692 to 1846, see Lincoln II:159-161.

References to constitutional conventions and commissions.

1846. Lincoln II:159; Dougherty, 189.

1867. Lincoln II:279-284, Dougherty, 202.

1890. Lincoln II:710-713, 725.

1894. Lincoln III:362, 373.

Legislative Documents

Discussion in relation to continuance of the surrogates' courts and extending the term of the surrogate in Kings, Bronx and Queens to fourteen years: Leg. Doc. (1922) No. 37, p. 22.

Debates of Constitutional Conventions

1867. Jurisdiction: IV:2592-2609, 2633-2635, 2696-2697; vacancies: IV:2652-2654.

1894. Jurisdiction: II:1186-1189 (III:1272-1273); term: II:903 (III:1114-1115).

1915. Jurisdiction of surrogates' courts: II:1955, III:2420-2421; combination of surrogates' court with county court: III:2680-2690, 2693-2695.

Documents of 1915 Constitutional Convention

Docs.: 8, 42, 43.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 5, 44, 65, 162, 171, 422 (Int. 383).⁵⁰

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 850. See Part IV, p. 927.

Amendments proposed but not adopted by the Convention: Pr. Nos. 1, 39, 141, 151, 265, 312, 351, 443, 497, 499, 530, 577, 587, 626.

In the legislature, 1894-1937: see Part IV, pp. 451-452, 408.

⁴⁷ On probate courts, see: Convention debates (1867) V:3724-3725, 3733-3734; on register of wills, see: Convention debates (1867) V:3733-3736.

⁴⁸ See footnote 3.

⁴⁹ For the text, legislative history, and action of the people on the 1925 amendment, see Part IV, p. 497. In most instances it embodies the proposal of the Judiciary Constitutional Convention of 1921, Leg. Doc. (1922) No. 37, Appendix A, p. 15. This is part of former § 15, renumbered 13; former § 13 is now § 10.

⁵⁰ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article VI, § 14

1 § 14. The court of general sessions in and for the city
2 and county of New York is continued with its present juris-
3 diction, under the name of the court of general sessions of
4 the county of New York. The said court shall consist of the
5 judges now in office, all of whom shall continue to be judges
6 of the court of general sessions of the county of New York
7 for the remainder of the terms for which they were severally
8 elected or appointed. The successors to the judges who were
9 elected or appointed as judges of the court of general ses-
10 sions in and for the city and county of New York shall be
11 elected by the electors within the county of New York. The
12 legislature may in its discretion authorize the election of
13 one or more additional judges of said court. The successors
14 to all said judges of the court of general sessions of the
15 county of New York shall be elected for the term of fourteen
16 years.

Source

Added, 1925.⁵¹

Historical References

References to constitutional conventions and commissions.
1925. Chester 777-778, 905.

Legislative Documents

Discussion relating to continuation of the court of general sessions:
Leg. Doc. (1922) No. 37, pp. 23-25.

Debates of Constitutional Conventions

1915. Territorial jurisdiction of court of general sessions: II:1957-
1958, III:2423-2424, 2730-2731; organization of court of general
sessions: III:2731-2732.

Documents of 1915 Constitutional Convention

Docs.: 8, 42, 43.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 850. See Part
IV, p. 930.

Amendments proposed but not adopted by the Convention: Pr. Nos.
7, 170, 405, 626.

In the legislature, 1895-1937: see Part IV, pp. 499, 930, 949, 985.

1 § 15. The city court of the city of New York is con-
2 tinued, and, from and after the first day of January in the
3 second year following the adoption of this article, it shall

⁵¹ For the legislative history and action of the people on this section, see Part IV, p. 498. Former § 14 is now § 11.

Court of
general
sessions:
jurisdic-
tion; how
constituted;
election;
term

City court
of city of
New York

Article VI, § 15

4 have the same jurisdiction and power throughout the city of Jurisdic-
5 New York, under the name of the city court of the city of tion
6 New York, as it now possesses within the county of New
7 York and the county of Bronx, and original jurisdiction con-
8 current with the supreme court in actions for the recovery
9 of money only in which the complaint demands judgment
10 for a sum not exceeding three thousand dollars, and interest,
11 and in actions of replevin, foreclosure of mechanic's liens
12 and liens on personal property where the property involved
13 does not exceed in value the sum of three thousand dollars.
14 Its jurisdiction to enter judgment upon a counterclaim shall
15 be unlimited. It shall consist of the justices then in office, Justices:
16 who shall continue to be justices of the court for the re- compensa-
17 mainder of the terms for which they severally were elected tion;
18 or appointed, and the additional justices to be elected as election;
19 provided in this section. The justices who were elected or residence;
20 appointed as justices of the city court of the city of New terms
21 York shall be paid the compensation now fixed by law for
22 such justices until the expiration of the terms for which they
23 were respectively elected or appointed. Eight of their suc-
24 cessors shall be elected by the electors of the county of New
25 York and two by the electors of the county of Bronx, and
26 hold office for ten years. There shall also be five additional
27 justices, two of whom shall reside in and be chosen by the
28 electors in the county of Kings, and one of whom shall reside
29 in and be chosen by the electors in each of the counties of
30 New York, Bronx and Queens, and all of whom shall be
31 elected at the first general election following the adoption
32 of this article, and they and their successors, who shall be
33 chosen in like manner, shall hold office for ten years. Until
34 the legislature shall otherwise provide, the county judge and County
35 surrogate of Richmond county shall perform in said county judge and
36 the duties of a justice of the city court of the city of New surrogate of Rich-
37 York and also the duties of a justice of the supreme court as justice
38 at chambers or out of court. The legislature may in its of city
39 discretion authorize the election of one or more additional court and
40 justices of the city court in any county within the city of of supreme
41 New York. The justices hereafter elected shall receive from court until
42 the city of New York such compensation as may be fixed otherwise
43 by law. provided
Election of
additional
city court
justices;
compensa-
tion

Article VI, § 15

Presiding
justice;
powers
and duties

44 The justices of the city court of the city of New York
45 shall choose one of their number to be the presiding justice
46 thereof, who shall act as such during his term of office, and
47 who shall be charged with the general administration of the
48 court and the assignment of the justices to hold the terms
49 thereof, subject to such regulations as the presiding justices
50 of the appellate divisions of the supreme court in the first
51 and second departments shall from time to time prescribe.

Chief clerk
Deputy
clerks

52 The justices of said city court shall have power to appoint
53 and remove a chief clerk of the court, and one or more deputy
54 clerks in each county, who shall keep their respective office
55 or offices at a place or places to be designated by the court,
56 and whose duties shall be regulated and supervised by the
57 presiding justice of the court.

Pending
actions
and pro-
ceedings
trans-
ferred to
city court

58 All civil actions or proceedings pending on said first day
59 of January in the county courts of the counties of Kings,
60 Bronx, Queens and Richmond, respectively, are hereby trans-
61 ferred to the city court of the city of New York for hearing
62 and determination at terms held within the counties in which
63 the same shall be pending, and, for the purpose only of such
64 hearing and determination and the enforcement of the judg-
65 ments rendered thereon, said city court shall have and exer-
66 cise the equity jurisdiction previously vested in the respective
67 county courts from which such cases are so transferred, but

Clerks;
secretar-
ies; court
clerks;
stenograp-
hers; in-
terpreters;
other at-
tendants;
etc.

68 not otherwise. Until the legislature shall otherwise provide,
69 the clerk of the city court of the city of New York and the
70 chief clerk of the county court in each of the counties of
71 Kings, Bronx, Queens and Richmond, shall severally act with-
72 in his county as a deputy clerk of the city court of the city
73 of New York, and the presiding justice of the court shall
74 make such rules and regulations respecting the clerk's offices,
75 the assignment of secretaries to the justices, court clerks,
76 stenographers, interpreters and other attendants and the dis-
77 tribution of the business of the court in the said several
78 counties as from time to time may be expedient, subject to
79 such general regulations as the presiding justices of the ap-
80 pellate divisions of the first and second departments shall
81 from time to time prescribe. Appeals from the city court
82 of the city of New York shall be taken to the appellate term
83 for the appropriate department or otherwise as may be pre-
84 scribed by law.

Appeals to
appellate
term

Article VI, § 16

Source

Added, 1925.⁵²

Historical References

References to constitutional conventions and commissions.

1915. Chester II:752-753.

1925. Chester II:777-778, 904-906.

Legislative Documents

Recommendation of proposed amendment to this section permitting justices of the appellate division to assign county judges within New York City to sit temporarily in city court: Leg. Doc. (1935) No. 48, p. 48.

Discussion relating to the abolition of Kings, Bronx, Queens and Richmond County Courts and extending the existing jurisdiction of the city court of New York: Leg. Doc. (1922) No. 37, pp. 23, 25-27.

Debates of Constitutional Conventions

1915. Abolition of county courts within New York city: II:1958, III:2423-2424, 2730-2731, 2735-2736; territorial jurisdiction of city court of city of New York: II:1958, III:2423-2424, 2730-2731, 2735-2736; equity jurisdiction of city court: III:2858-2879, IV:3686-3695, 3700; monetary jurisdiction of city court of city of New York: II:1958, III:2489, 2865-2869, 2872-2878, IV:3686, 3698; organization of city court of city of New York: III:2426, 2731-2741.

Documents of 1915 Constitutional Convention

Docs.: 8, 42, 43.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 850. See Part IV, pp. 931, 951, 970, 987.

Amendments proposed but not adopted by the Convention: Pr. Nos. 14, 149, 152, 216, 265, 387, 405, 626, 628.

In the legislature, 1895-1937: see Part IV, pp. 502-518, 931, 951, 970, 987.

- 1 § 16. Vacancies occurring in the office of county judge,
 2 special county judge, surrogate, special surrogate, judge of
 3 the court of general sessions of the city of New York, or
 4 justices of the city court of the county of New York, shall
 5 be filled by appointment by the governor by and with the
 6 advice and consent of the senate if the senate be in session,
 7 or if not in session, the governor shall fill such vacancy by
 8 appointment which shall continue until and including the

Vacancies
in office
of certain
judges,
how filled

⁵² For the legislative history and action of the people on this section, see Part IV, p. 499. Most of the new section embodies the proposal of the Judiciary Constitutional Convention of 1921, Leg. Doc. (1922) No. 37, Appendix A, pp. 17-19. Former § 15 is embodied in §§ 13, 16 and 19.

Article VI, § 17

9 last day of December next after the election at which the
10 vacancy shall be filled.

Source

Added, 1925.⁵³

Documents of 1915 Constitutional Convention

Docs.: 8, 42, 43.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos.
151, 351, 443, 499, 577, 587, 626.

In the legislature, 1895-1937: see Part IV, pp. 518-519, 953, 971, 988.

Justices of
the peace;
election,
term, etc.

Removal
of inferior
judicial
officers
and their
clerks

Election or
appoint-
ment of
other judi-
cial
officers

Boards of
super-
visors, etc.,
to fix com-
pensation
of justices
of the
peace in
criminal
matters

1 § 17. The electors of the several towns shall, at their
2 annual town meetings, or at such other time and in such
3 manner as the legislature may direct, elect justices of the
4 peace, whose term of office shall be four years. In case of an
5 election to fill a vacancy occurring before the expiration of
6 a full term, they shall hold for the remainder of the unex-
7 pired term. Their number, classification and duties shall be
8 regulated by law. Justices of the peace, justices of the muni-
9 cipal court of the city of New York, and judges or justices
10 of inferior courts not of record, and their clerks, may be
11 removed for cause, after due notice and an opportunity of
12 being heard, by such courts as are or may be prescribed by
13 law. All other judicial officers in cities, whose election or
14 appointment is not otherwise provided for in this article,
15 including all judicial officers holding courts of special ses-
16 sions, magistrates' courts, or other inferior local courts of
17 criminal jurisdiction in the city of New York, shall be chosen
18 by the electors of such cities, or appointed by some local
19 authorities thereof as may be prescribed by law. The boards
20 of supervisors, or other officials exercising power now vested
21 in such boards, may fix the compensation to be paid or al-
22 lowed to justices of the peace for their services in criminal

⁵³ For the legislative history and action of the people on this section, see Part IV, p. 518. It embodies, in part, the proposal of the Judiciary Constitutional Convention of 1921, Leg. Doc. (1922) No. 37, Appendix, p. 19. The substance of part of § 16 is contained in former § 15; former § 16 is now § 12.

Article VI, § 17

23 matters; but the powers or duties in criminal matters now
 24 exercised by justices of the peace may be transferred by law
 25 to inferior local courts of criminal jurisdiction, the terri-
 26 torial jurisdiction of which outside of cities may be defined
 27 by the respective boards of supervisors.

Criminal powers and duties of justices of peace may be transferred

Source

Const. 1821, Art. IV, § 7; amended, 1826;⁵⁴ amended, Const. 1846, Art. VI, § 17; amended, Judiciary Article, 1869,⁵⁵ Art. VI, § 18; Const. 1894, Art. VI, § 17; amended, 1925,⁵⁶ amended, 1929.⁵⁷ See also Const. 1777, Art. XXIV.

Historical References

References to constitutional conventions and commissions.

1777. Justices, removal: Lincoln I:674.

1821. Justices, term: Lincoln I:672; how chosen: Lincoln III:616-617; Dougherty, 105; special justices in New York city: Lincoln I:672-673.

1846. Justices' courts, organization: Lincoln II:161-162; justices, how chosen: Lincoln II:142, 163.

1867. Justices' courts: Lincoln II:285, 290.

1894. Justices' courts: Lincoln III:364, 374.

Legislative Documents

Recommendations of proposed amendments to this section in relation to:

Relieving justices of the peace of criminal jurisdiction and creating instead county district judges to be appointed by board of supervisors: Leg. Doc. (1923) No. 55, pp. 59-60; Leg. Doc. (1928) No. 23, p. 21; Leg. Doc. (1929) No. 99, pp. 106.

Creation of district criminal courts, abolition of fee system, and payment of all fees to county court: Leg. Doc. (1930) No. 98, pp. 29, 85.

Discussions relating to:

Judicial functions of justices of the peace: Leg. Doc. (1923) No. 55, p. 59; Leg. Doc. (1935) No. 48, p. 48.

Election of certain inferior court judges and abolition of fee system for justices of the peace: Leg. Doc. (1922) No. 67, pp. 8-9.

⁵⁴ For the text of the constitutional amendment of 1826, see Part II, p. 41.

⁵⁵ See footnote 3.

⁵⁶ For the text, legislative history, and action of the people on the 1925 amendment, see Part IV, p. 519. Some of the changes embody the proposals of the Judiciary Constitutional Convention of 1921, Leg. Doc. (1922) No. 37, Appendix A, pp. 17-18 and the Executive Committee, Judiciary Constitutional Convention of 1921, Supplemental Report, Leg. Doc. (1922) No. 67, pp. 8-9.

⁵⁷ For the text, legislative history, and action of the people on the 1929 amendment, see Part IV, p. 520.

Article VI, § 18

Debates of Constitutional Conventions

1821. Justices, how chosen: 307-309 (Oct. 2), 231-356 (Oct. 3-5), 378-383 (Oct. 8-9).

1846. Justices' courts, jurisdiction: 815-819 (Sept. 7).

1867. Justices, how chosen: IV:2610-2611, 2626.

1894. Justices' courts, organization: II:1189-1191 (III:1273-1274).

1915. Regulation of qualifications, duties and compensation of justices of the peace: III:2699-2715, 2725-2727; election or appointment of city magistrates: 2715-2725.

Documents of 1915 Constitutional Convention

Docs.: 8, 42, 43.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 62, 162, 210 (Int. 208), 227 (Int. 225), 269 (Int. 267), 363 (Int. 354).

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 850. See Part IV, p. 929.

Amendments proposed but not adopted by the Convention: Pr. Nos. 114, 163, 175, 216, 255, 263, 311, 324, 370, 405, 459, 551, 576, 578, 610, 626, 637.

In the legislature, 1895-1937: see Part IV, pp. 454-455, 519-523.

1 § 18. Inferior local courts of civil and criminal jurisdic-
 2 tion may be established by the legislature, but no such in-
 3 ferior local court which has been created since the first day
 4 of January, one thousand eight hundred and ninety-five, or is
 5 hereafter created shall be a court of record. All inferior
 6 local courts now or hereafter established may be regulated
 7 or discontinued by the legislature. The legislature shall
 8 not hereafter confer upon any inferior or local court of its
 9 creation any equity jurisdiction or any greater jurisdiction
 10 in other respects than is conferred upon county courts by
 11 or under this article; but it may provide that the territorial
 12 jurisdiction in civil cases of any inferior or local court now
 13 existing or hereafter established in any city or of justices of
 14 the peace in cities shall extend throughout the county or
 15 counties in which such city may be located. Courts of special
 16 sessions and inferior local courts of similar character shall
 17 have such jurisdiction of offenses of the grade of misde-
 18 meanors as may be prescribed by law, and the legislature
 19 may authorize them to try such offenses without a jury.

Inferior
local
courts

Jurisdic-
tion

Courts of
special
sessions, etc.;
jurisdiction

Article VI, § 18

20 The legislature may establish children's courts, and Children's courts;
 21 courts of domestic relations, as separate courts, or as parts courts of
 22 of existing courts or courts hereafter to be created, and may domestic
 23 confer upon them such jurisdiction as may be necessary for relations;
 24 the correction, protection, guardianship and disposition of jurisdiction
 25 delinquent, neglected or dependent minors, and for the pun-
 26 ishment and correction of adults responsible for or contribut-
 27 ing to such delinquency, neglect or dependency, and to com-
 28 pel the support of a wife, child, or poor relative by persons
 29 legally chargeable therewith who abandon or neglect to sup-
 30 port any of them. In conferring such jurisdiction the leg-
 31 islature shall provide that whenever a child is committed to Child;
 32 an institution or is placed in the custody of any person by commit-
 33 parole, placing out, adoption, or guardianship, it shall be so ment to an
 34 committed or placed, when practicable, to an institution gov- institution
 35 erned by persons, or in the custody of a person, of the same or placing
 36 religious persuasion as the child. In the exercise of such in custody
 37 jurisdiction such courts may hear and determine such causes of one of
 38 with or without a jury, except those involving a felony. child's
religious persuasion
Jury dispensable

Source

Const. 1846, Art. VI, § 14; amended, Judiciary Article, 1869,⁵⁸ Art. VI, § 19; amended, Const. 1894, Art. VI, § 18; amended, 1921;⁵⁹ amended, 1925.⁶⁰ See also Const. 1777, Art. XXIV; Const. 1821, Art. V, § 6; Judiciary Article, 1869, Art. VI, § 26; Const. 1894, Art. VI, § 23.

Historical References

References to constitutional conventions and commissions.

- 1821. Lincoln I:672-673.
- 1846. Lincoln II:142, 163.
- 1867. Lincoln II:284.
- 1872. Lincoln II:539-540.
- 1894. Lincoln III:364-366, 372.
- 1915. Chester II:753-754.

Legislative Documents

Recommendations of proposed amendments to this section in relation to:

⁵⁸ See footnote 3.

⁵⁹ For the text, legislative history, and action of the people on the 1921 amendment, see Part IV, p. 457.

⁶⁰ For the text, legislative history, and action of the people on the 1925 amendment, see Part IV, p. 523. It embodies the proposals of the Judiciary Constitutional Convention of 1921, Leg. Doc. (1922) No. 37, Appendix A, pp. 20-21. Former § 23 is now included in § 18.

Article VI, § 19

Establishment of Children's Courts and Domestic Relations Courts and conferring upon them equity jurisdiction: Leg. Doc. Senate (1916) No. 44, pp. 61, 511; Leg. Doc. Senate (1917) No. 52, p. 61; Leg. Doc. Senate (1918) No. 57, pp. 228-230, 454-457, 487; Leg. Doc. (1919) No. 53, p. 40; Leg. Doc. (1920) No. 87, p. 456; Leg. Doc. (1921) No. 49, pp. 32-33.

Inferior state courts: Leg. Doc. Senate (1916) No. 44, p. 395.

Uniform jurisdiction for courts of limited jurisdiction: Leg. Doc. Senate (1916) No. 44, p. 465.

Discussions relating to:

Support given enacted amendment: Leg. Doc. (1921) No. 69, p. 137 (Report of Prison Association of New York).

Compensation of inferior court judges and justices: Leg. Doc. (1922) No. 37, pp. 29-30; Leg. Doc. (1922) No. 67, p. 9.

Children's Courts and Domestic Relations Courts: Leg. Doc. (1922) No. 1, p. 25; Leg. Doc. (1922) No. 14, p. 91; Leg. Doc. (1922) No. 15 (B), 111-112; Leg. Doc. (1922) No. 37, pp. 28, 37-38; Leg. Doc. (1922) pp. 23-34.

Debates of Constitutional Conventions

1846. 800-801 (Sept. 3), 807-812 (Sept. 4), 819 (Sept. 8), 828 (Sept. 9).

1867. IV:2701-2704.

1894. II:901-902 (III:1113); II:1191-1194 (III:1274-1276); III:15-23 (III:1287-1291).

1915. Children's courts: II:1959, III:2425, 2752-2757, 2762; trial of misdemeanors without jury: III:2744-2745, 2757-2759, 2768; territorial jurisdiction of inferior local courts: III:2760-2761, 2764-2767.

Documents of 1915 Constitutional Convention

Docs.: 8, 42, 43.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 162, 238 (Int. 236), 422 (Int. 383).⁶¹

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 850. See part IV, pp. 934-935.

Amendments proposed but not adopted by the Convention: Pr. Nos. 72, 106, 107, 209, 248, 256, 259, 305, 312, 324, 372, 388, 412, 455, 459, 460, 480, 551, 553, 557, 575, 579, 603, 610, 702.

In the legislature, 1895-1937: see Part IV, pp. 455-459, 523-529.

- Judges, justices and surrogates; compensation; election or appointment
- 1 § 19. All judges, justices and surrogates shall receive for
 - 2 their services such compensation as is now or may hereafter
 - 3 be established by law, provided only that such compensation

⁶¹ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article VI, § 19

4 shall not be diminished during their respective terms of office.
5 Except as in this article provided, all judicial officers shall
6 be elected or appointed at such times and in such manner as
7 the legislature may direct. No one shall be eligible to the
8 office of judge of the court of appeals, justice of the supreme ^{What}
9 court, surrogate, or judge of any other court of record who ^{judges}
10 is not an attorney and counselor of this state except in the ^{must be}
11 county of Hamilton as to the office of county judge or sur- ^{attorneys}
12 surrogate. No judge or justice shall sit in any appellate court
13 in review of a decision made by him or by any court of which ^{Judge not}
14 he was at the time a sitting member. No person shall hold ^{to review}
15 the office of judge or justice of any court or the office of ^{own deci-}
16 surrogate longer than until and including the last day of ^{sion on}
17 December next after he shall be seventy years of age. The ^{appeal}
18 judges of the court of appeals and the justices of the ^{Age limit}
19 supreme court shall not hold any other public office or trust, ^{of judge or}
20 except that they shall be eligible to serve as members of a ^{surrogate}
21 constitutional convention. All votes for any such judges or ^{Judges of}
22 justices for any other than a judicial office or as a member ^{court of}
23 of a constitutional convention, given by the legislature or ^{appeals and}
24 the people, shall be void. No judicial officer except justices ^{of supreme}
25 of the peace, shall receive to his own use any fees or per- ^{of court not to}
26 quisites of office. A judge of the court of appeals, a justice ^{hold any}
27 of the supreme court, a judge of the court of general ses- ^{other pub-}
28 sions of the county of New York, a justice of the city court ^{lic office or}
29 of the city of New York, and a county judge or surrogate ^{trust, etc.}
30 elected in a county having a population exceeding one hun-
31 dred and twenty thousand, shall not practice as an attorney
32 or counselor in any court of record in this state nor act as
33 referee in any action or proceeding. The legislature may
34 impose a similar prohibition upon county judges or surro-
35 gates in other counties. No district attorney or assistant to ^{Certain}
36 or deputy of a district attorney shall appear or act as at- ^{judicial}
37 torney or counsel for the defendant in any criminal case ^{officers not}
38 or proceeding in any court of the state, nor shall any county ^{to receive}
39 judge, special county judge, surrogate, or special surrogate ^{fees}
40 appear or act as counsel for a defendant in any criminal case
41 or proceeding pending in his own county or in any adjacent
42 county. ^{What}
^{judges not}
^{to act as}
^{attorneys}
^{or referees}
^{District at-}
^{torney, etc.}
^{not to act}
^{as counsel}
^{for defend-}
^{ant in}
^{criminal}
^{case}

Article VI, § 19

Source

Const. 1846, Art. VI, §§ 10, 14, 20; amended, Judiciary Article, 1869,⁶² Art. VI, §§ 8, 15, 21; amended, Const. 1894, Art. VI, §§ 3, 15, 20; amended, 1925.⁶³ See also Const. 1777, Art. XXIV, and Const. 1821, Art. V, § 6.

Historical References

For historical comment on the rule that a judge shall not sit in review of a decision rendered by him, see Lincoln IV:539-541; for history of compensation, see Lincoln IV:590-598; for historical comment concerning election of judges, see Dougherty, 190-191, 196.

References to constitutional conventions and commissions.

1777. Judges not to hold other office: Lincoln I:535.

1846. Fees prohibited: Lincoln II:163; review of own decision; Dougherty, 189-190; tenure and election of judges: Dougherty, 196-198.

1867. Age limitation: Dougherty, 193-194; election of judges: Dougherty, 195-196; practice as attorney: Lincoln II:285; review of own decisions: Lincoln II:266-267, 271.

1890. Practice as attorney: Lincoln II:716, 725.

1894. Practice as attorney and fees prohibited: Lincoln III:369-372; review of own decisions: Dougherty, 190.

1925. Chester II:787-788.

Legislative Documents

Recommendations and discussions of proposed amendments to this section in relation to:

Security of tenure of office for judges: Leg. Doc. Senate (1916) No. 44, p. 465.

Fixing the salaries of trial justices and justices of the appellate division of the supreme court on a suitable basis and prohibiting the acceptance of any other compensation or allowance in lieu of expenses: Leg. Doc. Senate (1908) No. 2, pp. 28-29; Leg. Doc. Assembly (1908) No. 2, p. 29.

Discussion relating to:

Plan for an administrative judge: Leg. Doc. (1934) No. 50 (I), pp. 7-37.

Debates of Constitutional Conventions

1846. Compensation: 777-779 (Aug. 31); fees prohibited: 823-825 (Sept. 8); judges not to hold other office: 779-781 (Aug. 31).

1867. Age limit and compensation: IV:2438-2443, 2446-2460, 2708; fees prohibited and practice as attorney: IV:2626-2630; judges not to hold other office: IV:2436-2661; review of own decisions: IV:2434-2436, V:3713-3717.

⁶² See footnote 3.

⁶³ For the text, legislative history, and action of the people on the 1925 amendment, see Part IV, p. 529. It embodies the proposals of the Judiciary Constitutional Convention of 1921, Leg. Doc. (1922) No. 37, Appendix A, pp. 21-22. This section embodies provisions of former §§ 3, 10, 12, 15 and 20; former § 19 is now § 21.

Article VI, § 20

1894. Age limit and compensation: II:1123-1157 (III:1237-1256), II:1159-1169 (III:1258-1263); judges, eligibility: III:6-13 (III:1282-1286); judges not to hold other office: II:907-908 (III:1116-1117), II:1121-1122 (III:1236); practice as attorney: II:1195-1200 (III:1276-1279), III:13-15 (III:1286-1287); review of own decisions: II:934 (III:1132).

1915. Practice of law by county judges and surrogates: II:1956, III:2420, 2681-2685, 2690-2693, 2769-2792; compensation of judges: III:2653-2659; receipt of fees by judicial officers for their own use: III:2699-2715, 2725-2727.

Documents of 1915 Constitutional Convention

Docs.: 8, 42, 43.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 66, 181 (Int. 180), 210 (Int. 208), 268 (Int. 266), 274 (Int. 272), 422 (Int. 383).⁶⁴

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 850. See Part IV, p. 935.

Amendments proposed but not adopted by the Convention: Pr. Nos. 8, 66, 104, 151, 226, 231, 242, 258, 265, 276, 306, 310, 313, 338, 351, 409, 414, 443, 493, 499, 526, 536, 577, 587, 607, 622, 626, 712.

In the legislature, 1895-1937: see Part IV, pp. 460, 529-536, 955, 973, 990.

- 1 § 20. The testimony in equity cases shall be taken in like Testimony in equity cases
 2 manner as in cases at law; and, except as herein otherwise
 3 provided, the legislature shall have the same power to alter Power of legislature over jurisdiction and proceedings in actions
 4 and regulate the jurisdiction and proceedings in law and in
 5 equity that it has heretofore exercised.

Source

Const. 1846, Art. VI, § 10; amended, Judiciary Article, 1869, ⁶⁵ Art. VI, § 8; amended, Const. 1894, Art. VI, § 3; amended, 1925.⁶⁶

Historical References

References to constitutional conventions and commissions.

1846. Testimony in equity cases: Lincoln II:163.

1925. Chester II:782-783.

⁶⁴ This overture was adopted by the Convention and accordingly became a part of the Constitution.

⁶⁵ See footnote 3.

⁶⁶ For the text, legislative history, and action of the people on the 1925 amendment, see Part IV, p. 536. It embodies the proposals of the Judiciary Constitutional Convention of 1921, Leg. Doc. (1922) No. 37. This section embodies part of former § 3; former § 20 is now included in § 19.

Article VI, § 21

Debates of Constitutional Conventions

1846. Testimony in equity cases: 782-785 (Sept. 1); procedure regulated by the legislature: 772-773 (Aug. 29).

1867. Testimony in equity cases: IV:2683-2684.

Documents of 1915 Constitutional Convention

Docs.: 8, 42, 43.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 127, 422 (Int. 383).⁶⁷

In the Constitutional Convention of 1894:

Amendment adopted by the Convention: Pr. No. 850. See Part IV, p. 914.

Amendments proposed but not adopted by the Convention: Pr. Nos. 190, 306, 310, 626.

In the legislature, 1895-1937: see Part IV, pp. 398-400, 536-537, 974, 957, 991.

Clerks of
courts;
powers and
duties; of-
fice; com-
pensation

- 1 § 21. The clerks of the several counties shall be clerks
2 of the supreme court, with such powers and duties as shall be
3 prescribed by law. The clerk of the court of appeals shall
4 keep his office at the seat of government. The clerk of the
5 court of appeals and the clerks of the appellate divisions
6 shall receive such compensation as may be established by law
7 which shall be paid out of the state treasury.

Source

Const. 1821, Art. IV, § 9, amended, Const. 1846, Art. VI, § 19; amended, Judiciary Article, 1869,⁶⁸ Art. VI, § 20; amended, Const. 1894, Art. VI, § 19; amended, 1925.⁶⁹

Historical References

For note on county clerk, see Lincoln IV:721-722.

References to constitutional conventions and commissions.

1846. II:163.

1867. II:285.

Legislative Documents

Recommendation of proposed amendment to this section in relation to the amendment of the Civil Practice Act: Leg. Doc. (1922) No. 67, pp. 9-10.

⁶⁷ This overture was adopted by the Convention and accordingly became a part of the Constitution.

⁶⁸ See footnote 3.

⁶⁹ For the text, legislative history, and action of the people on the 1925 amendment, see Part IV, p. 537. It embodies the proposals of the Judiciary Constitutional Convention of 1921, Leg. Doc. (1922) No. 37. This is former § 19, renumbered 21; former § 21 is now § 22.

Article VI, § 22

Debates of Constitutional Conventions

1846. 821-822 (Sept. 8).

1894. II:1194-1195 (III:1276); III:23-24 (III:1291-1292).

Documents of 1915 Constitutional Convention

Docs.: 8, 42, 43.

Texts of Proposed AmendmentsIn the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 422 (Int. 383).⁷⁰

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 850. See Part IV, p. 935.

Amendments proposed but not adopted by the Convention: Pr. Nos. 60, 626.

In the legislature, 1895-1937: see Part IV, pp. 459-460, 537-538.

1 § 22. The legislature shall provide for the speedy publi-
 2 cation of all statutes and all civil or criminal practice acts
 3 and rules, and for the collection, compilation and publication
 4 annually of the civil and criminal judicial statistics of the
 5 state. It shall further provide for the creation of a state
 6 law reporting bureau, which shall be under the direction and
 7 control of an official state reporter, who shall be appointed
 8 and be removable by the court of appeals, and who shall be
 9 charged with the duty, as may be provided by law and di-
 10 rected by said court, of publishing official reports of the
 11 opinions or decisions of all the courts of the state. But all
 12 laws and judicial opinions or decisions shall nevertheless be
 13 free for publication by any person.⁷¹

Source

Const. 1846, Art. VI, § 22; amended, Judiciary Article, 1869,⁷² Art. VI, § 23; amended, Const. 1894, Art. VI, § 21; amended, 1925.⁷³

⁷⁰ This overture was adopted by the Convention and accordingly became a part of the Constitution.

⁷¹ See the following references: Codification of laws: Lincoln (1846) II:164, (1894) III:52-57, Convention debates (1846) 838-840 (Sept. 10), Convention debates (1894) II:887-888 (III:1106), IV:448-450 (V:2213-2215); council of law reporting: Lincoln (1890) II:718-719, (1894) III:372; supreme court reporter: Lincoln (1867) II:285.

⁷² See footnote 3.

⁷³ For the text, legislative history, and action of the people on the 1925 amendment, see Part IV, p. 538. It embodies the proposals of the Judiciary Constitutional Convention of 1921, Leg. Doc. (1922) No. 37, Appendix A, pp. 23-24. This section is former § 21; former § 22 was omitted.

Article VI, § 23

Historical References

References to constitutional conventions and commissions.
1915. Chester II:750.

Legislative Documents

Discussion relating to publication by state law reporting bureau of statutes, judicial statistics and reports: Leg. Doc. (1922) No. 37, pp. 32-33.

Debates of Constitutional Conventions

1867. Statutes: III:2099-2101; IV:2630-2632, 2789-2791.
1915. Statistics: II:1949; III:2412.

Documents of 1915 Constitutional Convention

Docs.: 8, 42, 43.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 422 (Int. 383).⁷⁴

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 850. See Part IV, p. 935.

Amendments proposed but not adopted by the Convention: Pr. Nos. 280, 327, 466, 540.

In the legislature, 1895-1937: see Part IV, pp. 460-462, 538-539, 958, 991.

Power of legislature to create or abolish board or court with jurisdiction over claims against the state

1 § 23. Nothing in this article contained shall abridge the
2 authority of the legislature to create or abolish any board or
3 court with jurisdiction to hear and audit or determine claims
4 against the state, and any such tribunal existing when this
5 article shall take effect shall be continued with the powers
6 then vested in it until otherwise provided by law.⁷⁵

Source

Added, 1925.⁷⁶

Historical References

This section refers particularly to the Court of Claims. For discussion of this Court, see Dougherty, 333-334.

⁷⁴ This overture was adopted by the Convention and accordingly became a part of the Constitution.

⁷⁵ See the following references: Court of claims, attorney-general, duty in: Convention debates (1867) II:1347-1348, 1353-1361; court of claims, organization: Lincoln (1867) II:322, 326, 402, (1894) III:374, Convention debates (1867) II:1319-1348, IV:2755-2773; court of claims, procedure in: Convention debates (1867) II:1322-1346; court of claims, statute of limitations in: Convention debates (1867) V:3526, 3641-3647; solicitor of claims: Convention debates (1867) IV:2773-2776.

⁷⁶ For the legislative history and action of the people on this section, see Part IV, p. 539. It embodies the suggestion of the Executive Committee, Judiciary Constitutional Convention of 1921, Supplemental Report, Leg. Doc. (1922) No. 67, p. 11. Former § 23 is now included in § 18.

Article VII, § 1

References to constitutional conventions and commissions.

1867. Dougherty, 221.

1890. Lincoln II:719.

1925. Chester II:754.

Legislative Documents

Recommendation and discussion of proposed amendment to this section in relation to making the court of claims a constitutional court: Leg. Doc. Assembly (1915) No. 1, p. 12.

Debates of Constitutional Conventions

1915. Court of claims as constitutional court: II:1957, III:2418-2419, 2527-2532, 2538-2549, 2551-2559; determination of conflicting claims to award: III: 2427, 2429-2433, 2536-2538, 2549-2551; immunity of state from suit: III:2531-2535, 2551-2553, 2561.

Documents of 1915 Constitutional Convention

Docs.: 8, 16, 42, 43.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 850. See Part IV, p. 916.

Amendments proposed but not adopted by the Convention: Pr. Nos. 15, 56, 320, 353, 414, 478, 527, 626.

In the legislature, 1895-1937: see Part IV, pp. 916, 959, 975, 992.

ARTICLE VII¹

- 1 Section 1. The credit of the state shall not in any manner be ^{State} given or loaned to or in aid of any individual, association or ^{credit} limited corporation.²

Source

Const. 1846, Art. VII, § 9.

¹ On the salt springs, formerly dealt with in this article, see: Lincoln (1867) II:384, Convention debates (1867) IV:2426-2433, 2560-2567, 2612-2624, V:3371-3412, 3416-3435, 3769-3770, 3777-3788, Convention debates (1894) I:740-757 (I:387-396), II:575-598 (II:933-945), IV:420-422 (V:2198-2199); for various matters relating to taxation, see: county tax: Convention debates (1846) 1068-1069 (Oct. 7), Convention debates (1867) III:2340; direct tax: Convention debates (1846) 951-957 (Sept. 23); apportionment of state tax on counties: Lincoln (1867) II:360; taxation, system of: Lincoln (1867) II:360, Convention debates (1867) III:2339; taxation, state assessors: Lincoln (1867) II:360; taxation, uniform rate of: Lincoln (1867) II:360-361, Convention debates (1867) III:1900-1910, 1919-1948, 1951-1954, 1978-1990, V:3757-3762; sworn statement for purposes of assessment: Lincoln (1867) II:360-361, Convention debates (1867) V:3740. (See also Art. III, footnote 1, under the title, Taxation.)

Amendments coming within the general scope of Art. VII, but not relating specifically to any particular section thereof, proposed but not adopted by the Constitutional Convention of 1915, are: Pr. Nos. 71, 121, 176, 320, 360, 450, 541, 647, 703.

² But see Art. VIII, § 9.

Article VII, § 2

Historical References

References to constitutional conventions and commissions.

1846. Lincoln II:179-180; Dougherty, 163-164.

1867. Dougherty, 219-220.

Legislative Documents

Recommendations and discussions of proposed amendment to this section in relation to extension of state credit for housing: Leg. Doc. (1920) No. 25, p. 14; Leg. Doc. (1924) No. 3, p. 23; Leg. Doc. (1924) No. 43, p. 10.

Debates of Constitutional Conventions

1846. 849-857, 864-868 (Sept. 12-14).

1867. III:1840-1848, 1992-2018, 2341-2343; V:3327-3338, 3366-3369, 3461-3482, 3764-3765.

1915. Credit of state: IV:4056, 4198-4201.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 156, 199 (Int. 198), 254-437 (Int. 252).

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 126, 703.

In the legislature, 1895-1937: see Part IV, pp. 540-542.

State
debts,
power to
contract

Bonds;
issue of;
payment

- 1 § 2. The state may contract debts in anticipation of the
2 receipt of taxes and revenues, direct or indirect, for the pur-
3 poses and within the amounts of appropriations theretofore
4 made; bonds or other obligations for the moneys so borrowed
5 shall be issued as may be provided by law, and shall with the
6 interest thereon be paid from such taxes and revenues within
7 one year from date of issue.³

Source

Const. 1846, Art. VII, § 10; Const. 1894, Art. VII, § 2; amended, 1920.⁴

³ This section formerly contained a provision limiting state debts for casual deficits to one million dollars. On state finance, see the following references: Restriction as to duration of state debt: Convention debates (1867) III:1882-1883; bounty debt, renewal of: Convention debates (1867) III:2337-2338; government expenses: Convention debates (1867) I:796; payment of state debt: Convention debates (1846) 951-957 (Sept. 23), Convention debates (1867) I:792-793, 797, II:808-809; state funds, warrant for withdrawal: Convention debates (1867) III:1990, 3757; state revenues: Convention debates (1867) I:796.

⁴ For the text, legislative history, and action of the people on the 1920 amendment, see Part IV, p. 543.

Article VII, § 3

Historical References

For historical statement of the conditions leading to the inclusion of this section into the Constitution in 1846, see Lincoln II:73-91; Dougherty, 154-158.
 For comment on state debt, 1846-1914, see Dougherty, 316-321, 381.
 References to constitutional conventions and commissions.
 1846. Lincoln II:174-179; Dougherty, 165.
 1867. Lincoln II:357.

Legislative Documents

Recommendation of proposed amendment to this section in relation to sound state financing policy: Leg. Doc. Senate (1916) No. 1, p. 3.
 Discussions in relation to:
 Constitutional amendment adopted Nov. 2, 1920, dealing with readjustment of excesses in the sinking funds: Leg. Doc. Senate (1913) No. 57, p. 104; Leg. Doc. (1922) No. 7, pp. xvi-xvii.
 Constitutional history of the section, 1895-1925: Leg. Doc. (1926) No. 70, pp. 81-90.

Debates of Constitutional Conventions

1846. 857-877 (Sept. 14-15), 1083-1105; appendix (Sept. 11), 1105-1123; Appendix (Sept. 16).
 1867. III:1848-1850; V:3746-3748.
 1915. Contracting debts in anticipation of receipt of taxes: II:1269-1271, 1274.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:
 Amendment adopted by the Convention: Pr. No. 784. See Part IV, p. 543.
 Amendment proposed but not adopted by the Convention: Pr. No. 703.
 In the legislature, 1895-1937: see Part IV, pp. 542-543.

1 § 3. In addition to the above limited power to contract Debts for
 2 debts, the state may contract debts to repel invasion, suppress state de-
 3 insurrection, or defend the state in war, or to suppress forest fense, to
 4 fires; but the money arising from the contracting of such debts suppress
 5 shall be applied to the purpose for which it was raised, or to forest fires
 6 repay such debts, and to no other purpose whatever. Application
 of such
 moneys

Source

Const. 1846, Art. VII, § 11; Const. 1894, Art. VII, § 3; amended, 1929.⁵

Historical References

For comment on this section, see Lincoln IV:635. See also the notes to Art. VII, § 2.

⁵ For the text, legislative history, and action of the people on the 1929 amendment, see Part IV, p. 544.

Article VII, § 4

Debates of Constitutional Conventions

1867. III:1850-1852.

Documents of 1915 Constitutional Convention

Doc. 23.

Texts of Proposed Amendments

In the Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 199 (Int. 198), 254-437 (Int. 252).

In the legislature, 1895-1937: see Part IV, p. 544.

Limitation
of legisla-
tive power
to create
debts

Manner of
passage of
such laws
in legis-
lature

Submission
to people of
laws creat-
ing debts;
restrictions
on submis-
sion to
people

Legisla-
ture's pow-
er over
debts after
approval
by people

Payment of
debts in
equal annu-
al install-
ments; ex-
ceptions

Permissible
term of
debt

1 § 4. Except the debts specified in sections two and three
2 of this article, no debt shall be hereafter contracted by or in
3 behalf of this state, unless such debt shall be authorized by
4 law, for some single work or object, to be distinctly specified
5 therein. On the final passage of such bill in either house of
6 the legislature, the question shall be taken by ayes and noes,
7 to be duly entered on the journals thereof, and shall be:
8 "Shall this bill pass and ought the same to receive the sanc-
9 tion of the people?" No such law shall take effect until it
10 shall, at a general election, have been submitted to the people,
11 and have received a majority of all the votes cast for and
12 against it at such election nor shall it be submitted to be
13 voted on within three months after its passage nor at any
14 general election when any other law, or any bill shall be
15 submitted to be voted for or against. The legislature may,
16 at any time after the approval of such law by the people, if
17 no debt shall have been contracted in pursuance thereof,
18 repeal the same; and may at any time, by law, forbid the
19 contracting of any further debt or liability under such law.
20 Except the debts specified in sections two and three of
21 this article, all debts contracted by the state after January
22 first, nineteen hundred and twenty, pursuant to an authoriza-
23 tion therefor, heretofore or hereafter made and each portion
24 of any such debt from time to time so contracted irrespective
25 of the terms of such authorization, shall be paid in equal
26 annual instalments, the first of which shall be payable not
27 more than one year, and the last of which shall be payable
28 not more than fifty years, after such debt or portion thereof
29 shall have been contracted. No such debt hereafter author-
30 ized shall be contracted for a period longer than that of the
31 probable life of the work or object for which the debt is to

Article VII, § 4

32 be contracted, to be determined by general laws, which
33 determination shall be conclusive.

34 The legislature may from time to time alter the rate of
35 interest to be paid upon any state debt which has been or
36 may be authorized pursuant to the provisions of this section
37 or upon any part of such debt, provided, however, that the
38 rate of interest shall not be altered upon any part of such
39 debt or upon any bond or other evidence thereof which has
40 been or shall be created or issued before such alteration.

41 The money arising from any loan creating such debt or
42 liability shall be applied to the work or object specified in
43 the act authorizing such debt or liability, or for the payment
44 of such debt or liability, and for no other purpose whatever.

Source

Const. 1846, Art. VII, § 12; Const. 1894, Art. VII, § 4; amended, 1905;⁶ amended, 1909;⁷ amended, 1918;⁸ amended, 1920.⁹

Historical References

For history of the conditions which led to the inclusion in the Constitution of this section, see Lincoln IV:637-639, and also the notes to Art. VII, § 2.

For a detailed explanation of this section, and of the statutes which were submitted to the people from 1853 to 1903 pursuant to it, see Lincoln IV:637-657.

References to constitutional conventions and commissions.

1846. Lincoln II:174-179; Dougherty, 165-166.

Legislative Documents

Recommendations and discussions of proposed amendments to this section in relation to:

Extension of state credit for housing: Leg. Doc. (1920) No. 25, p. 14; Leg. Doc. (1924) No. 3, p. 23; Leg. Doc. (1924) No. 43, p. 10.

Sound state financing policy: Leg. Doc. Senate (1916) No. 1, p. 3.

Discussions relating to:

Constitutional amendment adopted Nov. 2, 1920, dealing with readjustment of excesses in the sinking funds: Leg. Doc. Senate (1913) No. 57, p. 104; Leg. Doc. (1922) No. 7, pp. xvi-xvii.

Limitation of legislative power to contract debts and prescribing method of payment: Leg. Doc. (1926) No. 70, pp. 83-88.

⁶ For the text, legislative history, and action of the people on the 1905 amendment, see Part IV, pp. 549-550.

⁷ For the text, legislative history, and action of the people on the 1909 amendment, see Part IV, pp. 550-551.

⁸ For the text, legislative history, and action of the people on the 1918 amendment, see Part IV, pp. 556-558.

⁹ For the text, legislative history, and action of the people on the 1920 amendment, see Part IV, pp. 558-560.

Article VII, § 5

Debates of Constitutional Conventions

1846. 943-950 (Sept. 22-23).

1867. III:1799-1804, 1852-1862, 1865-1881, 2244-2248; V:3752-3756.

1915. Meaning of "single writ or object": II:1295-1298; referendum on debts to be contracted by state: II:1254-1259, 1276; duration of debts: II:1259, 1263-1264, 1289-1290, 1299-1300; serial bonds: II:1260-1263, 1271, 1280-1282, 1287; refunding of outstanding bonds: II:1267; alteration of rate of interest: II:1282-1284; disposition of surplus funds apportioned to certain counties from certain highway bonds: III:3203-3234, 3236-3241, 3242-3250; direct tax for paying indebtedness: II:1267.

Documents of 1915 Constitutional Convention

Doc. 23.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 199 (Int. 198), 254-437 (Int. 252), 277 (Int. 275).

In the Constitutional Convention of 1915:

Amendments adopted by the Convention: Pr. Nos. 784, 837. See Part IV, pp. 556, 630.

Amendments proposed but not adopted by the Convention: Pr. Nos. 360, 703.

In the legislature, 1895-1937: see Part IV, pp. 545-562.

- Sinking funds
- Use restricted
- Comptroller; appraisal of securities held for investment; certification of value of each fund to legislature
- Contribution to fund
- 1 § 5. The sinking funds provided for the payment of interest and the extinguishment of the principal of the debts of the state heretofore contracted shall be continued; they shall be separately kept and safely invested, and neither of them shall be appropriated or used in any manner other than for such payment and extinguishment as hereinafter provided.¹⁰ The comptroller shall each year appraise the securities held for investment in each of such funds at their fair market value not exceeding par. He shall then determine and certify to the legislature the amount of each of such funds and the amounts which, if thereafter annually contributed to each such fund, would, with the fund and with the accumulations thereon and upon the contributions thereto, computed at the rate of three per centum per annum, produce at the date of maturity the amount of the debt to retire which such fund was created, and the legislature shall

¹⁰ On canal sinking funds, see: Lincoln (1846) II:166-167, 171, Convention debates (1867) V:2229-2243, 3699-3704; (see also footnote 3, under the title, State Finance, and footnote 19.)

Article VII, § 5

17 thereupon appropriate as the contribution to each such fund
18 for such year at least the amount thus certified.

19 If the income of any such fund in any year is more than
20 a sum which, if annually added to such fund would, with
21 the fund and its accumulations as aforesaid, retire the debt
22 at maturity, the excess income may be applied to the interest
23 on the debt for which the fund was created.

Application
of excess
income to
interest

24 After any sinking fund shall equal in amount the debt
25 for which it was created no further contribution shall be
26 made thereto except to make good any losses ascertained at
27 the annual appraisals above mentioned, and the income there-
28 of shall be applied to the payment of the interest on such
29 debt. Any excess in such income not required for the pay-
30 ment of interest may be applied to the general fund of the
31 state.

Equaliza-
tion of
fund and
debt, etc.

32 The legislature may also by general laws provide means
33 and authority whereby outstanding bonds of the state, for
34 which sinking funds are provided, may be exchanged at par
35 for cancellation, for serial bonds of the form authorized under
36 section four of this article, upon such terms and conditions
37 as to interest and otherwise as it may in its discretion au-
38 thorize or determine, except that the debt as thus refunded
39 shall finally mature no later and at no greater comparative
40 cost to the state than the original debt; the determination of
41 the legislature as to such comparative cost shall be conclusive.
42 No further contributions to the respective sinking funds shall
43 be made on account of bonds so exchanged and the propor-
44 tion of any such sinking fund which the amount of the bonds
45 so exchanged shall bear to the amount of bonds outstanding
46 of the same issue may be appropriated, as required, for the
47 payment of the substituted serial bonds.

Exchange
of out-
standing
bonds for
serial
bonds; leg-
islature's
power to
provide for;
limitations

Sinking
funds for
exchanged
bonds

Source

Amendment of 1874; Const. 1894, Art. VII, § 5; amended, 1920.¹¹

Historical References

For the origin of this section in the constitutional commission of 1872, see Lincoln II:549.

For comment on this section, see Dougherty, 319-320.

References to constitutional conventions and commissions. .
1846. Dougherty, 166.

¹¹ For the text, legislative history, and action of the people on the 1920 amendment, see Part IV, pp. 562-564.

Article VII, § 6

Legislative Documents

Recommendation of proposed amendment to this section providing for adjustments of sinking fund contributions: Leg. Doc. Assembly (1917) No. 20, p. 12.

Discussions in relation to:

Constitutional amendment adopted Nov. 2, 1920, dealing with re-adjustment of excesses in the sinking funds: Leg. Doc. Senate (1913) No. 57, p. 104; Leg. Doc. (1922) No. 7, p. xvi-xvii.

Administration of sinking funds: Leg. Doc. (1926) No. 70, pp. 84-86.

Debates of Constitutional Conventions

1915. Annual contributions to sinking funds, surplus in funds: II:1264-1267, 1279-1280, 1302-1319; III:2370.

Documents of 1915 Constitutional Convention

Sinking fund: Docs.: 18, 23.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 199 (Int. 198), 254-437 (Int. 252).

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 784. See Part IV, p. 562.

In the legislature, 1895-1937: see Part IV, pp. 562-564.

1 Section 6. Neither the Legislature, canal board, nor any per-
 2 son or persons acting in behalf of the State, shall audit, allow,
 3 or pay any claim which, as between citizens of the State,
 4 would be barred by lapse of time. This provision shall not
 5 be construed to repeal any statute fixing the time within
 6 which claims shall be presented or allowed, nor shall it ex-
 7 tend to any claims duly presented within the time allowed
 8 by law, and prosecuted with due diligence from the time of
 9 such presentment. But if the claimant shall be under legal
 10 disability, the claim may be presented within two years
 11 after such disability is removed.¹²

Source

Amendment of 1874;¹³ amended, Const. 1894, Art. VII, § 6.

¹² See the following references: Claims for damages caused by canals: Convention debates (1867) III:2059-2073, 2080-2094, 2355-2356; court of claims: Art. VI, § 23 and Art. VI, footnote 75; canal auditor: Convention debates (1867) III:2035-2038, 2345-2347; damages from riot: Art. I, footnote 1.

¹³ For the text of the constitutional amendment of 1874, see Part II, p. 91.

Article VII, § 7

Historical References

For brief comment on the legislative investigation into the subject of claims against the state made in 1897 and 1898 (Senate Documents, 1898, Nos. 31 and 33), see Lincoln IV:663.

References to constitutional conventions and commissions.

1872. Lincoln II:550; Dougherty, 232, 238.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 15, 343.

- 1 § 7. The lands of the state, now owned or hereafter ac-
 2 quired, constituting the forest preserve as now fixed by law,
 3 shall be forever kept as wild forest lands. They shall not be
 4 leased, sold or exchanged, or be taken by any corporation,
 5 public or private, nor shall the timber thereon be sold, re-
 6 moved or destroyed. Nothing contained in this section shall
 7 prevent the state from constructing a state highway from
 8 Saranac lake in Franklin county to Long lake in Hamilton
 9 county and thence to Old Forge in Herkimer county by way
 10 of Blue Mountain lake and Racquette lake, and nothing shall
 11 prevent the state from constructing a state highway in Essex
 12 county from Wilmington to the top of Whiteface mountain.
 13 The legislature may by general laws provide for the use
 14 of not exceeding three per centum of such lands for the con-
 15 struction and maintenance of reservoirs for municipal water
 16 supply, for the canals of the state and to regulate the flow of
 17 streams. Such reservoirs shall be constructed, owned and
 18 controlled by the state, but such work shall not be under-
 19 taken until after the boundaries and high flow lines thereof
 20 shall have been accurately surveyed and fixed, and after
 21 public notice, hearing and determination that such lands are
 22 required for such public use. The expense of any such im-
 23 provements shall be apportioned on the public and private
 24 property and municipalities benefited to the extent of the
 25 benefits received. Any such reservoir shall always be operated
 26 by the state and the legislature shall provide for a charge
 27 upon the property and municipalities benefited for a reason-
 28 able return to the state upon the value of the rights and

Forest pre-
serve; lim-
itations on
use

Exceptions

Use of for-
est lands
for
reservoirs

Construc-
tion, own-
ership, op-
eration,
etc., of
reservoirs

Article VII, § 7

29 property of the state used and the services of the state ren-
 30 dered, which shall be fixed for terms of not exceeding ten
 31 years and be readjustable at the end of any term. Unsanitary
 32 conditions shall not be created or continued by any such
 33 public works. A violation of any of the provisions of this
 34 section may be restrained at the suit of the people or, with
 35 the consent of the supreme court in appellate division, on
 36 notice to the attorney-general at the suit of any citizen.

How viola-
 tions re-
 strained

Source

Const. 1894, Art. VII, § 7; amended, 1913;¹⁴ amended, 1918;¹⁵
 amended, 1927.¹⁶

Historical References

For historical sketch of the initiation and development of the policy
 of forest preservation in this state down to about 1903, see Lincoln
 III:391-454.

For comment on waterpower, see: Flick VII:268-277; Knapp, *Water
 Power in New York State*, (1930) 19 National Municipal Review
 125-130.

References to constitutional conventions and commissions.

1894. Lincoln III:429-433; Dougherty, 350, and footnote 350. *Cf.*
 Dougherty, 353.

Legislative Documents

Recommendations and discussions of proposed amendments to this
 section in relation to:

Leasing of state forest lands: Leg. Doc. Assembly (1902) No. 2,
 p. 15; Leg. Doc. Senate (1902) No. 2, p. 15; Leg. Doc. Assembly
 (1902) No. 63, p. 18; Leg. Doc. (1921) No. 3, p. 30.

Use of forest preserve for water power: Leg. Doc. Senate (1910)
 No. 2, p. 15; Leg. Doc. Senate (1912) No. 18, pp. 49-50; Leg.
 Doc. (1921) No. 58, p. 7; Leg. Doc. (1922) No. 3, p. 17.

Withdrawing from the legislature the power to grant away, by
 private bills, the water powers of the state: Leg. Doc. Senate
 (1918) No. 1, p. 11.

Use of water power of St. Lawrence river for supplying municipa-
 lities with electricity: Leg. Doc. (1934) No. 3, p. 19.

Scientific conservative forestry for state lands: Leg. Doc. Assembly
 (1902) No. 63, p. 18.

Building of roads through forest preserve: Leg. Doc. Assembly
 (1910) No. 15, p. 23.

¹⁴ For the text, legislative history, and action of the people on the 1913
 amendment, see Part IV, pp. 574-575.

¹⁵ For the text, legislative history, and action of the people on the 1918
 amendment, see Part IV, pp. 579-580.

¹⁶ For text, legislative history, and action of the people on the 1927
 amendment, see Part IV, pp. 590-591.

Article VII, § 7-a

Discussion in relation to:

Need for amendment permitting the storage of flood waters: Leg. Doc. Assembly (1911) No. 19, p. 59.

Rejection of amendment permitting private companies to develop water power in Adirondacks: Leg. Doc. (1924) No. 3, p. 12.

Debates of Constitutional Conventions

1894. II:1201 (III:1279-1280); IV:124-163 (V:2045-2067); IV:705-709 (V:2360-2362).

1915. Administration of natural resources of state: I:1013-1017, 1023, 1025-1026, III:1327-1331, 1333-1342, 1343-1345, 1351-1361, 1362-1370, 1379-1391, 1392-1425, 1437-1445, IV:3650, 3652-3657, 3665-3666, 3881; employees of conservation department: III:1425-1436; building of highway: I:1017-1018, 1024, III:1445, 1447, 1480-1486, 1498, 1501-1502, 1561-1564; preservation of forest lands, cutting of timber: I:1014, 1017, 1018-1022, III:1331-1333, 1345-1351, 1358, 1447-1455, 1461-1480, 1486-1498, 1502-1537; annual purchase of land within parks: III:1540-1543; occupancy of land within parks by residents: III:1543-1560, IV:3633, 3657-3664; water power: IV:3650-3657.

Documents of 1915 Constitutional Convention

Forest preserve: Doc. 28.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 9-304-364 (Int. 9), 452 (Int. 393).¹⁷

In the Constitutional Convention of 1915:

Amendment adopted by the convention: Pr. No. 852. See Part IV, pp. 1212-1215.

Amendments proposed but not adopted by the Convention: Pr. Nos. 10, 25, 37, 71, 84, 126, 154, 208, 220, 221, 247, 299, 316, 375, 382, 487, 558, 561, 564, 585, 590, 647.

In the legislature, 1895-1937: see Part IV, pp. 564-595.

- 1 § 7-a. Nothing contained in section seven of this article,
 2 shall prevent the state from constructing a state highway in
 3 Hamilton county from Indian Lake to the village of Speculator
 4 by way of the existing highway whenever practical.

Source

Added, 1933.¹⁸

¹⁷ This overture was adopted by the Convention and accordingly became a part of the Constitution.

¹⁸ For the text, legislative history and action of the people on the 1933 amendment, see Part IV, p. 596.

Article VII, § 8

1 § 8. The legislature shall not sell, lease or otherwise dis-
2 pose of the Erie canal, the Oswego canal, the Champlain
3 canal, the Cayuga and Seneca canal, or the Black River
4 canal; but they shall remain the property of the state and
5 under its management forever. The prohibition of lease,
6 sale or other disposition herein contained, shall not apply to
7 the canal known as the Main and Hamburg street canal,
8 situated in the city of Buffalo, and which extends easterly
9 from the westerly line of Main street to the westerly line of
10 Hamburg street, nor to that portion of the existing Erie
11 canal between Rome and Mohawk. The prohibition of lease,
12 sale or other disposition herein contained, shall not apply
13 to the barge terminal canal lands situated at the foot of
14 West Fifty-third street and the Hudson or North river,
15 known generally as pier ninety-three, North river, in the
16 borough of Manhattan and city of New York. All funds
17 that may be derived from any lease, sale or other disposition
18 of any canal shall be applied to the improvement, superin-
19 tendence or repair of the remaining portion of the canals.¹⁹

Certain
canals not
to be sold;
exceptions

Application
of funds
derived
from sale
or lease of
canals

Source

Const. 1846, Art. VII, § 6; amended, 1874;²⁰ amended, 1882;²¹
amended, Const. 1894, Art. VII, § 8; amended, 1921;²² amended
1933.²³

¹⁹ See the following references: Canals, in general: Convention debates (1867) I:129-134, 159-160, II:812-816, 1058-1068, Convention debates (1894) IV:227-349 (V:2101-2160); appropriations for canal bridges: Convention debates (1867) III:2059-2073, 2080-2094, V:3640-3641; canal debt: Lincoln (1846) II:165-174, (see also Lincoln II:218-223, 576, 592-594, 653-655); Convention debates (1867) I:793-794, II:1462-1475, 1517-1518, III:1601-1606, 1608-1624, 1630-1723, 1726-1771, 1781-1827, 1830-1840, 1855-1862, 1865-1881, V:3501-3509, 3699-3704, Convention debates (1894) IV:943-969 (V:2500-2515); canal revenues: Lincoln (1846) II:168-172, Convention debates (1846) 880-894, 896-940, 951-957 (Sept. 17-19, 21-23), Convention debates (1867) V:3741-3743, (see also footnotes 10 and 30); canals, care and management: Convention debates (1867) V:3951-3957 (Appendix).

²⁰ For the text of the constitutional amendment of 1874, see Part II, p. 91.

²¹ For the text of the constitutional amendment of 1882, see Part II, p. 102.

²² Two separate amendments to this section were adopted by the people at the general election held Nov. 8, 1921. Section 8, as amended by the first of these two amendments, read as follows: 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. The prohibition of lease, sale or other disposition herein contained, shall not apply to the canal known as the Main and Hamburg street canal, situated in

Historical References

For general history of canals in this state, see Lincoln II:45-58, 353-357; Dougherty, 149-154, 164-165, 238, 279-280, 290-295.

For historical sketch of the development of the canal policy in this state, with special reference to legislation and to reports and governors' messages dealing with the canals, see Lincoln I:690-715 and II:596-655; Dougherty, 146-148, 150.

References to constitutional conventions and commissions.

1821. Lincoln I:715.

1846. Lincoln: II:168, 172, 650; Dougherty, 164.

1872. Lincoln: II:541-549; III:375-378; Dougherty, 237.

1894. Hamburg canal: Dougherty, 353.

Legislative Documents

Recommendation of proposed amendment to this section in relation to:

Disposition of unused canal lands: Leg. Doc. (1924) No. 11, p. 9.

Discussion in relation to construction of a national waterway route: Leg. Doc. (1933) No. 63, pp. 11-12.

Debates of Constitutional Conventions

1846. 877-879 (Sept. 15-16), 960-961 (Sept. 24), 1049-1050 (Oct. 3).

1867. III:1830-1840.

1894. II:697-698 (II:1001); IV:317-318 (V:2143-2144); IV:924-942 (V:2489-2500).

1915. Property to which prohibition applies, leasing of surplus waters: II:1158-1162; III:3059-3093; IV:3895-3910.

Documents of 1915 Constitutional Convention

Doc. 33.

the city of Buffalo, and which extends easterly from the westerly line of Main street to the westerly line of Hamburg street, nor to that portion of the existing Erie canal between Rome and Mohawk. All funds that may be derived from any lease, sale or other disposition of any canal shall be applied to the improvement, superintendence or repair of the remaining portion of the canals.

As amended by the second of the 1921 amendments, the second sentence of the section read as follows: The prohibition of lease, sale or other disposition herein contained, shall not apply to the canal known as the Main and Hamburg street canal, situated in the city of Buffalo, and which extends easterly from the westerly line of Main street to the westerly line of Hamburg street, nor to that portion of the existing Erie canal in the city of Utica between the westerly line of Schuyler street and the easterly line of Third street, provided that a flow of sufficient water from Schuyler street to Third street to feed that portion of the canal east of Third street be maintained; nor shall such prohibition apply to that portion of the existing Erie canal in the county of Herkimer between the easterly portion of the village of Mohawk and the county boundary line between the counties of Herkimer and Oneida.

For the complete text, legislative history, and action of the people on the 1921 amendments, see Part IV, pp. 607-609.

²³ For the text, legislative history, and action of the people on the 1933 amendment, see Part IV, p. 612.

Article VII, § 9

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 67, 80, 125, 200 (Int. 199), 276 (Int. 274), 431 (Int. 387).²⁴

Amendments proposed but not adopted by the Convention: Pr. Nos. 126, 222, 522, 531.

In the legislature, 1895-1937: see Part IV, pp. 596-612.

Canal tolls prohibited	1	§ 9. No tolls shall hereafter be imposed on persons or
	2	property transported on the canals, but all boats navigating
	3	the canals and the owners and masters thereof, shall be sub-
	4	ject to such laws and regulations as have been or may here-
Legislature to provide for superintendence and repair of canals	5	after be enacted concerning the navigation of the canals.
	6	The Legislature shall annually, by equitable taxes, make
	7	provision for the expenses of the superintendence and repairs
	8	of the canals. All contracts for work or materials on any
Contracts for work or materials to be made at lowest price with adequate security for their performance; no extra compensation; cancellation	9	canal shall be made with the persons who shall offer to do
	10	or provide the same at the lowest price, with adequate
	11	security for their performance. No extra compensation shall
	12	be made to any contractor; but if, from any unforeseen* cause,
	13	the terms of any contract shall prove to be unjust and op-
	14	pressive, the canal board may, upon the application of the
	15	contractor, cancel such contract. ²⁵

Source

Const. 1846, Art. VII, § 3; amended, 1854;²⁶ amended, 1874;²⁷ amended, 1882;²⁸ amended, Const. 1894, Art. VII, § 9.

Historical References

For detailed history of the development of the canal policy in this state, see the notes to Art. VII, § 8.

For history of the movement leading up to the constitutional amendment of 1854, and for comment on the amendment itself, see Lincoln II:218-224; Dougherty, 174-176. For history of the movement leading up to the constitutional amendment of 1882, see Dougherty, 282, 287-288.

²⁴ This overture was adopted by the Convention and accordingly became a part of the Constitution.

* So in original.

²⁵ See footnote 19 for various references pertinent to this section.

²⁶ For the text of the constitutional amendment of 1854, see Part II, pp. 99-100.

²⁷ For the text of the constitutional amendment of 1874, see Part II, pp. 90-91.

²⁸ For the text of the constitutional amendment of 1882, see Part II, pp. 100-102.

Article VII, § 10

References to constitutional conventions and commissions.

1867. Lincoln II:357-358; Dougherty, 176.

1872. Lincoln II:540-541.

1894. Lincoln III:377, 380-382.

Debates of Constitutional Conventions

1867. II:1530-1531; III:2019-2035.

1894. IV:303-308 (V:2134-2137); IV:320-321 (V:2145); IV:947 (V:2502).

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 247 (Int. 245), 254-437 (Int. 252),²⁹ 430 (Int. 386).

In the Constitutional Convention of 1915:

Amendment proposed but not adopted by the Convention: Pr. No. 349.

In the legislature, 1895-1937: see Part IV, pp. 613-615.

1 § 10. The canals may be improved in such manner as ^{Canal im-}
 2 the Legislature shall provide by law. A debt may be authorized ^{provement}
 3 for that purpose in the mode prescribed by section four of
 4 this article, or the cost of such improvement may be defrayed
 5 by the appropriation of funds from the state treasury, or by
 6 equitable annual tax.³⁰

Source

New.

Historical References

For history of the incorporation into the Constitution of this section, and of the subject of canal construction and improvement in general, including references to the \$9,000,000 Act (Laws 1895, ch. 79), and the \$101,000,000 Act (Laws 1903, ch. 147), passed pursuant to this section, see Lincoln III:382-390; for comment on canal improvement, see Dougherty, 156.

References to constitutional conventions and commissions.

Dougherty, 288-289.

Legislative Documents

Recommendation of proposed amendment to this section in relation to the application of indirect taxation proceeds to the canal improvement debt: Leg. Doc. Assembly (1902) No. 2, p. 37; Leg. Doc. Senate (1913) No. 57, p. 104.

²⁹ This overture was adopted by the Convention and accordingly became a part of the Constitution.

³⁰ On canal funds, see: Lincoln I:690-715, Convention debates (1821) 446-460 (Oct. 15-17), Convention debates (1867) V:3741-3743; for various references pertinent to this section, see also footnotes 10 and 19.

Article VII, § 11

Debates of Constitutional Conventions

1894. II:698 (II:1001); IV:227-349 (V:2101-2160); IV:943-969 (V:2500-2515).

Texts of Proposed Amendments

In the legislature, 1895-1937: see Part IV, p. 616.

Annual provision for payment of state indebtedness; exception

Sinking funds; contributions thereto; how enforced

1 § 11. The legislature shall annually provide by appro-
 2 priation for the payment of the interest upon and instalments
 3 of principal of all debts created on behalf of the state except
 4 those contracted under section two of this article, as the
 5 same shall fall due, and for the contribution to all of the
 6 sinking funds heretofore created by law, of the amounts
 7 annually to be contributed under the provisions of section
 8 five of this article. If at any time the legislature shall fail
 9 to make any such appropriation, the comptroller shall set
 10 apart from the first revenues thereafter received, applicable
 11 to the general fund of the state, a sum sufficient to pay such
 12 interest, instalments of principal, or contributions to such
 13 sinking fund, as the case may be, and shall so apply the
 14 moneys thus set apart. The comptroller may be required to
 15 set aside and apply such revenues as aforesaid, at the suit of
 16 any holder of such bonds.

Source

Amendment of 1905;³¹ amended, 1918;³² amended, 1920.³³

Legislative Documents

Discussions in relation to:

Constitutional amendment adopted Nov. 2, 1920, dealing with re-adjustment of excesses in sinking funds: Leg. Doc. (1922) No. 7, pp. xvi-xvii.

Redemption of debt: Leg. Doc. (1926) No. 70, p. 87.

Debates of Constitutional Conventions

1915. Comptroller to set aside revenues for payment of debts and interest: II:1267, 1920-1922.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 784. See Part IV, p. 619.

In the legislature, 1895-1937: see Part IV, pp. 617-621.

³¹ For the text, legislative history, and action of the people on the 1905 amendment, see Part IV, pp. 616-617.

³² For the text, legislative history, and action of the people on the 1918 amendment, see Part IV, pp. 619-620.

³³ For the text, legislative history, and action of the people on the 1920 amendment, see Part IV, pp. 620-621.

Article VII, § 13

1 § 12. Debts hereafter authorized for the improvement of Debts for
 2 highways shall be created only in the manner provided in the im-
 3 section four of this article. No provision of this article shall provement
 4 be deemed to impair or affect the validity of any debt of the of high-
 5 state heretofore contracted or any right or obligation hereto- ways; re-
 6 fore created between the state and any of its civil divisions. striction on
creation

Source

Amendment of 1905;³⁴ amended, 1920.³⁵

Historical References

For discussion of 1905 amendment, see Dougherty, 320-321.

Legislative Documents

Recommendations and discussions of proposed amendment to this section in relation to bond issue for the development of a state highway system: Leg. Doc. Assembly (1902) No. 39, p. 22; Leg. Doc. Senate (1905) No. 14, pp. 83-85, 147-151.

Discussions in relation to:

Constitutional amendment adopted Nov. 2, 1920, dealing with readjustment of excesses in sinking funds: Leg. Doc. (1922) No. 7, pp. xvi-xvii.

Proposed amendment enabling the state to maintain its commercial supremacy by the development of a limited portion of its main highways through the issuance of bonds to aid in their construction: Leg. Doc. Senate (1902) No. 28, pp. 1-10.

Debates of Constitutional Conventions

1915. Highway debts: II:1268-1269, 1321-1323.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendments adopted by the Convention: Pr. Nos. 784, 837. See Part IV, pp. 630, 1004-1005.

Amendment proposed but not adopted by the Convention: Pr. No. 442.

In the legislature, 1895-1937: see Part IV, pp. 621-635.

1 § 13. The legislature may authorize by law the creation Debts for
 2 of a debt or debts of the state to provide for the payment the pay-
 3 of bonuses to honorably discharged soldiers, sailors and ment of
 4 marines of the World War who were actual residents of the bonuses;
 5 state at the time of their enlistment or induction into the manner of
 6 military service of the United States.³⁶ An apportionment of apportion-
ment
among
benefici-
aries; max-
imum
limit, etc.

³⁴ For the text, legislative history, and action of the people on the 1905 amendment, see Part IV, pp. 622-623.

³⁵ For the text, legislative history, and action of the people on the 1920 amendment, see Part IV, p. 631.

³⁶ On payment of Civil War bonuses, see Dougherty, 317-318.

Article VII, § 14

7 the moneys on the basis of the periods of service of the re-
 8 spective beneficiaries shall be provided for by general laws.
 9 The aggregate of the debts authorized by this section shall not
 10 exceed forty-five million dollars. The provisions of this
 11 article, not inconsistent with this section, relating to the issu-
 12 ance of bonds for a debt or debts of the state and the matur-
 13 ity and payment thereof, shall apply to a debt or debts
 14 created pursuant to this section; except that the law author-
 15 izing the contracting of such debt or debts shall take effect
 16 without submission to the people pursuant to section four
 17 of this article.

Source

Added, 1923.³⁷

Legislative Documents

Recommendation of proposed amendment to this section in relation to payment of bonus to war veterans: Leg. Doc. (1923) No. 3, p. 24.

Discussion in relation to constitutionality of soldiers' bonus: Leg. Doc. (1922) No. 75.

Texts of Proposed Amendments.

In the legislature, 1895-1937: see Part IV, pp. 635-637.

Debts for the elimination of railroad crossings; maximum limit

1 § 14. The legislature may authorize by law the creation
 2 of a debt or debts of the state, not exceeding in the aggregate
 3 three hundred million dollars, to provide moneys for
 4 the elimination, under state supervision, of railroad crossings
 5 at grade within the state, at the expense of the state, rail-
 6 road companies, counties and cities, as hereinafter provided.
 7 Of the expense of a grade crossing elimination to which
 8 any of the proceeds of such a debt are applied, fifty per
 9 centum shall be borne by the railroad company. The remain-
 10 ing fifty per centum shall be borne by the state and
 11 the county in which the crossing is located, or by the state
 12 and the city in which it is located if the city contain two or
 13 more counties; except that if so provided by law, such remain-
 14 ing fifty per centum of the expense of elimination of a
 15 grade crossing in any other city shall be borne by the state,
 16 the county and such city. The proportions of the expense

Division of expense among railroad company, state and county, or city

³⁷ For the legislative history and action of the people on this section, see Part IV, p. 636.

Article VII, § 14

17 of a grade crossing elimination to be borne by the state and
 18 county, state and city, or state, county and city, under the
 19 provisions of this section, shall be determined by or pursu-
 20 ant to law. Laws shall be enacted to provide, so far as ^{Repayment}
 21 practicable, for repayment to the state of moneys advanced ^{of moneys}
 22 in aid of railroad companies, counties and cities, at such ^{advanced}
 23 times, in such manner and with interest at such rate, that ^{by state,}
 24 the state shall be able to pay when due the portion of the ^{etc.}
 25 state debt equal to the proceeds which shall have been so
 26 advanced, and interest thereon. The provisions of this ar-
 27 ticle, not inconsistent with this section, relating to the issu-
 28 ance of bonds for a debt or debts of the state and the
 29 maturity and payment thereof, shall apply to a state debt
 30 or debts created pursuant to this section; except that the
 31 law authorizing the contracting of such debt or debts shall
 32 take effect without submission to the people pursuant to
 33 section four of this article. The aggregate amount of a state
 34 debt or debts which may be created pursuant to this section,
 35 as hereby amended, shall not exceed the difference between
 36 the amount of the debt or debts heretofore created or author-
 37 ized by law, under the former provisions of this section, and
 38 the sum of three hundred million dollars; and the legislature,
 39 by law, may authorize or require a county to bear all or part
 40 of the portion of the expense of any such crossing elimina-
 41 tion, heretofore begun or authorized, which was imposed by
 42 former provisions of this section on a city, town or village
 43 therein.

Source

Added, 1925,⁸⁸ amended, 1927.⁸⁹

Legislative Documents

Recommendation and discussion of proposed amendment to this section in relation to the elimination of railroad grade crossings: Leg. Doc. (1924) No. 58, pp. 3-7; Leg. Doc. (1925) No. 86, pp. 3-6.

Discussion in relation to the elimination of grade crossings: Leg. Doc. (1925) No. 92, pp. 3-14; Leg. Doc. (1927) No. 25, pp. 29-34.

Texts of Proposed Amendments.

In the legislature, 1895-1937: see Part IV, pp. 637-647.

⁸⁸ For the text, legislative history, and action of the people on the 1925 amendment, see Part IV, pp. 638-639.

⁸⁹ For the text, legislative history, and action of the people on the 1927 amendment, see Part IV, pp. 640-641.

Article VII, § 15

Debts for the acquisition of real property and for the construction of buildings, works and improvements; maximum limit

1 § 15. In addition to any other debt, authorized by or pur-
 2 suant to this article, the legislature, in each of the ten cal-
 3 endar years following the adoption of this section, may
 4 authorize by law the creation of a debt or debts, not exceed-
 5 ing in the aggregate in any such year the sum of ten million
 6 dollars, to provide moneys for the acquisition by the state of
 7 real property and for the construction of buildings, works
 8 and improvements for the state, or for any one or more of
 9 such objects. The provisions of this article, not inconsistent
 10 with this section, relating to the issuance of bonds for a debt
 11 or debts of the state and the maturity and payment thereof,
 12 shall apply to a state debt or debts created pursuant to this
 13 section; except that the law authorizing the contracting of
 14 such debt or debts shall take effect without submission to the
 15 people pursuant to section four of this article.

Source

Added, 1925.⁴⁰

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendment proposed but not adopted by the Convention: Pr. No.
 541.

In the legislature, 1895-1937: see Part IV, p. 647.

Appropriations for the acquisition of land for reforestation, and forest tree nurseries; amounts

1 § 16. The legislature in each of the eleven calendar years
 2 immediately following the adoption of this amendment shall
 3 appropriate out of any funds in the treasury not otherwise
 4 appropriated moneys for the acquisition by the state of
 5 land, outside the Adirondack and Catskill parks, as now
 6 fixed by law, best suited for reforestation, for the reforesting
 7 of the same and the protection and management of forests
 8 thereon; for the acquisition of land for forest tree nurseries,
 9 and for the establishment and maintenance of such nurseries,
 10 such appropriations to begin in the first year with the sum
 11 of one million dollars (\$1,000,000) and increasing annually

⁴⁰ For the legislative history and action of the people on this section, see Part IV, p. 647.

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12 by the sum of two hundred thousand dollars (\$200,000) to
 13 and including the sixth year and in each of the five years
 14 immediately following, a sum equal to that appropriated for
 15 the sixth year. All such appropriations to be available until
 16 expended. A law enacted pursuant to this section shall take
 17 effect without submission to the people.

18 The lands of the state, now owned or hereafter acquired,
 19 constituting the forest preserve as now fixed by law, shall be
 20 forever kept as wild forest lands. They shall not be leased,
 21 sold or exchanged, or be taken by any corporation, public or
 22 private, nor shall the timber thereon be sold, removed or
 23 destroyed. Nothing contained in this section nor in the pro-
 24 hibitions of section seven of this article shall prevent the
 25 state from cutting, selling or removing the trees, timber, for-
 26 est products and other materials on any lands hereafter
 27 acquired with the moneys herein authorized within the forest
 28 preserve counties but outside of the Adirondack and Cat-
 29 skill parks as now fixed or hereafter extended by law.

Forest pre-
 serve lands
 not to be
 alienated

Source

Added, 1931.⁴¹

Historical References

For historical references on forest preserve, see Article VII, section 7.

Legislative Documents

Recommendations and discussions of proposed amendment to this section in relation to:

Leasing of state forest lands: Leg. Doc. Assembly (1902) No. 2, p. 15; Leg. Doc. Senate (1902) No. 2, p. 15.

Permitting sale of detached parcels of land outside Adirondack Park, not in the Catskill region, for land within its boundaries: Leg. Doc. Assembly (1902) No. 63, p. 18.

Scientific conservative forestry for state lands: Leg. Doc. Assembly (1902) No. 63, p. 18.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 10, 25, 37, 84, 154, 208, 220, 247, 375, 382, 558, 585, 647.

In the legislature, 1895-1937: see Part IV, pp. 647-650.

⁴¹ For the legislative history and action of the people on this section, see Part IV, pp. 649-650.

Article VIII, § 1

ARTICLE VIII¹Corpora-
tions; how
formed

1 Section 1. Corporations may be formed under general laws;
2 but shall not be created by special act, except for municipal
3 purposes, and in cases where, in the judgment of the Legisla-
4 ture, the objects of the corporation cannot be attained under
5 general laws. All general laws and special acts passed pur-
6 suant to this section may be altered from time to time or re-
7 pealed.

Source

Const. 1846, Art. VIII, § 1. See also Const. 1821, Art. VII, § 9.

Historical References

For historical sketch of corporations in this state from 1783 to 1846, and a classified list by subjects of the more important legislative charters granted during this period, see Lincoln II:59-64.

References to constitutional conventions and commissions.

1821. Dougherty, 116.

1846. Lincoln II:63-64, 184-195; Dougherty, 163, 166-168.

1867. Lincoln II:370-374; Dougherty, 213, note.

Debates of Constitutional Conventions

1846. 221-223 (July 2), 961-974, 984 (Sept. 24-26).

1867. II:1014-1024, 1078-1079; IV:3181-3182.

¹ For references to the following subjects coming within the general scope of Art. VIII but not relating specifically to any particular section thereof, see: Corporations, banking, bills and notes of: Convention debates (1846) 998-1005 (Sept. 28-29); corporations, non-banking, liability of stockholders: Lincoln (1846) II:185, 188, 191, (1867) II:371, Convention debates (1846) 974-980, 982-983 (Sept. 25-26), Convention debates (1867) I:670, II:1089-1092; corporations, state bank prohibited: Convention debates (1867) II:1085-1089; corporations, capital stock, payment of: Convention debates (1867) II:1078; state claims against corporations: Lincoln (1867) II:167-168, 181-182, Convention debates (1867) V:3743; corporations, condemnation by: Lincoln (1846) II:187, 189; liability of corporators: Convention debates (1867) II:1079-1080; corporations, limited debts of: Lincoln (1846) II:185, 187-188; debts of corporations to be published: Lincoln (1846) II:185, 187-188; foreign corporations, to secure performance of obligations: Lincoln (1867) II:371, Convention debates (1867) I:671; corporations, franchises of: Lincoln (1846) II:185, 188-189; corporations, special privileges to, restrictions: Lincoln (1846) II:187, 189, Convention debates (1846) 1005-1006 (Sept. 29); corporations, stockholders, laws to protect minority: Convention debates (1867) I:1092-1098, 1108; corporations, stockholders, names to be published: Lincoln (1846) II:185, 187-188; corporations, trusts and monopolies: Convention debates (1894) IV:1067-1078 (VI:2574-2580); railroads, consolidation of: Lincoln (1867) II:373, Convention debates (1867) II:1024-1032, 1035-1057, 1069-1077, 1101-1107, V:3814-3816.

Amendments coming within the general scope of Art. VIII, but not relating specifically to any particular section thereof, proposed but not adopted by the Constitutional Convention of 1915, are: Pr. Nos. 180, 181, 304, 332, 333, 395, 399, 462, 467, 508, 663, 684.

Article VIII, § 3

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 46, 50, 105, 169, 256 (Int. 254), 302 (Int. 298), 321 (Int. 313), 324 (Int. 316), 325 (Int. 317), 357 (Int. 348), 408 (Int. 377).

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 395, 595.

In the legislature, 1895-1937: see Part IV, p. 651.

- 1 § 2. Dues from corporations shall be secured by such in- Dues from
 2 dividual liability of the corporators and other means as may corpora-
 3 be prescribed by law. tions

Source

Const. 1846, Art. VIII, § 2.

Historical References

See notes to section 1 of this Article.

References to constitutional conventions and commissions.

1846. Lincoln II:193.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 84, 85, 105, 322 (Int. 314).

- 1 § 3. The term corporations as used in this article shall be Corpora-
 2 construed to include all associations and joint-stock compan- tion; term
 3 ies having any of the powers or privileges of corporations not defined
 4 possessed by individuals or partnerships. And all corpora-
 5 tions shall have the right to sue and shall be subject to be Actions by
 6 sued in all courts in like cases as natural persons. or against
 corporations

Source

Const. 1846, Art. VIII, § 3.

Historical References

See notes to section 1 of this Article.

References to constitutional conventions and commissions.

1846. Lincoln II:189, 191, 194.

Debates of Constitutional Conventions

1846. 982 (Sept. 26), 1021-1022 (Sept. 30).

1867. II:1080.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 105, 112.

Article VIII, § 4

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 122, 180, 341, 516, 664.

Savings
banks
charters

1 § 4. The Legislature shall, by general law, conform all
2 charters of savings banks, or institutions for savings, to a
3 uniformity of powers, rights and liabilities, and all charters
4 hereafter granted for such corporations shall be made to con-
5 form to such general law, and to such amendments as may
6 be made thereto. And no such corporation shall have any
7 capital stock, nor shall the trustees thereof, or any of them,
8 have any interest whatever, direct or indirect, in the profits
9 of such corporation; and no director or trustee of any such
10 bank or institution shall be interested in any loan or use of
11 any money or property of such bank or institution for sav-
12 ings. The Legislature shall have no power to pass any act
13 granting any special charter for banking purposes; but cor-
14 porations or associations may be formed for such purposes
15 under general laws.

Capital
stock
prohibited

Restric-
tions upon
trustees

Special
charters
prohibited

Source

Const. 1846, Art. VIII, § 4; amended, 1874.

Historical References

For historical sketch of the development of the banking and currency system in this colony and state down to 1846, with detailed reference to the financial legislation and to governors' messages on that subject during that period, see Lincoln II:27-45. For historical sketch of bank charters from 1791 to the Convention of 1821, see Dougherty, 117-120.

References to constitutional conventions and commissions.

1821. Lincoln II:33; Dougherty, 120.

1846. Lincoln II:195-198; Dougherty, 168.

1872. Lincoln II:551-552; Dougherty, 238-239.

Debates of Constitutional Conventions

1846. 182-185 (June 29), 985-995 (Sept. 28).

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 105, 189 (Int. 188), 221 (Int. 219).

Article VIII, § 6

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 486, 595.

- 1 § 5. The Legislature shall have no power to pass any law
 2 sanctioning in any manner, directly or indirectly, the suspen- Specie pay-
ments not
to be
suspended
 3 sion of specie payments, by any person, association or cor-
 4 poration, issuing bank notes of any description.

Source

Const. 1846, Art. VIII, § 5.

Historical References

See notes under section 4 of this Article.

Debates of Constitutional Conventions

1846. 989-996 (Sept. 28).

1867. II:1080-1085.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 105.

In the Constitutional Convention of 1915:

Amendment proposed but not adopted by the Convention: Pr. No. 486.

- 1 § 6. The Legislature shall provide by law for the registry Bills or
notes;
registry,
security
 2 of all bills or notes, issued or put in circulation as money, and
 3 shall require ample security for the redemption of the same
 4 in specie.

Source

Const. 1846, Art. VIII, § 6.

Historical References

For historical comment on the reason for putting this provision into the Constitution, see Lincoln IV:678.

See also the notes to section 4 of this Article.

Debates of Constitutional Conventions

1846. 996-997, 1000-1005 (Sept. 28-29), 1073 (Oct. 8).

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 105, 209-433 (Int. 207).

Article VIII, § 7

1 § 7. Liability of bank stockholders. (Repealed) ²**Texts of Proposed Amendments**

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 143, 486.

In the legislature, 1895-1937: see Part IV, p. 652.

Bill-
holders;
preference
in bank
insolvency

- 1 § 8. In case of the insolvency of any bank or banking**
2 association, the billholders thereof shall be entitled to prefer-
3 ence in payment, over all other creditors of such bank or
4 association.

Source

Const. 1846, Art. VIII, § 8.

Historical References

For comment on this section, see Lincoln IV:680.

Debates of Constitutional Conventions

1867. II:1085.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 105.

In the Constitutional Convention of 1915:

Amendment proposed but not adopted by the Convention: Pr. No. 486.

No state
aid to cor-
porations
or private
under-
takings

- 1 § 9. Neither the credit nor the money of the State shall be**
2 given or loaned to or in aid of any association, corporation or
3 private undertaking. This section shall not, however, prevent
4 the Legislature from making such provision for the education

² This section was repealed by the amendment approved by the people at the general election held Nov. 5, 1935, effective Jan. 1, 1936, which provided as follows: "Section 1. Resolved, That the constitution be amended by repealing section seven of article eight thereof." The repealed section read as follows: "The stock holders of every corporation and joint-stock association for banking purposes, shall be individually responsible to the amount of their respective share or shares of stock in any such corporation or association." For history of the amendment of 1935, see Part IV, p. 652. On the liability of bank stockholders, see: Lincoln (1846) II:195-198, (1867) III:371-372, (1894) III:455-458, Convention debates (1846) 226-227 (July 7), 989-990, 997-998 (Sept. 28), 1073 (Oct. 8), Convention debates (1867) II:1089-1090, Convention debates (1894) IV:903-922 (V:2476-2487), IV:1108-1110 (VI:2598-2599).

Article VIII, § 10

5 and support of the blind, the deaf and dumb, and juvenile de- Exception
 6 linquents, as to it may seem proper. Nor shall it apply to any as to educa-
 7 fund or property now held, or which may hereafter be held, tion and
 8 by the State for educational purposes. support of
defectives
and
delinquents

Exception
as to funds
for educa-
tional pur-
poses

Source

Const. 1846, Art. VIII, § 9; amended, 1874. See also Const. 1894, Art. VII, § 1.

Historical References

For history of state aid to private enterprises in this state down to 1846, with special reference to the legislation and to the governors' messages on this subject, see Lincoln II:91-101.

References to constitutional conventions and commissions.

1846. Lincoln II:179-182; Dougherty, 163-165, 239.

1872. Lincoln II:552-557; Dougherty, 240.

Legislative Documents

Recommendations and discussion of proposed amendment to this section in relation to extension of state credit for housing: Leg. Doc. (1920) No. 25, p. 14; Leg. Doc. (1924) No. 3, p. 23; Leg. Doc. (1924) No. 43, p. 10.

Debates of Constitutional Conventions

1867. III:1840-1848, 2250-2259; V:3327-3330, 3366-3369, 3461-3482, 3764-3765.

1915. Grant of public property for private use: IV:4055-4056, 4063, 4198.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 156, 298 (Int. 294).

In the legislature, 1895-1937: see Part IV, p. 653.

1 § 10. No county, city, town or village shall hereafter Counties,
 2 give any money or property, or loan its money or credit to cities,
 3 or in aid of any individual, association or corporation, or towns and
 4 become directly or indirectly the owner of stock in, or bonds villages not
 5 of, any association or corporation; nor shall any such to give or
 6 county, city, town or village be allowed to incur any in- loan money
 7 debtedness except for county, city, town or village pur- or credit;
 8 poses. This section shall not prevent such county, city, limitation
 9 town or village from making such provision for the aid or of indebt-
 10 support of its poor as may be authorized by law. No county edness
 11 or city shall be allowed to become indebted for any purpose Support of
poor

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Maximum
limit of
county and
city indebt-
edness

Certificates
of indebt-
ness in
anticipa-
tion of the
collection
of taxes;
limitation,
etc.

12 or in any manner to an amount which including existing
13 indebtedness, shall exceed ten per centum of the assessed
14 valuation of the real estate of such county or city subject
15 to taxation, as it appeared by the assessment rolls of said
16 county or city on the last assessment for state or county
17 taxes prior to the incurring of such indebtedness; and all
18 indebtedness in excess of such limitation, except such as
19 now may exist, shall be absolutely void, except as herein
20 otherwise provided. No county or city whose present in-
21 debtedness exceeds ten per centum of the assessed valuation
22 of its real estate subject to taxation, shall be allowed to be-
23 come indebted in any further amount until such indebted-
24 ness shall be reduced within such limit. This section shall
25 not be construed to prevent the issuing of certificates of
26 indebtedness or revenue bonds issued in anticipation of the
27 collection of taxes for amounts actually contained or to be
28 contained in the taxes for the year when such certificates
29 or revenue bonds are issued and payable out of such taxes;
30 nor to prevent the city of New York from issuing bonds to
31 be redeemed out of the tax levy for the year next succeed-
32 ing the year of their issue, provided that the amount of such
33 bonds which may be issued in any one year in excess of the
34 limitations herein contained shall not exceed one-tenth of
35 one per centum of the assessed valuation of the real estate
36 of said city subject to taxation. All certificates of indebt-
37 edness or revenue bonds issued in anticipation of the collec-
38 tion of taxes, which are not retired within five years after
39 their date of issue, and any debt hereafter incurred by any
40 portion or part of a city, if there shall be any such debt,
41 shall be included in ascertaining the power of the city to
42 become otherwise indebted; except that debts heretofore
43 or hereafter incurred by any city to provide for the supply
44 of water, shall not be so included; and except that debts not
45 exceeding in the aggregate the sum of ten million dollars,
46 heretofore or hereafter incurred by any city with a popu-
47 lation of not less than two hundred and fifty thousand and
48 not more than one million, and except that debts not exceed-
49 ing in the aggregate the sum of five million dollars hereto-
50 fore or hereafter incurred by any city with a population of
51 not less than one hundred and seventy-five thousand and not

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52 more than two hundred and fifty thousand, for so much of
53 the cost and expense of any public improvement as may be
54 required by the ordinance or other local legislative law
55 therein assessing the same to be raised by assessment upon
56 local property or territory, shall not be so included; and
57 except further that any debt hereafter incurred by the city
58 of New York for a public improvement owned or to be
59 owned by the city, which yields to the city current net
60 revenue, after making any necessary allowance for repairs
61 and maintenance for which the city is liable, in excess of
62 the interest on said debt and of the annual installments
63 necessary for its amortization may be excluded in ascertain-
64 ing the power of said city to become otherwise indebted,
65 provided that a sinking fund for its amortization shall have
66 been established and maintained and that the indebtedness
67 shall not be so excluded during any period of time when
68 the revenue aforesaid shall not be sufficient to equal the
69 said interest and amortization instalments, and except
70 further that any indebtedness heretofore incurred by the
71 city of New York for any rapid transit or dock investment
72 may be so excluded proportionately to the extent to which
73 the current net revenue received by said city therefrom shall
74 meet the interest and amortization installments thereof,
75 provided that any increase in the debt incurring power of
76 the city of New York which shall result from the exclusion
77 of debts heretofore incurred shall be available only for the
78 acquisition or construction of properties to be used for
79 rapid transit or dock purposes. The legislature shall pre-
80 scribe the method by which and the terms and conditions
81 under which the amount of any debt incurred by the city
82 of New York for a revenue producing improvement to be
83 so excluded shall be determined, and no such debt shall be
84 excluded except in accordance with the determination so
85 prescribed. The legislature may in its discretion confer
86 appropriate jurisdiction on the appellate division of the
87 supreme court in the first judicial department for the pur-
88 pose of determining the amount of any debt to be so ex-
89 cluded. No indebtedness of a city valid at the time of its
90 inception shall thereafter become invalid by reason of the
91 operation of any of the provisions of this section. When

County
wholly in-
cluded in
a city not
to incur
debt

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92 ever the boundaries of any city are the same as those
 93 of a county, or when any city shall include within its
 94 boundaries more than one county, the power of any county
 95 wholly included within such city to become indebted shall
 96 cease, but the debt of the county, heretofore existing, shall
 97 not, for the purposes of this section, be reckoned as a part
 98 of the city debt. The amount hereafter to be raised by tax
 99 for county or city purposes, in any county containing a city
 100 of over one hundred thousand inhabitants, or in any such
 101 city of this state, in addition to providing for the principal
 102 and interest of the county or city debt, shall not in the ag-
 103 gregate exceed in any one year two per centum of the as-
 104 sessed valuation of the real and personal estate of such
 105 county or city, to be ascertained as prescribed in this section
 106 in respect to county or city debt.

Maximum
 tax rate
 for county
 or city
 purposes
 in certain
 counties
 and cities

Source

Amendments of 1874;³ amended, 1884;⁴ amended, Const. 1894, Art. VIII, § 10; amended, 1899;⁵ amended, 1905;⁶ amended, 1907;⁷ amended, 1909;⁸ amended, 1917;⁹ amended, 1927.¹⁰

Historical References

For comment on this section, see Dougherty, 358, 384.

References to constitutional conventions and commissions.

1867. Lincoln II:358.

1872. Lincoln II:557-561; Dougherty, 239-241, 243-244.

1894. Lincoln III:454-455, 458-459; IV:685-686; Dougherty, 244.

Legislative Documents

Recommendations and discussions of proposed amendments to this section in relation to:

Exclusion from the computation of the city's debt limit all bonds or evidences of indebtedness issued for purposes which produce revenues in excess of their maintenance charges: Leg. Doc. Senate

³ For the text of the amendment of 1874, see Part II, p. 92.

⁴ For the text of the amendment of 1884, see Part II, pp. 102-103.

⁵ For the text, legislative history, and action of the people on the 1899 amendment, see Part IV, pp. 655-656.

⁶ For the text, legislative history, and action of the people on the 1905 amendment, see Part IV, pp. 656-658.

⁷ For the text, legislative history, and action of the people on the 1907 amendment, see Part IV, pp. 666-668.

⁸ For the text, legislative history, and action of the people on the 1909 amendment, see Part IV, pp. 680-682.

⁹ For the text, legislative history, and action of the people on the 1917 amendment, see Part IV, pp. 693-696.

¹⁰ For the text, legislative history, and action of the people on the 1927 amendment, see Part IV, pp. 733-736.

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- (1908) No. 2, p. 13; Leg. Doc. Assembly (1908) No. 2, p. 13; Leg. Doc. Senate (1909) No. 15, Appendix E. pp. 379-391.
- Debt limit of New York City: Leg. Doc. Senate (1909) No. 2, pp. 25-27.
- Making county bills in the city of New York, city bills: Leg. Doc. Senate (1916) No. 25, p. 20.
- Requirement of a two-thirds vote upon all appropriations where the benefits sought are chiefly local: Leg. Doc. Senate (1916) No. 25, p. 55.
- Temporary emergencies in city finances: Leg. Doc. (1922) No. 107, pp. 144-145.
- Application of indirect taxation proceeds to the canal improvement debt: Leg. Doc. Assembly (1902) No. 2, p. 37.
- Provision that county rather than city, town, village or district be used as a unit of real property administration: Leg. Doc. (1933) No. 56, pp. 40-48, 72, 73, 88, 90, 129; Leg. Doc. (1935) No. 11, pp. 12-13.
- Provision that details of municipal debt limits be placed in statutes and not in constitution, that validation of governmental bonds be put in constitution, that debts for revenue-producing enterprises not fully self-sustaining be excluded from constitutional debt limit to extent that enterprise is self-supporting, that limitation upon amount of special revenue bonds New York City may exclude from its debt limit be abolished, and that high county debt and tax limits be eliminated: Leg. Doc. (1929) No. 11, p. 1.
- Abolition of municipal tax limitations: Leg. Doc. (1920) No. 80, p. 107.
- Determination by legislature of tax district areas: Leg. Doc. Senate (1917) No. 14, pp. 47-48.
- Discussion in relation to:
- Constitutional limitations of the power of the city of New York to incur debts: Leg. Doc. (1922) No. 107, pp. 171-183.
 - Amendment authorizing cities to pledge their credit in order that they may assume appropriate financial responsibility in connection with their projects: Leg. Doc. (1937) No. 41, p. 11.
 - County government and proposed reorganization of local government: Leg. Doc. (1927) No. 82, pp. 3-4; Leg. Doc. (1933) No. 56, pp. 88-90; Leg. Doc. (1934) No. 11, pp. 24-30; Leg. Doc. (1934) No. 68, pp. 3-5; Leg. Doc. (1934) No. 99, pp. 3-4; Leg. Doc. (1934) No. 104, pp. 3-5; Leg. Doc. (1935) No. 87, pp. 11-13.
 - Revenue problem of tax limitation of cities; effect of a 2% tax limitation upon local government in New York State; opposition to tax limitation and early history; constitutional history and constitutional changes of tax limitation in New York City: Leg. Doc. (1926) No. 70, pp. 57-59, 81-90; Leg. Doc. (1932) No. 77 (Memo. No. 8), pp. 3-37; Leg. Doc. (1935) No. 11, pp. 11-12;

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Leg. Doc. (1936) No. 11, pp. 27-28; Leg. Doc. (1936) No. 54, pp. 22-28, 343-359.

Constitutional debt limit: Leg. Doc. Senate (1908) No. 20, p. 46.
Constitutional limitation of the taxing power of the city of New York: Leg. Doc. (1922) No. 107, pp. 167-171.

Defeat of the debt limitation amendment: Leg. Doc. (1924) No. 25, p. 26.

Debt limitation: Leg. Doc. (1924) No. 91, p. 108.

Debates of Constitutional Conventions

1867. II:1137-1170; III:1723-1726; V:3606-3607, 3663-3665.

1894. IV:980-1005.

1915. Debt limit, bonds for water supply: III:2982; duration of debts and manner of payment: III:2982-2999; IV:3727-3730, 3732-3735, 3887-3894.

Documents of 1915 Constitutional Convention

Doc. 23.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 143-438 (Int. 148), 168, 237 (Int. 235), 298 (Int. 294), 464 (Int. 394).¹¹

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 862. See Part IV, pp. 690-691.

Amendments proposed but not adopted by the Convention: Pr. Nos. 35, 108, 423, 467, 681.

In the legislature, 1895-1937: see Part IV, pp. 655-764, 766-774.

Debts for
New York
City for the
construction
or
equipment
of new
rapid
transit
railroads;
maximum
limit

1 § 10-a. Notwithstanding any of the limitations prescribed
2 by the preceding section, debts may be incurred by the city
3 of New York after January first, nineteen hundred and
4 twenty-eight, for the construction or equipment, or both, of
5 new rapid transit railroads not exceeding the sum of three
6 hundred million dollars, and such debts shall not be included
7 in computing the debt limit of such city for the purpose of
8 ascertaining the power of such city to become otherwise in-
9 debted.

Source

Added, 1927.¹²

¹¹ This overture was adopted by the Convention and accordingly became a part of the Constitution.

¹² For the legislative history and action of the people on this section, see Part IV, p. 764.

Article VIII, § 11

Legislative Documents

Recommendation of proposed amendment to this section in relation to exemption from the 10% debt limit of bonds for the construction of rapid transit lines, when so far and so long as rapid transit lines shall be self-supporting: Leg. Doc. Senate (1908) No. 20, p. 14; Leg. Doc. Senate (1909) No. 15, p. 39.

Texts of Proposed Amendments.

In the legislature, 1895-1937: see Part IV, pp. 764-765.

1 § 11. The legislature shall provide for a state board of ^{State}
 2 social welfare, which shall visit and inspect all institutions, ^{board}
 3 whether state, county, municipal, incorporated or not in- ^{of social}
 4 corporated, which are of a charitable, eleemosynary, correc- ^{welfare;}
 5 tional or reformatory character, excepting state institutions ^{duties}
 6 for the education and support of the blind and the deaf and
 7 dumb, and excepting also such institutions as are hereby
 8 made subject to the visitation and inspection of either of the
 9 authorities hereinafter mentioned, but including all reforma-
 10 tories for juveniles. The head of the department of mental ^{Head of}
 11 hygiene shall visit and inspect all institutions, either public ^{department}
 12 or private, used for the care and treatment of the insane, ^{of mental}
 13 epileptics, idiots, feeble-minded or mental defectives. There ^{hygiene}
 14 shall be a state commission of correction, of which the head ^{State com-}
 15 of the department of correction shall be the chairman, which ^{mission of}
 16 shall visit and inspect all institutions used for the detention ^{correction}
 17 of sane adults charged with or convicted of crime, or detained
 18 as witnesses or debtors.¹³

Source

Const. 1894, Art. VIII, § 11; amended, 1925;¹⁴ amended, 1931.¹⁵ See also Const. 1846, Art. V, § 4.

¹³ See the following references: Charities, board of commissioners: Lincoln (1867) II:390-391, Convention debates (1867) IV:2710, 2720-2726, 2744-2754; charitable trusts: Lincoln (1867) II:392, 395; sectarian charities: Convention debates (1867) IV:2712-2715; relations of church and state: Convention debates (1867) IV:2711-2712; prison inspectors: Lincoln II:137-140, 375-378, 532-534, III:313, Dougherty, 230, Convention debates (1846) 534-536 (Aug. 6-7), Convention debates (1867) III:1771-1777, IV:3182-3200, V:3223-3229, 3231-3234.

¹⁴ For the text, legislative history, and action of the people on the 1925 amendment, see Part IV, pp. 780-781.

¹⁵ For the text, legislative history, and action of the people on the 1931 amendment, see Part IV, p. 781.

 Article VIII, § 11

Historical References

For comment on this section, see Lincoln IV:700.

For historical statement on state prisons and state prison inspectors in this state from 1796 to 1846, see Lincoln II:138-140.

References to constitutional conventions and commissions.

1867. Lincoln II:390-396.

1894. Lincoln III:459-474; Dougherty, 348.

Legislative Documents

Recommendations and discussions of proposed amendments to this section in relation to:

State Board of Charities and Corrections: Leg. Doc. Assembly (1916) No. 63, p. 44.

State Commission in Lunacy: Leg. Doc. Assembly (1916) No. 63, pp. 44-45.

Extension of visitation and inspection power: Leg. Doc. Senate (1917) No. 36, pp. 118-119.

Recommendations and discussions of proposed amendment in relation to the reorganization and consolidation of state departments: Leg. Doc. (1921) No. 3, pp. 17-19; Leg. Doc. (1923) No. 3, p. 6; Leg. Doc. (1925) No. 3, p. 48; Leg. Doc. (1925) No. 94, p. 4; Leg. Doc. (1924) No. 3, p. 15.

Discussions in relation to:

Need of considering proposed amendment dealing with reorganization of state government: Leg. Doc. (1920) No. 51, pp. 3-6.

Constitutional and statutory requirements that Board of Charities maintain supervision over charitable, correctional and reformatory institutions and agencies: Leg. Doc. (1922) No. 17, pp. xi, 18.

Child welfare: Leg. Doc. (1922) No. 84, pp. 23-34.

Change of name of State Department of Charities to State Department of Social Welfare: Leg. Doc. (1932) No. 22, p. 1.

Certain constitutional phases of program for state control of all convicted persons: Leg. Doc. (1925) No. 17, p. 58.

Debates of Constitutional Conventions

1867. I:89-91; II:1309-1312; IV:2711-2753.

1894. IV:740-772 (V:2380-2400); IV:777-814 (V:2403-2425); IV:883-887 (V:2465-2467).

1915. Inspection and supervision of charities, hospitals for insane, and correctional institutions: III:2883-2894, 2895-2901, 2903; IV:3598-3606.

Documents of 1915 Constitutional Convention

State hospitals for insane: Doc. 34.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 261 (Int. 259), 446-460 (Int. 392).¹⁶

¹⁶ This overture was adopted by the Convention and accordingly became a part of the Constitution.

 Article VIII, § 13

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 827. See Part IV, p. 775.

Amendments proposed but not adopted by the Convention: Pr. Nos. 90, 331, 332, 348, 371, 519, 580, 608, 643, 653, 663, 771.

In the legislature, 1895-1937: see Part IV, pp. 775-780.

- 1 § 12. The members of the said board and of the said com-
 2 missions shall be appointed by the Governor, by and with Appointment and removal of commissioners
 3 the advice and consent of the Senate; and any member may be
 4 removed from office by the Governor for cause, an opportunity
 5 having been given him to be heard in his defense.¹⁷

Source

Const. 1894, Art. VIII, § 12.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 446-460 (Int. 392).¹⁸

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 331, 371, 608, 653, 663, 771.

In the legislature, 1895-1937: see Part IV, pp. 782-783.

- 1 § 13. Existing laws relating to institutions referred to in Certain state institutions; existing laws continued
 2 the foregoing sections and to their supervision and inspection,
 3 in so far as such laws are not inconsistent with the provisions
 4 of the Constitution, shall remain in force until amended or
 5 repealed by the Legislature. The visitation and inspection Visitation and inspection
 6 herein provided for, shall not be exclusive of other visitation
 7 and inspection now authorized by law.

Source

Const. 1894, Art. VIII, § 13.

Legislative Documents

Recommendation and discussion of proposed amendment to this sec-

¹⁷ For grouping of various matters relating to the appointment and removal of state officers, see: Art. IV, footnote 6, and Art. III, footnote 1, under the titles, Power of Appointment and Power of Removal.

¹⁸ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article VIII, § 14

tion in relation to extension of visitation and inspection power: Leg. Doc. Senate (1917) No. 36, pp. 118-119.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 446-460 (Int. 392).¹⁰

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 331, 371, 653, 663.

In the legislature, 1895-1937: see Part IV, p. 783.

Defectives
and de-
linquents;
state
and local
education
and
support .

- 1 § 14. Nothing in this constitution contained shall prevent
2 the legislature from making such provision for the education
3 and support of the blind, the deaf and dumb, and juvenile
4 delinquents, as to it may seem proper; or prevent any county,
5 city, town or village from providing for the care, support,
6 maintenance and secular education, of inmates of orphan
7 asylums, homes for dependent children or correctional in-
8 stitutions, whether under public or private control. Payments
9 by counties, cities, towns and villages to charitable, elee-
10 mosynary, correctional and reformatory institutions, wholly
11 or partly under private control, for care, support and main-
12 tenance, may be authorized, but shall not be required by the
13 legislature. No such payments shall be made for any inmate
14 of such institutions who is not received and retained therein
15 pursuant to rules established by the state board of social
16 welfare. Such rules shall be subject to the control of the
17 legislature by general laws.²⁰

Control by
legislature

Source

Const. 1894, Art. VIII, § 14; amended, 1931.²¹

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 446-460 (Int. 392).²²

In the legislature, 1895-1937: see Part IV, pp. 784-786.

¹⁰ This overture was adopted by the Convention and accordingly became a part of the Constitution.

²⁰ See the notes to Art. VIII, § 9, and to Art. IX, § 4.

²¹ For the text, legislative history, and action of the people on the 1931 amendment, see Part IV, pp. 785-786.

²² This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article IX, § 1

- 1 § 15. Commissioners of the state board of charities, now
 2 holding office, shall be continued in office as members of the
 3 state board of social welfare for the term for which they were
 4 appointed, respectively, unless the legislature shall otherwise
 5 provide. The legislature may confer upon the state board of
 6 social welfare any additional powers that are not inconsistent
 7 with other provisions of the constitution.

Commissioners of charities continued in office as members of state board of social welfare; additional powers

Source

Const. 1894, Art. VIII, § 15; amended, 1931.²³

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional amendments, Overtures No. 446-460 (Int. 392).²⁴

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 331, 371, 653, 663.

In the legislature, 1895-1937: see Part IV, pp. 786-788.

ARTICLE IX¹

- 1 Section 1. The Legislature shall provide for the maintenance and support of a system of free common schools, where-
 2 in all the children of this State may be educated.²

Source

New.

Historical References

For historical sketch of the statutory and constitutional development of education in the Colony and State of New York, together with various comments on educational matters in general, see Lincoln III:475-579; Dougherty, 64.

²³ For the text, legislative history, and action of the people on the 1931 amendment, see Part IV, p. 788.

²⁴ This overture was adopted by the Convention and accordingly became a part of the Constitution.

¹ See the following references: Cornell University: Lincoln II:362-368, 454-455, Convention debates (1867) IV:2814-2841, 2897-2900; state medical board; Lincoln (1867) II:383-384, Convention debates (1867) III:2074-2079, IV:2971-2972, V:3321, 3453-3454. See also the provisions in Art. VIII, § 9, on the education and support of the blind, the deaf and dumb, and juvenile delinquents.

Amendments coming within the general scope of Art. IX, but not relating specifically to any particular section thereof, proposed but not adopted by the Constitutional Convention of 1915, are: Pr. Nos. 483, 502, 757.

² On compulsory education, see: Lincoln (1867) II:370, (1872) II:561, (1894) III:531.

Article IX, § 2

References to constitutional conventions and commissions.

1846. Lincoln II:204-207.

1867. Lincoln II:362, 369, 370, 405.

1872. Lincoln II:561-562.

1894. Lincoln III:554-557; IV:706; Dougherty, 348.

Legislative Documents

Discussion in relation to the historical development of the section of the state constitution dealing with education: Leg. Doc. Assembly (1917) No. 50, pp. 5-172. Leg. Doc. (1922) No. 65, pp. 68-91; Leg. Doc. (1922) No. 107, pp. 96-107.

Debates of Constitutional Conventions

1846. 1022-1026 (Oct. 1), 1075-1076 (Oct. 8).

1867. II:1563-1564; IV:2908-2924; V:3809-3811, 3813-3814.

1894. III:689-696 (IV:1661-1665); IV:857-882 (V:2450-2464).

1915. Supervision of education as state function: I:928-940, 973-990, 1065-1071, 1072-1098, 1100-1109, III:2343, 2345, IV:3636-3646; teaching of religion: III:2344-2349, IV:3641-3642.

Documents of 1915 Constitutional Convention

Military education: Doc. 49.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 310 (Int. 304), 439 (Int. 388).³

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 67, 103, 415, 483, 502, 525, 757, 820.

In the legislature, 1895-1937: see Part IV, pp. 788-789.

University
of State of
New York

1 § 2. The corporation created in the year one thousand
2 seven hundred and eighty-four, under the name of The Regents
3 of the University of the State of New York, is hereby continued
4 under the name of The University of the State of New York.

Regents

5 It shall be governed and its corporate powers, which may be
6 increased, modified or diminished by the Legislature, shall be
7 exercised, by not less than nine regents.

Source

New.

Historical References

For historical statement of the causes of, and the movement which led to the Unification Act of 1904 (Chapter 40), see Lincoln IV: 709-718.⁴

³This overture was adopted by the Convention and accordingly became a part of the Constitution.

⁴On former superintendent of public instruction, see: Lincoln (1867) II:361, (see also Lincoln III:545, IV:710, 716), Convention debates (1867) 2841-2897, 2902-2908; on state superintendent of schools, see: Lincoln (1846) II:137, Convention debates (1846) 504-505 (Aug. 4).

Article IX, § 3

For historical comment on creation of Board of Regents, see Dougherty, 63-64.

For statistical comment on the growth and development of university supervision, see Lincoln III:548-550.

References to constitutional conventions and commissions.

1867. Lincoln II:361-362, 368-369.

1894. Lincoln III:552-553, 557-560.

Debates of Constitutional Conventions

1867. IV:2841-2897, 2902-2908.

1894. III:696-738 (IV:1665-1691); IV:857-882 (V:2450-2464).

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 246 (Int. 244), 310 (Int. 304), 439 (Int. 388).⁵

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 102, 518.

In the legislature, 1895-1937: see Part IV, pp. 789-790.

1 § 3. The capital of the common school fund, the capital of Educa-
 2 the literature fund, and the capital of the United States de- tional
 3 posit fund, shall be respectively preserved inviolate. The funds;
 4 revenue of the said common school fund shall be applied to the application
 5 support of common schools; the revenue of the said literature
 6 fund shall be applied to the support of academies; and the sum
 7 of twenty five thousand dollars of the revenues of the United
 8 States deposit fund shall each year be appropriated to and
 9 made part of the capital of the said common school fund.

Source

Const. 1846, Art. IX, § 1. See also Const. 1821, Art. VII, § 10.

Historical References

For history of funds, see Lincoln III:509-524.

References to constitutional conventions and commissions.

1821. Dougherty, 64.

1846. Lincoln II:204-207.

1867. Lincoln II:361.

1894. Lincoln, III:560.

Debates of Constitutional Conventions

1846. 1074-1075 (Oct. 8).

⁵ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article IX, § 4

1867. IV:2814-2841, 2897-2902, 2924-2925; V:3795-3808.

1894. III:738-739 (IV:1691-1692); IV:857-882 (V:2450-2464).

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 310 (Int. 304), 326 (Int. 318), 439 (Int. 388).

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 40, 540.

In the legislature, 1895-1937: see Part IV, p. 790.

Denomina-
tional
schools not
to receive
state aid

1 § 4. Neither the State nor any subdivision thereof, shall
2 use its property or credit or any public money, or authorize
3 or permit either to be used, directly or indirectly, in aid or
4 maintenance, other than for examination or inspection, of any
5 school or institution of learning wholly or in part under the
6 control or direction of any religious denomination, or in which
7 any denominational tenet or doctrine is taught.

Source

New.

Historical References

For historical sketch relating to sectarian appropriations, see Lincoln III:560-579.

References to constitutional conventions and commissions.

1872. Lincoln II:475.

1894. Lincoln III:553-554, 561-562, 575-579.

Debates of Constitutional Conventions

1867. IV:2712-2715.

1894. III:739-762 (IV:1692-1704); III:766-806 (IV:1707-1728); III:955-986 (IV:1813-1830); IV:857-882 (V:2450-2464).

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 2, 198 (Int. 197), 253 (Int. 251), 270 (Int. 268), 272 (Int. 270), 348 (Int. 339), 439 (Int. 388).^o

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 552, 682.

In the legislature, 1895-1937: see Part IV, pp. 790-794.

^o This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article X, § 1

ARTICLE X¹

1 Section 1. Except in counties in the city of New York, Sheriffs, county
 2 sheriffs, clerks of counties, district attorneys, and registers in clerks, district
 3 counties having registers, shall be chosen by the electors of attorneys and
 4 the respective counties, once in every three years and as often registers; election, term, etc.
 5 as vacancies shall happen. Sheriffs shall hold no other office.
 6 They may be required by law to renew their security, from Sheriffs not to hold
 7 time to time; and in default of giving such new security, their other office; security
 8 offices shall be deemed vacant. But the county shall never
 9 be made responsible for the acts of the sheriff. The governor
 10 may remove any officer, hereinbefore in this section men- Removal by
 11 tioned, within the term for which he shall have been elected; governor
 12 giving to such officer a copy of the charges against him, and
 13 an opportunity of being heard in his defense. In each county District attorneys in New York City;
 14 in the city of New York a district attorney shall be chosen election; term; removal by
 15 by the electors once in every two or four years as the legis- governor
 16 lature shall direct and shall be subject to removal by the
 17 governor within the term for which he shall have been
 18 elected; giving to such officer a copy of the charges against
 19 him, and an opportunity of being heard in his defense. The
 20 clerks of said counties shall be appointed, and be subject to
 21 removal by the appellate division of the supreme court in
 22 the judicial department in which the respective counties are
 23 located. In addition to their powers and duties as clerks County clerks; powers and duties
 24 of the supreme court, they shall have power to select, draw,
 25 summon and empanel grand and petit jurors in the manner
 26 and under the conditions now or hereafter prescribed by law,
 27 and shall have such other powers and duties as shall be pre-
 28 scribed from time to time by local law.²

Source

Const. 1821, Art. IV, § 8; amended, Const. 1846, Art. X, § 1;

¹ Amendments coming within the general scope of Art. X, but not relating specifically to any particular section thereof, proposed but not adopted by the Constitutional Convention of 1915, are: Pr. Nos. 60, 203, 461, 472, 517, 600, 634.

² For references to various matters relating to the subject of this section, see: Art. III, footnote 1, and Art. IV, footnote 6, under the titles, Power of Appointment and Power of Removal, and footnote 6 of this Art., under the title, County Officers.

 Article X, § 1

amended, Const. 1894, Art. X, § 1; amended, 1935;³ amended, 1937.⁴
 See also Const. 1777, Arts. XXVI and XXVIII.

Historical References

For history of this section with special reference to the governor's power of removal, see Lincoln IV:721.

References to constitutional conventions and commissions.

1777. Sheriffs, terms: Lincoln I:536; county officers, selection and removal: Dougherty, 53.

1801. Nomination of officers: Dougherty, 76.

1821. County officers, election: Lincoln I:671, Dougherty, 103; terms: Lincoln I:673; removal: Lincoln I:674; district attorney, selection: Lincoln I:672; removal: Lincoln I:674.

1846. County officers, selection, terms, removal: Lincoln II:208-209; Dougherty, 168-169; county's liability for sheriff's acts: Lincoln II:208.

1867. District attorney, selection: Dougherty, 207, 211.

1894. Abolition of office of coroner as a constitutional office, and changing terms: Lincoln III:580-581.

Legislative Documents

Recommendations and discussions of proposed amendments to this section in relation to:

Reorganization of town and county government: Leg. Doc. (1923) No. 55, p. 42; Leg. Doc. (1935) No. 3, p. 9.

Re-election of sheriffs: Leg. Doc. (1928) No. 30, p. 45.

Discussions in relation to:

Legislature's failure to approve legislation dealing with the reorganization of county government and the reorganization of county government within the city of New York: Leg. Doc. (1934) No. 99, pp. 3-4; Leg. Doc. (1934) No. 104, pp. 3-5.

Changes in county government and proposed reorganization of local government: Leg. Doc. (1927) No. 82, pp. 3-4; Leg. Doc. (1933) No. 56, pp. 88-90; Leg. Doc. (1934) No. 11, pp. 24-30; Leg. Doc. (1934) No. 68, pp. 3-5; Leg. Doc. (1934) No. 99, pp. 3-4; Leg. Doc. (1934) No. 104, pp. 3-5; Leg. Doc. (1935) No. 87, pp. 11-13.

Debates of Constitutional Conventions

1821. Sheriff, selection and removal: 384-392 (Oct. 9-10).

1846. County officers, selection and removal: 1006-1009 (Sept. 29).

1867. County officers, removal: II:903-923; county's liability for sheriff's acts: V:3653; district attorney, appointment by governor: I:757; by court: II:1001-1004; registers, exception in Kings county: II:999-1001; sheriffs, removal: I:322-324; term: II:923-927, 1004-1005; security to be given: II:923-927.

³ For the text, legislative history, and action of the people on the 1935 amendment, see Part IV, p. 802.

⁴ For the text, legislative history, and action of the people on the 1937 amendment, see Part IV, p. 803.

Article X, § 2

1894. Abolition of coroner and changing official terms: I:837-854; IV:384-393, 1139-1156.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 6-339 (Int. 6),⁵ 38, 56, 89, 285 (Int. 283), 337 (Int. 329), 337-428 (Int. 329), 358 (Int. 349).

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 57, 178, 203, 219, 229, 329, 447, 456, 461, 472, 600, 609, 621, 711, 805.

In the legislature, 1895-1937: see Part IV, pp. 794-804.

1 § 2. Except as herein otherwise provided for counties in
 2 the city of New York, county officers whose election or ap-
 3 pointment is not provided for by this constitution, shall be
 4 elected by the electors of the respective counties or ap-
 5 pointed by the boards of supervisors, or other county author-
 6 ities, as the legislature shall direct. In counties in the city
 7 of New York the city of New York is hereby vested with
 8 power from time to time by local law, to abolish the office
 9 of any county officer other than judges, clerks of counties
 10 and district attorneys, and to assign any or all functions of
 11 such officers to city officers, courts or clerks of counties, and
 12 to prescribe the powers, duties, qualifications, number, mode
 13 of selection and removal, terms of office and compensation
 14 of the persons holding such offices and the employees therein,
 15 and to assign to city officers any powers or duties of clerks
 16 of counties not assigned by this constitution. The legislature
 17 shall not pass any law affecting any such matters in relation
 18 to such offices within the city of New York except on message
 19 from the governor declaring that an emergency exists and
 20 the concurrent action of two-thirds of the members of each
 21 house of the legislature, but existing laws regarding each
 22 such office shall continue in force, and may be amended or
 23 repealed by the legislature as heretofore, until the power
 24 herein granted to the city has been exercised with respect to
 25 that office. The elective county officers in office at the time
 26 this article, as amended, takes effect, shall continue in office

Election or
 appointment of
 county
 officers
 when not
 provided
 for by con-
 stitution

Power of
 city of
 New York
 to abolish
 certain
 county
 offices, etc.

Power of
 legislature
 in such
 matters

⁵ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article X, § 2

27 until the end of the terms for which they were elected. All
 28 city, town and village officers, whose election or appointment
 29 is not provided for by this constitution shall be elected by
 30 the electors of such cities, towns and villages, or of some
 31 division thereof, or appointed by such authorities thereof,
 32 as the legislature shall designate for that purpose. All other
 33 officers, whose election or appointment is not provided for
 34 by this constitution, and all officers, whose offices may here-
 35 after be created by law, shall be elected by the people, or
 36 appointed, as the legislature may direct.⁶

Source

Const. 1821, Art. IV, § 15; amended, 1826;⁷ amended, 1833;⁸
 amended, Const. 1846, Art. X, § 2; Const. 1894, Art. X, § 2;
 amended, 1935.⁹ See also Const. 1777, Arts. XXIII and XXIX.

Historical References

For a detailed historical discussion of the subject of home rule and
 its development in the Colony and State of New York, see Lincoln
 III:607-652. See also Historical References to section 3 of Art.
 XII.

References to constitutional conventions and commissions.

1777. Lincoln I:536.

1846. Lincoln II:208-209.

1867. Dougherty, 218-219.

Legislative Documents

Recommendations and discussions of proposed amendments to this
 section in relation to:

Reorganization of town and county government: Leg. Doc. (1923)
 No. 55, p. 42; Leg. Doc. (1933) No. 56, pp. 88-90; Leg. Doc.
 (1935) No. 3, p. 9.

⁶ See the following references: County officers, compensation: Convention
 debates (1867) II:958-961; County officers, coroner: Lincoln (1777) I:536,
 (1846) II:208, (1894) III:580, (see also Lincoln IV:721), Convention debates
 (1821) 540-541 (Oct. 26), Convention debates (1867) II:1005, Convention
 debates (1894) I:836-845 (I:438-443), I:848-851 (I:446-448), II:35-41 (II:
 641-643), IV:384-393 (V:2179-2183); County officers, superintendent of the
 poor: Lincoln (1846) II:208; County officers, supervisor: Convention debates
 (1867) I:756-757, II:898-903; County officers, treasurer: Lincoln (1846)
 II:208, Convention debates (1846) 1009-1010 (Sept. 29), Convention debates
 (1867) II:1180; mayor, election of: Lincoln (1821) I:672, II:6-7, 9-10,
 (1872) II:566-567, Convention debates (1867) IV:2926-2934, 2966, 3125-
 3127, 3132-3133, Convention debates (1894) II:352 (II:813-814).

⁷ For the text of the constitutional amendment of 1826, see Part II,
 p. 41.

⁸ For the text of the constitutional amendment of 1833, see Part II,
 p. 42.

⁹ For the text, legislative history, and action of the people on the 1935
 amendment, see Part IV, p. 810.

 Article X, § 3

Discussions in relation to:

Legislature's failure to approve legislation dealing with the reorganization of county government and the reorganization of county government within the city of New York: Leg. Doc. (1934) No. 99, pp. 3-4; Leg. Doc. (1934) No. 104, pp. 3-5.

Changes in county government and proposed reorganization of local government: Leg. Doc. (1927) No. 82, pp. 3-4; Leg. Doc. (1933) No. 56, pp. 88-90; Leg. Doc. (1934) No. 11, pp. 24-30; Leg. Doc. (1934) No. 68, pp. 3-5; Leg. Doc. (1934) No. 99, pp. 3-4; Leg. Doc. (1934) No. 104, pp. 3-5; Leg. Doc. (1935) No. 87, pp. 11-13.

Debates of Constitutional Conventions

1846. 1011-1012 (Sept. 30).

1867. II:927-930, 1005-1007.

1915. Appointment of city, town and village officers whose election or appointment are not provided for in Constitution: IV:3778, 3806-3808.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 223 (Int. 221), 305 (Int. 299).

In the Constitutional Convention of 1915:

Amendments adopted by the Convention: Pr. Nos. 834, 853. See Part IV, p. 809.

Amendments proposed but not adopted by the Convention: Pr. Nos. 146, 178, 202, 203, 211, 323, 385, 405, 535.

In the legislature, 1895-1937: see Part IV, pp. 804-811.

1 § 3. When the duration of any office is not provided by ^{Duration}
 2 this Constitution, it may be declared by law, and if not so ^{of office}
 3 declared, such office shall be held during the pleasure of the
 4 authority making the appointment.

Source

Const. 1777, Art. XXVIII; amended, Const. 1821, Art. IV, § 16; amended, Const. 1846, Art. X, § 3.

Historical References

For history of this section, see Lincoln IV:757-758; Dougherty, 68, 103.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendment, Overture No. 61.

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 111, 567, 639.

In the legislature, 1895-1937: see Part IV, p. 811.

 Article X, § 4

Time of elections; legislature to fix

- 1 § 4. The time of electing all officers named in this article
 2 shall be prescribed by law.

Source

Const. 1821, Art. I, § 15, Art. IV, § 15; amended, Const. 1846, Art. X, § 4. See also Const. 1777, Art. XXIX. In relation to mayors, see Const. 1777, Art. XXIII; Const. 1821, Art. IV, § 10; amendments of 1833¹⁰ and 1839;¹¹ Const. 1894, Art. XII, § 3.

Texts of Proposed Amendments

In the legislature, 1895-1937: see Part IV, p. 811.

Vacancies in office

- 1 § 5. The Legislature shall provide for filling vacancies in
 2 office, and in case of elective officers, no person appointed to
 3 fill a vacancy shall hold his office by virtue of such appoint-
 4 ment longer than the commencement of the political year next
 5 succeeding the first annual election after the happening of the
 6 vacancy.

Source

Const. 1846, Art. X, § 5.

Debates of Constitutional Conventions

1867. II:1363-1365.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendment proposed but not adopted by the Convention: Pr. No. 680.

In the legislature, 1895-1937: see Part IV, p. 812.

Political year; legislative term

- 1 § 6. The political year and legislative term shall begin on
 2 the first day of January; and the Legislature shall, every year,
 3 assemble on the first Wednesday in January.

Source

Const. 1821, Art. I, § 14; Const. 1846, Art. X, § 6; amended, Const. 1894, Art. X, § 6.

Historical References

References to constitutional conventions and commissions.

¹⁰ For the text of the constitutional amendment of 1833, see Part II, p. 42.

¹¹ For the text of the constitutional amendment of 1839, see Part II, p. 43.

 Article X, § 8

1821. Political year: Lincoln I:640.

1867. Sessions: Lincoln II:324-325; Dougherty, 214.

1894. Day of assembling: Lincoln III:581.

Debates of Constitutional Conventions

1821. Political year: 121-122 (Sept. 10).

1846. Sessions: 431-436 (July 2).

1867. Sessions: II:1289-1293.

1894. Day of assembling: II:688-689.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 444 (Int. 385).¹²

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 869. See Part IV, p. 1126.

Amendments proposed but not adopted by the Convention: Pr. Nos. 69, 158, 167, 191, 246, 432, 471, 476, 654.

In the legislature, 1895-1937: see Part IV, pp. 812-814.

- 1 § 7. Provision shall be made by law for the removal for ^{Removal}
 2 misconduct or malversation in office of all officers, except ^{from office}
 3 judicial, whose powers and duties are not local or legislative
 4 and who shall be elected at general elections, and also for
 5 supplying vacancies created by such removal.¹³

Source

Const. 1846, Art. X, § 7.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendment proposed but not adopted by the Convention: Pr. No. 572.

In the legislature, 1895-1937: see Part IV, pp. 814-815.

- 1 § 8. The Legislature may declare the cases in which any ^{Vacancies;}
 2 office shall be deemed vacant when no provision is made for ^{when leg-}
 3 that purpose in this Constitution. ^{islature}
^{may}
^{determine}

Source

Const. 1846, Art. X, § 8.

Texts of Proposed Amendments

In the legislature, 1895-1937: see Part IV, p. 815.

¹² This overture was adopted by the Convention and accordingly became a part of the Constitution.

¹³ See Art. III, footnote 1, and Art. IV, footnote 6, under the title, Power of Removal.

Article X, § 9

Compensa-
tion of
constitu-
tional
officers

1 § 9. No officer whose salary is fixed by the Constitution
2 shall receive any additional compensation. Each of the other
3 state officers named in the Constitution shall, during his con-
4 tinuance in office, receive a compensation, to be fixed by law,
5 which shall not be increased or diminished during the term
6 for which he shall have been elected or appointed; nor shall
7 he receive to his use any fees or perquisites of office or other
8 compensation.

Source

Amendment of 1874.

Historical References

For comment on this section, see Lincoln IV:765.

References to constitutional conventions and commissions.

1872. Lincoln II:562-563; Dougherty, 241.

Debates of Constitutional Conventions

1846. Fees prohibited: 504, 517-520 (Aug. 4-5).

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitu-
tional Amendments, Overture No. 49-366-378 (Int. 49).

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos.
89, 387.

In the legislature, 1895-1937: see Part IV, pp. 815-818.

ARTICLE XI¹

Militia;
how con-
stituted

1 Section 1. All able-bodied male citizens between the ages
2 of eighteen and forty-five years, who are residents of the State,
3 shall constitute the militia, subject however to such exemp-
4 tions as are now, or may be hereafter created by the laws of
5 the United States, or by the Legislature of this State.

Source

Const. 1821, Art. VII, § 5; amended, Const. 1846, Art. XI, § 1;
amended, Const. 1894, Art. XI, § 1. See also Const. 1777, Art.
XXIV.

Historical References

For historical sketch of the statutes and constitutional provisions in
the Colony and State of New York relating to the militia, with

¹ On pensions for military service, see: Lincoln (1867) II:293, Convention debates (1867) IV:3064.

An amendment coming within the general scope of Art. XI, but not re-
lating specifically to any particular section thereof, proposed but not adopted
by the Constitutional Convention of 1915, is: Pr. No. 545.

Article XI, § 3

general comments on the subject, see Lincoln III:582-605 and IV:765-766.

References to constitutional conventions and commissions.

1777. Lincoln I:546; Dougherty, 54.

1846. Lincoln II:209.

1867. Lincoln II:378-379, 406.

1894. Lincoln III:602-605.

Debates of Constitutional Conventions

1821. Exemptions because of religious scruples: 577-580 (Oct. 31).

1867. Exemptions because of religious scruples: V:3686-3689; militia: II:1215-1221; V:3696-3698.

1894. IV:1088-1098 (VI:2585-2591).

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 40, 235 (Int. 233), 342-453 (Int. 333).²

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 452, 544, 547, 675.

In the legislature, 1895-1937: see Part IV, pp. 818-819.

- 1 § 2. The Legislature may provide for the enlistment into ^{Enlist-}
 2 the active force of such other persons as may make application ^{ment}
 3 to be so enlisted.

Source

New.

Historical References

For comment on this section, see Lincoln IV:767.

Debates of Constitutional Conventions

1867. II:1227.

1894. IV:1088-1098 (VI:2585-2591).

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 342-453 (Int. 333).³

In the legislature, 1895-1937: see Part IV, p. 819.

- 1 § 3. The militia shall be organized and divided into such ^{Militia;}
 2 land and naval, and active and reserve forces, as the Legisla- ^{organiza-}
 3 ture may deem proper, provided however that there shall be ^{tion and} ^{main-} ^{tenance}

² This overture was adopted by the Convention and accordingly became a part of the Constitution.

³ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article XI, § 4

4 maintained at all times a force of not less than ten thousand
 5 enlisted men, fully uniformed, armed, equipped, disciplined
 6 and ready for active service.⁴ And it shall be the duty of the
 7 Legislature at each session to make sufficient appropriations
 8 for the maintenance thereof.

Source

New.

Historical References

See notes under section 1 of Art. XI.

Debates of Constitutional Conventions

1867. II:1215-1221, 1225-1227; V:3689, 3696-3698.

1894. IV:1088-1098 (VI:2585-2591).

Documents of 1915 Constitutional Convention

Compulsory military service: Doc. 49.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 342-453 (Int. 333).⁵

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 413, 545, 548, 675.

In the legislature, 1895-1937: see Part IV, p. 819.

Governor
to
appoint
certain
military
officers

1 § 4. The Governor shall appoint the chiefs of the several
 2 staff departments, his aides-de-camp and military secretary,
 3 all of whom shall hold office during his pleasure, their com-
 4 missions to expire with the term for which the Governor shall
 5 have been elected; he shall also nominate, and with the con-
 6 sent of the Senate appoint, all major-generals.⁶

Source

Const. 1821, Art. IV, § 2; amended, Const. 1846, Art. XI, § 3;
 amended, Const. 1894, Art. XI, § 4. See also Const. 1777, Art.
 XXIV.

Historical References

References to constitutional conventions and commissions.

1777. Lincoln I:535.

1821. Lincoln I:672; Dougherty, 103-104.

⁴ On reserve officers in national guard, see: Convention debates (1867) V:3693-3694; on commissary-general, see: Convention debates (1867) II:1227.

⁵ This overture was adopted by the Convention and accordingly became a part of the Constitution.

⁶ On appointment of brigade inspector, see: Lincoln (1846) II:209; for other references to the appointment of military officers, see Art. IV, footnote 6.

Article XI, § 5

Debates of Constitutional Conventions

1821. 299-301 (Oct. 1).

1867. II:1221-1224; V:3691-3692, 3694-3695, 3861-3862.

1915. Chiefs of staff departments: II:1565-1569.

Texts of Proposed AmendmentsIn the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 342-453 (Int. 333).⁷

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 761. See Part IV, p. 820.

Amendment proposed but not adopted by the Convention: Pr. No. 484.

In the legislature, 1895-1937: see Part IV, pp. 819-820.

- 1 § 5. All other commissioned and non-commissioned officers
 2 shall be chosen or appointed in such manner as the Legislature
 3 may deem most conducive to the improvement of the militia,
 4 provided however that no law shall be passed changing the
 5 existing mode of election and appointment unless two-thirds
 6 of the members present in each house shall concur therein.

Other
 military
 officers;
 how
 chosen

Source

Const. 1821, Art. IV, §§ 3 and 5; amended, Const. 1846, Art. XI, §§ 4 and 6; amended, Const. 1894, Art. XI, § 5. See also Const. 1777, Art. XXIV.

Historical References

For comment on appointment under the Council of Appointment, see Dougherty, 69, 103.

References to constitutional conventions and commissions.

1777. Dougherty, 53.

1821. Lincoln I:672; Dougherty, 103.

1846. Lincoln II:209.

Debates of Constitutional Conventions

1821. 643-644 (Nov. 8).

1867. II:1225; V:3692-3693.

1894. IV:1088-1098 (VI:2585-2591).

1915. II:1569.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 342-453 (Int. 333).⁸

In the Constitutional Convention of 1915:

⁷ This overture was adopted by the Convention and accordingly became a part of the Constitution.

⁸ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article XI, § 6

Amendment adopted by the Convention: Pr. No. 794. Sec Part IV, p. 821.

In the legislature, 1895-1937: see Part IV, pp. 820-821.

Commissioned officers; how commissioned; removal

- 1 § 6. The commissioned officers shall be commissioned by
 2 the Governor as commander-in-chief. No commissioned officer
 3 shall be removed from office during the term for which he shall
 4 have been appointed or elected, unless by the Senate on the
 5 recommendation of the Governor, stating the grounds on which
 6 such removal is recommended, or by the sentence of a court-
 7 martial, or upon the findings of an examining board organized
 8 pursuant to law, or for absence without leave for a period of
 9 six months or more.⁹

Source

Const. 1821, Art. IV, § 4; Const. 1846, Art. XI, § 5; amended, Const. 1894, Art. XI, § 6. See also Const. 1777, Arts. XXIII and XXIV.

Historical References

References to constitutional conventions and commissions.
 1821. Lincoln I:674.

Debates of Constitutional Conventions

1867. II:1224-1225.
 1894. IV:1088-1098 (VI:2585-2591).
 1915. Removal for absence without leave: II:1569.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 342-453 (Int. 333).¹⁰

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 764. See Part IV, p. 822.

Amendment proposed but not adopted by the Convention: Pr. No. 484.

In the legislature, 1895-1937: see Part IV, pp. 821-822.

ARTICLE XII¹

- 1 Section 1. It shall be the duty of the legislature to pro-
 2 vide for the organization of cities and incorporated villages,

Organization of cities and villages; legislature to restrict certain local powers

⁹ For other references to the removal of military officers, see Art. IV, footnote 6.

¹⁰ This overture was adopted by the Convention and accordingly became a part of the Constitution.

¹ See the following references: General history of cities in the colony and state of New York: Dougherty, 246-278; cities, boards of aldermen and audit: Lincoln (1872) II:567-569; cities, terms of boards and commissions: Convention debates (1894) II:358-361 (III:1474-1476); cities, classification

Article XII, § 1

3 and to restrict their power of taxation, assessment, borrowing
 4 money, contracting debts, and loaning their credit, so as to
 5 prevent abuses in assessments and in contracting debt by
 6 such municipal corporations; and the legislature may regu-
 7 late and fix the wages or salaries, the hours of work or State, county and
 8 labor, and make provision for the protection, welfare and municipal employees;
 9 safety of persons employed by the state or by any county, regulation by leg-
 10 city, town, village or other civil division of the state, or by islature
 11 any contractor or subcontractor performing work, labor or
 12 services for the state, or for any county, city, town, village
 13 or other civil division thereof.

Source

Const. 1846, Art. VIII, § 9; Const. 1894, Art. XII, § 1; amended, 1905.²

Historical References

For comment on this section, see IV:770-771.

of: Lincoln (1894) III:628-630, 631-633, 648-649; cities, common council, minority representation: Convention debates (1894) II:349-353 (II:812-814), II:366-367 (II:821), II:375-378 (II:826-827), III:472-490 (IV:1539-1540), III:493-494 (IV:1552), III:543-551 (IV:1580-1584), III:555-580 (IV:1587-1600), III:601-607 (IV:1612-1616); cities, consolidation of: Convention debates (1894) II:358-359 (II:817), II:385-389 (II:831-833); cities, courts of, in New York City: Convention debates (1821) 479-484 (Oct. 19); cities, department heads: Lincoln (1872) II:567; cities, election boards, bipartisan: Convention debates (1894) II:112-117 (II:683-686), II:170 (II:715), II:243 (II:755), II:252-263 (II:760-765), II:357-358 (II:816), II:371-375 (II:824-826), II:378-381 (II:827-829), II:401-402 (II:839-840); cities, elections, use of party names prohibited: Lincoln (1894) III:630; historical reference to free cities: Convention debates (1867) IV:2948-2949; cities, legislative bodies of: Convention debates (1867) IV:3140-3141, Convention debates (1894) II:234-238 (II:750-752), II:348-349 (II:812), III:609-617 (IV:1616-1621); cities, powers: Lincoln (1872) II:566-567, Convention debates (1867) IV:2974-2980, 3125-3127, 3132-3133, Convention debates (1894) II:230-231 (II:748-749), II:343-345 (II:808), II:358 (II:816-817); cities, power of appointment, city officers: Convention debates (1867) IV:3157-3159; cities, power of appointment, police officers: Lincoln (1894) III:642-643, Convention debates (1894) III:372-419 (III:1482-1509), III:432-448 (IV:1518-1526); cities, officers, abolition by legislature: Convention debates (1867) IV:3173-3174; cities, officers, choice: Lincoln III:608-620; cities, officers, removal of, by mayor: Convention debates (1867) IV:3157-3159, Convention debates (1894) III:358-370 (III:1474-1481); cities, police officers: Convention debates (1894) III:372-419 (III:1482-1509), III:424-448 (IV:1513-1526), III:458-472 (IV:1532-1539); see also footnote 4.

Amendments coming within the general scope of Art. XII, but not relating specifically to any particular section thereof, proposed but not adopted by the Constitutional Convention of 1915, are: Pr. Nos. 283, 335, 501, 568, 698, 796.

² For the text, legislative history, and action of the people on the 1905 amendment, see Part IV, p. 823.

 Article XII, § 1

For history of the movement to prevent the incorporation of cities and villages by special laws, see Lincoln II:199-203, III:627-628, IV:770-771.

References to constitutional conventions and commissions.

1777. Dougherty, 57.

1846. Generally: Lincoln II:199-203; city assessment: Lincoln II:198.

1867. Dougherty, 219.

1894. Lincoln III:627-628, 647-648, IV:770-771.

Legislative Documents

Recommendations and discussions of proposed amendments to this section in relation to:

Home rule for cities: Leg. Doc. (1919) No. 3, p. 10; Leg. Doc. (1920) No. 3, p. 32; Leg. Doc. (1923) No. 3, p. 7; Leg. Doc. (1924) No. 3, p. 18; Leg. Doc. (1934) No. 3, p. 12.

Abolition of municipal tax limitations: Leg. Doc. (1920) No. 80, p. 107.

Prescription by legislature of method of assessment and providing for officers to execute assessment laws: Leg. Doc. (1920) No. 80, p. 107.

Determination by legislature of tax district areas: Leg. Doc. Senate (1917) No. 14, pp. 47-48.

Discussions in relation to:

Constitutional amendment recommended in 1916 and 1918 to the effect that the legislature shall establish a plan of state and local taxation and provide for the complete administration thereof: Leg. Doc. Senate (1918) No. 14, p. 24; Leg. Doc. (1920) No. 80, p. 107; Leg. Doc. (1933) No. 57, pp. 200-203; Leg. Doc. (1935) No. 63, pp. 16-17, 23.

Need of home rule amendment: Leg. Doc. Senate (1912) No. 2, p. 12; Leg. Doc. (1925) No. 72, pp. 1-37; Leg. Doc. (1927) No. 81, pp. 3-29; Leg. Doc. (1928) No. 55, pp. 3-27.

Revision of New York City charter: Leg. Doc. (1934) No. 83, pp. 6-7.

Tax limitation of cities: Leg. Doc. (1922) No. 107, pp. 167-183; Leg. Doc. (1924) No. 25, p. 26; Leg. Doc. (1924) No. 91, p. 108; Leg. Doc. (1926) No. 70, pp. 57-59; Leg. Doc. (1932) No. 77 (Memo. No. 8), pp. 3-37; Leg. Doc. (1935) No. 11, pp. 11-12; Leg. Doc. (1936) No. 11, pp. 27-28; Leg. Doc. (1936) No. 54, pp. 343-359; Leg. Doc. (1937) No. 41, p. 11.

Debates of Constitutional Conventions

1867. II:1230-1233, 1460-1462, 1507-1513; III:2095-2098; IV:3164-3168, 3177-3180.

1894. II:351-352 (II:813).

1915. Regulation of borrowing: II:1980-1981; regulation of taxation: III:2914-2917; organization of new cities: II:1989, III:2912, 2917-2918.

 Article XII, § 2

Documents of 1915 Constitutional Convention

Eight-hour day for employees of state and sub-divisions: Doc. 17.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 51, 72, 93, 207 (Int. 205), 353 (Int. 344).

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 851. See Part IV, p. 831.

Amendments proposed but not adopted by the Convention: Pr. Nos. 187, 201, 275, 283, 335, 381, 401, 523, 535, 568, 629, 671, 695, 698, 703, 719, 753, 796, 797, 823.

In the legislature, 1895-1937: see Part IV, pp. 822-831.

1 § 2. The legislature shall not pass any law relating to the
 2 property, affairs or government of cities, which shall be special
 3 or local either in its terms or in its effect, but shall act in rela-
 4 tion to the property, affairs or government of any city only
 5 by general laws which shall in terms and in effect apply alike
 6 to all cities except on message from the governor declaring
 7 that an emergency exists and the concurrent action of two-
 8 thirds of the members of each house of the legislature.

Special or
 local laws
 by leg-
 islature
 prohibited

Source

Added, 1923.^a

Historical References

For historical comment on the passing of local laws by the legislature, see Lincoln III:620-626. See also notes to preceding section of this article.

References to constitutional conventions and commissions.

1872. Lincoln II:570-571; Dougherty, 260.

1894. Lincoln III:631, 633-634, 648-650; Dougherty, 270.

Legislative Documents

Recommendations and discussions of proposed amendment to this section in relation to home rule for cities: Leg. Doc. (1919) No. 3, p. 10; Leg. Doc. (1920) No. 3, p. 32; Leg. Doc. (1923) No. 3, p. 7; Leg. Doc. (1924) No. 3, p. 18.

Discussion in relation to home rule amendment: Leg. Doc. (1927) No. 81, pp. 3-29; Leg. Doc. (1925) No. 72, pp. 1-137; Leg. Doc. (1927) No. 81, p. 7; Leg. Doc. (1928) No. 55, pp. 3-27.

Debates of Constitutional Conventions

1867. IV:3146-3155.

^a For the legislative history and action of the people on this section, see Part IV, p. 845.

Article XII, § 3

1894. II:353-354 (II:814-815); III:494-521 (IV:1552-1556); IV:815-824 (V:2425-2431); IV:980-1005 (V:2522-2537).

1915. Special city laws: II:1966-1968, 1985-1989, 1990, 1996, 2027-2028, 2066, 2073-2084, 2112, 2171-2173, III:2908, IV:3708.

Documents of 1915 Constitutional Convention

Doc. 36.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. No. 135, 187, 283, 318, 335, 380, 396, 463, 535, 568, 583, 631, 671, 693, 698, 709, 719, 748, 753, 796, 823.

In the legislature, 1895-1937: see Part IV, pp. 831-845.

Cities;
power
to enact
certain
local laws

1 § 3. Every city shall have power to adopt and amend
2 local laws not inconsistent with the constitution and laws of
3 the state, relating to the powers, duties, qualifications, num-
4 ber, mode of selection and removal, terms of office and com-
5 pensation of all officers and employees of the city, the tran-
6 saction of its business, the incurring of its obligations, the
7 presentation, ascertainment and discharge of claims against
8 it, the acquisition, care, management and use of its streets
9 and property, the wages or salaries, the hours of work or
10 labor, and the protection, welfare and safety of persons em-
11 ployed by any contractor or subcontractor performing work,
12 labor or services for it, and the government and regulation
13 of the conduct of its inhabitants and the protection of their
14 property, safety and health. The legislature shall, at its
15 next session after this section shall become part of the con-
16 stitution, provide by general law for carrying into effect the
17 provisions of this section.⁴

Source

Added, 1923.⁵

⁴ See the following references: Condemnation by cities: Art. I, §§ 6 and 7; health department in New York City: Convention debates (1821) 543-544 (Oct. 26); police: Convention debates (1867) IV:3037-3040, 3043-3044, 3048-3050, 3097-3105, 3117-3125, 3128-3131; police commissioners in New York City: Convention debates (1867) IV:2967-2968; police officers, appointment and removal: footnote 1, *supra*, Art. IV, footnote 6, Art. V, footnote 1.

⁵ For the legislative history and action of the people on this section, see Part IV, p. 850. Former § 3 is now § 6.

Article XII, § 3

Historical References

For historical references to the material in this section, for the period 1867-1894, see Lincoln II:667-681 and III:605-626. Other pertinent references are: Ingersoll, *Home Rule Legislation Adopted in New York*, (1924) 13 *National Municipal Review*, 351-354; McGoldrick, *Home Rule in New York State*, (1925) 19 *American Political Science Review*, 693-706; McGoldrick, *What Municipal Home Rule Means Today*, X, *New York*, (1932) 21 *National Municipal Review*, 671-678; Article on *Home Rule*, *New York Times*, August 19, 1923, II:2:2; Tanzer, *Political Strategy Nullifies Home Rule in New York*, (1933) 22 *National Municipal Review*, 16-18, 23. See also historical references to section 2 of article X.

References to constitutional conventions and commissions.

1821. Lincoln III:615-617.

1846. Lincoln III:617-619; Dougherty, 169.

1867. Lincoln II:351-353; Dougherty, 218-219.

1872. Lincoln II:569.

1894. Lincoln II:626-652.

Legislative Documents

Recommendations and discussions of proposed amendments to this section in relation to:

Home rule for cities: Leg. Doc. (1919) No. 3, p. 10; Leg. Doc. (1920) No. 3, p. 32; Leg. Doc. (1923) No. 3, p. 7; Leg. Doc. (1924) No. 3, p. 18.

Use of water power of St. Lawrence River for supplying municipalities with electricity: Leg. Doc. (1934) No. 3, p. 19.

Discussions in relation to:

Problems arising under home rule amendment: Leg. Doc. (1925) No. 72, pp. 1-137; Leg. Doc. (1927) No. 81, pp. 3-29; Leg. Doc. (1928) No. 3, pp. 93-94; Leg. Doc. (1928) No. 55, pp. 3-27.

Debates of Constitutional Conventions

1867. IV:2935, 2959, 2972-3018, 3020-3063, 3067-3108, 3117-3180.
1894. I:5-6 (I:7); II:102-111 (II:678-683); II:123-131 (II:689-694); II:167-176 (II:713-718); II:181-191 (II:721-726); II:225-228 (II:746-747); II:231-234 (II:749-750); II:238-242 (II:752-755); II:246-252 (II:757-760); II:359-366 (II:817-821); II:367-371 (II:821-824); II:389-401 (II:833-839); III:273-342 (III:1427-1466); III:358-419 (III:1474-1509); III:424-448 (IV:1513-1526); III:458-490 (IV:1532-1549); III:494-521 (IV:1552-1566); III:543-551 (IV:1580-1584); III:555-580 (IV:1587-1600); III:601-631 (IV:1612-1628); III:638-654 (IV:1632-1641); IV:727-740 (V:2373-2380); IV:815-824 (V:2425-2431); IV:980-1005 (VI:2522-2537).

1915. Power of cities to enact local laws: II:1961-1966, 1968-1980, 1983-1985, 1990, 1993-1996, 1998-2002, 2004-2007, 2009-2018, 2024-2025, 2028-2035, 2040-2041, 2044-2084, 2087-2114, 2115-2174, III:2905-2912, 2919-2929, 2934-2942, 2945-2963, IV:3710-3722, 3885-3886; periodic revision of charters: II:2041-2042, 2114-2115, 2125-2126, III:2907-2908, 2966-2978.

 Article XII, § 4

Documents of 1915 Constitutional Convention

Doc. 36.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 851. See Part IV, pp. 1040-1041.

Amendments proposed but not adopted by the Convention: Pr. Nos. 58, 187, 201, 268, 283, 285, 335, 381, 401, 405, 461, 501, 512, 523, 535, 537, 563, 564, 629, 686, 687, 691, 698, 703, 709, 719, 796, 797, 823, 848.

In the legislature, 1895-1937: see Part IV, pp. 846-851.

Power of legislature to enact other laws

- 1 § 4. The provisions of this article shall not be deemed to
 2 restrict the power of the legislature to enact laws relating to
 3 matters other than the property, affairs or government of
 4 cities.

Source

Added, 1923.⁶

Legislative Documents

Recommendations and discussions of proposed amendment to this section in relation to home rule for cities: Leg. Doc. (1919) No. 3, p. 10; Leg. Doc. (1920) No. 3, p. 32; Leg. Doc. (1923) No. 3, p. 7; Leg. Doc. (1924) No. 3, p. 18.

Discussion in relation to home rule amendment: Leg. Doc. (1925) No. 72, pp. 1-137; Leg. Doc. (1927) No. 81, pp. 3-29; Leg. Doc. (1928) No. 55, pp. 3-27.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 851. See Part IV, pp. 1039-1040.

In the legislature, 1895-1937: see Part IV, pp. 851-852.

Further powers of local legislation may be conferred on cities

- 1 § 5. The legislature may by general laws confer on cities
 2 such further powers of local legislation and administration as
 3 it may, from time to time, deem expedient.

Source

Added, 1923.⁷

⁶ For the legislative history and action of the people on this section, see Part IV, p. 852.

⁷ For the legislative history and action of the people on this section, see Part IV, p. 853.

Article XII, § 6

Legislative Documents

Recommendations and discussions of proposed amendment to this section in relation to home rule for cities: Leg. Doc. (1919) No. 3, p. 10; Leg. Doc. (1920) No. 3, p. 32; Leg. Doc. (1923) No. 3, p. 7; Leg. Doc. (1924) No. 3, p. 18.

Discussion in relation to home rule amendment: Leg. Doc. (1925) No. 72, pp. 1-137; Leg. Doc. (1927) No. 81, pp. 3-29; Leg. Doc. (1928) No. 55, pp. 3-27.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 851. See Part IV, pp. 1040-1041.

Amendments proposed but not adopted by the Convention: Pr. Nos. 501, 687.

In the legislature, 1895-1937: see Part IV, pp. 852-853.

1 § 6. All elections of city officers, including supervisors
 2 and judicial officers of inferior local courts, elected in any City officers;
 when to be
 elected;
 terms
 3 city or part of a city, and of county officers elected in the
 4 counties of New York and Kings, and in all counties whose
 5 boundaries are the same as those of a city, except to fill
 6 vacancies, shall be held on the Tuesday succeeding the first
 7 Monday in November in an odd-numbered year, and the term
 8 of every such officer shall expire at the end of an odd-num-
 9 bered year. The terms of office of all such officers elected
 10 before the first day of January, one thousand eight hundred
 11 and ninety-five, whose successors have not then been elected,
 12 which under existing laws would expire with an even-num-
 13 bered year, or in an odd-numbered year and before the end
 14 thereof, are extended to and including the last day of Decem-
 15 ber next following the time when such terms would other-
 16 wise expire; the terms of office of all such officers, which
 17 under existing laws would expire in an even-numbered year,
 18 and before the end thereof, are abridged so as to expire at
 19 the end of the preceding year. This section shall not apply
 20 to elections of any judicial officer, except judges and justices Exceptions
 21 of inferior local courts.

Source

Const. 1894, Art. XII, § 3; amended, 1923.⁸ For election of mayor,

⁸ For the text, legislative history, and action of the people on the 1923 amendment, see Part IV, p. 854. This section embodies substantially all of former § 3.

 Article XII, § 7

see also Const. 1777, Art. XXIII; Const. 1821, Art. IV, § 10; amendments of 1833⁹ and 1839.¹⁰

Historical References

References to constitutional conventions and commissions.

1894. Lincoln III:628, 640-642; Dougherty, 270, 271, 350.

Legislative Documents

Recommendations and discussions of proposed amendment to this section in relation to home rule for cities: Leg. Doc. (1919) No. 3, p. 10; Leg. Doc. (1920) No. 3, p. 32; Leg. Doc. (1923) No. 3, p. 7; Leg. Doc. (1924) No. 3, p. 18.

Discussion in relation to home rule amendment: Leg. Doc. (1925) No. 72, pp. 1-137; Leg. Doc. (1927) No. 81, pp. 3-29; Leg. Doc. (1928) No. 55, pp. 3-27.

Debates of Constitutional Conventions

1894. II:111-112 (II:683); II:169-170 (II:715); II:340-342 (II:806-807); II:353 (II:814); II:392-393 (II:835); III:276-342 (III:1429-1466).

1915. II:1981.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 3, 88, 176 (Int. 175), 318 (Int. 310), 451 (Int. 369).¹¹

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 851. See Part IV, pp. 1040-1041.

Amendments proposed but not adopted by the Convention: Pr. Nos. 318, 405, 461.

In the legislature, 1895-1937: see Part IV, pp. 854-855.

Existing provisions of law not affected

Public school systems not affected

1 § 7. The provisions of this article shall not affect any exist-
 2 ing provision of law; but all existing charters and other laws
 3 shall continue in force until repealed, amended, modified or
 4 superseded in accordance with the provisions of this article.
 5 Nothing in this article contained shall apply to or affect the
 6 maintenance, support, or administration of the public school
 7 systems in the several cities of the state, as required or pro-
 8 vided by article nine of the constitution.

⁹For the text of the constitutional amendment of 1833, see Part II, p. 42.

¹⁰For the text of the constitutional amendment of 1839, see Part II, p. 43.

¹¹This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article XIII, § 1

Source

Added, 1923.¹²

Legislative Documents

Recommendations and discussions of proposed amendment to this section in relation to home rule for cities: Leg. Doc. (1919) No. 3, p. 10; Leg. Doc. (1920) No. 3, p. 32; Leg. Doc. (1923) No. 3, p. 7; Leg. Doc. (1924) No. 3, p. 18.

Discussion in relation to home rule amendment: Leg. Doc. (1925) No. 72, pp. 1-137; Leg. Doc. (1927) No. 81, pp. 3-29; Leg. Doc. (1928) No. 55, pp. 3-27.

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 851. See Part IV, pp. 1039-1041.

Amendments proposed but not adopted by the Convention: Pr. Nos. 415, 483, 757, 820.

In the legislature, 1895-1937: see Part IV, pp. 855-856.

- 1 § 8. No territory shall be annexed to any city until the Annexation of territory
 2 people of the territory proposed to be annexed shall have con- to cities
 3 sented to such annexation by a majority vote on a referendum
 4 called for that purpose.

Source

Added, 1927.¹³

Texts of Proposed Amendments

In the Constitutional Convention of 1915:

Amendment proposed but not adopted by the Convention: Pr. No. 641.

In the legislature, 1895-1937: see Part IV, p. 857.

ARTICLE XIII¹

- 1 Section 1. Members of the Legislature, and all officers, Oath of office
 2 executive and judicial, except such inferior officers as shall
 3 be by law exempted shall, before they enter on the duties of
 4 their respective offices, take and subscribe the following oath
 5 or affirmation: "I do solemnly swear (or affirm) that I will

¹² For the legislative history and action of the people on this section, see Part IV, p. 856.

¹³ For the legislative history and action of the people on this section, see Part IV, p. 857.

¹ Amendments coming within the general scope of Art. XIII, but not relating specifically to any particular section thereof, proposed but not adopted by the Constitutional Convention of 1915, are: Pr. Nos. 63, 572.

Article XIII, § 1

6 support the Constitution of the United States, and the Con-
 7 stitution of the State of New York, and that I will faithfully
 8 discharge the duties of the office of.....,
 9 according to the best of my ability;” and all such officers
 10 who shall have been chosen at any election shall, befor* they
 11 enter on the duties of their respective offices, take and sub-
 12 scribe the oath or affirmation above prescribed, together with
 13 the following addition thereto, as part thereof:
 14 “And I do further solemnly swear (or affirm) that I have
 15 not directly or indirectly paid, offered or promised to pay,
 16 contributed, or offered or promised to contribute any money
 17 or other valuable thing as a consideration or reward for the
 18 giving or withholding a vote at the election at which I was
 19 elected to said office, and have not made any promise to in-
 20 fluence the giving or withholding any such vote,” and no
 21 other oath, declaration or test shall be required as a qualifica-
 22 tion for any office or public trust.²

Source

Const. 1821, Art. VI § 1; Const. 1846, Art. XII, §1; amended, 1874.

Historical References

For comment upon this section, see Lincoln IV:789. See also Lin-
 coln IV:726; Dougherty, 350-351.

References to constitutional conventions and commissions.

1777. Lincoln I:552.

1867. Lincoln II:406.

1872. Lincoln II:482, 563-565, 571-572; Dougherty, 341.

1894. Lincoln III:652-653; Dougherty, 351.

Debates of Constitutional Conventions

1821. 206-210 (Sept. 21).

1867. I:606-616.

1894. II:457-460 (I:233-235).

1915. I:920-927.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitu-
 tional Amendments, Overtures Nos. 34, 94, 144, 158-445 (Int. 158),
 190 (Int. 189), 356 (Int. 347).

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos.
 88, 150, 153, 624.

In the legislature, 1895-1937: see Part IV, pp. 858-859.

* So in original.

² On the subject of the regulation of campaign expenditures of candidates for public office, see: Convention debates (1894) III:876-918 (IV:1768-1791), IV:1011-1013 (VI:2542-2543).

Article XIII, § 3

1 § 2. Any person holding office under the laws of this Acceptance
of bribe
by public
officer a
felony
2 State, who, except in payment of his legal salary, fees or
3 perquisites, shall receive or consent to receive, directly or
4 indirectly, anything of value or of personal advantage, or
5 the promise thereof, for performing or omitting to perform
6 any official act, or with the express or implied understanding
7 that his official action or omission to act is to be in any
8 degree influenced thereby, shall be deemed guilty of a felony.
9 This section shall not affect the validity of any existing
10 statute in relation to the offense of bribery.

Source

Amendments of 1874, Art. XV, § 1.

Historical References

References to constitutional conventions and commissions.

1867. Lincoln II:379-382, 406; Dougherty, 220-221.

1872. Lincoln II:571-572; Dougherty, 241.

Debates of Constitutional Conventions

1867. III:2276-2288; IV:2568-2573; V:3297-3320, 3331-3355.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 211 (Int. 209).

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 63, 485.

1 § 3. Any person who shall offer or promise a bribe to an Offer of
bribe to
public
officer a
felony
2 officer, if it shall be received, shall be deemed guilty of a
3 felony and liable to punishment, except as herein provided.
4 No person offering a bribe shall, upon any prosecution of the Person
offering
bribe not
privileged
from testi-
fying;
immunity
5 officer for receiving such bribe, be privileged from testifying
6 in relation thereto, and he shall not be liable to civil or
7 criminal prosecution therefor, if he shall testify to the giving
8 or offering of such bribe. Any person who shall offer or Attempt
to bribe
an officer
a felony
9 promise a bribe, if it be rejected by the officer to whom it
10 was tendered, shall be guilty of an attempt to bribe, which
11 is hereby declared to be a felony.

Source

Amendments of 1874, Art. XV, § 2.

Article XIII, § 4

Historical References

For comment upon this section, see Lincoln IV, 791-792.

References to constitutional conventions and commissions.

1867. Dougherty, 242, and footnote 10, pp. 242-243.

1872. Dougherty, 241-242.

Debates of Constitutional Conventions

1867. III:2276-2280; IV:2563-2573; V:3297-3320, 3331-3355.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 211 (Int. 209).

In the Constitutional Convention of 1915:

Amendment proposed but not adopted by the Convention: Pr. No. 485.

Defendant
in bribery
case may
testify in
his own
behalf

- 1 § 4. Any person charged with receiving a bribe, or with
2 offering or promising a bribe, shall be permitted to testify in
3 his own behalf in any civil or criminal prosecution therefor.

Source

Amendments of 1874, Art. XV, § 3.

Historical References

References to constitutional conventions and commissions.

1872. Lincoln II:571-572; Dougherty, 242.

1894. Lincoln III:653.

Debates of Constitutional Conventions

1894. I:733-734 (I:384).

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 197 (Int. 196), 211 (Int. 209).

In the Constitutional Convention of 1915:

Amendments proposed but not adopted by the Convention: Pr. Nos. 63, 485.

Discrimina-
tion in
favor of
public
officers in
transporta-
tion, tele-
graph and
telephone
rates,
franking
privileges,
etc., pro-
hibited;
penalties

- 1 § 5. No public officer, or person elected or appointed to a
2 public office, under the laws of this State, shall directly or
3 indirectly ask, demand, accept, receive or consent to receive
4 for his own use or benefit, or for the use or benefit of another,
5 any free pass, free transportation, franking privilege or dis-
6 crimination in passenger, telegraph or telephone rates, from
7 any person or corporation, or make use of the same himself
8 or in conjunction with another. A person who violates any

Article XIII, § 6

9 provision of this section, shall be deemed guilty of a mis-
 10 demeanor, and shall forfeit his office at the suit of the At-
 11 torney-General. Any corporation, or officer or agent thereof,
 12 who shall offer or promise to a public officer, or person elected
 13 or appointed to a public office, any such free pass, free trans-
 14 portation, franking privilege or discrimination, shall also be
 15 deemed guilty of a misdemeanor and liable to punishment
 16 except as herein provided. No person, or officer or agent of a
 17 corporation giving any such free pass, free transportation,
 18 franking privilege or discrimination hereby prohibited, shall
 19 be privileged from testifying in relation thereto, and he shall
 20 not be liable to civil or criminal prosecution therefor if he
 21 shall testify to the giving of the same.

No privi-
 lege from
 testifying;
 immunity
 granted

Source

New.

Historical References

For comment upon this section, see Lincoln IV:793.

References to constitutional conventions and commissions.

1890. Lincoln II:717-718, 724.

1894. Lincoln III:653-658; IV:793; Dougherty, 351.

Debates of Constitutional Conventions

1894. III:117-139 (III:1345-1356); IV:480-512 (V:2230-2248).

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitu-
 tional Amendments, Overtures Nos. 47-384 (Int. 47),³ 54, 328 (Int.
 320).

In the legislature, 1895-1937: see Part IV, p. 860.

1 § 6. Any district attorney who shall fail faithfully to
 2 prosecute a person charged with the violation in his county
 3 of any provision of this article which may come to his knowl-
 4 edge, shall be removed from office by the Governor, after due
 5 notice and an opportunity of being heard in his defense. The
 6 expenses which shall be incurred by any county, in investi-
 7 gating and prosecuting any charge of bribery or attempting
 8 to bribe any person holding office under the laws of this State,
 9 within such county, or of receiving bribes by any such person

Removal of
 district
 attorney
 for
 failure to
 prosecute

County
 expense in
 bribery
 prosecution
 charge
 against
 state

³ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article XIV, § 1

10 in said county, shall be a charge against the State, and their
11 payment by the State shall be provided for by law.

Source

Amendments of 1874, Art. XV, § 4.

Historical References

References to constitutional conventions and commissions.

1867. Lincoln II:380, 406; Dougherty, 242.

Debates of Constitutional Conventions

1867. V:3820-3824.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 211 (Int. 209).

ARTICLE XIV¹

Constitutional amendments; passage in legislature

1 Section 1. Any amendment or amendments to this Con-
2 stitution may be proposed in the Senate and Assembly; and
3 if the same shall be agreed to by a majority of the members
4 elected to each of the two houses, such proposed amendment
5 or amendments shall be entered on their journals, and the
6 yeas and nays taken thereon, and referred to the Legislature
7 to be chosen at the next general election of senators, and shall
8 be published for three months previous to the time of making
9 such choice; and if in the Legislature so next chosen, as afore-
10 said, such proposed amendment or amendments shall be
11 agreed to by a majority of all the members elected to each
12 house, then it shall be the duty of the Legislature to submit
13 each proposed amendment or amendments to the people for
14 approval in such manner and at such times as the Legislature
15 shall prescribe; and if the people shall approve and ratify
16 such amendment or amendments by a majority of the electors
17 voting thereon, such amendment or amendments shall become
18 a part of the Constitution from and after the first day of
19 January next after such approval.²

Submission to and ratification by people

Time of taking effect

¹ An amendment coming within the general scope of Art. XIV, but not relating specifically to any particular section thereof, proposed but not adopted by the Constitutional Convention of 1915, is: Pr. No. 554.

² For the texts, legislative histories, and action of the people on all amendments to the Constitution proposed in the legislature from 1895 to 1937, pursuant to this section, see Part IV of this work.

Article XIV, § 1

Source

Const. 1821, Art. VIII, § I; amended, Const. 1846, Art. XIII, § 1; amended, Const. 1894, Art. XIV, § 1.

Historical References

For comment on this section and summary of action which has been taken under it, see Lincoln IV:795-796; Dougherty, 356-362, 385. On the subject of the constitutional initiative, see Halleth, *The Constitutional Initiative Starts a New Advance*, (1935) 24 National Municipal Review, 254-257.

References to constitutional conventions and commissions.

1777. Lincoln I:750-751; Dougherty, 75.

1821. Lincoln I:750-751; Dougherty, 116, 158.

1846. Dougherty, 171-172.

1867. Lincoln II:382.

1872. Lincoln II:565.

1894. Lincoln III:659.

Legislative Documents

Recommendations and discussions of proposed amendments to this section in relation to:

Right of people to initiate proposals to amend the state constitution: Leg. Doc. (1923) No. 3, p. 12; Leg. Doc. (1924) No. 3, p. 40; Leg. Doc. (1925) No. 3, p. 56; Leg. Doc. (1926) No. 3, p. 49; Leg. Doc. (1927) No. 3, p. 44; Leg. Doc. (1928) No. 3, p. 99; Leg. Doc. (1929) No. 3, p. 11; Leg. Doc. (1929) No. 80, p. 1; Leg. Doc. (1931) No. 3, p. 11; Leg. Doc. (1932) No. 3, p. 13; Leg. Doc. (1933) No. 3, p. 9; Leg. Doc. (1934) No. 3, p. 17; Leg. Doc. (1935) No. 3, p. 13; Leg. Doc. (1936) No. 3, p. 17.

Second passage of a proposed constitutional amendment being effected by a newly elected assembly: Leg. Doc. (1928) No. 3, p. 8.

Preventing amendments to the constitution from being delayed for a longer period than provided for and requiring that second passage of a proposed amendment be through a newly elected assembly rather than through a newly elected senate: Leg. Doc. (1926) No. 3, p. 45; Leg. Doc. (1928) No. 3, p. 95.

Debates of Constitutional Conventions

1821. 291-294 (Sept. 29).

1846. 1038 (Oct. 2).

1867. II:1351; IV:2804-2814, 3018-3020.

1894. II:4-25 (II:625-636).

1915. Joint session for consideration of proposed amendments: III:3254-3255, 3292-3294, 3309; vote in legislature necessary for proposal: III:3261; vote necessary for adoption of amendment by people; III:3251-3253, 3255-3257, 3262-3264, 3266-3271, 3275-3283, 3285-3290, 3297-3301, IV:3759-3768, 3769-3773; submission of proposals at special election: III:3295; contest of validity of election on proposed amendment: III:3296.

Article XIV, § 2

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 375-383-436 (Int. 368).³

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 855. See Part IV, p. 866.

Amendments proposed but not adopted by the Convention: Pr. Nos. 33, 52, 94, 140, 144, 214, 236, 260, 279, 389, 424, 498, 554, 571, 573, 615.

In the legislature, 1895-1937: see Part IV, pp. 861-872.

Submission to people of question of constitutional convention; election of delegates	1	§ 2. At the general election to be held in the year one
	2	thousand nine hundred and sixteen, and every twentieth year
	3	thereafter, and also at such times as the Legislature may
	4	by law provide, the question, "Shall there be a convention to
	5	revise the Constitution and amend the same?" shall be
	6	decided by the electors of the State; and in case a majority
	7	of the electors voting thereon shall decide in favor of a con-
	8	vention for such purpose, the electors of every senate district
	9	of the State, as then organized, shall elect three delegates
	10	at the next ensuing general election at which members of the
	11	Assembly shall be chosen, and the electors of the State voting
Convention; time, place, etc.	12	at the same election shall elect fifteen delegates at large. The
	13	delegates so elected shall convene at the capitol on the first
	14	Tuesday of April next ensuing after their election, and shall
	15	continue their session until the business of such convention
Compensation of delegates	16	shall have been completed. Every delegate shall receive for
	17	his services the same compensation and the same mileage as
	18	shall then be annually payable to the members of the As-
Quorum	19	sembly. A majority of the convention shall constitute a
	20	quorum for the transaction of business, and no amendment
	21	to the Constitution shall be submitted for approval to the
Vote on amendments	22	electors as hereinafter provided, unless by the assent of a
	23	majority of all the delegates elected to the convention, the

³ This overture was amended in the committee of the whole and reprinted (see overture as it was on the order of third reading), but no new reprint number was given to it. When reached on the order of third reading it was passed but immediately reconsidered and section 2 amended (see Revised Record, IV:1104-1108, original record, 2595-2598), but the overture as thus amended and finally passed was apparently never printed. Sections 1 and 3, however, were not affected by the amendment made upon the reconsideration.

Article XIV, § 2

24 years and days being entered on the journal to be kept. The Officers, employees, rules, etc.
 25 convention shall have the power to appoint such officers,
 26 employes and assistants as it may deem necessary, and fix
 27 their compensation and to provide for the printing of its
 28 documents, journal and proceedings. The convention shall
 29 determine the rules of its own proceedings, choose its own
 30 officers, and be the judge of the election, returns and qualifica-
 31 tion of its members. In case of a vacancy, by death, resigna- Vacancies among delegates
 32 tion or other cause, of any district delegate elected to the
 33 convention, such vacancy shall be filled by a vote of the
 34 remaining delegates representing the district in which such
 35 vacancy occurs. If such vacancy occurs in the office of a
 36 delegate-at-large, such vacancy shall be filled by a vote of
 37 the remaining delegates-at-large. Any proposed constitution Submission to and ratification by people of constitution or amendments
 38 or constitutional amendment which shall have been adopted
 39 by such convention, shall be submitted to a vote of the
 40 electors of the State at the time and in the manner provided
 41 by such convention, at an election which shall be held not
 42 less than six weeks after the adjournment of such convention.
 43 Upon the approval of such constitution or constitutional
 44 amendments, in the manner provided in the last preceding
 45 section, such constitution or constitutional amendment, shall Time of taking effect
 46 go into effect on the first day of January next after such
 47 approval.

Source

Const. 1846, Art. XIII, § 2; amended, 1874, Art. XVI, § 1,⁴ amended,
 Const. 1894, Art. XIV, § 2.

Historical References

For history of the movement to call the constitutional convention which finally met in 1821, with special reference to the veto by the council of revision (on objections reported by Chancellor Kent) of the convention bill of November 20, 1820, on the grounds, first, that it contained no provision for ascertaining the sense of the people on the question of holding a convention, and second, that it provided for submitting the amended constitution to the people as a whole and did not give them any opportunity to discriminate as to their approval or disapproval of its different parts, see Lincoln I:616-628; Dougherty, 90-99.

⁴For the text of the constitutional amendment of 1874, see Part II, p. 94.

Article XIV, § 2

- For history of the efforts to call constitutional conventions in 1858, 1861 and 1865, see Lincoln II:233-234.
- For statement of the events from 1886, when the people voted that a constitutional convention should be held, to the holding of the Convention in 1894, including an historical sketch of the reasons for this long delay, see Lincoln III:4-25; Dougherty, 325, 328, 344-347.
- For statement of the events leading to the Constitutional Convention of 1915, and election of delegates to that Convention, see Dougherty, 376-379.
- For discussion of the power of the legislature (in the absence of constitutional restrictions) to control the time and manner of the submission to the people of a constitution adopted by a constitutional convention, and remarks on legislative control of a constitutional convention generally, see Lincoln II:407-418; Dougherty, 222.
- References to constitutional conventions and commissions.
1801. Dougherty, 75-76.
1821. Lincoln I:751-752; II:210; Dougherty, 116, 158, 210-211.
1846. Lincoln II:209-213; Dougherty, 156-161, 171-172, 211, 344, 351-352, footnote 8, 351-352.
1867. Lincoln II:242-243, 382-383, 407-414; Dougherty, 192, 211, 221-222.
1872. Lincoln II:572-574.
1894. When conventions to be held: Lincoln III:660-661; how conventions constituted: Lincoln III:661-664; powers of convention: Lincoln III:664-671; generally: Dougherty, 211, 351-352 and note 8, 351-352, 376.

Debates of Constitutional Conventions

1821. Method of submission: 625-627 (Nov. 5).
1846. Convention: 794;⁵ submission: 1079 (Oct. 9); publication: 961 (Sept. 24), 1079 (Oct. 9).
1867. Convention, how called: V:3825-3827; method of submission: I:392-410, V:3790-3792, 3876-3893, 3916-3926; time of submission: V:3893-3907; publication: V:3926-3927.
1894. Convention: IV:826-833 (V:2432-2435), IV:891-901 (V:2470-2476), IV:1102-1108 (V:2595-2598); powers of convention: I:336-337 (I:164); convention, judge of election of members: I:244-246, I:248-270 (I:122-133), I:334; publication: IV:711 (V:2364), IV:1232-1250 (VI:2670-2679), IV:1268-1272 (VI:2690-2692); submission: II:4-25 (II:625-636), IV:1102-1108 (V:2595-2598), IV:1232-1250 (VI:2670-2679).
1915. Manner of submission of proposals of Convention of 1915: IV:4335-4351.

⁵ This page reference is to the Argus edition of the 1846 debates. It is apparently not covered by the Atlas edition. See Explanatory Note to Part I.

Article XIV, § 3

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overtures Nos. 59, 206 (Int. 204), 239 (Int. 237), 287 (Int. 285), 293 (Int. 289), 375-383-436 (Int. 368).⁶

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 855. See Part IV, p. 1064.

Amendments proposed but not adopted by the Convention: Pr. Nos. 144, 236, 260, 402, 424.

In the legislature, 1895-1937: see Part IV, pp. 872-876.

- 1 § 3. Any amendment proposed by a constitutional conven-
 2 tion relating to the same subject as an amendment proposed
 3 by the Legislature, coincidentally submitted to the people for
 4 approval at the general election held in the year one thousand
 5 eight hundred and ninety-four, or at any subsequent election,
 6 shall, if approved, be deemed to supersede the amendment so
 7 proposed by the Legislature.

Amend-
ments coin-
cidentally
submitted
by conven-
tion and
legislature

Source

New.

Historical References

For explanation of this section, see Lincoln III:671 and IV:799-800.

Debates of Constitutional Conventions

1894. IV:891-901 (V:2470-2476).

1915. Concurrent submission of amendments proposed by legislature and by Convention of 1915: III:3297.

Texts of Proposed Amendments

In the Constitutional Convention of 1894: see Proposed Constitutional Amendments, Overture No. 375-383-436 (Int. 368).⁷

In the Constitutional Convention of 1915:

Amendment adopted by the Convention: Pr. No. 855. See Part IV, p. 1066.

Amendments proposed but not adopted by the Convention: Pr. Nos. 144, 424.

⁶ This overture was adopted by the Convention and accordingly became a part of the Constitution.

⁷ This overture was adopted by the Convention and accordingly became a part of the Constitution.

Article XV, § 1

ARTICLE XV

Constitu-
tion, in
effect
when

1 Section 1. This Constitution shall be in force from and in-
2 cluding the first day of January, one thousand eight hundred
3 and ninety-five, except as herein otherwise provided.

4 Done in Convention at the Capitol in the city of Albany,
5 the twenty ninth day of September, in the year one
6 thousand eight hundred and ninety-four, and of the
7 Independence of the United States of America the
8 one hundred and nineteenth.

9 In witness whereof, we have hereunto subscribed
10 our names.

11 JOSEPH HODGES CHOATE
12 President and Delegate at Large.

13 CHARLES ELLIOTT FITCH
14 Secretary.

Source

New.

Historical References

For reference to certain parts of the Constitution of 1846, the operation of which was postponed, see Lincoln II:216-217. For similar information relative to the Constitution of 1894, see Lincoln III:671-672.