MANUAL

FOR THE USE OF THE

LEGISLATURE

OF THE

STATE OF NEW YORK

1939

PREPARED PURSUANT TO THE PROVISIONS OF CHAPTER 23, LAWS OF 1909

BY

MICHAEL F. WALSH
SECRETARY OF STATE

113th YEAR OF PUBLICATION

ALBANY
J. B. LYON COMPANY
PRINTERS
1939

THE CONSTITUTION

OF THE

STATE OF NEW YORK

As Revised, with Amendments Adopted by the Constitutional Convention of 1938 and Approved by Vote of the People on November 8, 1938.

As Amended and in Force January 1, 1939.

ARTICLE I

BILL OF RIGHTS

§ 1. Rights, privileges and franchise secured.
2. Trial by jury; how waived.
3. Freedom of worship; religious liberty.
4. Habeas corpus.
5. Bail; fines; punishments; detention of witnesses.
6. Grand jury; protection of certain enumerated rights; waiver of immunity by public officers required.
7. Compensation for taking private property; private roads; drainage of agricultural lands; excess condemnation.
8. Freedom of speech and press; criminal prosecutions for libel.
9. Right to assemble and petition; divorce; lotteries; pool-selling and gambling; laws to prevent.
10. Ownership of lands; allodial tenures; escheats.

§ 11. Equal protection of laws; discrimination in civil rights prohibited.
12. Security against unreasonable searches, seizures and interceptions.
13. Purchase of lands of Indians.
14. Common law and acts of the state legislatures.
15. Certain grants of lands and of charters made by the King of Great Britain and the state; obligations and contracts not to be impaired.
16. Damages for injuries causing death.
17. Labor not a commodity; hours and wages in public work; right to organize and bargain collectively.
18. Workmen's compensation.

ARTICLE II

SUFFRAGE

§ 1. Qualifications of voters.
2. Absentee voting.
3. Persons excluded from the right of suffrage.
4. Certain occupations and conditions not to affect residence.
5. Registration and election laws to be passed.
6. Permanent registration.
7. Manner of voting; identification of voters.
8. Bi-partisan registration and election boards.

ARTICLE III

LEGISLATURE

§ 1. Legislative power.
2. Number and terms of senators and assemblymen.

§ 3. Senate districts.
4. Readjustments and reapportionments; when federal census to control.
5. Apportionment of assemblymen; creation of assembly districts.
6. Compensation and traveling expenses of members.
7. Members; qualifications; not to receive certain civil appointments; acceptance to vacate seat.
8. Time of elections of members.
9. Powers of each house.
10. Journals; open sessions; adjournments.
11. Members not to be questioned for speeches.
12. Bills may originate in either house; may be amended by the other.
13. Enacting clause of bills; no law to be enacted except by bill.
14. Manner of passing bills; message of necessity for immediate vote.
15. Private or local bills to embrace only one subject to be expressed in title.
16. Existing law not to be made applicable by reference.
17. Cases in which private or local bills shall not be passed; restrictions as to certain laws relating to street railroads.
18. Restrictions on the legislature respecting the making or use of profits by municipal corporations operating certain utility services.
19. Private claims not to be audited by legislature; claims barred by lapse of time.
20. Two-thirds bills.

§ 21. Certain sections not to apply to bills recommended by certain commissioners or public agencies.
22. Tax laws to state tax and object distinctly.
23. When yeas and nays necessary; three-fifths to constitute quorum.
24. Prison labor; contract system abolished.

ARTICLE IV

Executive

§ 1. Executive power; election and terms of governor and lieutenant-governor.
2. Qualifications of governor and lieutenant-governor.
3. Powers and duties of governor; compensation.
4. Reprieves, commutations and pardons; powers and duties of governor relating to grants of.
5. When lieutenant-governor to act as governor.
6. Duties and compensation of lieutenant-governor; succession to the governorship.
7. Action by governor on legislative bills; reconsideration after veto.
8. Departmental rules and regulations; filing; publication.

ARTICLE V

Officers and Civil Departments

§ 1. Comptroller and attorney-general; payment of state moneys without audit void.
2. Civil departments in the state government.
3. Assignment of functions; new departments prohibited.

§ 4. Department heads.
5. Certain offices abolished.
6. Civil service appointments and promotions.
7. Membership in retirement systems; benefits not to be diminished nor impaired.

ARTICLE VI

JUDICIARY

§ 1. Supreme court; how constituted; judicial districts.
2. Judicial departments; appellate division, how constituted; governor to designate justices; jurisdiction, time and place of holding courts; attendants.
3. Appellate terms in first and second departments; appeals.
4. Terms of office; vacancies; how filled.
5. Court of appeals; organization; designations.
6. Court of appeals; vacancies, how filled.
7. Jurisdiction of court of appeals.
8. Appeals from judgment or order; new trial.
9. Removal of judges and justices.
10. Trial of impeachments.
11. County courts; jurisdiction.
12. Special county judge or surrogate.
13. Surrogates' courts; surrogates, their powers and jurisdiction; relief of.
14. Court of general sessions of the county of New York.
15. City court of city of New York; jurisdiction.
16. Vacancies in certain judicial offices and New York city courts, how filled.

§ 17. Justices of the peace; justices of the municipal court of New York city and of inferior local courts; election and removal of.
18. Inferior local courts; children's and domestic relations courts.
19. Judges, justices and surrogates; compensation; age restriction; not to hold other office; not to act as attorney or counselor.
20. Testimony in equity cases.
21. Clerks of courts.
22. Publication of statutes.
23. Legislature may create or abolish board or court of claims.

ARTICLE VII

State Finances

§ 1. Estimates by departments, the legislature and the judiciary of needed appropriations; hearings.
2. Executive budget.
3. Budget bills; appearances before legislature.
4. Action on budget bills by legislature; effect thereof.
5. Restrictions on consideration of other appropriations.
6. Restrictions on content of appropriation bills.
7. Appropriation bills.
8. Gift or loan of state credit or money prohibited; exceptions for enumerated purposes.
9. Short term state debts in anticipation of taxes, revenues and proceeds of sale of authorized bonds.

§ 10. State debts on account of invasion, insurrection, war and forest fires.
11. State debts generally; manner of contracting; referendum.
12. State debts generally; how paid; restrictions on use of bond proceeds.
13. Refund of state debts.
14. State debt for elimination of railroad crossings at grade; expenses; how borne.
15. Sinking funds; how kept and invested; income therefrom and application thereof.
16. Payment of state debts; when comptroller to pay without appropriation.

ARTICLE VIII

Local Finances

§ 1. Gift or loan of property or credit of local subdivisions prohibited; exceptions for enumerated purposes.
2. Restrictions on indebtedness of local subdivisions; contracting and payment of local indebtedness; exceptions.
3. Restrictions on creation and indebtedness of certain corporations.
4. Limitations on local indebtedness
5. Ascertainment of debt-incurring power of counties, cities, towns and villages; certain indebtedness to be excluded.
6. Debt-incurring power of Buffalo, Rochester and Syracuse; certain additional indebtedness to be excluded.

§ 7. Debt-incurring power of New York city; certain additional indebtedness to be excluded.
7-a. Debt-incurring power of New York city; certain indebtedness for railroads and transit purposes to be excluded.
8. Indebtedness not to be invalidated by operation of this article.
9. When debt-incurring power of certain counties shall cease.
10. Limitations on amount to be raised by real estate taxes for local purposes; exceptions.
11. Taxes for certain capital expenditures to be excluded from tax limitation.
12. Further limitations on contracting local indebtedness authorized.

ARTICLE IX

Local Governments

§ 1. Counties; organization and government; restrictions on legislature with respect to laws affecting.
2. Counties; alternative forms of government for; effect of adoption thereof.
3. Existing laws to remain applicable.
4. Further powers of local legislation and administration for counties; county auditors.
5. Sheriffs; clerks of counties; district attorneys; registers; power of removal.
6. Removal of district attorney for failure to prosecute; expenses in prosecutions of bribery.

§ 7. Appointment or election of county officers when not provided for by constitution.
8. Powers of the city of New York over certain county officers; restrictions on legislature; appointment or election of officers generally when not provided for by constitution.
9. Cities and villages; organization; powers to be restricted.
10. Extra compensation prohibited.
11. Passage of special city laws prohibited; exceptions.
12. Power of cities to enact local laws relating to property, affairs or government.
13. Existing laws to remain applicable; reservation of power in legislature over certain matters.
14. Annexation of territory to cities.
15. Election of city officers and certain county officers to be held in odd-numbered years.
16. Villages of five thousand or more; home rule for; duty of and restrictions on legislature respecting.

ARTICLE X

Corporations

§ 1. Corporations; formation of.
2. Dues of corporations.
3. Savings bank charters; restrictions on trustees; special charters not to be granted.
4. Corporations; definition; right to sue and be sued.
5. Public corporations; restrictions on creation and powers; accounts; obligations of.

ARTICLE XI

EDUCATION

§ 1. Common schools.
2. Regents of the University.
3. Common school, literature and the United States deposit funds.
4. Use of public property or money in aid of denominational schools prohibited; transportation of children authorized.

ARTICLE XII

MILITARY

§ 1. State militia.
2. Enlistment.
3. Organization of militia.
4. Governor to appoint adjutant-general and major-generals.
5. Appointment of other officers.
6. Commissioned officers; removal.

ARTICLE XIII

PUBLIC OFFICERS

§ 1. Oath of office; no other test for public office.
2. Bribery by public officials.
3. Offer or promise to bribe.
4. Person bribed or offering bribe may testify.
5. Free passes, franking privileges, etc. not to be received by public officers; penalty.
6. Duration of term of office.
7. Time of election of certain officers.
8. Vacancies in office; how filled.
9. Political year and legislative term.

§ 10. Removal from office for misconduct.
11. When office to be deemed vacant; legislature may declare.
12. Compensation of officers.

ARTICLE XIV

CONSERVATION

§ 1. Forest preserve to be forever kept wild; certain highways authorized.
2. Reservoirs.
3. Wild life conservation and reforestation.
4. Violations of article; how restrained.

ARTICLE XV

CANALS

§ 1. Disposition of canals and canal properties prohibited.
2. Prohibition inapplicable to lands and properties no longer useful; disposition authorized.
3. No tolls to be imposed; contracts for work and materials; no extra compensation.

ARTICLE XVI

TAXATION

§ 1. Power of taxation; exemptions from taxation.
2. Assessments for taxation purposes.
3. Situs of intangible personal property; taxation of.
4. Certain corporations not to be discriminated against.
5. Compensation of public officers and employees subject to taxation.

ARTICLE XVII

Social Welfare

§ 1. Public relief and care.
2. State board of social welfare; powers and duties.
3. Public health.
4. Care and treatment of persons suffering from mental disorder or defect; visitation of institutions for.
5. Institutions for detention of criminals; probation; parole; state commission of correction.
6. Visitation and inspection.

ARTICLE XVIII

Housing

§ 1. Housing for persons of low income; slum clearance.
2. Idem; powers of legislature in aid of.
3. Article VII to apply to state debts under this article, with certain exceptions; capital and periodic subsidies.
4. Powers of cities, towns and villages to contract indebtedness in aid of low rent housing and slum clearance projects; restrictions thereon.
5. Liability for certain loans made by the state to certain public corporations.
6. Loans and subsidies; restrictions on and preference in occupancy of projects.
7. Liability arising from guarantees to be deemed indebtedness; method of computing.
8. Excess condemnation.
9. Acquisition of property for purposes of article.
10. Power of legislature; construction of article.

ARTICLE XIX

Amendments to Constitution

§ 1. Amendments to constitution; how proposed, voted upon and ratified.
2. Future constitutional conventions; how called; election of delegates; compensation; quorum; submission of amendments; officers; employees; rules; vacancies.
3. Amendments simultaneously submitted by convention and legislature.

ARTICLE XX

When to Take Effect

§ 1. Time of taking effect.

THE CONSTITUTION

[Preamble.] WE, THE PEOPLE of the State of New York, grateful to Almighty God for our Freedom, in order to secure its blessings, DO ESTABLISH THIS CONSTITUTION.

ARTICLE I

BILL OF RIGHTS

*[Rights, privileges and franchise secured.] Section 1. No member of this state shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers.

[Trial by jury; how waived.] § 2. Trial by jury in all cases in which it has heretofore been guaranteed by constitutional provision shall remain inviolate forever; but a jury trial may be waived by the parties in all civil cases in the manner to be prescribed by law. The legislature may provide, however, by law, that a verdict may be rendered by not less than five-sixths of the jury in any civil case. A jury trial may be waived by the defendant in all criminal cases, except those in which the crime charged may be punishable by death, by a written instrument signed by the defendant in person in open court before and with the approval of a judge or justice of a court having jurisdiction to try

* [Explanatory note. Section headings are enclosed in brackets throughout the constitution to indicate that they are not a part of the official text. Except where otherwise specifically indicated, the section has been re-enacted without change by the Constitutional Convention of 1938 and re-adopted by vote of the people November 8, 1938.]

the offense. The legislature may enact laws, not inconsistent herewith, governing the form, content, manner and time of presentation of the instrument effectuating such waiver. (Amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Freedom of worship; religious liberty.] § 3. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this state to all mankind; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.

[Habeas corpus.] § 4. The privilege of a writ or order of habeas corpus shall not be suspended, unless, in case of rebellion or invasion, the public safety requires it. (Amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Bail; fines; punishments; detention of witnesses.] § 5. Excessive bail shall not be required nor excessive fines imposed, nor shall cruel and unusual punishments be inflicted, nor shall witnesses be unreasonably detained.

[Grand jury; protection of certain enumerated rights; waiver of immunity by public officers required.] § 6. No person shall be held to answer for a capital or

otherwise infamous crime (except in cases of impeachment, and in cases of militia when in actual service, and the land, air and naval forces in time of war, or which this state may keep with the consent of Congress in time of peace, and in cases of petit larceny, under the regulation of the legislature), unless on indictment of a grand jury, and in any trial in any court whatever the party accused shall be allowed to appear and defend in person and with counsel as in civil actions and shall be informed of the nature and cause of the accusation and be confronted with the witnesses against him. No person shall be subject to be twice put in jeopardy for the same offense; nor shall he be compelled in any criminal case to be a witness against himself, providing, that any public officer who, upon being called before a grand jury to testify concerning the conduct of his office or the performance of his official duties, refuses to sign a waiver of immunity against subsequent criminal prosecution, or to answer any relevant question concerning such matters before such grand jury, shall be removed from office by the appropriate authority or shall forfeit his office at the suit of the attorney-general.

The power of grand juries to inquire into the wilful misconduct in office of public officers, and to find indictments or to direct the filing of informations in connection with such inquiries, shall never be suspended or impaired by law.

No person shall be deprived of life, liberty or property without due process of law. (Amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Compensation for taking private property; private roads; drainage of agricultural lands; excess condemnation.] § 7. (a) Private property shall not be taken for public use without just compensation.

(b) When private property shall be taken for any public use, the compensation to be made therefor, when such compensation is not made by the state, shall be ascertained by a jury, or by the supreme court without a jury, but not with a referee other than an official referee, or by not less than three commissioners appointed by a court of record, as shall be prescribed by law.

(c) Private roads may be opened in the manner to be prescribed by law; but in every case the necessity of the road and the amount of all damage to be sustained by the opening thereof shall be first determined by a jury of freeholders, and such amount, together with the expenses of the proceedings, shall be paid by the person to be benefited.

(d) The use of property for the drainage of swamp or agricultural lands is declared to be a public use, and general laws may be passed permitting the owners or occupants of swamp or agricultural lands to construct and maintain for the drainage thereof, necessary drains, ditches and dykes upon the lands of others, under proper restrictions, on making just compensation, and such compensation together with the cost of such drainage may be assessed, wholly or partly, against any property benefited thereby; but no special laws shall be enacted for such purposes.

(e) The legislature may authorize cities and counties to take more land and property than is needed for

actual construction in the laying out, widening, extending or relocating parks, public places, highways or streets; provided, however, that the additional land and property so authorized to be taken shall be no more than sufficient to form suitable building sites abutting on such park, public place, highway or street. After so much of the land and property has been appropriated for such park, public place, highway or street as is needed therefor, the remainder may be sold or leased. (Amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Freedom of speech and press; criminal prosecutions for libel.] § 8. Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

[Right to assemble and petition; divorce; lotteries; pool-selling and gambling; laws to prevent.] § 9. No law shall be passed abridging the right of the people peaceably to assemble and to petition the government, or any department thereof; nor shall any divorce be granted otherwise than by due judicial proceedings; nor shall any lottery or the sale of lottery tickets,

pool-selling, book-making, or any other kind of gambling hereafter be authorized or allowed within this state; and the legislature shall pass appropriate laws to prevent offenses against any of the provisions of this section.

[Ownership of lands; allodial tenures; escheats.] § 10. The people of the state, in their right of sovereignty, possess the original and ultimate property in and to all lands within the jurisdiction of the state. All lands shall forever remain allodial so that the entire and absolute property is vested in the owners, according to the nature of their respective estates. All lands the title of which shall fail, from a defect of heirs, shall revert, or escheat to the people. (Amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Equal protection of laws; discrimination in civil rights prohibited.] § 11. No person shall be denied the equal protection of the laws of this state or any subdivision thereof. No person shall, because of race, color, creed or religion, be subjected to any discrimination in his civil rights by any other person or by any firm, corporation, or institution, or by the state or any agency or subdivision of the state. (New. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Security against unreasonable searches, seizures and interceptions.] § 12. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not

be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The right of the people to be secure against unreasonable interception of telephone and telegraph communications shall not be violated, and ex parte orders or warrants shall issue only upon oath or affirmation that there is reasonable ground to believe that evidence of crime may be thus obtained, and identifying the particular means of communication, and particularly describing the person or persons whose communications are to be intercepted and the purpose thereof. (New. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Purchase of lands of Indians.] § 13. No purchase or contract for the sale of lands in this state, made since the fourteenth day of October, one thousand seven hundred seventy-five; or which may hereafter be made of, or with the Indians, shall be valid unless made under the authority, and with the consent of the legislature. (Formerly § 15. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Common law and acts of the state legislatures.] § 14. Such parts of the common law, and of the acts of the legislature of the colony of New York, as together did form the law of the said colony, on the nineteenth day of April, one thousand seven hundred

seventy-five, and the resolutions of the congress of the said colony, and of the convention of the State of New York, in force on the twentieth day of April, one thousand seven hundred seventy-seven, which have not since expired, or been repealed or altered; and such acts of the legislature of this state as are now in force, shall be and continue the law of this state, subject to such alterations as the legislature shall make concerning the same. But all such parts of the common law, and such of the said acts, or parts thereof, as are repugnant to this constitution, are hereby abrogated. (Formerly § 16. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Certain grants of lands and of charters made by the king of Great Britain and the state; obligations and contracts not to be impaired.] § 15. All grants of land within this state, made by the king of Great Britain, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred seventy-five, shall be null and void; but nothing contained in this constitution shall affect any grants of land within this state, made by the authority of the said king or his predecessors, or shall annul any charters to bodies politic and corporate, by him or them made before that day; or shall affect any such grants or charters since made by this state, or by persons acting under its authority; or shall impair the obligation of any debts, contracted by the state or individuals, or bodies corporate, or any other rights of property, or any suits, actions, rights of action, or

other proceedings in courts of justice. (Formerly § 17. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Damages for injuries causing death.] § 16. The right of action now existing to recover damages for injuries resulting in death, shall never be abrogated; and the amount recoverable shall not be subject to any statutory limitation. (Formerly § 18. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Labor not a commodity; hours and wages in public work; right to organize and bargain collectively.] § 17. Labor of human beings is not a commodity nor an article of commerce and shall never be so considered or construed.

No laborer, workman or mechanic, in the employ of a contractor or subcontractor engaged in the performance of any public work, shall be permitted to work more than eight hours in any day or more than five days in any week, except in cases of extraordinary emergency; nor shall he be paid less than the rate of wages prevailing in the same trade or occupation in the locality within the state where such public work is to be situated, erected or used.

Employees shall have the right to organize and to bargain collectively through representatives of their own choosing. (New. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Workmen's compensation.] § 18. Nothing contained in this constitution shall be construed to limit the power of the legislature to enact laws for the protection of the lives, health, or safety of employees; or for the payment, either by employers, or by employers and employees or otherwise, either directly or through a state or other system of insurance or otherwise, of compensation for injuries to employees or for death of employees resulting from such injuries without regard to fault as a cause thereof, except where the injury is occasioned by the wilful intention of the injured employee to bring about the injury or death of himself or of another, or where the injury results solely from the intoxication of the injured employee while on duty; or for the adjustment, determination and settlement, with or without trial by jury, of issues which may arise under such legislation; or to provide that the right of such compensation, and the remedy therefor shall be exclusive of all other rights and remedies for injuries to employees or for death resulting from such injuries; or to provide that the amount of such compensation for death shall not exceed a fixed or determinable sum; provided that all moneys paid by an employer to his employees or their legal representatives, by reason of the enactment of any of the laws herein authorized, shall be held to be a proper charge in the cost of operating the business of the employer. (Formerly § 19. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

ARTICLE II

SUFFRAGE

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

Notwithstanding the foregoing provisions, after January first, one thousand nine hundred twenty-two, no person shall become entitled to vote by attaining majority, by naturalization or otherwise, unless such person is also able, except for physical disability, to read and write English. (Amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Absentee voting.] § 2. The legislature may, by general law, provide a manner in which, and the time and place at which, qualified voters who may, on the occurrence of any general election, be unavoidably absent from the state or county of their residence because they are inmates of a soldiers' and sailors' home or of a United States veterans' bureau hospital, or because their duties, occupation or business require them to be elsewhere within the United States, may vote, and for the return and canvass of their votes in the election district in which they respectively reside. (Formerly § 1-a. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Persons excluded from the right of suffrage.] § 3. No person who shall receive, accept, or offer to receive, or pay, offer or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election; and upon challenge for such cause, the person so challenged, before the officers authorized for that purpose shall receive his vote, shall swear or affirm before such officers that he has not received or offered, does not expect to receive, has not paid, offered or promised to pay, contributed, offered or promised to contribute

to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at such election, and has not made any promise to influence the giving or withholding of any such vote, nor made or become directly or indirectly interested in any bet or wager depending upon the result of such election. The legislature shall enact laws excluding from the right of suffrage all persons convicted of bribery or of any infamous crime. (Formerly § 2. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Certain occupations and conditions not to affect residence.] § 4. For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this state, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse, or other asylum, or institution wholly or partly supported at public expense or by charity; nor while confined in any public prison. (Formerly § 3. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Registration and election laws to be passed.] § 5. Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established, and for the registration of voters; which registration shall be completed at least

ten days before each election. Such registration shall not be required for town and village elections except by express provision of law. In cities and villages having five thousand inhabitants or more, voters shall be registered upon personal application only; but voters not residing in such cities or villages shall not be required to apply in person for registration at the first meeting of the officers having charge of the registry of voters. The number of such inhabitants shall be determined according to the latest census or enumeration, federal or state, showing the population of the city or village, except that the federal census shall be controlling unless such state enumeration, if any, shall have been taken and returned two or more years after the return of the preceding federal census. (Formerly § 4. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Permanent registration.] § 6. The legislature may provide by law for a system or systems of registration whereby upon personal application a voter may be registered and his registration continued so long as he shall remain qualified to vote from the same address, or for such shorter period as the legislature may prescribe. (New. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Manner of voting; identification of voters.] § 7. All elections by the citizens, except for such town officers as may by law be directed to be otherwise chosen, shall be by ballot, or by such other method as

may be prescribed by law, provided that secrecy in voting be preserved. The legislature shall provide for identification of voters through their signatures in all cases where personal registration is required and shall also provide for the signatures, at the time of voting, of all persons voting in person by ballot or voting machine, whether or not they have registered in person, save only in cases of illiteracy or physical disability. (Formerly § 5. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Bi-partisan registration and election boards.] § 8. All laws creating, regulating or affecting boards or officers charged with the duty of registering voters, or of distributing ballots to voters, or of receiving, recording or counting votes at elections, shall secure equal representation of the two political parties which, at the general election next preceding that for which such boards or officers are to serve, cast the highest and the next highest number of votes. All such boards and officers shall be appointed or elected in such manner, and upon the nomination of such representatives of said parties respectively, as the legislature may direct. Existing laws on this subject shall continue until the legislature shall otherwise provide. This section shall not apply to town, or village elections. (Formerly § 6. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

ARTICLE III

LEGISLATURE

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

[Number and terms of senators and assemblymen.] § 2. The senate shall consist of fifty members, except as hereinafter provided. The senators elected in the year one thousand eight hundred and ninety-five shall hold their offices for three years, and their successors shall be chosen for two years. The assembly shall consist of one hundred and fifty members. The assemblymen elected in the year one thousand nine hundred and thirty-eight, and their successors, shall be chosen for two years. (Amended by vote of the people November 2, 1937.)

***[Senate districts.]** § 3. The state shall be divided into fifty districts to be called senate districts, each of which shall choose one senator. The districts shall be numbered from one to fifty, inclusive.

District number one (1) shall consist of the counties of Suffolk and Richmond.

District number two (2) shall consist of the county of Queens.

District number three (3) shall consist of that part of the county of Kings comprising the first, second, third, fourth, fifth and sixth wards of the city of Brooklyn.

---

* For present apportionment of senate districts see L. 1917, ch. 798.

District number four (4) shall consist of that part of the county of Kings comprising the seventh, thirteenth, nineteenth and twenty-first wards of the city of Brooklyn.

District number five (5) shall consist of that part of the county of Kings comprising the eighth, tenth, twelfth and thirtieth wards of the city of Brooklyn, and the ward of the city of Brooklyn which was formerly the town of Gravesend.

District number six (6) shall consist of that part of the county of Kings comprising the ninth, eleventh, twentieth and twenty-second wards of the city of Brooklyn.

District number seven (7) shall consist of that part of the county of Kings comprising the fourteenth, fifteenth, sixteenth and seventeenth wards of the city of Brooklyn.

District number eight (8) shall consist of that part of the county of Kings comprising the twenty-third, twenty-fourth, twenty-fifth and twenty-ninth wards of the city of Brooklyn, and the town of Flatlands.

District number nine (9) shall consist of that part of the county of Kings comprising the eighteenth, twenty-sixth, twenty-seventh and twenty-eighth wards of the city of Brooklyn.

District number ten (10) shall consist of that part of the county of New York within and bounded by a line beginning at Canal street and the Hudson river, and running thence along Canal street, Hudson street, Dominick street, Varick street, Broome street, Sullivan street, Spring street, Broadway, Canal street, the

Bowery, Division street, Grand street and Jackson street, to the East river and thence around the southern end of Manhattan Island, to the place of beginning, and also Governor's, Bedloe's and Ellis islands.

District number eleven (11) shall consist of that part of the county of New York lying north of district number ten, and within and bounded by a line beginning at the junction of Broadway and Canal street, and running thence along Broadway, Fourth street, the Bowery and Third avenue, St. Mark's place, Avenue A, Seventh street, Avenue B, Clinton street, Rivington street, Norfolk street, Division street, Bowery and Canal street, to the place of beginning.

District number twelve (12) shall consist of that part of the county of New York lying north of districts numbers ten and eleven and within and bounded by a line beginning at Jackson street and the East river, and running thence through Jackson street, Grand street, Division street, Norfolk street, Rivington street, Clinton street, Avenue B, Seventh street, Avenue A, St. Mark's place, Third avenue, East Fourteenth street to the East river, and along the East river, to the place of beginning.

District number thirteen (13) shall consist of that part of the county of New York lying north of district number ten, and within and bounded by a line beginning at the Hudson river at the foot of Canal street, and running thence along Canal street, Hudson street, Dominick street, Varick street, Broome street, Sullivan street, Spring street, Broadway, Fourth street, the Bowery and Third avenue, Fourteenth street, Sixth

avenue, West Fifteenth street, Seventh avenue, West Nineteenth street, Eighth avenue, West Twentieth street, and the Hudson river, to the place of beginning.

District number fourteen (14) shall consist of that part of the county of New York lying north of districts numbers twelve and thirteen, and within and bounded by a line beginning at East Fourteenth street and the East river, and running thence along East Fourteenth street, Irving place, East Nineteenth street, Third avenue, East Twenty-third street, Lexington avenue, East Fifty-third street, Third avenue, East Fifty-second street, and the East river, to the place of beginning.

District number fifteen (15) shall consist of that part of the county of New York lying north of district number thirteen, and within and bounded by a line beginning at the junction of West Fourteenth street and Sixth avenue, and running thence along Sixth avenue, West Fifteenth street, Seventh avenue, West Fortieth street, Eighth avenue, and the transverse road across Central park at Ninety-seventh street, Fifth avenue, East Ninety-sixth street, Lexington avenue, East Twenty-third street, Third avenue, East Nineteenth street, Irving place and Fourteenth street, to the place of beginning.

District number sixteen (16) shall consist of that part of the county of New York lying north of district number thirteen, and within and bounded by a line beginning at Seventh avenue and West Nineteenth street, and running thence along West Nineteenth street, Eighth avenue, West Twentieth street,

the Hudson river, West Forty-sixth street, Tenth avenue, West Forty-third street, Eighth avenue, West Fortieth street and Seventh avenue, to the place of beginning.

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

District number eighteen (18) shall consist of that part of the county of New York lying north of district number fourteen, and within and bounded by a line beginning at the junction of East Fifty-second street and the East river, and running thence along East Fifty-second street, Third avenue, East Fifty-third street, Lexington avenue, East Eighty-fourth street, Second avenue, East Eighty-third street and the East river, to the place of beginning; and also Blackwell's island.

District number nineteen (19) shall consist of that part of the county of New York lying north of district number seventeen, and within and bounded by a line beginning at West Eighty-ninth street and the Hudson river, and running thence along the Hudson river and Spuyten Duyvil creek around the northern end of Manhattan island; thence southerly along the

Harlem river to the north end of Fifth avenue; thence along Fifth avenue, East One Hundred and Twenty-ninth street, Fourth or Park avenue, East One Hundred and Tenth street, Fifth avenue, the transverse road across Central park at Ninety-seventh street, Eighth avenue, West Eighty-first street, Ninth or Columbus avenue, West Eighty-sixth street, Tenth or Amsterdam avenue and West Eighty-ninth street, to the place of beginning.

District number twenty (20) shall consist of that part of the county of New York lying north of districts numbers eighteen and fifteen, and within and bounded by a line beginning at East Eighty-third street and the East river, running thence through East Eighty-third street, Second avenue, East Eighty-fourth street, Lexington avenue, East Ninety-sixth street, Fifth avenue, East One Hundred and Tenth street, Fourth or Park avenue, East One Hundred and Nineteenth street to the Harlem river, and along the Harlem and East rivers to the place of beginning; and also Randall's island and Ward's island.

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

District number twenty-one (21) shall consist of that part of the county of New York lying north of districts numbers nineteen and twenty, within and bounded by a line beginning at East One Hundred and Nineteenth street and the Harlem river, and running thence along East One Hundred and Nineteenth street, Fourth or Park avenue, One Hundred

and Twenty-ninth street, Fifth avenue and the Harlem river, to the place of beginning; and all that part of the county of New York not hereinbefore described.

District number twenty-two (22) shall consist of the county of Westchester.

District number twenty-three (23) shall consist of the counties of Orange and Rockland.

District number twenty-four (24) shall consist of the counties of Dutchess, Columbia and Putnam.

District number twenty-five (25) shall consist of the counties of Ulster and Greene.

District number twenty-six (26) shall consist of the counties of Delaware, Chenango and Sullivan.

District number twenty-seven (27) shall consist of the counties of Montgomery, Fulton, Hamilton and Schoharie.

District number twenty-eight (28) shall consist of the counties of Saratoga, Schenectady and Washington.

District number twenty-nine (29) shall consist of the county of Albany.

District number thirty (30) shall consist of the county of Rensselaer.

District number thirty-one (31) shall consist of the counties of Clinton, Essex and Warren.

District number thirty-two (32) shall consist of the counties of St. Lawrence and Franklin.

District number thirty-three (33) shall consist of the counties of Otsego and Herkimer.

District number thirty-four (34) shall consist of the county of Oneida.

District number thirty-five (35) shall consist of the counties of Jefferson and Lewis.

District number thirty-six (36) shall consist of the county of Onondaga.

District number thirty-seven (37) shall consist of the counties of Oswego and Madison.

District number thirty-eight (38) shall consist of the counties of Broome, Cortland and Tioga.

District number thirty-nine (39) shall consist of the counties of Cayuga and Seneca.

District number forty (40) shall consist of the counties of Chemung, Tompkins and Schuyler.

District number forty-one (41) shall consist of the counties of Steuben and Yates.

District number forty-two (42) shall consist of the counties of Ontario and Wayne.

District number forty-three (43) shall consist of that part of the county of Monroe comprising the towns of Brighton, Henrietta, Irondequoit, Mendon, Penfield, Perinton, Pittsford, Rush and Webster, and the fourth, sixth, seventh, eighth, twelfth, thirteenth, fourteenth, sixteenth, seventeenth and eighteenth wards of the city of Rochester, as at present constituted.

District number forty-four (44) shall consist of that part of the county of Monroe comprising the towns of Chili, Clarkson, Gates, Greece, Hamlin, Ogden, Parma, Riga, Sweden and Wheatland, and the first, second, third, fifth, ninth, tenth, eleventh, fifteenth, nineteenth

and twentieth wards of the city of Rochester, as at present constituted.

District number forty-five (45) shall consist of the counties of Niagara, Genesee and Orleans.

District number forty-six (46) shall consist of the counties of Allegany, Livingston and Wyoming.

District number forty-seven (47) shall consist of that part of the county of Erie comprising the first, second, third, sixth, fifteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third and twenty-fourth wards of the city of Buffalo, as at present constituted.

District number forty-eight (48) shall consist of that part of the county of Erie comprising the fourth, fifth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth and sixteenth wards of the city of Buffalo, as at present constituted.

District number forty-nine (49) shall consist of that part of the county of Erie comprising the seventeenth, eighteenth and twenty-fifth wards of the city of Buffalo, as at present constituted; and all the remainder of the said county of Erie not hereinbefore described.

District number fifty (50) shall consist of the counties of Chautauqua and Cattaraugus. (Superseded, in effect, by the apportionment made by chapter 798 of the Laws of 1917.)

[Readjustments and reapportionments; when federal census to control.] § 4. Except as herein otherwise provided, the federal census taken in the year nineteen hundred thirty and each federal census taken decennially thereafter shall be controlling as to the number of inhabitants in the state or any part thereof for the pur-

poses of the apportionment of members of assembly and readjustment or alteration of senate and assembly districts next occurring, in so far as such census and the tabulation thereof purport to give the information necessary therefor. The legislature, by law, shall provide for the making and tabulation by state authorities of an enumeration of the inhabitants of the entire state to be used for such purposes, instead of a federal census, if the taking of a federal census in any tenth year from the year nineteen hundred thirty be omitted or if the federal census fails to show the number of aliens or Indians not taxed. If a federal census, though giving the requisite information as to the state at large, fails to give the information as to any civil or territorial divisions which is required to be known for such purposes, the legislature, by law, shall provide for such an enumeration of the inhabitants of such parts of the state only as may be necessary, which shall supersede in part the federal census and be used in connection therewith for such purposes. The legislature, by law, may provide in its discretion for an enumeration by state authorities of the inhabitants of the state, to be used for such purposes, in place of a federal census, when the return of a decennial federal census is delayed so that it is not available at the beginning of the regular session of the legislature in the second year after the year nineteen hundred thirty or after any tenth year therefrom, or if an apportionment of members of assembly and readjustment or alteration of senate districts is not made at or before such a session. At the regular session in the year nineteen hundred thirty-two,

and at the first regular session after the year nineteen hundred forty and after each tenth year therefrom the senate districts shall be readjusted or altered, but if, in any decade, counting from and including that which begins with the year nineteen hundred thirty-one, such a readjustment or alteration is not made at the time above prescribed, it shall be made at a subsequent session occurring not later than the sixth year of such decade, meaning not later than nineteen hundred thirty-six, nineteen hundred forty-six, nineteen hundred fifty-six, and so on; provided, however, that if such districts shall have been readjusted or altered by law in either of the years nineteen hundred thirty or nineteen hundred thirty-one, they shall remain unaltered until the first regular session after the year nineteen hundred forty. Such districts shall be so readjusted or altered that each senate district shall contain as nearly as may be an equal number of inhabitants, excluding aliens, and be in as compact form as practicable, and shall remain unaltered until the first year of the next decade as above defined, and shall at all times consist of contiguous territory, and no county shall be divided in the formation of a senate district except to make two or more senate districts wholly in such county. No town, and no block in a city inclosed by streets or public ways, shall be divided in the formation of senate districts; nor shall any district contain a greater excess in population over an adjoining district in the same county, than the population of a town or block therein adjoining such district. Counties, towns or blocks which, from their location, may be included in either of two

districts, shall be so placed as to make said districts most nearly equal in number of inhabitants, excluding aliens.

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

The ratio for apportioning senators shall always be obtained by dividing the number of inhabitants, excluding aliens, by fifty, and the senate shall always be composed of fifty members, except that if any county having three or more senators at the time of any apportionment shall be entitled on such ratio to an additional senator or senators, such additional senator or senators shall be given to such county in addition to the fifty senators, and the whole number of senators shall be increased to that extent.

The senate districts, including the present ones, as existing immediately before the enactment of a law readjusting or altering the senate districts, shall continue to be the senate districts of the state until the expirations of the terms of the senators then in office, except for the purpose of an election of senators for full terms beginning at such expirations, and for the formation of assembly districts. (Amended by vote of the people November 3, 1931.)

[Apportionment of assemblymen; creation of assembly districts.] § 5. The members of the assembly shall be

chosen by single districts and shall be apportioned by the legislature at each regular session at which the senate districts are readjusted or altered, and by the same law, among the several counties of the state, as nearly as may be according to the number of their respective inhabitants, excluding aliens Every county heretofore established and separately organized, except the county of Hamilton, shall always be entitled to one member of assembly, and no county shall hereafter be erected unless its population shall entitle it to a member. The county of Hamilton shall elect with the county of Fulton, until the population of the county of Hamilton shall, according to the ratio, entitle it to a member. But the legislature may abolish the said county of Hamilton and annex the territory thereof to some other county or counties.

The quotient obtained by dividing the whole number of inhabitants of the state, excluding aliens, by the number of members of assembly, shall be the ratio for apportionment, which shall be made as follows: One member of assembly shall be apportioned to every county, including Fulton and Hamilton as one county, containing less than the ratio and one-half over. Two members shall be apportioned to every other county. The remaining members of assembly shall be apportioned to the counties having more than two ratios according to the number of inhabitants, excluding aliens. Members apportioned on remainders shall be apportioned to the counties having the highest remainders in the order thereof respectively. No county shall have more members of assembly than a county

having a greater number of inhabitants, excluding aliens.

* The assembly districts, including the present ones, as existing immediately before the enactment of a law making an apportionment of members of assembly among the counties, shall continue to be the assembly districts of the state until the expiration of the terms of members then in office, except for the purpose of an election of members of assembly for full terms beginning at such expirations.

In any county entitled to more than one member, the board of supervisors, and in any city embracing an entire county and having no board of supervisors, the common council, or if there be none, the body exercising the powers of a common council, shall assemble at such times as the legislature making an apportionment shall prescribe, and divide such counties into assembly districts as nearly equal in number of inhabitants, excluding aliens, as may be, of convenient and contiguous territory in as compact form as practicable, each of which shall be wholly within a senate district formed under the same apportionment, equal to the number of members of assembly to which such county shall be entitled, and shall cause to be filed in the office of the secretary of state and of the clerk of such county, a description of such districts, specifying the number of each district and of the inhabitants thereof, excluding aliens, according to the census or enumeration used as the population basis for the formation of such districts; and such apportionment and districts shall remain

* [For present apportionment, see L. 1917, Ch. 798.]

unaltered until after the next reapportionment of members of assembly. In counties having more than one senate district, the same number of assembly districts shall be put in each senate district, unless the assembly districts cannot be evenly divided among the senate districts of any county, in which case one more assembly district shall be put in the senate district in such county having the largest, or one less assembly district shall be put in the senate district in such county having the smallest number of inhabitants, excluding aliens, as the case may require. No town, and no block in a city inclosed by streets or public ways, shall be divided in the formation of assembly districts, nor shall any districts contain a greater excess in population over an adjoining district in the same senate district, than the population of a town or block therein adjoining such assembly district. Towns or blocks which, from their location may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants, excluding aliens. Nothing in this section shall prevent the division, at any time, of counties and towns and the erection of new towns by the legislature.

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

the same. (Superseded by the apportionment made by chapter 798 of the Laws of 1917. Amended by vote of the people November 3, 1931.)

[Compensation and traveling expenses of members.] § 6. Each member of the legislature shall receive for his services an annual salary of two thousand five hundred dollars. He shall also be reimbursed for his actual traveling expenses in going to and returning from the place in which the legislature meets, not more than once each week while the legislature is in session. Senators, when the senate alone is convened in extraordinary session, or when serving as members of the court for the trial of impeachments, and such members of the assembly, not exceeding nine in number, as shall be appointed managers of an impeachment, shall receive an additional allowance of ten dollars a day. (Amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Members; qualifications; not to receive certain civil appointments; acceptance to vacate seat.] § 7. No person shall serve as a member of the legislature unless he or she is a citizen of the United States and has been a resident of the state of New York for five years, and of the assembly or senate district for the twelve months immediately preceding his or her election. No member of the legislature shall, during the time for which he or she was elected, receive any civil appointment from the governor, the governor and the senate, the legislature or from any city government, to an office which shall have been created, or the emoluments

whereof shall have been increased during such time. If a member of the legislature be elected to congress, or appointed to any office, civil or military, under the government of the United States, the state of New York, or under any city government except as a member of the national guard or naval militia of the state, or of the reserve forces of the United States, his or her acceptance thereof shall vacate his or her seat in the legislature, providing, however, that a member of the legislature may be appointed commissioner of deeds or to any office in which he or she shall receive no compensation. (New. Derived in part from former §§ 7 and 8. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Time of elections of members.] § 8. The elections of senators and members of assembly, pursuant to the provisions of this constitution, shall be held on the Tuesday succeeding the first Monday of November, unless otherwise directed by the legislature. (Formerly § 9. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Powers of each house.] § 9. A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings, and be the judge of the elections, returns and qualifications of its own members; shall choose its own officers; and the senate shall choose a temporary president to preside in case of the absence or impeachment of the lieutenant-governor, or when he shall refuse to act as president, or shall act as governor. (Formerly § 10. Renumbered

by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Journals; open sessions; adjournments.] § 10. Each house of the legislature shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days. (Formerly § 11. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Members not to be questioned for speeches.] § 11. For any speech or debate in either house of the legislature, the members shall not be questioned in any other place. (Formerly § 12. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Bills may originate in either house; may be amended by the other.] § 12. Any bill may originate in either house of the legislature, and all bills passed by one house may be amended by the other. (Formerly § 13. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Enacting clause of bills; no law to be enacted except by bill.] § 13. The enacting clause of all bills shall be "The People of the State of New York, represented in Senate and Assembly, do enact as follows," and no law shall be enacted except by bill. (Formerly § 14. Re-

numbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Manner of passing bills; message of necessity for immediate vote.] § 14. No bill shall be passed or become a law unless it shall have been printed and upon the desks of the members, in its final form, at least three calendar legislative days prior to its final passage, unless the governor, or the acting governor, shall have certified, under his hand and the seal of the state, the facts which in his opinion necessitate an immediate vote thereon, in which case it must nevertheless be upon the desks of the members in final form, not necessarily printed, before its final passage; nor shall any bill be passed or become a law, except by the assent of a majority of the members elected to each branch of the legislature; and upon the last reading of a bill, no amendment thereof shall be allowed, and the question upon its final passage shall be taken immediately thereafter, and the ayes and nays entered on the journal. (Formerly § 15. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Private or local bills to embrace only one subject to be expressed in title.] § 15. No private or local bill, which may be passed by the legislature, shall embrace more than one subject, and that shall be expressed in the title. (Formerly § 16. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Existing law not to be made applicable by reference.] § 16. No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of said act, or which shall enact that any existing law, or part thereof, shall be applicable, except by inserting it in such act. (Formerly § 17. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Cases in which private or local bills shall not be passed; restrictions as to certain laws relating to street railroads.] § 17. The legislature shall not pass a private or local bill in any of the following cases:

Changing the names of persons.

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

Locating or changing county seats.

Providing for changes of venue in civil or criminal cases.

Incorporating villages.

Providing for election of members of boards of supervisors.

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

Regulating the rate of interest on money.

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

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

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

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

Granting to any person, association, firm or corporation, an exemption from taxation on real or personal property.

Providing for the building of bridges, except over the waters forming a part of the boundaries of the state, by other than a municipal or other public corporation or a public agency of the state.

The legislature shall pass general laws providing for the cases enumerated in this section, and for all other cases which in its judgment, may be provided for by general laws. But no law shall authorize the construction or operation of a street railroad except upon the condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities, having the control of that portion of a street or highway upon which it is proposed to construct or operate such railroad, be first obtained, or in case the consent of such property owners cannot be obtained, the appellate division of the supreme court, in the department in which it is proposed to be constructed, may, upon application, appoint three commissioners who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners. (Formerly § 18. Renum-

bered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Restrictions on the legislature respecting the making or use of profits by municipal corporations operating certain utility services.] § 18. The legislature shall pass no bill, resolution or other measure prohibiting any municipal corporation operating a gas, electric or water public utility service from making and receiving, in addition to an amount equivalent to taxes which the said service, if privately owned, would pay to such municipal corporation, a fair return on the value of the property used and useful in such public utility service, over and above costs of operation and necessary and proper reserves, or prohibiting the use of the profits resulting from the operation of a public utility service for the payment of expenses or obligations incurred by such municipal corporation for municipal purposes, or prohibiting the use of such profits for the payment of refunds to consumers. (New. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

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

No claim against the state shall be audited, allowed or paid which, as between citizens of the state, would

be barred by lapse of time. This provision shall not be construed to repeal any statute fixing the time within which claims shall be presented or allowed, nor shall it extend to any claims duly presented within the time allowed by law, and prosecuted with due diligence from the time of such presentment. But if the claimant shall be under legal disability, the claim may be presented within two years after such disability is removed. (Derived in part from former § 6 of Art. 7. Amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Two-thirds bills.] § 20. The assent of two-thirds of the members elected to each branch of the legislature shall be requisite to every bill appropriating the public moneys or property for local or private purposes.

[Certain sections not to apply to bills recommended by certain commissioners or public agencies.] § 21. Sections 15, 16 and 17 of this article shall not apply to any bill, or the amendments to any bill, which shall be recommended to the legislature by commissioners or any public agency appointed or directed pursuant to law to prepare revisions, consolidations or compilations of statutes. But a bill amending an existing law shall not be excepted from the provisions of sections 15, 16 and 17 of this article unless such amending bill shall itself be recommended to the legislature by such commissioners or public agency. (Formerly § 23. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Tax laws to state tax and object distinctly.] § 22. Every law which imposes, continues or revives a tax shall distinctly state the tax and the object to which it is to be applied, and it shall not be sufficient to refer to any other law to fix such tax or object. (Formerly § 24. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[When yeas and nays necessary; three-fifths to constitute quorum.] § 23. On the final passage, in either house of the legislature, of any act which imposes, continues or revives a tax, or creates a debt or charge, or makes, continues or revives any appropriation of public or trust money or property, or releases, discharges or commutes any claim or demand of the state, the question shall be taken by yeas and nays, which shall be duly entered upon the journals, and three-fifths of all the members elected to either house shall, in all such cases, be necessary to constitute a quorum therein. (Formerly § 25. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Prison labor; contract system abolished.] § 24. The legislature shall, by law, provide for the occupation and employment of prisoners sentenced to the several state prisons, penitentiaries, jails and reformatories in the state; and no person in any such prison, penitentiary, jail or reformatory, shall be required or allowed to work, while under sentence thereto, at any trade, industry or occupation, wherein or whereby his

work, or the product or profit of his work, shall be farmed out, contracted, given or sold to any person, firm, association or corporation. This section shall not be construed to prevent the legislature from providing that convicts may work for, and that the products of their labor may be disposed of to, the state or any political division thereof, or for or to any public institution owned or managed and controlled by the state, or any political division thereof. (Formerly § 29. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

ARTICLE IV

EXECUTIVE

[Executive power; election and terms of governor and lieutenant-governor.] Section 1. The executive power shall be vested in the governor, who shall hold his office for four years; the lieutenant-governor shall be chosen at the same time, and for the same term. The governor and lieutenant-governor shall be chosen at the general election held in the year nineteen hundred thirty-eight, and each fourth year thereafter. The persons respectively having the highest number of votes for governor and lieutenant-governor shall be elected. (Amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Qualifications of governor and lieutenant-governor.] § 2. No person shall be eligible to the office of governor or lieutenant-governor, except a citizen of the United States, of the age of not less than thirty years, and

who shall have been five years next preceding his election a resident of this state.

[Powers and duties of governor; compensation.] § 3. The governor shall be commander-in-chief of the military and naval forces of the state. He shall have power to convene the legislature, or the senate only, on extraordinary occasions. At extraordinary sessions no subject shall be acted upon, except such as the governor may recommend for consideration. He shall communicate by message to the legislature at every session the condition of the state, and recommend such matters to it as he shall judge expedient. He shall expedite all such measures as may be resolved upon by the legislature, and shall take care that the laws are faithfully executed. He shall receive for his services an annual salary of twenty-five thousand dollars, and there shall be provided for his use a suitable and furnished executive residence. (Formerly § 4. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Reprieves, commutations and pardons; powers and duties of governor relating to grants of.] § 4. The governor shall have the power to grant reprieves, commutations and pardons after conviction, for all offenses except treason and cases of impeachment, upon such conditions and with such restrictions and limitations, as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, he shall have power to suspend the execution of the sentence, until

the case shall be reported to the legislature at its next meeting, when the legislature shall either pardon, or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall annually communicate to the legislature each case of reprieve, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the commutation, pardon or reprieve. (Formerly § 5. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[When lieutenant-governor to act as governor.] § 5. In case of the impeachment of the governor, or his removal from office, death, inability to discharge the powers and duties of the office, resignation, or absence from the state, the powers and duties of the office shall devolve upon the lieutenant-governor for the residue of the term, or until the disability shall cease. But when the governor shall, with the consent of the legislature, be out of the state, in time of war, at the head of a military force thereof, he shall continue commander-in-chief of all the military force of the state. (Formerly § 6. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Duties and compensation of lieutenant-governor; succession to the governorship.] § 6. The lieutenant-governor shall possess the same qualifications of eligibility for office as the governor. He shall be president of the senate, but shall have only a casting vote therein.

If the office of governor become vacant and there be no lieutenant-governor, such vacancy shall be filled for the remainder of the term at the next general election happening not less than three months after such vacancy occurs; and in such case, until the vacancy be filled by election, or in case the lieutenant-governor be under impeachment or unable to discharge the powers and duties of the office of governor or shall be absent from the state, the temporary president of the senate shall act as governor during such inability, absence or the pendency of such impeachment. If the temporary president of the senate shall be unable to discharge the powers and duties of the office of governor or be absent from the state, the speaker of the assembly shall act as governor during such inability or absence. The lieutenant-governor shall receive for his services an annual salary of ten thousand dollars. (Formerly § 7. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Action by governor on legislative bills; reconsideration after veto.] § 7. Every bill which shall have passed the senate and assembly shall, before it becomes a law, be presented to the governor; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it shall have originated, which shall enter the objections at large on the journal, and proceed to reconsider it. If after such reconsideration, two-thirds of the members elected to that house shall agree to pass the bill, it shall be sent together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved

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

contained in a bill appropriating money. (Formerly § 9. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Departmental rules and regulations; filing; publication.] § 8. No rule or regulation made by any state department, board, bureau, officer, authority or commission, except such as relates to the organization or internal management of a state department, board, bureau, authority or commission shall be effective until it is filed in the office of the department of state. The legislature shall provide for the speedy publication of such rules and regulations, by appropriate laws. (New. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

ARTICLE V

Officers and Civil Departments

[Comptroller and attorney-general; payment of state moneys without audit void.] Section 1. The comptroller and attorney-general shall be chosen at the same general election as the governor and hold office for the same term, and shall possess the qualifications provided in section 2 of article IV. The comptroller shall be required: (1) To audit all vouchers before payment and all official accounts; (2) to audit the accrual and collection of all revenues and receipts; and (3) to prescribe such methods of accounting as are necessary for the performance of the foregoing duties. The payment of any money of the state, or of any money under its control, or the refund of any money paid to the state,

except upon audit by the comptroller, shall be void, and may be restrained upon the suit of any taxpayer with the consent of the supreme court in appellate division on notice to the attorney-general. In such respect the legislature shall define his powers and duties and may also assign to him supervision of the accounts of any political subdivision of the state, but shall assign to him no administrative duties, excepting such as may be incidental to the performance of these functions, any other provision of this constitution to the contrary notwithstanding. (Amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Civil departments in the state government.] § 2. There shall be the following civil departments in the state government: First, executive; second, audit and control; third, taxation and finance; fourth, law; fifth, state; sixth, public works; seventh, conservation; eighth, agriculture and markets; ninth, labor; tenth, education; eleventh, health; twelfth, mental hygiene; thirteenth, social welfare; fourteenth, correction; fifteenth, public service; sixteenth, banking; seventeenth, insurance; eighteenth, civil service. (Amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Assignment of functions; new departments prohibited.] § 3. Subject to the limitations contained in this constitution, the legislature may from time to time assign by law new powers and functions to departments, officers, boards or commissions, and increase,

modify or diminish their powers and functions. No new departments shall be created hereafter, but this shall not prevent the legislature from creating temporary commissions for special purposes and nothing contained in this article shall prevent the legislature from reducing the number of departments as provided for in this article, by consolidation or otherwise. (Amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Department heads.] § 4. The head of the executive department shall be the governor. The head of the department of audit and control shall be the comptroller and of the department of law, the attorney-general. The head of the department of education shall be The Regents of the University of the State of New York, who shall appoint and at pleasure remove a commissioner of education to be the chief administrative officer of the department. The head of the department of agriculture and markets shall be appointed in a manner to be prescribed by law. Except as otherwise provided in this constitution, the heads of all other departments and the members of all boards and commissions, excepting temporary commissions for special purposes, shall be appointed by the governor by and with the advice and consent of the senate and may be removed by the governor, in a manner to be prescribed by law. (Amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Certain offices abolished.] § 5. All offices for the weighing, gauging, measuring, culling or inspecting any

merchandise, produce, manufacture or commodity whatever, are hereby abolished; and no such office shall hereafter be created by law; but nothing in this section contained shall abrogate any office created for the purpose of protecting the public health or the interest of the state in its property, revenue, tolls or purchases, or of supplying the people with correct standards of weights and measures, or shall prevent the creation of any office for such purposes hereafter.

[Civil service appointments and promotions.] § 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.

[Membership in retirement systems; benefits not to be diminished nor impaired.] § 7. After July first, nineteen

hundred forty, membership in any pension or retirement system of the state or of a civil division thereof shall be a contractual relationship, the benefits of which shall not be diminished or impaired. (New. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

ARTICLE VI.*

**[JUDICIARY]

[Supreme Court; how constituted; judicial districts.] Section 1. The supreme court is continued with general jurisdiction in law and equity, subject to such appellate jurisdiction of the court of appeals as now is or hereafter may be prescribed by law not inconsistent with this article. The existing judicial districts of the state are continued until changed as hereinafter provided. The supreme court shall consist of the justices now in office and their successors, together with such additional justices as may be authorized by law. The successors of said justices shall be chosen by the electors of their respective judicial districts. The legislature may alter the judicial districts once after every federal census or state enumeration, each district being bounded by county lines and thereupon re-apportion the justices to be thereafter elected in the districts so altered.

The legislature may from time to time increase the number of justices in any judicial district, except the

* [New article, adopted by vote of the people November 3, 1925.]

** [Heading enclosed in brackets to indicate that it is not a part of the official text.]

number of justices in any district shall not be increased to exceed one justice for each sixty thousand, or fraction over thirty-five thousand, of the population thereof as shown by the last federal census or state enumeration. Any justice of the supreme court, except as otherwise provided in this article, may perform the duties of his office or hold court in any county.

[Judicial departments; appellate division, how constituted; Governor to designate justices; jurisdiction, time and place of holding courts; attendants.] § 2. The division of the state into four judicial departments is continued as now constituted by law. Once every ten years, the legislature may alter the boundaries of the judicial departments, but without increasing the number thereof, and each department shall be bounded by the lines of judicial districts. The appellate divisions of the supreme court are continued, and shall consist of seven justices of the supreme court in each of the first and second departments, and five justices in each of the other departments. In each appellate division, four justices shall constitute a quorum, and the concurrence of three shall be necessary to a decision. No more than five justices shall sit in any case.

The governor shall designate the presiding justice of each appellate division, who shall act as such during his term of office and shall be a resident of the department. The other justices of the appellate divisions shall be designated by the governor, from all the justices elected to the supreme court, for terms of five years or the unexpired portions of their respective terms of office, if less than five years. The justices heretofore

designated shall continue to sit in the appellate divisions until the terms of their respective designations shall expire. From time to time as the terms of the designations expire, or vacancies occur, the governor shall make new designations. He may also, on request of any appellate division, make temporary designations in case of the absence or inability to act of any justice in such appellate division, for service only during such absence or inability to act. In case any appellate division shall certify to the governor that one or more additional justices are needed for the speedy disposition of the business before it, the governor shall designate an additional justice or additional justices; but when the need for such additional justice or justices shall no longer exist, the appellate division shall so certify to the governor, and thereupon service under such designation or designations shall cease. A majority of the justices designated to sit in any appellate division shall at all times be residents of the department.

Whenever the appellate division in any department shall be unable to dispose of its business within a reasonable time, a majority of the presiding justices of the several departments, at a meeting called by the presiding justice of the department in arrears, may transfer any pending appeals from such department to any other department for hearing and determination.

The several appellate divisions, except as hereinafter provided, shall have and exercise such original or appellate jurisdiction as is now or may hereafter be prescribed by law. Each appellate division shall have power to appoint and remove its clerk and attendants.

No justice of the appellate division shall, within the department to which he may be designated to perform the duties of an appellate justice, exercise any of the powers of a justice of the supreme court, other than those of a justice out of court, and those pertaining to the appellate division, except that he may decide causes or proceedings theretofore submitted, or hear and decide motions submitted by consent of counsel, but any such justice, when not actually engaged in performing the duties of such appellate justice in the department to which he is designated, may hold any term of the supreme court and exercise any of the powers of a justice of the supreme court in any judicial district in any other department of the state. From and after the last day of December, eighteen hundred and ninety-five, the appellate division shall have the jurisdiction now exercised by the supreme court at its general terms and by the general terms of the court of common pleas for the city and county of New York, the superior court of the city of New York, the superior court of Buffalo and the city of Brooklyn, and such additional jurisdiction as may be conferred by the legislature. The justices of the appellate division in each department shall have power to fix the times and places for holding special and trial terms of the supreme court held therein and to assign the justices in the departments to hold such terms; or to make rules therefor.

[Appellate terms in first and second departments; appeals.] § 3. The appellate divisions in the first and second departments shall severally have power to establish an appellate term of the supreme court to be held

in and for its department, to be constituted of not less than three nor more than five justices of the supreme court, who shall be designated from time to time by such appellate division and shall be residents of the department. Any such appellate term may be discontinued and reestablished as said appellate divisions, respectively, from time to time shall determine, and any designation to service therein may be revoked at any time by the appellate division so designating. In each appellate term, no more than three justices assigned thereto shall sit in any case; two of such justices shall constitute a quorum, and the concurrence of two shall be necessary to a decision. Such appellate terms shall have jurisdiction to hear and determine all appeals now or hereafter authorized by law to be taken to the supreme court or to the appellate division other than appeals from the supreme court, a surrogate's court, or the court of general sessions of the city of New York, as may from time to time be directed by the appellate division establishing such appellate term. The appellate term or the appellate division establishing it may allow an appeal from such appellate term to such appellate division whenever in the opinion of either a question of law or fact is involved which ought to be reviewed.

[Terms of office; vacancies, how filled.] § 4. The official terms of the justices of the supreme court shall be fourteen years from and including the first day of January next after their election. When a vacancy shall occur otherwise than by expiration of term in the office of justice of the supreme court, the same shall

be filled for a full term at the next general election held not less than three months after such vacancy occurs; and until the vacancy shall be so filled, the governor, by and with the advice and consent of the senate, if the senate shall be in session, or if not in session, the governor may fill such vacancy by appointment, which shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

[Court of appeals; organization; designations.] § 5. The court of appeals is continued. It shall consist of the chief judge, the six elected associate judges now in office, who shall hold their offices until the expiration of their respective terms, and their successors, who shall be chosen by the electors of the state, and such justices of the supreme court as may be designated for service in said court as hereinafter provided. The official terms of the chief judge and elected associate judges shall be fourteen years from and including the first day of January next after their election. Five members of the court shall constitute a quorum and the concurrence of four shall be necessary to a decision; but no more than seven judges shall sit in any case. In case of the temporary absence or inability to act of any judge of the court of appeals, the court may designate any justice of the supreme court to serve as associate judge of the court during such absence or inability to act. The court shall have power to appoint and to remove its clerk and attendants.

Whenever and as often as the court of appeals shall certify to the governor that the court is unable, by

reason of the accumulation of causes pending therein, to hear and dispose of the same with reasonable speed, the governor shall designate such number of justices of the supreme court as may be so certified to be necessary, but not more than four, to serve as associate judges of the court of appeals. The justices so designated shall be relieved, while so serving, from their duties as justices of the supreme court, and shall serve as associate judges of the court of appeals until the court shall certify that the need for the services of any such justices no longer exists, whereupon they shall return to the supreme court. The governor may fill vacancies among such designated judges. No such justice shall serve as associate judge of the court of appeals except while holding the office of justice of the supreme court. The designation of a justice of the supreme court as an associate judge of the court of appeals shall not be deemed to affect his existing office any longer than until the expiration of his designation as such associate judge, nor to create a vacancy.

[Court of appeals; vacancies, how filled.] § 6. When a vacancy shall occur otherwise than by expiration of term, in the office of chief or elected associate judge of the court of appeals, the same shall be filled, for a full term, at the next general election held not less than three months after such vacancy occurs; and until the vacancy shall be so filled, the governor, by and with the advice and consent of the senate if the senate shall be in session, or if not in session, the governor may fill such vacancy by appointment. If any such appointment be made from among the jus-

tices of the supreme court, such appointment shall not be deemed to affect his existing office any longer than until the expiration of his appointment as such associate judge, nor to create a vacancy. If any such appointment of chief judge shall be made from among the associate judges, a temporary appointment of associate judge shall be made in like manner; but, in such case, the appointment shall not be deemed to affect his office of associate judge any longer than until the expiration of his appointment as chief judge, nor to create a vacancy. The powers and jurisdiction of the court shall not be suspended for want of appointment or election when the number of judges is sufficient to constitute a quorum. All appointments under this section shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

[Jurisdiction of court of appeals.] § 7. The jurisdiction of the court of appeals, except where the judgment is of death, or where the appellate division, on reversing or modifying a final judgment in an action or a final order in a special proceeding, makes new findings of fact and renders final judgment or a final order thereon, shall be limited to the review of questions of law; but the right to appeal shall not depend upon the amount involved.

Appeals may be taken to the court of appeals in the classes of cases enumerated in this section.

In criminal cases, directly from a court of original jurisdiction where the judgment is of death, and in

other criminal cases from an appellate division or otherwise as the legislature may from time to time provide.

In civil cases and proceedings as follows:

(1) As of right, from a judgment or order entered upon the decision of an appellate division of the supreme court which finally determines an action or special proceeding wherein is directly involved the construction of the constitution of the state or of the United States, or where one or more of the justices of the appellate division dissents from the decision of the court, or where the judgment or order is one of reversal or modification.

(2) As of right, from an order of the appellate division granting a new trial where the appellant stipulates that, upon affirmance, judgment absolute shall be rendered against him.

(3) As of right, from a judgment or order of a court of record of original jurisdiction which finally determines an action or special proceeding where the only question involved on the appeal is the validity of a statutory provision of the state or of the United States under the constitution of the state or of the United States; and on any such appeal only the constitutional question shall be considered and determined by the court.

(4) From a determination of the appellate division of the supreme court in any department, other than a judgment or order which finally determines an action or special proceeding, where the appellate division allows the same and certifies that one or more questions of law have arisen which, in its opinion, ought to be reviewed by the court of appeals, but in such case the

appeal shall bring up for review only the question or questions so certified; and the court of appeals shall certify to the appellate division its determination upon such question or questions.

(5) From a judgment or order entered upon the decision of an appellate division of the supreme court which finally determines an action or special proceeding but which is not appealable under subdivision one of this section where the appellate division shall certify that in its opinion a question of law is involved which ought to be reviewed by the court of appeals, or where, in case of the refusal so to certify, an appeal is allowed by the court of appeals. Such an appeal shall be allowed when required in the interest of substantial justice. The legislature may further restrict the jurisdiction of the court of appeals and the right of appeal thereto. No appeal shall be taken to said court of appeals from a final judgment or order of the appellate division in any civil case or proceeding originally commenced in any court other than the supreme court, a county court, a surrogate's court, or a court of claims or board of audit unless the appellate division of the supreme court shall certify that in its opinion a question of law is involved which ought to be reviewed by the court of appeals.

[Appeals from judgment or order; new trial.] § 8. Upon an appeal from a judgment or an order, any appellate court to which the appeal is taken which is authorized to review such judgment or order may reverse or affirm, wholly or in part, or may modify the judgment or order appealed from, and each interlocutory

judgment or intermediate or other order which it is authorized to review, and as to any or all of the parties. It shall thereupon render judgment of affirmance, judgment of reversal and final judgment upon the right of any or all of the parties, or judgment of modification thereon according to law, except where it may be necessary or proper to grant a new trial or hearing, when it may grant a new trial or hearing.

[Removal of judges and justices.] § 9. Judges of the court of appeals and justices of the supreme court may be removed by concurrent resolution of both houses of the legislature, if two-thirds of all the members elected to each house concur therein. All other judicial officers, except justices of the peace, justices of the municipal court of the city of New York, and judges or justices of inferior courts not of record, may be removed by the senate, on the recommendation of the governor, if two-thirds of all the members elected to the senate concur therein. But no officer shall be removed by virtue of this section except for cause, which shall be entered on the journals, nor unless he shall have been served with a statement of the cause alleged, and shall have had an opportunity to be heard. On the question of removal, the yeas and nays shall be entered on the journal.

[Trial of impeachments.] § 10. The assembly shall have the power of impeachment by a vote of a majority of all the members elected thereto. The court for the trial of impeachments shall be composed of the president of the senate, the senators, or the major part

of them, and the judges of the court of appeals, or the major part of them. On the trial of an impeachment against the governor or lieutenant-governor, neither the lieutenant-governor nor the temporary president of the senate shall act as a member of the court. No judicial officer shall exercise his office after articles of impeachment against him shall have been preferred to the senate, until he shall have been acquitted. Before the trial of an impeachment, the members of the court shall take an oath or affirmation truly and impartially to try the impeachment according to the evidence, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold and enjoy any public office of honor, trust, or profit under this state; but the party impeached shall be liable to indictment and punishment according to law.

[County courts; jurisdiction.] § 11. The existing county courts are continued, and the judges thereof now in office shall hold their offices until the expiration of their respective terms. In the county of Kings there shall be five county judges and in the county of Bronx two county judges. The number of county judges in any county may also be increased, from time to time, by the legislature, to such number that the total number of county judges in any one county shall not exceed one for every two hundred thousand, or major fraction thereof, of the population of such county. The additional county judge in the county of Bronx shall be

chosen at the general election held in the first odd-numbered year after the adoption of this amendment. The additional county judges whose offices may be created by the legislature shall be chosen at the general election held in the first odd-numbered year after the creation of such office. All county judges, including successors to existing judges, shall be chosen by the electors of the counties for the term of six years from and including the first day of January following their election except that in counties within the city of New York the term shall be fourteen years. County courts in counties outside the city of New York shall have the powers and jurisdiction now prescribed by law, and also original jurisdiction in actions for the recovery of money only, where all the defendants reside in the county and in which the complaint demands judgment for a sum not exceeding three thousand dollars; but, if, in any action brought in said court, a counterclaim for more than three thousand dollars shall be interposed, the supreme court, on the application of either party made in the judicial district embracing the county, may remove the cause to the supreme court, whereupon such action shall proceed and be heard as if originally brought therein. The legislature may hereafter enlarge or restrict the jurisdiction of the county courts provided, however, that their jurisdiction shall not be so extended as to authorize an action therein for the recovery of money only in which (1) the sum demanded exceeds three thousand dollars, or (2) in which any person not a resident of the county is a defendant, unless such defendant have an office for the transaction of business

within the county and the cause of action arose therein. From and after the first day of January in the second year following the adoption of this article, all the jurisdiction in civil actions or proceedings now vested in the county courts of the counties of Kings, Bronx, Queens and Richmond shall be withdrawn from such county courts and vested in the city court of the city of New York as constituted in and by section fifteen of this article, and said county courts shall thereafter be vested with jurisdiction only in criminal prosecutions or proceedings as now or hereafter provided by law. County judges shall perform such duties as may be prescribed by law, and their compensation, as established by law, shall be payable out of the county treasury. A county judge of any county outside the city of New York may hold the county court in any other county when requested by the county judge of such other county; and, in case of the death, absence, or incapacity of a county judge, in a county having no special county judge then able to serve, the governor may designate a county judge of another county to hold the county court during such vacancy, absence, or inability to act.

[Special county judge or surrogate.] § 12. The legislature, on application of the board of supervisors or other body exercising similar powers, may, in any county having a county court, provide for the election of a special county judge or special surrogate, not to exceed two in any county, to discharge the duties of county judge or of surrogate in such cases as may be provided by law. Any such special county judge or

surrogate shall be chosen at the general election held in the first odd-numbered year after the creation of any such office, to take office on the first day of January following such election, but no appointment shall be made by the governor to such office meantime.

[Surrogates' courts; surrogates, their powers and jurisdiction; relief of.] § 13. The existing surrogates' courts are continued, and the surrogates now in office shall hold their offices until the expiration of their respective present terms. Their successors shall be chosen by the electors of their respective counties, and their terms of office shall be six years, except in the counties of New York, Kings, Bronx and Queens, where they shall hereafter be elected for terms of fourteen years. The legislature may provide for the election of an additional surrogate in any county having a population of more than one million. Surrogates and surrogates' courts shall have the jurisdiction, legal and equitable, and powers now established by law until otherwise provided by the legislature. The county judge shall be and serve as surrogate of his county except where a separate surrogate has been or shall be elected. In any county having a population exceeding forty thousand wherein there is now no separate surrogate, the legislature may provide for the election of a separate officer to be surrogate, whose term of office shall be six years. When the surrogate shall be elected as a separate officer, his compensation shall be established by law, and shall be payable out of the county treasury.

The legislature may at any time provide that the duties of county judge and surrogate in any county be discharged by the same person. For the relief of surrogates' courts, the legislature may confer upon the supreme court in any county having a population exceeding four hundred thousand, the powers and jurisdiction of surrogates.

[Court of general sessions of the county of New York.] § 14. The court of general sessions in and for the city and county of New York is continued with its present jurisdiction, under the name of the court of general sessions of the county of New York. The said court shall consist of the judges now in office, all of whom shall continue to be judges of the court of general sessions of the county of New York for the remainder of the terms for which they were severally elected or appointed. The successors to the judges who were elected or appointed as judges of the court of general sessions in and for the city and county of New York shall be elected by the electors within the county of New York. The legislature may in its discretion authorize the election of one or more additional judges of said court. The successors to all said judges of the court of general sessions of the county of New York shall be elected for the term of fourteen years.

[City court of city of New York; jurisdiction.] § 15. The city court of the city of New York is continued, and, from and after the first day of January in the second year following the adoption of this article, it

shall have the same jurisdiction and power throughout the city of New York, under the name of the city court of the city of New York, as it now possesses within the county of New York and the county of Bronx, and original jurisdiction concurrent with the supreme court in actions for the recovery of money only in which the complaint demands judgment for a sum not exceeding three thousand dollars, and interest, and in actions of replevin, foreclosure of mechanic's liens and liens on personal property where the property involved does not exceed in value the sum of three thousand dollars. Its jurisdiction to enter judgment upon a counterclaim shall be unlimited. It shall consist of the justices then in office, who shall continue to be justices of the court for the remainder of the terms for which they severally were elected or appointed, and the additional justices to be elected as provided in this section. The justices who were elected or appointed as justices of the city court of the city of New York shall be paid the compensation now fixed by law for such justices until the expiration of the terms for which they were respectively elected or appointed. Eight of their successors shall be elected by the electors of the county of New York and two by the electors of the county of Bronx, and hold office for ten years. There shall also be five additional justices, two of whom shall reside in and be chosen by the electors in the county of Kings, and one of whom shall reside in and be chosen by the electors in each of the counties of New York, Bronx and Queens, and all of whom shall be elected at the first general election following the adoption of this article, and

they and their successors, who shall be chosen in like manner, shall hold office for ten years. Until the legislature shall otherwise provide, the county judge and surrogate of Richmond county shall perform in said county the duties of a justice of the city court of the city of New York and also the duties of a justice of the supreme court at chambers or out of court. The legislature may in its discretion authorize the election of one or more additional justices of the city court in any county within the city of New York. The justices hereafter elected shall receive from the city of New York such compensation as may be fixed by law.

The justices of the city court of the city of New York shall choose one of their number to be the presiding justice thereof, who shall act as such during his term of office, and who shall be charged with the general administration of the court and the assignment of the justices to hold the terms thereof, subject to such regulations as the presiding justices of the appellate divisions of the supreme court in the first and second departments shall from time to time prescribe. The justices of said city court shall have power to appoint and remove a chief clerk of the court, and one or more deputy clerks in each county, who shall keep their respective office or offices at a place or places to be designated by the court, and whose duties shall be regulated and supervised by the presiding justice of the court.

All civil actions or proceedings pending on said first day of January in the county courts of the counties of Kings, Bronx, Queens and Richmond, respectively, are

hereby transferred to the city court of the city of New York for hearing and determination at terms held within the counties in which the same shall be pending, and, for the purpose only of such hearing and determination and the enforcement of the judgments rendered thereon, said city court shall have and exercise the equity jurisdiction previously vested in the respective county courts from which such cases are so transferred, but not otherwise. Until the legislature shall otherwise provide, the clerk of the city court of the city of New York and the chief clerk of the county court in each of the counties of Kings, Bronx, Queens and Richmond, shall severally act within his county as a deputy clerk of the city court of the city of New York, and the presiding justice of the court shall make such rules and regulations respecting the clerk's offices, the assignment of secretaries to the justices, court clerks, stenographers, interpreters and other attendants and the distribution of the business of the court in the said several counties as from time to time may be expedient, subject to such general regulations as the presiding justices of the appellate divisions of the first and second departments shall from time to time prescribe. Appeals from the city court of the city of New York shall be taken to the appellate term for the appropriate department or otherwise as may be prescribed by* law.

[Vacancies in certain judicial offices and New York city courts, how filled.] § 16. Vacancies occurring in the office of county judge, special county judge, surrogate,

* Spelled "my" in original.

special surrogate, judge of the court of general sessions of the city of New York, or justice of the city court of the county of New York, shall be filled by appointment by the governor by and with the advice and consent of the senate if the senate be in session, or if not in session, the governor shall fill such vacancy by appointment which shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

[Justices of the peace; justices of the municipal court of New York city and of inferior local courts; election and removal of.] § 17. The electors of the several towns shall, at their annual town meetings, or at such other time and in such manner as the legislature may direct, elect justices of the peace, whose term of office shall be four years. In case of an election to fill a vacancy occurring before the expiration of a full term, they shall hold for the remainder of the unexpired term. Their number, classification and duties shall be regulated by law. Justices of the peace, justices of the municipal court of the city of New York, and judges or justices of inferior courts not of record, and their clerks, may be removed for cause, after due notice and an opportunity of being heard, by such courts as are or may be prescribed by law. All other judicial officers in cities, whose election or appointment is not otherwise provided for in this article, including all judicial officers holding courts of special sessions, magistrates' courts, or other inferior local courts of criminal jurisdiction in the city of New York, shall be chosen by the electors of

such cities, or appointed by some local authorities thereof as may be prescribed by law. The boards of supervisors, or other officials exercising power now vested in such boards, may fix the compensation to be paid or allowed to justices of the peace for their services in criminal matters; but the powers or duties in criminal matters now exercised by justices of the peace may be transferred by law to inferior local courts of criminal jurisdiction, the territorial jurisdiction of which outside of cities may be defined by the respective boards of supervisors. (Amended by vote of the people Nov. 5, 1929.)

[Inferior local courts; children's and domestic relations courts.] § 18. Inferior local courts of civil and criminal jurisdiction may be established by the legislature, but no such inferior local court which has been created since the first day of January, one thousand eight hundred and ninety-five, or is hereafter created shall be a court of record. All inferior local courts now or hereafter established may be regulated or discontinued by the legislature. The legislature shall not hereafter confer upon any inferior or local court of its creation any equity jurisdiction or any greater jurisdiction in other respects than is conferred upon county courts by or under this article; but it may provide that the territorial jurisdiction in civil cases of any inferior or local court now existing or hereafter established in any city or of justices of the peace in cities shall extend throughout the county or counties in which such city may be located. Courts of special sessions and inferior local courts of similar character

shall have such jurisdiction of offenses of the grade of misdemeanors as may be prescribed by law, and the legislature may authorize them to try such offenses without a jury.

The legislature may establish children's courts, and courts of domestic relations, as separate courts, or as parts of existing courts or courts hereafter to be created, and may confer upon them such jurisdiction as may be necessary for the correction, protection, guardianship and disposition of delinquent, neglected or dependent minors, and for the punishment and correction of adults responsible for or contributing to such delinquency, neglect or dependency, and to compel the support of a wife, child, or poor relative by persons legally chargeable therewith who abandon or neglect to support any of them. In conferring such jurisdiction the legislature shall provide that whenever a child is committed to an institution or is placed in the custody of any person by parole, placing out, adoption, or guardianship, it shall be so committed or placed, when practicable, to an institution governed by persons, or in the custody of a person, of the same religious persuasion as the child. In the exercise of such jurisdiction such courts may hear and determine such causes with or without a jury, except those involving a felony.

[Judges, justices and surrogates; compensation; age restriction; not to hold other office; not to act as attorney or counselor.] § 19. All judges, justices and surrogates shall receive for their services such compensation as is now or may hereafter be established by law, provided only that such compensation shall not be

diminished during their respective terms of office. Except as in this article provided, all judicial officers shall be elected or appointed at such times and in such manner as the legislature may direct. No one shall be eligible to the office of judge of the court of appeals, justice of the supreme court, surrogate, or judge of any other court of record who is not an attorney and counselor of this state except in the county of Hamilton as to the office of county judge or surrogate. No judge or justice shall sit in any appellate court in review of a decision made by him or by any court of which he was at the time a sitting member. No person shall hold the office of judge or justice of any court or the office of surrogate longer than until and including the last day of December next after he shall be seventy years of age. The judges of the court of appeals and the justices of the supreme court shall not hold any other public office or trust, except that they shall be eligible to serve as members of a constitutional convention. All votes for any such judges or justices for any other than a judicial office or as a member of a constitutional convention, given by the legislature or the people, shall be void. No judicial officer except justices of the peace, shall receive to his own use any fees or perquisites of office. A judge of the court of appeals, a justice of the supreme court, a judge of the court of general sessions of the county of New York, a justice of the city court of the city of New York, and a county judge or surrogate elected in a county having a population exceeding one hundred and twenty thousand, shall not practice as an attorney or counselor in any court of record in

this state nor act as referee in any action or proceeding. The legislature may impose a similar prohibition upon county judges or surrogates in other counties. No district attorney or assistant to or deputy of a district attorney shall appear or act as attorney or counsel for the defendant in any criminal case or proceeding in any court of the state, nor shall any county judge, special county judge, surrogate, or special surrogate appear or act as counsel for a defendant in any criminal case or proceeding pending in his own county or in any adjacent county.

[Testimony in equity cases.] § 20. The testimony in equity cases shall be taken in like manner as in cases at law; and, except as herein otherwise provided, the legislature shall have the same power to alter and regulate the jurisdiction and proceedings in law and in equity that it has heretofore exercised.

[Clerks of courts.] § 21. The clerks of the several counties shall be clerks of the supreme court, with such powers and duties as shall be prescribed by law. The clerk of the court of appeals shall keep his office at the seat of government. The clerk of the court of appeals and the clerks of the appellate divisions shall receive such compensation as may be established by law which shall be paid out of the state treasury.

[Publication of statutes.] § 22. The legislature shall provide for the speedy publication of all statutes and all civil or criminal practice acts and rules, and for the collection, compilation and publication annually of the civil and criminal judicial statistics of the state. It

shall further provide for the creation of a state law reporting bureau, which shall be under the direction and control of an official state reporter, who shall be appointed and be removable by the court of appeals, and who shall be charged with the duty, as may be provided by law and directed by said court, of publishing official reports of the opinions or decisions of all the courts of the state. But all laws and judicial opinions or decisions shall nevertheless be free for publication by any person.

[Legislature may create or abolish board or court of claims.] § 23. Nothing in this article contained shall abridge the authority of the legislature to create or abolish any board or court with jurisdiction to hear and audit or determine claims against the state, and any such tribunal existing when this article shall take effect shall be continued with the powers then vested in it until otherwise provided by law.

(Article VI adopted by vote of the people November 3, 1925.)

ARTICLE VII

STATE FINANCES

[Estimates by departments, the legislature and the judiciary of needed appropriations; hearings.] Section 1. For the preparation of the budget, the head of each department of state government, except the legislature and judiciary, shall furnish the governor such estimates and information in such form and at such times as he may require, copies of which shall forthwith be furnished to the appropriate committees of the legislature. The

governor shall hold hearings thereon at which he may require the attendance of heads of departments and their subordinates. Designated representatives of such committees shall be entitled to attend the hearings thereon and to make inquiry concerning any part thereof.

Itemized estimates of the financial needs of the legislature, certified by the presiding officer of each house, and of the judiciary, certified by the comptroller, shall be transmitted to the governor not later than the first day of December in each year for inclusion in the budget without revision but with such recommendations as he may deem proper. (New. Derived in part from former § 1 of Art. 4-a. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Executive budget.] § 2. Annually, on or before the first day of February, the governor shall submit to the legislature a budget containing a complete plan of expenditures proposed to be made before the close of the ensuing fiscal year and all moneys and revenues estimated to be available therefor, together with an explanation of the basis of such estimates and recommendations as to proposed legislation, if any, which he may deem necessary to provide moneys and revenues sufficient to meet such proposed expenditures. It shall also contain such other recommendations and information as he may deem proper and such additional information as may be required by law. (New. Derived in part from former § 2 of Art. 4-a. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Budget bills; appearances before legislature.] § 3. At the time of submitting the budget to the legislature the governor shall submit a bill or bills containing all the proposed appropriations and reappropriations included in the budget and the proposed legislation, if any, recommended therein.

The governor may at any time within thirty days thereafter and, with the consent of the legislature, at any time before the adjournment thereof, amend or supplement the budget and submit amendments to any bills submitted by him or submit supplemental bills.

The governor and the heads of departments shall have the right, and it shall be the duty of the heads of departments when requested by either house of the legislature or an appropriate committee thereof, to appear and be heard in respect to the budget during the consideration thereof, and to answer inquiries relevant thereto. The procedure for such appearances and inquiries shall be provided by law. (New. Derived in part from former §§ 2 and 3 of Art. 4-a. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Action on budget bills by legislature; effect thereof.] § 4. The legislature may not alter an appropriation bill submitted by the governor except to strike out or reduce items therein, but it may add thereto items of appropriation provided that such additions are stated separately and distinctly from the original items of the bill and refer each to a single object or purpose. None of the restrictions of this section, however, shall apply to appropriations for the legislature or judiciary.

Such an appropriation bill shall when passed by both houses be a law immediately without further action by the governor, except that appropriations for the legislature and judiciary and separate items added to the governor's bills by the legislature shall be subject to his approval as provided in section 7 of article IV. (New. Derived in part from former § 3 of Art. 4-a. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Restrictions on consideration of other appropriations.] § 5. Neither house of the legislature shall consider any other bill making an appropriation until all the appropriation bills submitted by the governor shall have been finally acted on by both houses, except on message from the governor certifying to the necessity of the immediate passage of such a bill. (New. Derived in part from former § 4 of Art. 4-a. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938).

[Restrictions on content of appropriation bills.] § 6. Except for appropriations contained in the bills submitted by the governor and in a supplemental appropriation bill for the support of government, no appropriations shall be made except by separate bills each for a single object or purpose. All such bills and such supplemental appropriation bill shall be subject to the governor's approval as provided in section 7 of article IV.

No provision shall be embraced in any appropriation bill submitted by the governor or in such supple-

mental appropriation bill unless it relates specifically to some particular appropriation in the bill, and any such provision shall be limited in its operation to such appropriation. (New. Derived in part from former § 22 of Art. 3 and former § 4 of Art. 4-a. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Appropriation bills.] § 7. No money shall ever be paid out of the state treasury or any of its funds, or any of the funds under its management, except in pursuance of an appropriation by law; nor unless such payment be made within two years next after the passage of such appropriation act; and every such law making a new appropriation or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object or purpose to which it is to be applied; and it shall not be sufficient for such law to refer to any other law to fix such sum. (New. Derived in part from former § 21 of Art. 3. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Gift or loan of state credit or money prohibited; exceptions for enumerated purposes.] § 8. The money of the state shall not be given or loaned to or in aid of any private corporation or association, or private undertaking; nor shall the credit of the state be given or loaned to or in aid of any individual, or public or private corporation or association, or private undertaking, but the foregoing provisions shall not apply to any fund or property now held or which may hereafter be held by the state for educational purposes.

Subject to the limitations on indebtedness and taxation, nothing in this constitution contained shall prevent the legislature from providing for the aid, care and support of the needy directly or through subdivisions of the state; or for the protection by insurance or otherwise, against the hazards of unemployment, sickness and old age; or for the education and support of the blind, the deaf, the dumb, the physically handicapped and juvenile delinquents as it may deem proper; or for health and welfare services for all children, either directly or through subdivisions of the state, including school districts; or for the aid, care and support of neglected and dependent children and of the needy sick, through agencies and institutions authorized by the state board of social welfare or other state department having the power of inspection thereof, by payments made on a per capita basis directly or through the subdivisions of the state. The enumeration of legislative powers in this paragraph shall not be taken to diminish any power of the legislature hitherto existing. (Formerly § 1. Derived in part from former § 9 of Art. 8. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Short term state debts in anticipation of taxes, revenues and proceeds of sale of authorized bonds.] § 9. The state may contract debts in anticipation of the receipt of taxes and revenues, direct or indirect, for the purposes and within the amounts of appropriations theretofore made. Notes or other obligations for the moneys so borrowed shall be issued as may be provided

by law, and shall with the interest thereon be paid from such taxes and revenues within one year from the date of issue.

The state may also contract debts in anticipation of the receipt of the proceeds of the sale of bonds theretofore authorized, for the purpose and within the amounts of the bonds so authorized. Notes or obligations for the money so borrowed shall be issued as may be provided by law, and shall with the interest thereon be paid from the proceeds of the sale of such bonds within two years from the date of issue. (Formerly § 2. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[State debts on account of invasion, insurrection, war and forest fires.] § 10. In addition to the above limited power to contract debts, the state may contract debts to repel invasion, suppress insurrection, or defend the state in war, or to suppress forest fires; but the money arising from the contracting of such debts shall be applied for the purpose for which it was raised, or to repay such debts, and to no other purpose whatever. (Formerly § 3. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[State debts generally; manner of contracting; referendum.] § 11. Except the debts specified in sections 9 and 10 of this article, no debt shall be hereafter contracted by or in behalf of the state, unless such debt shall be authorized by law, for some single work or

purpose, to be distinctly specified therein. No such law shall take effect until it shall, at a general election, have been submitted to the people, and have received a majority of all the votes cast for and against it at such election nor shall it be submitted to be voted on within three months after its passage nor at any general election when any other law or any bill shall be submitted to be voted for or against.

The legislature may, at any time after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may at any time, by law, forbid the contracting of any further debt or liability under such law. (Formerly § 4. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[State debts generally; how paid; restrictions on use of bond proceeds.] § 12. Except the debts specified in sections 9 and 10 of this article, all debts contracted by the state and each portion of any such debt from time to time so contracted shall be paid in equal annual installments, the first of which shall be payable not more than one year, and the last of which shall be payable not more than forty years, after such debt or portion thereof shall have been contracted, provided, however, that in contracting any such debt the privilege of paying all or any part of such debt prior to the date on which the same shall be due may be reserved to the state in such manner as may be provided by law. No such debt shall be contracted for a period longer than that of the probable life of the work or purpose for

which the debt is to be contracted, to be determined by general laws, which determination shall be conclusive.

The money arising from any loan creating such debt or liability shall be applied only to the work or purpose specified in the act authorizing such debt or liability, or for the payment of such debt or liability, including any notes or obligations issued in anticipation of the sale of bonds evidencing such debt or liability. (Derived in part from former § 4. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Refund of state debts.] § 13. The legislature may provide means and authority whereby any state debt may be refunded if, when it was contracted, the privilege to pay prior to the date payable was reserved to the state and provided that the debt as thus refunded shall be paid in equal annual installments which shall be not less in amount than the required annual installments of the debt so refunded. (New. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[State debt for elimination of railroad crossings at grade; expenses; how borne.] § 14. The legislature may authorize by law the creation of a debt or debts of the state, not exceeding in the aggregate three hundred million dollars, to provide moneys for the elimination, under state supervision, of railroad crossings at grade within the state, and for incidental improvements connected therewith as authorized by this section. The provisions of this article, not inconsistent with this section, relating to the issuance of bonds for a debt or

debts of the state and the maturity and payment thereof, shall apply to a state debt or debts created pursuant to this section; except that the law authorizing the contracting of such debt or debts shall take effect without submission to the people pursuant to section 11 of this article. The aggregate amount of a state debt or debts which may be created pursuant to this section shall not exceed the difference between the amount of the debt or debts heretofore created or authorized by law, under the provisions of section 14 of article VII of the constitution in force on July first, nineteen hundred thirty-eight, and the sum of three hundred million dollars.

The expense of any grade crossing elimination the construction work for which was not commenced before January first, nineteen hundred thirty-nine, including incidental improvements connected therewith as authorized by this section, whether or not an order for such elimination shall theretofore have been made, shall be paid by the state in the first instance, but the state shall be entitled to recover from the railroad company or companies, by way of reimbursement (1) the entire amount of the railroad improvements not an essential part of elimination, and (2) the amount of the net benefit to the company or companies from the elimination exclusive of such railroad improvements, the amount of such net benefit to be adjudicated after the completion of the work in the manner to be prescribed by law, and in no event to exceed fifteen per centum of the expense of the elimination, exclusive of all incidental improvements. The reimbursement by the railroad companies

shall be payable at such times, in such manner and with interest at such rate as the legislature may prescribe.

The expense of any grade crossing elimination the construction work for which was commenced before January first, nineteen hundred thirty-nine, shall be borne by the state, railroad companies, and the municipality or municipalities in the proportions formerly prescribed by section 14 of article VII of the constitution in force on July first, nineteen hundred thirty-eight, and the law or laws enacted pursuant to its provisions, applicable to such elimination, and subject to the provisions of such former section and law or laws, including advances in aid of any railroad company or municipality, although such elimination shall not be completed until after January first, nineteen hundred thirty-nine.

A grade crossing elimination the construction work for which shall be commenced after January first, nineteen hundred thirty-nine, shall include incidental improvements rendered necessary or desirable because of such elimination, and reasonably included in the engineering plans therefor.

Out of the balance of all moneys authorized to be expended under section 14 of article VII of the constitution in force on July first, nineteen hundred thirty-eight, and remaining unexpended and unobligated on such date, fifty million dollars shall be deemed segregated for grade crossing eliminations and incidental improvements in the city of New York and shall be available only for such purposes until such eliminations and improvements are completed and paid for. (Amended by Constitutional

Convention of 1938 and approved by vote of the people November 8, 1938.)

[Sinking funds; how kept and invested; income therefrom and application thereof.] § 15. 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. 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 thereupon appropriate as the contribution to each such fund for such year at least the amount thus certified.

If the income of any such fund in any year is more than a sum which, if annually added to such fund would, with the fund and its accumulations as aforesaid, retire the debt at maturity, the excess income may be applied to the interest on the debt for which the fund was created.

After any sinking fund shall equal in amount the debt for which it was created no further contribution shall be

made thereto except to make good any losses ascertained at the annual appraisals above mentioned, and the income thereof shall be applied to the payment of the interest on such debt. Any excess in such income not required for the payment of interest may be applied to the general fund of the state. (Formerly § 5. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Payment of state debts; when comptroller to pay without appropriation.] § 16. The legislature shall annually provide by appropriation for the payment of the interest upon and installments of principal of all debts created on behalf of the state except those contracted under section 9 of this article, as the same shall fall due, and for the contribution to all of the sinking funds heretofore created by law, of the amounts annually to be contributed under the provisions of section 15 of this article. If at any time the legislature shall fail to make any such appropriation, the comptroller shall set apart from the first revenues thereafter received, applicable to the general fund of the state, a sum sufficient to pay such interest, installments of principal, or contributions to such sinking fund, as the case may be, and shall so apply the moneys thus set apart. The comptroller may be required to set aside and apply such revenues as aforesaid, at the suit of any holder of such bonds. (Formerly § 11. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

ARTICLE VIII

Local Finances

[Gift or loan of property or credit of local subdivisions prohibited; exceptions for enumerated purposes.] Section 1. No county, city, town, village or school district shall give or loan any money or property to or in aid of any individual, or private corporation or association, or private undertaking, or become directly or indirectly the owner of stock in, or bonds of, any private corporation or association; nor shall any county, city, town, village or school district give or loan its credit to or in aid of any individual, or public or private corporation or association, or private undertaking, but this provision shall not prevent a county from contracting indebtedness for the purpose of advancing to a town or school district, pursuant to law, the amount of unpaid taxes returned to it.

Subject to the limitations on indebtedness and taxation applying to any county, city or town, nothing in this constitution contained shall prevent a county, city or town from making such provision for the aid, care and support of the needy as may be authorized by law, nor prevent any such county, city or town from providing for the care, support, maintenance and secular education of inmates of orphan asylums, homes for dependent children or correctional institutions and of children placed in family homes by authorized agencies, whether under public or private control, or from providing health and welfare services for all children. Payments by counties, cities or towns to charitable, eleemosynary, correctional and reformatory institutions and agencies,

wholly or partly under private control, for care, support and maintenance, may be authorized, but shall not be required, by the legislature. No such payments shall be made for any person cared for by any such institution or agency, nor for a child placed in a family home, who is not received and retained therein pursuant to rules established by the state board of social welfare or other state department having the power of inspection thereof. (Formerly § 10. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Restrictions on indebtedness of local subdivisions; contracting and payment of local indebtedness; exceptions.] § 2. No county, city, town, village or school district shall contract any indebtedness except for county, city, town, village or school district purposes, respectively. No indebtedness shall be contracted for longer than the period of probable usefulness of the object or purpose for which such indebtedness is to be contracted, to be determined by or pursuant to general or special laws, which determination shall be conclusive, and in no event for longer than forty years. No indebtedness hereafter contracted or any portion thereof shall be refunded beyond such period computed from the date such indebtedness was contracted. Indebtedness heretofore contracted may be refunded only with the approval of and on terms and conditions prescribed by the state comptroller, but in no event for a period exceeding twenty years from the date of such refunding.

No indebtedness shall be contracted by any county, city, town, village or school district unless such county,

city, town, village or school district shall have pledged its faith and credit for the payment of the principal thereof and the interest thereon. Except for indebtedness contracted in anticipation of the collection of taxes actually levied and uncollected or to be levied for the year when such indebtedness is contracted and indebtedness contracted to be paid in one of the two fiscal years immediately succeeding the fiscal year in which such indebtedness was contracted, all such indebtedness and each portion thereof from time to time contracted, including any refunding thereof, shall be paid in annual installments, the first of which, except in the case of refunding of indebtedness heretofore contracted, shall be paid not more than two years after such indebtedness or portion thereof shall have been contracted, and no installment, except in the case of refunding of indebtedness heretofore contracted, shall be more than fifty per centum in excess of the smallest prior installment.

Notwithstanding the foregoing provisions, indebtedness contracted by the city of New York and each portion of any such indebtedness from time to time so contracted for (a) the supply of water, (b) the acquisition, construction or equipment of rapid transit railroads, or (c) the construction of docks, including the acquisition of land in connection with any of such purposes, may be financed either by serial bonds with a maximum maturity of fifty years, in which case such indebtedness shall be paid in annual installments as hereinbefore provided, or by sinking fund bonds with a maximum maturity of fifty years, which shall be redeemed through annual contributions to

sinking funds established and maintained for the purpose of amortizing the indebtedness for which such bonds are issued.

Provision shall be made annually by appropriation by every county, city, town, village and school district for the payment of interest on all indebtedness and for the amounts required for (a) the amortization and redemption of term bonds, sinking fund bonds and serial bonds, (b) the redemption of certificates or other evidence of indebtedness, except those described in paragraph A of section 5 of this article and those issued in anticipation of the receipt of the proceeds of the sale of bonds theretofore authorized, contracted to be paid in such year out of the tax levy or other revenues applicable to a reduction thereof, and (c) the redemption of certificates or other evidence of indebtedness issued in anticipation of the collection of taxes or other revenues, or renewals thereof, which are not retired within five years after their date of original issue. If at any time the respective appropriating authorities shall fail to make such appropriations, a sufficient sum shall be set apart from the first revenues thereafter received and shall be applied to such purposes. The fiscal officer of any county, city,* town, village or school district may be required to set apart and apply such revenues as aforesaid at the suit of any holder of obligations issued for any such indebtedness. (New. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Restrictions on creation and indebtedness of certain corporations.] § 3. No municipal or other corporation

* Comma does not appear in original.

(other than a county, city, town, village, school district or fire district, or a river improvement, river regulating, or drainage district, established by or under the supervision of the department of conservation) possessing the power (a) to contract indebtedness and (b) to levy taxes or benefit assessments upon real estate or to require the levy of such taxes or assessments, shall hereafter be established or created, but nothing herein shall prevent the creation of improvement districts in counties and towns, provided that the county or town or towns in which such districts are located shall pledge its or their faith and credit for the payment of the principal of and interest on all indebtedness to be contracted for the purposes of such districts, and in ascertaining the power of any such county or town to contract indebtedness, such indebtedness shall be included, unless such indebtedness would, under the provisions of this article, be excluded in ascertaining the power of a county or town to contract indebtedness. No such corporation now existing shall hereafter contract any indebtedness without the consent, granted in such manner as may be prescribed by general law, of the city or village within which, or of the town within any unincorporated area of which any real estate may be subject to such taxes or assessments. If the real estate subject to such taxes or assessments is wholly within a city, village or the unincorporated area of a town, in ascertaining the power of such city, village or town to contract indebtedness, there shall be included any indebtedness hereafter contracted by such corporation, unless such indebtedness would, under the pro-

visions of this article, be excluded if contracted by such city, village or town. If only part of the real estate subject to such taxes or assessments is within a city, village or the unincorporated area of a town, in ascertaining the power of such city, village or town to contract indebtedness, there shall be included the proportion, determined as prescribed by general law, of any indebtedness hereafter contracted by such corporation, unless such indebtedness would, under the provisions of this article, be excluded if contracted by such city, village or town. (New. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Limitations on local indebtedness.] § 4. Except as otherwise provided in this article, no county, city, town or village shall be allowed to contract indebtedness for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed ten per centum of the average assessed valuation of the real estate of such county, city, town or village subject to taxation, as determined by the last completed assessment rolls and the four preceding rolls of such county, city, town or village for county, city, town or village taxes prior to the contracting of such indebtedness; and no county, other than the county of Nassau, and no town or village shall be allowed to contract indebtedness on and after January first, nineteen hundred forty-four, to an amount which, including then existing indebtedness, shall exceed nine per centum of such assessed valuation of real estate, and on and after January first, nineteen hundred forty-nine, to an amount

which, including then existing indebtedness, shall exceed eight per centum thereof. No city, other than the city of New York, shall be allowed to contract indebtedness on and after January first, nineteen hundred forty-four, to an amount which, including then existing indebtedness, shall exceed nine and one-half per centum of such assessed valuation of real estate, and on and after January first, nineteen hundred forty-nine, to an amount which, including then existing indebtedness, shall exceed nine per centum thereof.

The indebtedness of a school district part of which is now without and part of which is now within or coterminous with a city and the indebtedness of a union free school district now wholly within but not coterminous with a city shall not be included in ascertaining the power of such city to contract indebtedness. This provision shall apply to a city, the incorporation of which has been heretofore provided for by law to become effective hereafter.

Any indebtedness, except as provided in sections 5, 6 and 7 of this article, contracted in excess of the respective limitations prescribed in this section, shall be absolutely void. (Derived in part from former § 10. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Ascertainment of debt-incurring power of counties, cities, towns and villages; certain indebtedness to be excluded.] § 5. In ascertaining the power of a county, city, town or village to contract indebtedness, there shall be excluded:

A. Certificates or other evidences of indebtedness issued in any fiscal year in anticipation of (a) the collection of taxes on real estate for amounts theretofore actually levied and uncollected or to be levied in such year and payable out of such taxes, (b) moneys receivable from the state which have theretofore been apportioned by the state or which are to be so apportioned within one year after their issue and (c) the collection of any other taxes due and payable or to become due and payable within one year or of other revenues to be received within one year after their issue; excepting any such certificates or other evidences of indebtedness or renewals thereof which are not retired within five years after their date of original issue.

B. Indebtedness heretofore or hereafter contracted to provide for the supply of water.

C. Indebtedness heretofore or hereafter contracted by any county, city, town or village for a public improvement or service owned or rendered by such county, city, town or village which shall have yielded to such county, city, town or village during the preceding year net revenue, to be determined annually by deducting from the gross revenues received therefrom during such preceding year an amount equal to all costs, during such year, of operation, maintenance, repairs and replacements, and the interest on such indebtedness and the amounts required in such years for the amortization or payment of such indebtedness. The legislature shall prescribe the method by which the amount of any such indebtedness to be so excluded shall be determined, and no such indebtedness shall be excluded ex-

cept in accordance with such determination. The legislature may confer appropriate jurisdiction on the appellate division of the supreme court in the judicial departments in which such counties, cities, towns or villages are located for the purpose of determining the amount of any such indebtedness to be so excluded.

D. Serial bonds, issued by any county, city, town or village which now maintains a pension or retirement system or fund which is not on an actuarial reserve basis with current payments to the reserve adequate to provide for all current accruing liabilities. Such bonds shall not exceed in the aggregate an amount sufficient to provide for the payment of the liabilities of such system or fund, accrued on the date of issuing such bonds, both on account of pensioners on the pension roll on that date and prospective pensions to dependents of such pensioners and on account of prior service of active members of such system or fund on that date. Such bonds or the proceeds thereof shall be deposited in such system or fund. Each such pension or retirement system or fund thereafter shall be maintained on an actuarial reserve basis with current payments to the reserve adequate to provide for all current accruing liabilities. (Derived in part from former § 10. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Debt-incurring power of Buffalo, Rochester and Syracuse; certain additional indebtedness to be excluded.] § 6. In ascertaining the power of the cities of Buffalo, Rochester and Syracuse to contract indebtedness, in

addition to the indebtedness excluded by section 5 of this article, there shall be excluded:

Indebtedness not exceeding in the aggregate the sum of ten million dollars, heretofore or hereafter contracted by the city of Buffalo or the city of Rochester and indebtedness not exceeding in the aggregate the sum of five million dollars heretofore or hereafter contracted by the city of Syracuse for so much of the cost and expense of any public improvement as may be required by the ordinance or other local law therein assessing the same to be raised by assessment upon local property or territory. (Derived in part from former § 10. Renumbered and amended by the Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Debt-incurring power of New York city; certain additional indebtedness to be excluded.] § 7. In ascertaining the power of the city of New York to contract indebtedness, in addition to the indebtedness excluded by section 5 of this article, there shall be excluded:

A. Indebtedness (except for capital improvements) not exceeding one-tenth of one per centum of the average assessed valuation of real estate subject to taxation determined as prescribed in section four of this article, for which have been issued certificates or other evidences of indebtedness to be redeemed out of the tax levy for the year next succeeding the year of their issue.

B. Indebtedness contracted prior to the first day of January, nineteen hundred ten, for dock purposes proportionately to the extent to which the current net revenues received by the city therefrom shall meet the interest on and the annual requirements for the amorti-

zation of such indebtedness. The legislature shall prescribe the method by which and the terms and conditions under which the amount of any such indebtedness to be so excluded shall be determined, and no such indebtedness shall be excluded except in accordance with such determination. The legislature may confer appropriate jurisdiction on the appellate division of the supreme court in the first judicial department for the purpose of determining the amount of any such indebtedness to be so excluded.

C. The aggregate of indebtedness initially contracted from time to time after January first, nineteen hundred twenty-eight, for the construction or equipment, or both, of new rapid transit railroads, not exceeding the sum of three hundred million dollars. Any indebtedness thereafter contracted in excess of such sum for such purposes shall not be so excluded, but this provision shall not be construed to prevent the refunding of any of the indebtedness excluded hereunder. (Derived in part from former § 10. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Debt-incurring power of New York city; certain indebtedness for railroads and transit purposes to be excluded.] § 7a. In ascertaining the power of the city of New York to contract indebtedness, in addition to the indebtedness excluded under any other section of this constitution, there shall be excluded:

A. The aggregate of indebtedness initially contracted from time to time by the city for the acquisition of railroads and facilities or properties used in connection

therewith or rights therein or securities of corporations owning such railroads, facilities or rights, not exceeding the sum of three hundred fifteen million dollars. Provision for the amortization of such indebtedness shall be made either by the establishment and maintenance of a sinking fund therefor or by annual payment of part thereof, or by both such methods. Any indebtedness thereafter contracted in excess of such sum for such purposes shall not be so excluded, but this provision shall not be construed to prevent the refunding of any such indebtedness.

Notwithstanding any other provision of the constitution, the city is hereby authorized to contract indebtedness for such purposes and to deliver its obligations evidencing such indebtedness to the corporations owning the railroads, facilities, properties or rights acquired, to the holders of securities of such owning corporations, to the holders of securities of corporations holding the securities of such owning corporations, or to the holders of securities to which such acquired railroads, facilities, properties or rights are now subject.

B. Indebtedness contracted by the city for transit purposes, and not otherwise excluded, proportionately to the extent to which the current net revenue received by the city from all railroads and facilities and properties used in connection therewith and rights therein owned by the city and securities of corporations owning such railroads, facilities, properties or rights, owned by the city, shall meet the interest and the annual requirements for the amortization and payment of such non-excluded indebtedness.

In determining whether indebtedness for transit purposes may be excluded under this paragraph of this section, there shall first be deducted from the current net revenue received by the city from such railroads and facilities and properties used in connection therewith and rights therein and securities owned by the city: (a) an amount equal to the interest and amortization requirements on indebtedness for rapid transit purposes heretofore excluded by order of the appellate division, which exclusion shall not be terminated by or under any provision of this section; (b) an amount equal to the interest on indebtedness contracted pursuant to this section and of the annual requirements for amortization on any sinking fund bonds and for redemption of any serial bonds evidencing such indebtedness; (c) an amount equal to the sum of all taxes and bridge tolls accruing to the city in the fiscal year of the city preceding the acquisition of the railroads or facilities or properties or rights therein or securities acquired by the city hereunder, from such railroads, facilities and properties; and (d) the amount of net operating revenue derived by the city from the independent subway system during such fiscal year.

The legislature shall prescribe the method by which and the terms and conditions under which the amount of any indebtedness to be excluded hereunder shall be determined, and no indebtedness shall be excluded except in accordance with the determination so prescribed. The legislature may confer appropriate jurisdiction on the appellate division of the supreme court in the first judicial department for the purpose of determining the

amount of any debt to be so excluded. (New. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Indebtedness not to be invalidated by operation of this article.] § 8. No indebtedness of a county, city, town, village or school district valid at the time of its inception shall thereafter become invalid by reason of the operation of any of the provisions of this article. (Derived in part from former § 10. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[When debt-incurring power of certain counties shall cease.] § 9. Whenever the boundaries of any city are the same as those of a county, or when any city includes within its boundaries more than one county, the power of any county wholly included within such city to contract indebtedness shall cease, but the indebtedness of such county shall not, for the purposes of this article, be included as a part of the city indebtedness. (Derived in part from former § 10. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Limitations on amount to be raised by real estate taxes for local purposes; exceptions.] § 10. Hereafter, in any county containing a city of over one hundred thousand inhabitants, or in any such city, and, on or after January first, nineteen hundred forty-four, in any other city or any village, the amount to be raised by tax on real estate in any fiscal year for county purposes, for city purposes or for village purposes, in addition to

providing for the interest on and the principal of all indebtedness, shall not in the aggregate exceed an amount equal to two per centum of the average assessed valuation of the real estate of such county, city or village subject to taxation, less the taxes levied in such year for the payment of the interest on and redemption of certificates or other evidence of indebtedness described in paragraphs A and D of section 5 of this article, or renewals thereof, and certificates or other evidence of indebtedness (except serial bonds of an issue having a maximum maturity of more than two years) issued for purposes other than the financing of capital improvements and contracted to be redeemed in one of the two fiscal years immediately succeeding the year of their issue. Such average assessed valuation shall be determined in the manner prescribed in section 4 of this article with respect to the limitations on indebtedness.

The provisions of this section shall not, however, prevent the legislature, by general or special law, from excluding from the limitation herein imposed, in the case of a village or of a city having not more than one hundred thousand inhabitants, the whole or any part of the amount raised by tax on real estate for educational purposes.

The amount raised by tax on real estate for educational purposes in a school district part of which is now without and part of which is now within or coterminous with a city, or of a union free school district now wholly within but not coterminous with a city, shall not be included in determining the tax limitation of such city. (Derived in part from former § 10. Renumbered and

amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Taxes for certain capital expenditures to be excluded from tax limitation.] § 11. Whenever any county, city or village is required by law to pay for all or any part of the cost of capital improvements by direct budgetary appropriation in any fiscal year or by the issuance of certificates or other evidence of indebtedness (except serial bonds of an issue having a maximum maturity of more than two years) to be redeemed in one of the two immediately succeeding fiscal years, taxes required for such appropriation or for the redemption of such certificates or other evidence of indebtedness may be excluded in whole or in part by such county, city or village from the tax limitation prescribed by section 10 of this article, in which event the total amount so required for such appropriation and for the redemption of such certificates or other evidence of indebtedness shall be deemed to be indebtedness to the same extent and in the same manner as if such amount had been financed through indebtedness payable in equal annual installments over the period of the probable usefulness of such capital improvement, as determined by law.

The fiscal officer of any such county, city or village shall determine the amount to be deemed indebtedness pursuant to this section, and the legislature may, in its discretion, provide that such determination, if approved by the state comptroller, shall be conclusive. (New. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Further limitations on contracting local indebtedness authorized.] § 12. Nothing in this article shall be construed to prevent the legislature from further restricting the powers herein specified of any county, city, town, village or school district to contract indebtedness or to levy taxes on real estate. The legislature shall not, however, restrict the power to levy taxes on real estate for the payment of interest on or principal of indebtedness theretofore contracted. (New. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

ARTICLE IX

LOCAL GOVERNMENTS

[Counties; organization and government; restrictions on legislature with respect to laws affecting.] Section 1-(a) There shall be in each county, except in a county wholly included in a city, a board of supervisors, or other elective governing body, to be composed of such members and elected in such manner and for such period as is or may be provided by law.

(b) The legislature shall provide by law for the organization and government of counties. No law which shall be special or local in its terms or in its effect, or which shall relate specially to one county only, shall be enacted by the legislature unless (a) upon the request of the board of supervisors or other elective governing body of each county to be affected, or, in any county having an alternative form of government providing for an elective county executive officer, upon the request of the board of supervisors or other elective governing

body with the concurrence of such executive officer of each county to be affected; or (b) upon a certificate of necessity by the governor to the legislature reciting the facts of such necessity existing in the county to be affected and the concurrence of two-thirds of the members elected to each house of the legislature.

(c) The legislature may authorize boards of supervisors or other elective governing bodies of two or more counties to provide by agreement for the discharge within the territorial limits of such counties or parts thereof of one or more governmental functions. (Formerly § 26 of Art. 3 in part. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Counties; alternative forms of government for; effect of adoption thereof.] § 2-(a) The legislature shall provide by law alternative forms of government for counties except counties wholly included in a city and for the submission of one or more such forms of government to the electors residing in such counties. No such form of government shall become operative in any such county unless and until adopted at a general election held in such county by receiving a majority of the total votes cast thereon in the county, and if any such form of government provides for the transfer of any function of local government to or from the cities, the towns or the villages of the county, or any class thereof, it shall not take effect with respect to such transfer unless the transfer or the form of government containing it, shall also receive a majority of all the

votes cast thereon in such cities, towns, villages, or class thereof, as the case may be.

(b) Any such form of government shall set forth the structure of the county government and the manner in which it is to function. Any such form of government may provide for the appointment of any county officers or their selection by any method of nomination and election, or the abolition of their offices, and may also provide for the exercise by the board of supervisors or other elective governing body of powers of local legislation and administration and the transfer of any or all of the functions and duties of the county and the cities, towns, villages, districts and other units of government contained in such county to each other or to the state, and for the abolition of offices, departments, agencies or units of government when all of their functions are so transferred without regard to the provisions of this article or any other provisions of this constitution inconsistent herewith.

(c) Except as provided in subdivision (b) of section 1 hereof nothing herein contained shall be deemed to impair or restrict the existing power of the legislature to enact laws relating to the government of a county or the cities, towns, villages, districts or other units of government therein contained until the adoption of a form of government by such county pursuant to subdivision (a) of this section.

(d) After the adoption of a form of government by a county pursuant to subdivision (a) of this section, no law enacted pursuant to subdivision (b) of section 1 hereof which abolishes or creates an elective office or

changes the voting or veto power of or the method of removing an elective officer, changes the term of office or reduces the salary of an elective officer during his term of office, abolishes, transfers or curtails any power of an elective officer, or changes the form or composition of the elective body of such county, shall become effective until at least sixty days after its final enactment. If within such sixty days electors of the county in number equal to at least five per centum of the total number of votes cast in the county for governor at the last gubernatorial election shall file a petition with the county clerk or corresponding officer of the county protesting against such law, it shall become effective only if approved by the electors of such county at the next ensuing general election held at least sixty days thereafter, in the manner provided in subdivision (a) of this section for the adoption of a form of government.

(e) If under a form of government adopted by a county pursuant to subdivision (a) of this section the board of supervisors be abolished, the powers and duties of the board of supervisors, as prescribed by the constitution or by statute, if not provided for by such form of government shall devolve upon the elective governing body in such county.

(f) In a city which includes an entire county, or two or more entire counties, the powers and duties of a board of supervisors may be devolved upon the council or other legislative body of the city. (Derived in part from former § 26 of Art. 3. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Existing laws to remain applicable.] § 3. Existing laws applicable to the government of counties and the cities, towns, villages, districts and other units of government therein contained shall continue in force until repealed, amended, modified or superseded by law or by a form of government and, except as provided in subdivision (b) of section 2 hereof, nothing contained in this section shall be construed to impair the provisions of sections 9, 11, 12, 13, 14 and 15 of this article. (Formerly subdivision 7 of § 26 of Art. 3. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Further powers of local legislation and administration for counties; county auditors.] § 4. The legislature shall, by general laws, confer upon the boards of supervisors, or other governing elective bodies, of the several counties of the state such further powers of local legislation and administration as the legislature may, from time to time, deem expedient. In counties which now have, or may hereafter have, county auditors or other fiscal officers, authorized to audit bills, accounts, charges, claims or demands against the county, the legislature may confer such powers upon such auditors, or fiscal officers, as the legislature may, from time to time, deem expedient. (Formerly § 27 of Art. 3. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Sheriffs; clerks of counties; district attorneys; registers; power of removal.] § 5. Except in counties in

the city of New York, sheriffs, clerks of counties, district attorneys, and registers in counties having registers, shall be chosen by the electors of the respective counties, once in every three years and as often as vacancies shall happen. Sheriffs shall hold no other office. They may be required by law to renew their security, from time to time; and in default of giving such new security, their offices shall be deemed vacant. But the county shall never be made responsible for the acts of the sheriff. The governor may remove any officer, hereinbefore in this section mentioned, within the term for which he shall have been elected; giving to such officer a copy of the charges against him, and an opportunity of being heard in his defense. In each county in the city of New York a district attorney shall be chosen by the electors once in every two or four years as the legislature shall direct and shall be subject to removal by the governor within the term for which he shall have been elected; giving to such officer a copy of the charges against him, and an opportunity of being heard in his defense. The clerks of said counties shall be appointed, and be subject to removal by the appellate division of the supreme court in the judicial department in which the respective counties are located. In addition to their powers and duties as clerks of the supreme court, they shall have power to select, draw, summon and empanel grand and petit jurors in the manner and under the conditions now or hereafter prescribed by law, and shall have such other powers and duties as shall be prescribed from time to time by local law. (Formerly § 1 of Art. 10. Re-

numbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Removal of district attorney for failure to prosecute; expenses in prosecutions of bribery.] § 6. Any district attorney who shall fail faithfully to prosecute a person charged with the violation in his county of any provision of article XIII of this constitution which may come to his knowledge, shall be removed from office by the governor, after due notice and an opportunity of being heard in his defense. The expenses which shall be incurred by any county, in investigating and prosecuting any charge of bribery or attempting to bribe any person holding office under the laws of this state, within such county, or of receiving bribes by any such person in said county, shall be a charge against the state, and their payment by the state shall be provided for by law. (Formerly § 6 of Art. 13. Transferred and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Appointment or election of county officers when not provided for by constitution.] § 7. Except as herein otherwise provided for counties in the city of New York, county officers whose election or appointment is not provided for by this constitution, shall be elected by the electors of the respective counties or appointed by the boards of supervisors, or other county authorities, as the legislature shall direct. (Formerly § 2 of Art. 10 in part. Renumbered and transferred by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Powers of the city of New York over certain county officers; restrictions on legislature; appointment or election of officers generally when not provided for by constitution.] § 8. In counties in the city of New York the city of New York is hereby vested with power from time to time by local law, to abolish the office of any county officer other than judges, clerks of counties and district attorneys, and to assign any or all functions of such officers to city officers, courts or clerks of counties, and to prescribe the powers, duties, qualifications, number, mode of selection and removal, terms of office and compensation of the persons holding such offices and the employees therein, and to assign to city officers any powers or duties of clerks of counties not assigned by this constitution. The legislature shall not pass any law affecting any such matters in relation to such offices within the city of New York except on message from the governor declaring that an emergency exists and the concurrent action of two-thirds of the members of each house of the legislature but, existing laws regarding each such office shall continue in force, and may be amended or repealed by the legislature as heretofore, until the power herein granted to the city has been exercised with respect to that office. The elective county officers in office at the time that this article shall take effect, shall continue in office until the end of the terms for which they were elected. The provisions of this article shall not prevent the legislature from passing general or special laws prescribing or affecting powers and duties of such city officers or such courts or clerks to whom or which

functions of such county officers shall have been so assigned, in so far as such powers or duties embrace subjects not relating to property, affairs or government of such city. All city, town and village officers, whose election or appointment is not provided for by this constitution shall be elected by the electors of such cities, towns and villages, or of some division thereof, or appointed by such authorities thereof, as the legislature shall designate for that purpose. All other officers, whose election or appointment is not provided for by this constitution, and all officers, whose offices may hereafter be created by law, shall be elected by the people or appointed, as the legislature may direct. (Derived in part from former § 2 of Art. 10. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Cities and villages; organization; powers to be restricted.] § 9. It shall be the duty of the legislature to provide for the organization of cities and incorporated villages, in such manner as shall secure to such cities and villages the powers granted to cities and villages by this constitution and, subject to the provisions of this constitution, to restrict the power of taxation, assessment, borrowing money, contracting debts, and loaning the credit of such municipal corporations, so as to prevent abuses in taxation and assessments and in contracting debt by such municipal corporations; and the legislature may regulate and fix the wages or salaries, the hours of work or labor, and make provision for the protection, welfare and safety of persons employed by the state or by any county, city, town, village

or other civil division of the state, or by any contractor or subcontractor performing work, labor or services for the state, or for any county, city, town, village or other civil division thereof. (Formerly § 1 of Art. 12. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Extra compensation prohibited.] § 10. The legislature shall not, nor shall the common council of any city, nor any board of supervisors, grant any extra compensation to any public officer, servant, agent or contractor. (Formerly § 28 of Art. 3. Renumbered and transferred by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Passage of special city laws prohibited; exceptions.] § 11. The legislature shall act in relation to the property, affairs or government of any city only by general laws which shall in terms and in effect apply alike to all cities, except upon the request of the mayor of the city affected concurred in by the local legislative body or upon the request of two-thirds of the elected members of the local legislative body declaring that a necessity exists and reciting the facts establishing such necessity and the concurrent action of two-thirds of the members of each house of the legislature. The legislature may by general laws confer on cities such powers of local legislation and administration in addition to the powers vested in cities by this article as it may, from time to time, deem expedient and may withdraw such powers. The provisions of this article shall not be deemed to restrict

the power of the legislature to enact laws relating to matters other than the property, affairs or government of cities. (Formerly § 2 of Art. 12. Renumbered, transferred and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Power of cities to enact local laws relating to property, affairs or government.] § 12. Every city shall have power to adopt and amend local laws not inconsistent with the constitution and laws of the state relating to its property, affairs or government. Every city shall also have the power to adopt and amend local laws not inconsistent with this constitution and laws of the state, and whether or not such local laws relate to its property, affairs or government, in respect to the following subjects: the powers, duties, qualifications, number, mode of selection and removal, terms of office and compensation of all its officers and employees except of members of the governing elective body of the county in which such city is wholly contained, the membership and constitution of its local legislative body, the transaction of its business, the incurring of its obligations, the presentation, ascertainment and discharge of claims against it, the acquisition, care, management and use of its streets and property, the ownership and operation of its transit facilities, the collection and administration of local taxes authorized by the legislature, the wages or salaries, the hours of work or labor, and the protection, welfare and safety of persons employed by any contractor or subcontractor performing work, labor or services for it, the government and regulation

of the conduct of its inhabitants and the protection of their property, safety and health.

Every city may repeal, supersede or modify any law which was enacted upon and which required, pursuant to the constitution, a message from the governor declaring that an emergency existed and the concurrent action of two-thirds of the members of each house of the legislature, insofar as such law relates to the property, affairs or government of such city, except that no city may, unless hereafter authorized by the legislature, (a) reduce any salary or compensation or change any working conditions or hours of employment if such salary, compensation, working conditions or hours of employment shall have been heretofore approved upon referendum pursuant to law, except upon approval of such reduction or change by a majority of the electors of such city voting thereon, or (b) repeal or supersede any law enacted by the legislature relating to any pension or retirement system or to the making and review of assessments or to the judicial review of dismissals from the civil service.

The provisions of this article shall not be deemed to restrict or diminish the existing powers of any city. (Formerly § 3 of Art. 12. Renumbered, transferred and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Existing laws to remain applicable; reservation of power in legislature over certain matters.] § 13. A. The provisions of this article shall not affect any existing provisions of law not inconsistent with this article; but all existing charters and other laws, so far as not

inconsistent with this article, shall continue in force until repealed, amended, modified or superseded in accordance with the provisions of this article.

B. Nothing in this article contained shall apply to or affect or be deemed to restrict the power of the legislature in relation to (a) the maintenance, support or administration of the public school systems in any city, as required or provided by article XI of this constitution, or any retirement system pertaining to such public school system or systems, (b) counties not wholly contained within a city, (c) counties wholly contained within the city of New York, except to the extent provided by section 8 of this article, or (d) the courts as required or provided by article VI of this constitution. (Formerly § 7 of Art. 12. Renumbered, transferred and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Annexation of territory to cities.] § 14. No territory shall be annexed to any city until the people of the territory proposed to be annexed shall have consented to such annexation by a majority vote on a referendum called for that purpose. (Formerly § 8 of Art. 12. Renumbered and transferred by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Election of city officers and certain county officers to be held in odd-numbered years.] § 15. All elections of city officers, including supervisors, elected in any city or part of a city, and of county officers elected in any county wholly included in a city, except to fill vacancies,

shall be held on the Tuesday succeeding the first Monday in November in an odd-numbered year, and the term of every such officer shall expire at the end of an odd-numbered year. This section shall not apply to elections of any judicial officer. (Formerly § 6 of Art. 12. Renumbered, transferred and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Villages of five thousand or more; home rule for; duty of and restrictions on legislature respecting.] § 16. The legislature, on or before July first, nineteen hundred forty shall confer by general law upon all villages having a population of five thousand or more as determined by the federal census power to adopt and amend local laws not inconsistent with the constitution and laws of the state relating to the property, affairs or government of such villages but subject to such limitations as the legislature may, by general law, from time to time impose. Thereafter, the legislature shall act in relation to the property, affairs or government of such villages only by general law which shall in terms and in effect apply alike to all such villages except upon the request of the chief executive officer of the village affected, concurred in by the local legislative body or upon a message from the governor, in either case declaring that a necessity exists and reciting the facts establishing such necessity, and the concurrent action of two-thirds of the members of each house of the legislature. The legislature shall not authorize a village to pass local laws repealing or modifying any act of the legislature relating to the

civil service status of employees of the village. The legislature by general law may confer on such villages such additional powers of local legislation and administration as it may, from time to time, deem expedient and may withdraw such powers. The provisions of this section shall not be deemed to restrict the power of the legislature to enact laws relating to matters other than the property, affairs or government of such villages. (New. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

ARTICLE X

CORPORATIONS

[Corporations; formation of.] Section 1. Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the legislature, the objects of the corporation cannot be attained under general laws. All general laws and special acts passed pursuant to this section may be altered from time to time or repealed. (Formerly § 1 of Art. 8. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Dues of corporations.] § 2. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law. (Formerly § 2 of Art. 8. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Savings bank charters; restrictions on trustees; special charters not to be granted.] § 3. The legislature shall, by general law, conform all charters of savings banks, or institutions for savings, to a uniformity of powers, rights and liabilities, and all charters hereafter granted for such corporations shall be made to conform to such general law, and to such amendments as may be made thereto. And no such corporation shall have any capital stock, nor shall the trustees thereof, or any of them, have any interest whatever, direct or indirect, in the profits of such corporation; and no director or trustee of any such bank or institution shall be interested in any loan or use of any money or property of such bank or institution for savings. The legislature shall have no power to pass any act granting any special charter for banking purposes; but corporations or associations may be formed for such purposes under general laws. (Formerly § 4 of Art. 8. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Corporations; definition; right to sue and be sued.] § 4. The term corporations as used in this section, and in sections 1, 2 and 3 of this article shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue and shall be subject to be sued in all courts in like cases as natural persons. (Formerly § 3 of Art. 8. Renumbered and

amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Public corporations; restrictions on creation and powers; accounts; obligations of.] § 5. No public corporation (other than a county, city, town, village, school district or fire district or an improvement district established in a town or towns) possessing both the power to contract indebtedness and the power to collect rentals, charges, rates or fees for the services or facilities furnished or supplied by it shall hereafter be created except by special act of the legislature.

No such public corporation (other than a county or city) shall hereafter be given both the power to contract indebtedness and the power, within any city, to collect rentals, charges, rates or fees from the owners of real estate, or the occupants of real estate (other than the occupants of premises owned or controlled by such corporation or by the state or any civil division thereof), for services or facilities furnished or supplied in connection with such real estate, if such services or facilities are of a character or nature then or formerly furnished or supplied by the city, unless the electors of the city shall approve the granting to such corporation of such powers by a majority vote at a general or special election in such city; but this paragraph shall not apply to a corporation created pursuant to an interstate compact.

The accounts of every such public corporation heretofore or hereafter created shall be subject to the supervision of the state comptroller, or, if the member or members of such public corporation are appointed

by the mayor of a city, to the supervision of the comptroller of such city; provided, however, that this provision shall not apply to such a public corporation created pursuant to agreement or compact with another state or with a foreign power, except with the consent of the parties to such agreement or compact.

Neither the state nor any political subdivision thereof shall at any time be liable for the payment of any obligations issued by such a public corporation heretofore or hereafter created, nor may the legislature accept, authorize acceptance of or impose such liability upon the state or any political subdivision thereof; but the state or a political subdivision thereof may, if authorized by the legislature, acquire the properties of any such corporation and pay the indebtedness thereof. (New. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

ARTICLE XI

Education

[Common schools.] Section 1. The legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this state may be educated. (Formerly § 1 of Art. 9. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Regents of the University.] § 2. The corporation created in the year one thousand seven hundred eighty-four, under the name of The Regents of the University of the State of New York, is hereby continued under

the name of The University of the State of New York. It shall be governed and its corporate powers, which may be increased, modified or diminished by the legislature, shall be exercised by not less than nine regents. (Formerly § 2 of Art. 9. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Common school, literature and the United States deposit funds.] § 3. The capital of the common school fund, the capital of the literature fund, and the capital of the United States deposit fund shall be respectively preserved inviolate and the revenue of the said funds shall be applied to the support of common schools and libraries. (Formerly § 3 of Art. 9. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Use of public property or money in aid of denominational schools prohibited; transportation of children authorized.] § 4. Neither the state nor any subdivision thereof shall use its property or credit or any public money, or authorize or permit either to be used, directly or indirectly, in aid or maintenance, other than for examination or inspection, of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught, but the legislature may provide for the transportation of children to and from any school or institution of learning. (Formerly § 4 of Art. 9. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

ARTICLE XII

MILITARY

[State militia.] Section 1. All able-bodied male citizens of the United States between the ages of eighteen and forty-five, who are residents of the state, and all other able-bodied male residents thereof between such ages, who have or shall have declared their intention to become citizens of the United States, shall constitute the militia, subject however to such exceptions and exemptions as are now, or may be hereafter created by the laws of the United States, or by the legislature of this state. (Formerly § 1 of Art. 11. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Enlistment.] § 2. The legislature may provide for the enlistment into the active force of such other persons as may make application to be so enlisted. (Formerly § 2 of Art. 11. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Organization of militia.] § 3. The militia shall be organized and divided into such land, air and naval, and active and reserve forces, as the legislature may deem proper, provided however that there shall be maintained at all times a force of not less than ten thousand enlisted men, fully uniformed, armed, equipped, disciplined and ready for active service. And it shall be the duty of the legislature at each session to make sufficient appropriations for the maintenance thereof.

(Formerly § 3 of Art. 11. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Governor to appoint adjutant-general and major-generals.] § 4. The governor shall appoint the adjutant-general; he shall also nominate, and with the consent of the senate appoint, all major-generals. (Formerly § 4 of Art. 11. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Appointment of other officers.] § 5. All other commissioned and non-commissioned officers shall be appointed as provided by law. (Formerly § 5 of Art. 11. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Commissioned officers; removal.] § 6. The commissioned officers shall be commissioned by the governor as commander-in-chief. No commissioned officer shall be removed from office during the term for which he shall have been appointed, unless by the senate on the recommendation of the governor, stating the grounds on which such removal is recommended, or by the sentence of a court-martial, or upon the findings of an examining board organized pursuant to law, or for absence without leave for a period of six months or more. (Formerly § 6 of Art. 11. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

ARTICLE XIII

PUBLIC OFFICERS

[Oath of office; no other test for public office.] Section 1. Members of the legislature, and all officers, executive and judicial, except such inferior officers as shall be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the constitution of the United States, and the constitution of the State of New York, and that I will faithfully discharge the duties of the office of ....., according to the best of my ability;" and no other oath, declaration or test shall be required as a qualification for any office of public trust, except that any committee of a political party may, by rule, provide for equal representation of the sexes on any such committee, and a state convention of a political party, at which candidates for public office are nominated, may, by rule, provide for equal representation of the sexes on any committee of such party. (Amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Bribery by public officials.] § 2. Any person holding office under the laws of this state, who, except in payment of his legal salary, fees or perquisites, shall receive or consent to receive, directly or indirectly, anything of value or of personal advantage, or the promise thereof, for performing or omitting to perform any official act, or with the express or implied understanding

that his official action or omission to act is to be in any degree influenced thereby, shall be deemed guilty of a felony. This section shall not affect the validity of any existing statute in relation to the offense of bribery.

[Offer or promise to bribe.] § 3. Any person who shall offer or promise a bribe to an officer, if it shall be received, shall be deemed guilty of a felony and liable to punishment, except as herein provided. No person offering a bribe shall, upon any prosecution of the officer for receiving such bribe, be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor, if he shall testify to the giving or offering of such bribe. Any person who shall offer or promise a bribe, if it be rejected by the officer to whom it was tendered, shall be guilty of an attempt to bribe, which is hereby declared to be a felony.

[Person bribed or offering bribe may testify.] § 4. Any person charged with receiving a bribe, or with offering or promising a bribe, shall be permitted to testify in his own behalf in any civil or criminal prosecution therefor.

[Free passes, franking privileges, etc. not to be received by public officers; penalty.] § 5. No public officer, or person elected or appointed to a public office, under the laws of this state, shall directly or indirectly ask, demand, accept, receive or consent to receive for his own use or benefit, or for the use or benefit of another, any free pass, free transportation, franking privilege or discrimination in passenger, telegraph or

telephone rates, from any person or corporation, or make use of the same himself or in conjunction with another. A person who violates any provision of this section, shall be deemed guilty of a misdemeanor, and shall forfeit his office at the suit of the attorney-general. Any corporation, or officer or agent thereof, who shall offer or promise to a public officer, or person elected or appointed to a public office, any such free pass, free transportation, franking privilege or discrimination, shall also be deemed guilty of a misdemeanor and liable to punishment except as herein provided. No person, or officer or agent of a corporation giving any such free pass, free transportation, franking privilege or discrimination hereby prohibited, shall be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor if he shall testify to the giving of the same.

[Duration of term of office.] § 6. When the duration of any office is not provided by this constitution it may be declared by law, and if not so declared, such office shall be held during the pleasure of the authority making the appointment. (Formerly § 3 of Art. 10. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Time of election of certain officers.] § 7. The time of electing all officers named in sections 5 and 7 of article IX of this constitution shall be prescribed by law. (Formerly § 4 of Art. 10. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Vacancies in office; how filled.] § 8. The legislature shall provide for filling vacancies in office, and in case of elective officers, no person appointed to fill a vacancy shall hold his office by virtue of such appointment longer than the commencement of the political year next succeeding the first annual election after the happening of the vacancy. (Formerly § 5 of Art. 10. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Political year and legislative term.] § 9. The political year and legislative term shall begin on the first day of January; and the legislature shall, every year, assemble on the first Wednesday after the first Monday in January. (Formerly § 6 of Art. 10. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Removal from office for misconduct.] § 10. Provision shall be made by law for the removal for misconduct or malversation in office of all officers, except judicial, whose powers and duties are not local or legislative and who shall be elected at general elections, and also for supplying vacancies created by such removal. (Formerly § 7 of Art. 10. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[When office to be deemed vacant; legislature may declare.] § 11. The legislature may declare the cases in which any office shall be deemed vacant when no provision is made for that purpose in this constitution.

(Formerly § 8 of Art. 10. Renumbered by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Compensation of officers.] § 12. No officer whose salary is fixed by this constitution shall receive any additional compensation. Each of the other state officers named in this constitution shall, during his continuance in office, receive a compensation, to be fixed by law, which shall not be increased or diminished during the term for which he shall have been elected or appointed; nor shall he receive to his use any fees or perquisites of office or other compensation. (Formerly § 9 of Art. 10. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

ARTICLE XIV

CONSERVATION

[Forest preserve to be forever kept wild; certain highways authorized.] Section 1. The lands of the state, now owned or hereafter acquired, constituting the forest preserve as now fixed by law, shall be forever kept as wild forest lands. They shall not be leased, sold or exchanged, or be taken by any corporation, public or private, nor shall the timber thereon be sold, removed or destroyed. Nothing herein contained shall prevent the state from constructing, completing and maintaining any highway heretofore specifically authorized by constitutional amendment. (Formerly § 7 of Art. 7. Renumbered and amended by Constitutional Con-

vention of 1938 and approved by vote of the people November 8, 1938.)

[Reservoirs.] § 2. The legislature may by general laws provide for the use of not exceeding three per centum of such lands for the construction and maintenance of reservoirs for municipal water supply, for the canals of the state and to regulate the flow of streams. Such reservoirs shall be constructed, owned and controlled by the state, but such work shall not be undertaken until after the boundaries and high flow lines thereof shall have been accurately surveyed and fixed, and after public notice, hearing and determination that such lands are required for such public use. The expense of any such improvements shall be apportioned on the public and private property and municipalities benefited to the extent of the benefits received. Any such reservoir shall always be operated by the state and the legislature shall provide for a charge upon the property and municipalities benefited for a reasonable return to the state upon the value of the rights and property of the state used and the services of the state rendered, which shall be fixed for terms of not exceeding ten years and be readjustable at the end of any term. Unsanitary conditions shall not be created or continued by any such public works. (Derived in part from former § 7 of Art. 7. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Wild life conservation and reforestation.] § 3. Wild life conservation and reforestation are hereby declared

to be policies of the state. For the purpose of carrying out such policies the legislature may appropriate moneys for the acquisition by the state of land, outside of the Adirondack and Catskill parks as now fixed by law, for the practice of forestry or wild life management. The prohibitions of section 1 of this article shall not apply to any lands heretofore or hereafter acquired for such purposes within the forest preserve counties but outside of the Adirondack and Catskill parks as now fixed by law, except that such lands shall not be leased, sold or exchanged, or be taken by any corporation, public or private. (Formerly § 16 of Art. 7. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Violations of article; how restrained.] § 4. A violation of any of the provisions of this article may be restrained at the suit of the people or, with the consent of the supreme court in appellate division, on notice to the attorney-general at the suit of any citizen. (New. Derived from former § 7 of Art. 7. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

ARTICLE XV

CANALS

[Disposition of canals and canal properties prohibited.] Section 1. The legislature shall not sell, lease, abandon or otherwise dispose of the now existing or future improved barge canal, the divisions of which are the Erie canal, the Oswego canal, the Champlain

canal, and the Cayuga and Seneca canals, or of the terminals constructed as part of the barge canal system; nor shall it sell, lease, abandon or otherwise dispose of any portion of the canal system existing prior to the barge canal improvement which portion forms a part of, or functions as a part of, the present barge canal system; but such canals and terminals shall remain the property of the state and under its management and control forever. This prohibition shall not prevent the legislature, by appropriate laws, from authorizing the granting of revocable permits for the occupancy or use of such lands or structures. (Formerly § 8 of Art. 7. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Prohibition inapplicable to lands and properties no longer useful; disposition authorized.] § 2. The prohibition of sale, abandonment or other disposition contained in section 1 of this article shall not apply to barge canal lands, barge canal terminals or barge canal terminal lands which have or may become no longer necessary or useful for canal or terminal purposes; nor to any canal lands and appertaining structures constituting the canal system prior to the barge canal improvement which have or may become no longer necessary or useful in conjunction with the now existing barge canal. The legislature may by appropriate legislation authorize the sale, exchange, abandonment or other disposition of any barge canal lands, barge canal terminals, barge canal terminal lands or other canal lands and appertaining structures which

have or may become no longer necessary or useful as a part of the barge canal system, as an aid to navigation thereon, or for barge canal terminal purposes.

All funds that may be derived from any sale or other disposition of any barge canal lands, barge canal terminals, barge canal terminal lands or other canal lands and appertaining structures shall be paid into the general fund of the treasury. (Formerly duplicate § 8 of Art. 7. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[No tolls to be imposed; contracts for work and materials; no extra compensation.] § 3. No tolls shall hereafter be imposed on persons or property transported on the canals, but all boats navigating the canals and the owners and masters thereof, shall be subject to such laws and regulations as have been or may hereafter be enacted concerning the navigation of the canals. The legislature shall annually make provision for the expenses of the superintendence and repairs of the canals, and may provide for the improvement of the canals in such manner as shall be provided by law. All contracts for work or materials on any canal shall be made with the persons who shall offer to do or provide the same at the lowest price, with adequate security for their performance. No extra compensation shall be made to any contractor; but if, from any unforeseen cause, the terms of any contract shall prove to be unjust and oppressive, the superintendent of public works may, upon the application of the contractor, cancel such contract. (Formerly

§ 9 of Art. 7. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

ARTICLE XVI*

TAXATION

[Power of taxation; exemptions from taxation.] Section 1. The power of taxation shall never be surrendered, suspended or contracted away, except as to securities issued for public purposes pursuant to law. Any laws which delegate the taxing power shall specify the types of taxes which may be imposed thereunder and provide for their review.

Exemptions from taxation may be granted only by general laws. Exemptions may be altered or repealed except those exempting real or personal property used exclusively for religious, educational or charitable purposes as defined by law and owned by any corporation or association organized or conducted exclusively for one or more of such purposes and not operating for profit.

[Assessments for taxation purposes.] § 2. The legislature shall provide for the supervision, review and equalization of assessments for purposes of taxation. Assessments shall in no case exceed full value.

Nothing in this constitution shall be deemed to prevent the legislature from providing for the assessment, levy and collection of village taxes by the taxing

---

* [Entire article new. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.]

authorities of those subdivisions of the state in which the lands comprising the respective villages are located, nor from providing that the respective counties of the state may loan or advance to any village located in whole or in part within such county the amount of any tax which shall have been levied for village purposes upon any lands located within such county and remaining unpaid.

[Situs of intangible personal property; taxation of.] § 3. Moneys, credits, securities and other intangible personal property within the state not employed in carrying on any business therein by the owner shall be deemed to be located at the domicile of the owner for purposes of taxation, and, if held in trust, shall not be deemed to be located in this state for purposes of taxation because of the trustee being domiciled in this state, provided that if no other state has jurisdiction to subject such property held in trust to death taxation, it may be deemed property having a taxable situs within this state for purposes of death taxation. Intangible personal property shall not be taxed ad valorem nor shall any excise tax be levied solely because of the ownership or possession thereof, except that the income therefrom may be taken into consideration in computing any excise tax measured by income generally. Undistributed profits shall not be taxed.

[Certain corporations not to be discriminated against.] § 4. Where the state has power to tax corporations incorporated under the laws of the United

States there shall be no discrimination in the rates and method of taxation between such corporations and other corporations exercising substantially similar functions and engaged in substantially similar business within the state.

[Compensation of public officers and employees subject to taxation.] § 5. All salaries, wages and other compensation, except pensions, paid to officers and employees of the state and its subdivisions and agencies shall be subject to taxation.

ARTICLE XVII

Social Welfare

[Public relief and care.] Section 1. The aid, care and support of the needy are public concerns and shall be provided by the state and by such of its subdivisions, and in such manner and by such means, as the legislature may from time to time determine. (New. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[State board of social welfare; powers and duties.] § 2. The state board of social welfare shall be continued. It shall visit and inspect, or cause to be visited and inspected by members of its staff, all public and private institutions, whether state, county, municipal, incorporated or not incorporated, which are in receipt of public funds and which are of a charitable, eleemosynary, correctional or reformatory character, including all reformatories for juveniles and institutions or agencies exercising custody of dependent, neglected or

delinquent children, but excepting state institutions for the education and support of the blind, the deaf and the dumb, and excepting also such institutions as are hereinafter made subject to the visitation and inspection of the department of mental hygiene or the state commission of correction. As to institutions, whether incorporated or not incorporated, having inmates, but not in receipt of public funds, which are of a charitable, eleemosynary, correctional or reformatory character, and agencies, whether incorporated or not incorporated, not in receipt of public funds, which exercise custody of dependent, neglected or delinquent children, the state board of social welfare shall make inspections, or cause inspections to be made by members of its staff, but solely as to matters directly affecting the health, safety, treatment and training of their inmates, or of the children under their custody. Subject to the control of the legislature and pursuant to the procedure prescribed by general law, the state board of social welfare may make rules and regulations, not inconsistent with this constitution, with respect to all of the functions, powers and duties with which the department and the state board of social welfare are herein or shall be charged. (New. Derived in part from former § 11 of Art. 8. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Public health.] § 3. The protection and promotion of the health of the inhabitants of the state are matters of public concern and provision therefor shall be made by the state and by such of its subdivisions

and in such manner, and by such means as the legislature shall from time to time determine. (New. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Care and treatment of persons suffering from mental disorder or defect; visitation of institutions for.] § 4. The care and treatment of persons suffering from mental disorder or defect and the protection of the mental health of the inhabitants of the state may be provided by state and local authorities and in such manner as the legislature may from time to time determine. The head of the department of mental hygiene shall visit and inspect, or cause to be visited and inspected by members of his staff, all institutions either public or private used for the care and treatment of persons suffering from mental disorder or defect. (New. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Institutions for detention of criminals; probation; parole; state commission of correction.] § 5. The legislature may provide for the maintenance and support of institutions for the detention of persons charged with or convicted of crime and for systems of probation and parole of persons convicted of crime. There shall be a state commission of correction, of which the head of the department of correction shall be the chairman, which shall visit and inspect, or cause to be visited and inspected by members of its staff, all institutions used for the detention of sane adults charged

with or convicted of crime. (New. Derived in part from former § 11 of Art. 8. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Visitation and inspection.] § 6. Visitation and inspection as herein authorized, shall not be exclusive of other visitation and inspection now or hereafter authorized by law. (New. Derived from former § 13 of Art. 8. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

ARTICLE XVIII *

HOUSING

[Housing for persons of low income; slum clearance.] Section 1. Subject to the provisions of this article, the legislature may provide in such manner, by such means and upon such terms and conditions as it may prescribe for low rent housing for persons of low income as defined by law, or for the clearance, replanning, reconstruction and rehabilitation of substandard and insanitary areas, or for both such purposes, and for recreational and other facilities incidental or appurtenant thereto.

[Idem; powers of legislature in aid of.] § 2. For and in aid of such purposes, notwithstanding any provision in any other article of this constitution, but subject to the limitations contained in this article, the

* [Entire article new. Adopted by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.]

legislature may: make or contract to make or authorize to be made or contracted capital or periodic subsidies by the state to any city, town, village, or public corporation, payable only with moneys appropriated therefor from the general fund of the state; authorize any city, town or village to make or contract to make such subsidies to any public corporation, payable only with moneys locally appropriated therefor from the general or other fund available for current expenses of such municipality; authorize the contracting of indebtedness for the purpose of providing moneys out of which it may make or contract to make or authorize to be made or contracted loans by the state to any city, town, village or public corporation; authorize any city, town or village to make or contract to make loans to any public corporation; authorize any city, town or village to guarantee the principal of and interest on, or only the interest on, indebtedness contracted by a public corporation; authorize and provide for loans by the state and authorize loans by any city, town or village to or in aid of corporations regulated by law as to rents, profits, dividends and disposition of their property or franchises and engaged in providing housing facilities; authorize any city, town or village to make loans to the owners of existing multiple dwellings for the rehabilitation and improvement thereof for occupancy by persons of low income as defined by law; grant or authorize tax exemptions in whole or in part, except that no such exemption may be granted or authorized for a period of more than sixty years; authorize cooperation with and the ac-

ceptance of aid from the United States; grant the power of eminent domain to any city, town or village, to any public corporation and to any corporation regulated by law as to rents, profits, dividends and disposition of its property or franchises and engaged in providing housing facilities.

As used in this article, the term "public corporation" shall mean any corporate governmental agency (except a county or municipal corporation) organized pursuant to law to accomplish any or all of the purposes specified in this article.

[Article VII to apply to state debts under this article, with certain exceptions; capital and periodic subsidies.] § 3. The provisions of article VII, not inconsistent with this article, relating to debts of the state shall apply to all debts contracted by the state for the purpose of providing moneys out of which to make loans pursuant to this article, except (a) that any law or laws authorizing the contracting of such debt, not exceeding in the aggregate three hundred million dollars, shall take effect without submission to the people, and the contracting of a greater amount of debt may not be authorized prior to January first, nineteen hundred forty-two; (b) that any such debt and each portion thereof shall be paid in equal annual installments, the first of which shall be payable not more than three years, and the last of which shall be payable not more than fifty years, after such debt or portion thereof shall have been contracted; and (c) that any law authorizing the contracting of such debt may be submitted to the people at a general election,

whether or not any other law or bill shall be submitted to be voted for or against at such election.

Any law authorizing the making of contracts for capital or periodic subsidies to be paid with moneys currently appropriated from the general fund of the state shall take effect without submission to the people, and the amount to be paid under such contracts shall not be included in ascertaining the amount of indebtedness which may be contracted by the state under this article; provided, however, (a) that such periodic subsidies shall not be paid for a period longer than the life of the projects assisted thereby, but in any event for not more than sixty years; (b) that no contracts for periodic subsidies shall be entered into in any one year requiring payments aggregating more than one million dollars in any one year; and (c) that there shall not be outstanding at any one time contracts for periodic subsidies requiring payments exceeding an aggregate of five million dollars in any one year, unless a law authorizing contracts in excess of such amounts shall have been submitted to and approved by the people at a general election.

[Powers of cities, towns and villages to contract indebtedness in aid of low rent housing and slum clearance projects; restrictions thereon.] § 4. To effectuate any of the purposes of this article, the legislature may authorize any city, town or village to contract indebtedness to an amount which shall not exceed two per centum of the average assessed valuation of the real estate of such city, town or village subject to taxation, as determined by the last completed assessment

roll and the four preceding assessment rolls of such city, town or village, for city, town or village taxes prior to the contracting of such indebtedness. In ascertaining the power of a city to contract indebtedness pursuant to this article there may be excluded any such indebtedness if the project or projects aided by guarantees representing such indebtedness or by loans for which such indebtedness was contracted shall have yielded during the preceding year net revenue to be determined annually by deducting from the gross revenues, including periodic subsidies therefor, received from such project or projects, all costs of operation, maintenance, repairs and replacements, and the interest on such indebtedness and the amounts required in such year for the payment of such indebtedness; provided that in the case of guarantees such interest and such amounts shall have been paid, and in the case of loans an amount equal to such interest and such amounts shall have been paid to such city. The legislature shall prescribe the method by which the amount of any such indebtedness to be excluded shall be determined, and no such indebtedness shall be excluded except in accordance with such determination. The legislature may confer appropriate jurisdiction on the appellate division of the supreme court in the judicial departments in which such cities are located for the purpose of determining the amount of any such indebtedness to be so excluded.

The liability of a city, town or village on account of any contract for capital or periodic subsidies to be paid subsequent to the then current year shall, for the

purpose of ascertaining the power of such city, town or village to contract indebtedness, be deemed indebtedness in the amount of the commuted value of the total of such capital or periodic subsidies remaining unpaid, calculated on the basis of an annual interest rate of four per centum. Such periodic subsidies shall not be contracted for a period longer than the life of the projects assisted thereby, and in no event for more than sixty years. Indebtedness contracted pursuant to this article shall be excluded in ascertaining the power of a city otherwise to create indebtedness under any other section of this constitution. Notwithstanding the foregoing the legislature shall not authorize any city to contract indebtedness hereunder in excess of the limitations prescribed by any other article of this constitution unless at the same time it shall by law require such city to levy annually a tax or taxes other than an ad valorem tax on real estate to an extent sufficient to provide for the payment of the principal of and interest on any such indebtedness. Nothing herein contained, however, shall be construed to prevent such city from pledging its faith and credit for the payment of such principal and interest nor shall any such law prevent recourse to an ad valorem tax on real estate to the extent that revenue derived from such other tax or taxes in any year, together with revenues from the project or projects aided by the proceeds of such indebtedness, shall become insufficient to provide fully for payment of such principal and interest in that year.

[Liability for certain loans made by the state to certain public corporations.] § 5. Any city, town or village shall be liable for the repayment of any loans and interest thereon made by the state to any public corporation, acting as an instrumentality of such city, town or village. Such liability of a city shall be excluded in ascertaining the power of such city to become indebted pursuant to the provisions of this article, except that in the event of a default in payment under the terms of any such loan, the unpaid balance thereof shall be included in ascertaining the power of such city to become so indebted. No subsidy, in addition to any capital or periodic subsidy originally contracted for in aid of any project or projects authorized under this article, shall be paid by the state to a city, town, village or public corporation, acting as an instrumentality thereof, for the purpose of enabling such city, town, village or corporation to remedy an actual default or avoid an impending default in the payment of principal or interest on a loan which has been theretofore made by the state to such city, town, village or corporation pursuant to this article.

[Loans and subsidies; restrictions on and preference in occupancy of projects.] § 6. No loan or subsidy shall be made by the state to aid any project unless such project is in conformity with a plan or undertaking for the clearance, replanning and reconstruction or rehabilitation of a substandard and insanitary area or areas and for recreational and other facilities incidental or appurtenant thereto. The legislature may

provide additional conditions to the making of such loans or subsidies consistent with the purposes of this article. The occupancy of any such project shall be restricted to persons of low income as defined by law and preference shall be given to persons who live or shall have lived in* such area or areas.

[Liability arising from guarantees to be deemed indebtedness; method of computing.] § 7. The liability arising from any guarantee of the principal of and interest on indebtedness contracted by a public corporation shall be deemed indebtedness in the amount of the face value of the principal thereof remaining unpaid. The liability arising from any guarantee of only the interest on indebtedness contracted by a public corporation shall be deemed indebtedness in the amount of the commuted value of the total interest guaranteed and remaining unpaid, calculated on the basis of an annual interest rate of four per centum.

[Excess condemnation.] § 8. Any agency of the state, or any city, town, village or public corporation, which is empowered by law to take private property by eminent domain for any of the public purposes specified in section one of this article, may be empowered by the legislature to take property necessary for any such purpose but in excess of that required for public use after such purpose shall have been accomplished; and to improve and utilize such excess, wholly or partly for any other public purpose, or to lease or sell such excess with restrictions to preserve and protect such improvement or improvements.

---

* Word "in" appears twice in original.

[Acquisition of property for purposes of article.] § 9. Subject to any limitation imposed by the legislature, the state, or any city, town, village or public corporation, may acquire by purchase, gift, eminent domain or otherwise, such property as it may deem ultimately necessary or proper to effectuate the purposes of this article, or any of them, although temporarily not required for such purposes.

[Power of legislature; construction of article.] § 10. The legislature is empowered to make all laws which it shall deem necessary and proper for carrying into execution the foregoing powers. This article shall be construed as extending powers which otherwise might be limited by other articles of this constitution and shall not be construed as imposing additional limitations; but nothing in this article contained shall be deemed to authorize or empower the state, or any city, town, village or public corporation, to engage in any private business or enterprise other than the building and operation of low rent dwelling houses for persons of low income as defined by law, or the loaning of money to owners of existing multiple dwellings as herein provided.

ARTICLE XIX

Amendments to Constitution

[Amendments to constitution; how proposed, voted upon and ratified.] Section 1. Any amendment or amendments to this constitution may be proposed in the senate and assembly, whereupon such amendment or amendments shall be referred to the attorney-general whose duty it shall be within twenty days thereafter

to render an opinion in writing to the senate and assembly as to the effect of such amendment or amendments upon other provisions of the constitution. Upon receiving such opinion, if the amendment or amendments as proposed or as amended shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, and the ayes and noes taken thereon, and referred to the next regular legislative session convening after the succeeding general election of members of the assembly, and shall be published for three months previous to the time of making such choice; and if in such legislative session, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the legislature to submit each proposed amendment or amendments to the people for approval in such manner and at such times as the legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become a part of the constitution on the first day of January next after such approval. (Formerly § 1 of Art. 14. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Future constitutional conventions; how called; election of delegates; compensation; quorum; submission of amendments; officers; employees; rules; vacancies.] § 2. At the general election to be held in the year nine-

teen hundred fifty-seven, and every twentieth year thereafter, and also at such times as the legislature may by law provide, the question "Shall there be a convention to revise the constitution and amend the same?" shall be submitted to and decided by the electors of the state; and in case a majority of the electors voting thereon shall decide in favor of a convention for such purpose, the electors of every senate district of the state, as then organized, shall elect three delegates at the next ensuing general election, and the electors of the state voting at the same election shall elect fifteen delegates-at-large. The delegates so elected shall convene at the capitol on the first Tuesday of April next ensuing after their election, and shall continue their session until the business of such convention shall have been completed. Every delegate shall receive for his services the same compensation as shall then be annually payable to the members of the assembly and be reimbursed for actual traveling expenses, while the convention is in session, to the extent that a member of the assembly would then be entitled thereto in the case of a session of the legislature. A majority of the convention shall constitute a quorum for the transaction of business, and no amendment to the constitution shall be submitted for approval to the electors as hereinafter provided, unless by the assent of a majority of all the delegates elected to the convention, the ayes and noes being entered on the journal to be kept. The convention shall have the power to appoint such officers, employees and assistants as it may deem necessary, and fix their compensation and to provide for

the printing of its documents, journal, proceedings and other expenses of said convention. The convention shall determine the rules of its own proceedings, choose its own officers, and be the judge of the election, returns and qualifications of its members. In case of a vacancy, by death, resignation or other cause, of any district delegate elected to the convention, such vacancy shall be filled by a vote of the remaining delegates representing the district in which such vacancy occurs. If such vacancy occurs in the office of a delegate-at-large, such vacancy shall be filled by a vote of the remaining delegates-at-large. Any proposed constitution or constitutional amendment which shall have been adopted by such convention, shall be submitted to a vote of the electors of the state at the time and in the manner provided by such convention, at an election which shall be held not less than six weeks after the adjournment of such convention. Upon the approval of such constitution or constitutional amendment, in the manner provided in the last preceding section, such constitution or constitutional amendment, shall go into effect on the first day of January next after such approval. (Formerly § 2 of Art. 14. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

[Amendments simultaneously submitted by convention and legislature.] § 3. Any amendment proposed by a constitutional convention relating to the same subject as an amendment proposed by the legislature, coincidently submitted to the people for approval shall, if approved, be deemed to supersede the amendment so

proposed by the legislature. (Formerly § 3 of Art. 14. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

ARTICLE XX

When to Take Effect

[Time of taking effect.] Section 1. This constitution shall be in force from and including the first day of January, one thousand nine hundred thirty-nine, except as herein otherwise provided. (Formerly § 1 of Art. 15. Renumbered and amended by Constitutional Convention of 1938 and approved by vote of the people November 8, 1938.)

DONE in Convention at the Capitol in the city of Albany, the twenty-fifth day of August, in the year one thousand nine hundred thirty-eight, and of the Independence of the United States of America the one hundred and sixty-third.

In witness whereof, we have hereunto subscribed our names.

FREDERICK E. CRANE,
President and Delegate-at-Large

U. H. Boyden,
Secretary