CONCURRENT RESOLUTIONS.

[illegible]

EXPLANATION—Matter in italics (thus) is new; matter in brackets [ ] is old law to be omitted.

STATE OF NEW YORK,
OFFICE OF THE SECRETARY OF STATE,
ALBANY, July 17, 1922.

Pursuant to the provisions of section one of article fourteen of the Constitution of the State of New York, and section sixty-eight of the Election Law, notice is hereby given that the following proposed amendment to section one-a of article two of the Constitution of the State of New York is referred to the legislature to be chosen at the next general election of Senators in this State to be held on the seventh day of November, nineteen hundred twenty-two.

JOHN J. LYONS,
Secretary of State.

*Amendments number one and two will be submitted to the voters Nov. 7, 1922.

AMENDMENT NUMBER THREE

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY PROPOSING AN AMENDMENT TO SECTION ONE-A OF ARTICLE TWO OF THE CONSTITUTION, IN RELATION TO ABSENT VOTERS.

Section 1. Resolved (if the Senate concur), That section one-a of article two of the constitution be amended to read as follows:

§ 1-a. 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 (amates of a soldiers' and sailors' home, 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 at the election district in which they respectively reside.

§ 2. Resolved (if the Senate concur), That the foregoing amendment be referred to the legislature to be chosen at the next general election of senators and in conformity with section of article fourteen of the constitution be published for three months previous to the time of such election.

STATE OF NEW YORK,
IN ASSEMBLY,
Feb. 27, 1922.

This bill was duly passed, a majority of all the members elected to the Assembly voting in favor thereof, three-fifths being present.

By order of the Assembly,
H. E. MACHOLD,
Speaker.

STATE OF NEW YORK,
IN SENATE,
Mar. 27, 1922.

This bill was duly passed, a majority of all the Senators elected voting in favor thereof, three-fifths being present.

By order of the Senate,
JEREMIAH WOOD,
President.

STATE OF NEW YORK, } ss.:
OFFICE OF THE SECRETARY OF STATE,

I hereby certify that this act was filed in the office of the Secretary of State, on the 20th day of March, 1922.

JOHN J. LYONS,
Secretary of State.

FOUR

EXPLANATION—Matter in italics is new; matter in brackets [ ] is old law to be omitted.

STATE OF NEW YORK,
OFFICE OF THE SECRETARY OF STATE,
ALBANY, *July* 1, 1922.

Pursuant to the provisions of section one of article fourteen of the Constitution of the State of New York, and section sixty-eight of the Election Law, notice is hereby given that the following proposed amendment to section one of article four of the Constitution of the State of New York is referred to the legislature to be chosen at the next general election of Senators in this State to be held on the seventh day of November, nineteen hundred twenty-two.

JOHN J. LYONS,
Secretary of State.

AMENDMENT NUMBER FOUR

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY PROPOSING AN AMENDMENT TO SECTION NINE OF ARTICLE FOUR OF THE CONSTITUTION, RELATIVE TO THE POWER OF THE GOVERNOR WITH RESPECT TO SPECIAL, PRIVATE OR LOCAL BILLS.

Section 1. Resolved (if the Assembly concur), That section nine of article four of the constitution be amended to read as follows:

§ 9. 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 *private or local bill, and no special city bill, as defined in section two of article twelve, shall become a law after the first adjournment of the legislature unless approved by the governor within thirty days after such adjournment.* No other 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 contains 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 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 to bills in which he shall withhold his approval from any item or items contained in a bill appropriating money.

§ 2. Resolved (if the Assembly concur), That the foregoing amendment be referred to the legislature to be chosen at the next general election of senators, and in conformity with section one of article fourteen of the constitution be published for three months previous to the time of such election.

STATE OF NEW YORK,
IN ASSEMBLY,
Feb. 27, 1922.

This bill was duly passed, a majority of all the members elected to the Assembly voting in favor thereof, three-fifths being present.

By order of the Assembly,
H. E. MACHOLD,
Speaker.

STATE OF NEW YORK,
IN SENATE,
Mar. 27, 1922.

This bill was duly passed, a majority of all the Senators elected voting in favor thereof, three-fifths being present.

By order of the Senate,
JEREMIAH WOOD,
President.

STATE OF NEW YORK, } ss.:
OFFICE OF THE SECRETARY OF STATE,

I hereby certify that this act was filed in the office of the Secretary of State, on the 20th day of March, 1922.

JOHN J. LYONS,
Secretary of State.

FOUR

EXPLANATION—Matter in italics is new; matter in brackets [ ] is old law to be omitted.

STATE OF NEW YORK,
OFFICE OF THE SECRETARY OF STATE,
ALBANY, *July* 1, 1922.

Pursuant to the provisions of section one of article fourteen of the Constitution of the State of New York, and section sixty-eight of the Election Law, notice is hereby given that the following proposed amendment to section one of article four of the Constitution of the State of New York is referred to the legislature to be chosen at the next general election of Senators in this State to be held on the seventh day of November, nineteen hundred twenty-two.

JOHN J. LYONS,
Secretary of State.

AMENDMENT NUMBER FIVE

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY PROPOSING AN AMENDMENT TO ARTICLE FIVE OF THE CONSTITUTION, IN RELATION TO THE OFFICES OF STATE ENGINEER AND SURVEYOR AND SUPERINTENDENT OF PUBLIC WORKS.

Section 1. Resolved (if the Assembly concur), That article five of the constitution be amended by inserting therein a new section, to be section two-a, to read as follows:

§ 2-a. The legislature may abolish the office of state engineer and surveyor to take effect upon the expiration of the term of the incumbent. The legislature may also abolish the office of superintendent of public works and assistant superintendent of public works to take effect at a time prescribed by the legislature. If either of such offices be abolished, the legislature may vest in another officer, by the same or different name, the statutory powers and duties of the officer whose office shall be thus abolished, subject to modification of such powers and duties by the legislature. If the office of state engineer and surveyor or the office of superintendent of public works be abolished, the legislature shall designate a state officer, or shall provide for the appointment or designation by the governor of a state officer to serve as commissioner of the land office or as member of the canal board, in place of the officer whose office shall be so abolished.

§ 2. Resolved (if the Assembly concur), That the foregoing amendment be referred to the legislature to be chosen at the next general election of senators, and in conformity with section one of article fourteen of the constitution

[illegible]

By order of the Senate,
JEREMIAH WOOD,
President.

STATE OF NEW YORK,
IN ASSEMBLY,
Mar. 15, 1922.

The foregoing resolution was duly passed, a majority of all the Members elected to the Assembly voting in favor thereof.

By order of the Assembly,
H. E. MACHOLD,
Speaker.

STATE OF NEW YORK,
OFFICE OF THE SECRETARY OF STATE,
ALBANY, *July* 1, 1922.

Pursuant to the provisions of section one of article fourteen of the Constitution of the State of New York, and section sixty-eight of the Election Law, notice is hereby given that the following proposed amendment to section one of article four of the Constitution of the State of New York is referred to the legislature to be chosen at the next general election of Senators in this State to be held on the seventh day of November, nineteen hundred twenty-two.

JOHN J. LYONS,
Secretary of State.

AMENDMENT NUMBER THREE

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY PROPOSING AN AMENDMENT TO SECTION ONE-A OF ARTICLE TWO OF THE CONSTITUTION, IN RELATION TO ABSENT VOTERS.

Section 1. Resolved (if the Assembly concur), That section one-a of article two of the constitution be amended to read as follows:

§ 1-a. 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 (amates of a soldiers' and sailors' home, 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 at the election district in which they respectively reside.

§ 2. Resolved (if the Senate concur), That the foregoing amendment be referred to the legislature to be chosen at the next general election of senators and in conformity with section of article fourteen of the constitution be published for three months previous to the time of such election.

STATE OF NEW YORK,
IN ASSEMBLY,
Feb. 27, 1922.

This bill was duly passed, a majority of all the members elected to the Assembly voting in favor thereof, three-fifths being present.

By order of the Assembly,
H. E. MACHOLD,
Speaker.

STATE OF NEW YORK,
IN SENATE,
Mar. 27, 1922.

This bill was duly passed, a majority of all the Senators elected voting in favor thereof, three-fifths being present.

By order of the Senate,
JEREMIAH WOOD,
President.

STATE OF NEW YORK, } ss.:
OFFICE OF THE SECRETARY OF STATE,

I hereby certify that this act was filed in the office of the Secretary of State, on the 20th day of March, 1922.

JOHN J. LYONS,
Secretary of State.

FOUR

EXPLANATION—Matter in italics is new; matter in brackets [ ] is old law to be omitted.

STATE OF NEW YORK,
OFFICE OF THE SECRETARY OF STATE,
ALBANY, *July* 1, 1922.

Pursuant to the provisions of section one of article fourteen of the Constitution of the State of New York, and section sixty-eight of the Election Law, notice is hereby given that the following proposed amendment to section one of article four of the Constitution of the State of New York is referred to the legislature to be chosen at the next general election of Senators in this State to be held on the seventh day of November, nineteen hundred and twenty-two.

JOHN J. LYONS,
Secretary of State.

AMENDMENT NUMBER FIVE

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY PROPOSING AN AMENDMENT TO ARTICLE FIVE OF THE CONSTITUTION, IN RELATION TO THE OFFICES OF STATE ENGINEER AND SURVEYOR AND SUPERINTENDENT OF PUBLIC WORKS.

Section 1. Resolved (if the Assembly concur), That article five of the constitution be amended by inserting therein a new section, to be section two-a, to read as follows:

§ 2-a. The legislature may abolish the office of state engineer and surveyor to take effect upon the expiration of the term of the incumbent. The legislature may also abolish the office of superintendent of public works and assistant superintendent of public works to take effect at a time prescribed by the legislature. If either of such offices be abolished, the legislature may vest in another officer, by the same or different name, the statutory powers and duties of the officer whose office shall be thus abolished, subject to modification of such powers and duties by the legislature. If the office of state engineer and surveyor or the office of superintendent of public works be abolished, the legislature shall designate a state officer, or shall provide for the appointment or designation by the governor of a state officer to serve as commissioner of the land office or as member of the canal board, in place of the officer whose office shall be so abolished.

§ 2. Resolved (if the Assembly concur), That the foregoing amendment be referred to the legislature to be chosen at the next general election of senators, and in conformity with section one of article fourteen of the constitu-

[illegible]

By order of the Senate,
JEREMIAH WOOD,
President.

STATE OF NEW YORK,
IN ASSEMBLY,
Mar. 15, 1922.

The foregoing resolution was duly passed, a majority of all the Members elected to the Assembly voting in favor thereof.

By order of the Assembly,
H. E. MACHOLD,
Speaker.

STATE OF NEW YORK,
OFFICE OF THE SECRETARY OF STATE,
ALBANY, *July* 1, 1922.

Pursuant to the provisions of section one of article fourteen of the Constitution of the State of New York, and section sixty-eight of the Election Law, notice is hereby given that the following proposed amendment to section one-a of article two of the constitution of the State of New York is referred to the legislature to be chosen at the next general election of Senators in this State to be held on the seventh day of November, nineteen hundred twenty-two.

JOHN J. LYONS,
Secretary of State.

SIX

EXPLANATION—Matter in italics is new; matter in brackets [ ] is old law to be omitted.

STATE OF NEW YORK,
OFFICE OF THE SECRETARY OF STATE,
ALBANY, *July* 1, 1922.

Pursuant to the provisions of section one of article fourteen of the Constitution of the State of New York, and section sixty-eight of the Election Law, notice is hereby given that the following proposed amendment to article six of the Constitution of the State of New York is referred to the legislature to be chosen at the next general election of Senators in this State to be held on the seventh day of November, nineteen hundred twenty-two.

JOHN J. LYONS,
Secretary of State.

AMENDMENT NUMBER SIX

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY PROPOSING AMENDMENTS GENERALLY TO ARTICLE SIX OF THE CONSTITUTION.

Section 1. Resolved (if the Assembly concur), That article six of the constitution be amended to read as follows:

ARTICLE VI.

Section 1. The judicial power of the state shall be vested in the courts which are in this article expressly continued and established and in such inferior local courts as now or here after may exist under and by virtue of the provisions of this article.

[Note.—New.—The legislative power of the state is vested in the Senate and Assembly (article III, section one); the executive power in the governor (article IV, section one). This section, for the first time, specifically vests the judicial power.]

SECTION [1]2. 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.* [and the justices transferred thereto by the fifth section of this article. Justices shall continue to be justices of the supreme court during their respective terms, and of twelve additional justices who shall be elected, and be chosen by the electors of, the several judicial districts, three in the first district, three in the second, and one in each of the other districts; and of their successors.] The successors of said justices shall be chosen by the electors of their respective judicial districts. The legislature may divide the judicial districts once after every *federal census* or state census, *but not more oftener than twice within any county thus* [under the constitution of the inhabitants of the state], and thereupon re-apportion the justices to be thereafter elected in the district so altered.

The legislature may from time to time increase the number of justices in any judicial district; except that the number of justices in the first and second districts for any of the districts into which the second district may be divided, shall not be increased to exceed one justice for each eighty thousand, or fraction over forty thousand, of the population thereof as known by the last [state, or] federal census or state enumeration, and except that the number of justices in any other 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 [state or] federal census or state enumeration. *Any justice of the supreme court, except as otherwise provided in this article, may perform the duties of the office of hold court in any county.* [The legislature may select out of the second judicial district as now constituted, another judicial district and apportion the justices to be elected therein between the two districts, and may also provide for the election of additional justices in the new district not exceeding the limit herein provided.]

[NOTE.—Present section one amended. Second last sentence is from present section six.]

SECTION [2]3. The [legislature shall divide the *division of the* state into four judicial departments *is continued as now constituted by law.* [The first Department shall consist of the county of New York; the others shall be bounded by county lines, and be compact and equal in population as nearly as may be.] 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.* [There shall be one appellate division 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 [of] five justices in each of the other departments. In each *appellate division,* [department] 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. [From all the justices elected to the supreme court the governor shall designate those who shall constitute the appellate division in each department; and he]

The governor shall designate the presiding *justice of each appellate division* [thereof], 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. *Such designations shall be made from time to time to sit in the appellate divisions until the terms of their respective designations shall expire.* From time to time, as the terms of such designations expire, or vacancies occur, *the governor* [he] shall make new designations. [A majority of the justices so designated to sit in the appellate division, in each department, shall constitute a quorum of the department.] 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 that [the] appellate division, *for service only during such absence or inability to act.* [or in] In case [the presiding justice of any appellate division shall certify to him] *the governor* that one or more additional justices are needed for the speedy disposition of the business before it, *the governor shall designate as additional justices 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 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 such office, be entitled to 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, in hearing and deciding motions submitted by consent of counsel, but any such justice, when not actually engaged in performing the duties of such appellate division 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 county or 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 Buffalo and the city of Brooklyn, and such additional jurisdiction as may be conferred by the legislature. It shall have power to appoint and remove a reporter.] The power to appoint and remove a reporter for [justices of the] appellate division in each department shall have power to fix the times and places for holding [special] *all terms of the supreme court held therein, to make rules therefor,* and to assign the justices in the department to hold such terms; *or to make rules for scheduling the assignment of a justice to hold any extraordinary term appointed by the governor, provided, however, that, if the appellate division be not in session, then such rules shall assign any justice of the supreme court to hold such extraordinary term.*

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, but any such justice, when not actually engaged in performing the duties of such appellate division in the department to which he is designated, may hold any term 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 other department of the judicial district in any other department of the

[illegible]

and exercise such powers as may be prescribed by law. [Appeals from the appellate division in the second department shall be heard in the court of appeals held in the county of Kings, at such times and places as the court of appeals shall from time to time, by rule, fix and prescribe, or, in the absence of such rule, at such times and places as the court of appeals shall direct in the notice of hearing of the appeal, and in equity that if has heretofore exercised, subject to the provisions of section [illegible] of this article.] *Except as herein otherwise provided, the jurisdiction of the court of appeals shall be confined to the review of questions of law.* [Appeals from the appellate division in the first and second departments, and from the supreme court in any other department, shall be heard in the court of appeals held in the county of New York, at such times and places as the court of appeals shall from time to time, by rule, fix and prescribe, or, in the absence of such rule, at such times and places as the court of appeals shall direct in the notice of hearing of the appeal, and in equity that it has heretofore exercised, subject to the provisions of section [illegible] of this article.] *Except as herein otherwise provided, the jurisdiction of the court of appeals shall be confined to the review of questions of law.* [but right to appeal shall not depend upon the amount involved.] [No unanimous decision of the appellate division of the supreme court that is affirming a judgment or order, or refusing to sustain a finding of fact or direct not directed by the court, shall be reviewed by the court of appeals. Except where the judgment is of death, appeals may be taken as of right, to said court only from judgments or orders entered upon decisions of the appellate division of the supreme court, finally determining actions or special proceedings, and from orders granting new trials on exceptions, where the appellants stipulate that upon affirmance judgment absolute shall be rendered against them. The appellate division in any department may, however, allow an appeal upon any question of law which, in its opinion, ought to be reviewed by the Court of Appeals.]

[The Legislature may further restrict the jurisdiction of the Court of Appeals and the right of appeal thereto, but the right to appeal shall not depend upon the amount involved.]

[Provisions of this section shall not apply to orders made or judgments rendered by any General Term before the last day of December, one thousand eight hundred and ninety-five, appeals therefrom may be taken under existing provisions of law.]

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

[illegible]

of appeals, and by other courts and tribunals, and from or upon orders of the court of appeals, shall be taken and prosecuted as follows:

(1) As of right, from a judgment or order entered upon the decision of a court of last resort, or upon the decision of the supreme court which finally determines an action or special proceeding wherein a construction of the constitution of the state or of the United States, or any part thereof, is involved, or wherein one or more of the justices of the court of last resort, or of the supreme court, dissent from the decision of the court, which finally determines the action or special proceeding, or from a judgment or order of reversal or modification.

(2) As of right, from an order of the appellate division granting a new trial where the appellant stipulates that, on 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 trial court certifies that the only question involved is the validity of a statutory provision of the state or of the United States; and on any such appeal only the validity of such provision shall be considered and determined by the court.

(4) From a determination of the appellate division of the supreme court in any department, which finally determines a judgment or order which, under subdivision one of this section, or special proceeding, where the appellate division allows the same and certifies that one or more questions of law have been involved in its opinion, ought to be reviewed by the court of appeals, but in such case the appeal shall bring up for review only such one or more 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 a court of last resort, or 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 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, however, may from time to time extend the right of appeal in said cases so as to dispense with the requirement of allowance. 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.

[Note.—Present section nine amended. Matter italicized is end of first paragraph intends restoration of right of appeal to court of appeals from unanimous decision of appellate division. Paragraphs (1), (2), (3), (4) and (5) embody rules of appeal now in the civil practice act (sections 588, 589) and the right of appeal directly from the court of original jurisdiction where the only question involved is the validity of a statute of the United States or of the state or of the United States under the constitution of either.]

[SECTION 3. The Judges of the Court of Appeals and the Justices of the Supreme Court shall not hold any other office or public trust. All votes for any of them for any other than a judicial office, shall be void.] [Unless by the Legislature or the people, shall be void.]

[NOTE.—Omitted. Covered in section nineteen, sixth and seventh sentences, *post*.]

[SECTION 4. 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. 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.]

[SECTION 5. Justice of the supreme court shall receive from the state the sum of ten thousand dollars per year. Those assigned to the appellate divisions in the third and fourth departments shall each receive in addition the sum of two thousand dollars, and the presiding justices thereof the sum of two thousand five hundred dollars per year. Those justices elected in the first and second judicial departments shall continue to receive from their respective cities, counties or districts as now provided by law, such additional compensation as will make their aggregate compensation equal to that now receiving. Those justices elected in any judicial department other than the first or second, and assigned to the appellate division of the first or second department shall, while so assigned, receive from those departments respectively, as now provided by law, such additional sum as is paid to the justices elected in the third or fourth department assigned by the appellate division or designated by the governor to hold a trial or special term in such judicial district, but not less than that in which he is elected shall receive in addition ten dollars per day for expenses while actually so engaged in holding such term, which shall be paid by the state and charged to the judicial district where the service is rendered. The compensation herein provided shall be in lieu of all other compensation and allowance to said justices for expenses of every kind and nature whatsoever. The provisions of this section shall apply to the judges and justices now in office and to those hereafter elected.]

[NOTE.—Omitted. Provisions respecting the compensation of judges, justices and surrogates are consolidated in the first sentence of section nineteen, *post*.]

SECTION [13]10. The assembly shall have the power to impeach, 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 senate, 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, the president of the senate shall not preside, but the president *pro tem.* of the senate shall preside. No *temporary president of the senate* shall [not] act as a member of the court. No judicial officer shall exercise his office [after notice 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, and 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. *The assembly of its own motion, in the manner to be provided by rule, which shall continue in force until abrogated or amended by the assembly, may remove the clerk of the court of appeals for the purpose of impeachment; but no other subject shall be acted upon at any such special session.*

[NOTE.—Present section thirteen amended as indicated.]

Section [14]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, *except that the county courts in the counties of Kings, Bronx, Queens and Richmond are abolished on and after the first day of January in the second year following the adoption of this article and the county judges therein shall be thereupon transferred as provided in section fourteen of this article.* In the county of Kings there shall be four 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

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Supreme Court in and for the county of New York, and the county judges of the counties of Kings, Bronx, Queens and Richmond, shall be elected by the electors within each of such counties respectively, but in such case the appellate division shall bring up for review only such one or more questions so certified; and the court of appeals shall certify to the appellate division its determination upon such question or questions.

(6) From a judgment or order entered upon the decision of a court of last resort, or 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 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, however, may from time to time extend the right of appeal in said cases so as to dispense with the requirement of allowance. 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.

(Note.—Present section nine amended. Matter italicized is end of first paragraph intends restoration of right of appeal to court of appeals from unanimous decision of appellate division. Paragraphs (1), (2), (3), (4) and (5) embody rules of appeal now in the civil practice act (sections 588, 589) and the right of appeal directly from the court of original jurisdiction where the only question involved is the validity of a statute of the United States or of the state or of the United States under the constitution of either.]

[SECTION 3. The Judges of the Court of Appeals and the Justices of the Supreme Court shall not hold any other office or public trust. All votes for any of them for any other than a judicial office, shall be void.] [Unless by the Legislature or the people, shall be void.]

[NOTE.—Omitted. Covered in section nineteen, sixth and seventh sentences, *post*.]

[SECTION 4. 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. 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.]

[SECTION 5. Justice of the supreme court shall receive from the state the sum of ten thousand dollars per year. Those assigned to the appellate divisions in the third and fourth departments shall each receive in addition the sum of two thousand dollars, and the presiding justices thereof the sum of two thousand five hundred dollars per year. Those justices elected in the first and second judicial departments shall continue to receive from their respective cities, counties or districts as now provided by law, such additional compensation as will make their aggregate compensation equal to that now receiving. Those justices elected in any judicial department other than the first or second, and assigned to the appellate division of the first or second department shall, while so assigned, receive from those departments respectively, as now provided by law, such additional sum as is paid to the justices elected in the third or fourth department assigned by the appellate division or designated by the governor to hold a trial or special term in such judicial district, but not less than that in which he is elected shall receive in addition ten dollars per day for expenses while actually so engaged in holding such term, which shall be paid by the state and charged to the judicial district where the service is rendered. The compensation herein provided shall be in lieu of all other compensation and allowance to said justices for expenses of every kind and nature whatsoever. The provisions of this section shall apply to the judges and justices now in office and to those hereafter elected.]

[NOTE.—Omitted. Provisions respecting the compensation of judges, justices and surrogates are consolidated in the first sentence of section nineteen, *post*.]

Section [15]10. The assembly shall have the power to impeach, 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 senate, 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, the president of the senate shall not preside, but the president-governor *or the temporary president of the senate* shall [not] act as a member of the court. No judicial officer shall exercise his office [after notice 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, and 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. *The assembly of its own motion, in the manner to be provided by rule, which shall continue in force until abrogated or amended by the assembly, may remove the clerk of the court of appeals for the purpose of impeachment; but no other subject shall be acted upon at any such special session.*

[NOTE.—Present section thirteen amended as indicated.]

Section [14]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, *except that the county courts in the counties of Kings, Bronx, Queens and Richmond are abolished on and after the first day of January in the second year following the adoption of this article and the county judges therein shall be thereupon transferred as provided in section fourteen of this article.* In the county of Kings there shall be four 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

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Supreme Court in and for the county of New York, and the county judges of the counties of Kings, Bronx, Queens and Richmond, shall be elected by the electors within each of such counties respectively, but in such case the appellate division shall bring up for review only such one or more questions so certified; and the court of appeals shall certify to the appellate division its determination upon such question or questions.

(7) From a judgment or order entered upon the decision of a court of last resort, or supreme court which finally determines an action or special proceeding wherein a construction of the constitution of the state or of the United States, or any part thereof, is involved, or wherein one or more of the justices of the court of last resort, or of the supreme court, dissent from the decision of the court which finally determines the action or special proceeding, or from a judgment or order of reversal or modification.

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

(9) 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 trial court certifies that the only question involved 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 validity of such provision shall be considered and determined by the court.

(4) From a determination of the appellate division of the supreme court in any department which finally determines a judgment or order which under subdivision one of this section or special proceeding, where the appellate division allows the same and certifies that one or more questions of law have been involved in its opinion, ought to be reviewed by the court of appeals, but in such case the appeal shall bring up for review only such one or more 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 a court of last resort, or 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 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, however, may from time to time extend the right of appeal in said cases so as to dispense with the requirement of allowance. 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.

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