

STATE OF NEW YORK

8226

IN SENATE

February 3, 2022

Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing an amendment to section 5 of article 3, section 1 of article 5, sections 1, 2, 3, 4, 6, 7, 8, 12, 13, 15, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 34, 35 and 36-a of article 6, section 1 of article 7, sections 5, 7 and 7-a of article 8, section 1 of article 9, section 13 of article 13, section 5 of article 14 and section 4 of article 18 of the constitution, in relation to renaming the supreme court the superior court and the court of appeals the supreme court

1 Section 1. Resolved (if the Assembly concur), That the closing paragraph of section 5 of article 3 of the constitution be amended to read as follows:

2 An apportionment by the legislature, or other body, shall be subject to review by the [~~supreme~~ superior] 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. The court shall render its decision within sixty days after a petition is filed. In any judicial proceeding relating to redistricting of congressional or state legislative districts, any law establishing congressional or state legislative districts found to violate the provisions of this article shall be invalid in whole or in part. In the event that a court finds such a violation, the legislature shall have a full and reasonable opportunity to correct the law's legal infirmities.

18 § 2. Resolved (if the Assembly concur), That section 1 of article 5 of the constitution be amended to read as follows:

20 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 legislature shall provide for filling vacancies in the office of comptroller and of attorney-general. No election of a comptroller or an attorney-general shall be had except at the time of electing a governor.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [~~-~~] is old law to be omitted.

LBD89179-01-2

1 The comptroller shall be required: (1) to audit all vouchers before
2 payment and all official accounts; (2) to audit the accrual and
3 collection of all revenues and receipts; and (3) to prescribe such meth-
4 ods of accounting as are necessary for the performance of the foregoing
5 duties. The payment of any money of the state, or of any money under its
6 control, or the refund of any money paid to the state, except upon audit
7 by the comptroller, shall be void, and may be restrained upon the suit
8 of any taxpayer with the consent of the ~~[supreme]~~ superior court in
9 appellate division on notice to the attorney-general. In such respect
10 the legislature shall define the powers and duties and may also assign
11 to him or her: (1) supervision of the accounts of any political subdivi-
12 sion of the state; and (2) powers and duties pertaining to or connected
13 with the assessment and taxation of real estate, including determination
14 of ratios which the assessed valuation of taxable real property bears to
15 the full valuation thereof, but not including any of those powers and
16 duties reserved to officers of a county, city, town or village by virtue
17 of sections seven and eight of article nine of this constitution. The
18 legislature shall assign to him or her no administrative duties, except-
19 ing such as may be incidental to the performance of these functions, any
20 other provision of this constitution to the contrary notwithstanding.

21 § 3. Resolved (if the Assembly concur), That section 1 of article 6 of
22 the constitution be amended to read as follows:

23 Section 1. a. There shall be a unified court system for the state. The
24 state-wide courts shall consist of the supreme court ~~[of appeals]~~, the
25 ~~[supreme]~~ superior court including the appellate divisions thereof, the
26 court of claims, the county court, the surrogate's court and the family
27 court, as hereinafter provided. The legislature shall establish in and
28 for the city of New York, as part of the unified court system for the
29 state, a single, city-wide court of civil jurisdiction and a single,
30 city-wide court of criminal jurisdiction, as hereinafter provided, and
31 may upon the request of the mayor and the local legislative body of the
32 city of New York, merge the two courts into one city-wide court of both
33 civil and criminal jurisdiction. The unified court system for the state
34 shall also include the district, town, city and village courts outside
35 the city of New York, as hereinafter provided.

36 b. The supreme court ~~[of appeals]~~, the ~~[supreme]~~ superior court
37 including the appellate divisions thereof, the court of claims, the
38 county court, the surrogate's court, the family court, the courts or
39 court of civil and criminal jurisdiction of the city of New York, and
40 such other courts as the legislature may determine shall be courts of
41 record.

42 c. All processes, warrants and other mandates of the supreme court ~~[of~~
43 ~~appeals]~~, the ~~[supreme]~~ superior court including the appellate divisions
44 thereof, the court of claims, the county court, the surrogate's court
45 and the family court may be served and executed in any part of the
46 state. All processes, warrants and other mandates of the courts or court
47 of civil and criminal jurisdiction of the city of New York may, subject
48 to such limitation as may be prescribed by the legislature, be served
49 and executed in any part of the state. The legislature may provide that
50 processes, warrants and other mandates of the district court may be
51 served and executed in any part of the state and that processes,
52 warrants and other mandates of town, village and city courts outside the
53 city of New York may be served and executed in any part of the county in
54 which such courts are located or in any part of any adjoining county.

55 § 4. Resolved (if the Assembly concur), That section 2 of article 6 of
56 the constitution be amended to read as follows:

§ 2. a. The supreme court [~~of appeals~~] is continued. It shall consist of the chief judge and the six elected associate judges now in office, who shall hold their offices until the expiration of their respective terms, and their successors, and such justices of the [~~supreme~~] superior court as may be designated for service in said court as hereinafter provided. The official terms of the chief judge and the six associate judges shall be fourteen years.

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 supreme court [~~of appeals~~], the court may designate any justice of the [~~supreme~~] superior 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. The powers and jurisdiction of the court shall not be suspended for want of appointment when the number of judges is sufficient to constitute a quorum.

b. Whenever and as often as the supreme 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~~] superior court as may be so certified to be necessary, but not more than four, to serve as associate judges of the supreme court [~~of appeals~~]. The justices so designated shall be relieved, while so serving, from their duties as justices of the [~~supreme~~] superior court, and shall serve as associate judges of the supreme 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~~] superior court. The governor may fill vacancies among such designated judges. No such justices shall serve as associate judge of the supreme court [~~of appeals~~] except while holding the office of justice of the [~~supreme~~] superior court. The designation of a justice of the [~~supreme~~] superior court as an associate judge of the supreme court [~~of appeals~~] shall not be deemed to affect his or her existing office any longer than until the expiration of his or her designation as such associate judge, nor to create a vacancy.

c. There shall be a commission on judicial nomination to evaluate the qualifications of candidates for appointment to the supreme court [~~of appeals~~] and to prepare a written report and recommend to the governor those persons who by their character, temperament, professional aptitude and experience are well qualified to hold such judicial office. The legislature shall provide by law for the organization and procedure of the judicial nominating commission.

d. (1) The commission on judicial nomination shall consist of twelve members of whom four shall be appointed by the governor, four by the chief judge of the supreme court [~~of appeals~~], and one each by the speaker of the assembly, the temporary president of the senate, the minority leader of the senate, and the minority leader of the assembly. Of the four members appointed by the governor, no more than two shall be enrolled in the same political party, two shall be members of the bar of the state, and two shall not be members of the bar of the state. Of the four members appointed by the chief judge of the supreme court [~~of appeals~~], no more than two shall be enrolled in the same political party, two shall be members of the bar of the state, and two shall not be members of the bar of the state. No member of the commission shall hold or have held any judicial office or hold any elected public office

1 for which he or she receives compensation during his or her period of
2 service, except that the governor and the chief judge may each appoint
3 no more than one former judge or justice of the unified court system to
4 such commission. No member of the commission shall hold any office in
5 any political party. No member of the judicial nominating commission
6 shall be eligible for appointment to judicial office in any court of the
7 state during the member's period of service or within one year thereaft-
8 er.

9 (2) The members first appointed by the governor shall have respective-
10 ly one, two, three and four year terms as the governor shall designate.
11 The members first appointed by the chief judge of the ~~supreme~~ court [~~of~~
12 ~~appeals~~] shall have respectively one, two, three and four year terms as
13 the chief judge shall designate. The member first appointed by the
14 temporary president of the senate shall have a one-year term. The member
15 first appointed by the minority leader of the senate shall have a two-
16 year term. The member first appointed by the speaker of the assembly
17 shall have a four-year term. The member first appointed by the minority
18 leader of the assembly shall have a three-year term. Each subsequent
19 appointment shall be for a term of four years.

20 (3) The commission shall designate one of their number to serve as
21 chairperson.

22 (4) The commission shall consider the qualifications of candidates for
23 appointment to the offices of judge and chief judge of the ~~supreme~~ court
24 [~~of appeals~~] and, whenever a vacancy in those offices occurs, shall
25 prepare a written report and recommend to the governor persons who are
26 well qualified for those judicial offices.

27 e. The governor shall appoint, with the advice and consent of the
28 senate, from among those recommended by the judicial nominating commis-
29 sion, a person to fill the office of chief judge or associate judge, as
30 the case may be, whenever a vacancy occurs in the ~~supreme~~ court [~~of~~
31 ~~appeals~~]; provided, however, that no person may be appointed a judge of
32 the ~~supreme~~ court [~~of appeals~~] unless such person is a resident of the
33 state and has been admitted to the practice of law in this state for at
34 least ten years. The governor shall transmit to the senate the written
35 report of the commission on judicial nomination relating to the nominee.

36 f. When a vacancy occurs in the office of chief judge or associate
37 judge of the ~~supreme~~ court [~~of appeals~~] and the senate is not in session
38 to give its advice and consent to an appointment to fill the vacancy,
39 the governor shall fill the vacancy by interim appointment upon the
40 recommendation of a commission on judicial nomination as provided in
41 this section. An interim appointment shall continue until the senate
42 shall pass upon the governor's selection. If the senate confirms an
43 appointment, the judge shall serve a term as provided in subdivision a
44 of this section commencing from the date of his or her interim appoint-
45 ment. If the senate rejects an appointment, a vacancy in the office
46 shall occur sixty days after such rejection. If an interim appointment
47 to the ~~supreme~~ court [~~of appeals~~] be made from among the justices of the
48 [~~supreme~~] ~~superior~~ court or the appellate divisions thereof, that
49 appointment shall not affect the justice's existing office, nor create a
50 vacancy in the [~~supreme~~] ~~superior~~ court, or the appellate division ther-
51 eof, unless such appointment is confirmed by the senate and the appoint-
52 ee shall assume such office. If an interim appointment of chief judge of
53 the ~~supreme~~ court [~~of appeals~~] be made from among the associate judges,
54 an interim appointment of associate judge shall be made in like manner;
55 in such case, the appointment as chief judge shall not affect the exist-

ing office of associate judge, unless such appointment as chief judge is confirmed by the senate and the appointee shall assume such office.

g. The provisions of subdivisions c, d, e and f of this section shall not apply to temporary designations or assignments of judges or justices.

§ 5. Resolved (if the Assembly concur), That section 3 of article 6 of the constitution be amended to read as follows:

§ 3. a. The jurisdiction of the supreme court [~~of appeals~~] shall be limited to the review of questions of law except where the judgment is of death, or where the appellate division, on reversing or modifying a final or interlocutory judgment in an action or a final or interlocutory order in a special proceeding, finds new facts and a final judgment or a final order pursuant thereto is entered; but the right to appeal shall not depend upon the amount involved.

b. Appeals to the supreme court [~~of appeals~~] may be taken in the classes of cases hereafter 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~~] superior 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 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.

(3) As of right, from an order of the appellate division granting a new trial in an action or a new hearing in a special proceeding where the appellant stipulates that, upon affirmance, judgment absolute or final order shall be rendered against him or her.

(4) From a determination of the appellate division of the [~~supreme~~] superior 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 supreme court [~~of appeals~~], but in such case the appeal shall bring up for review only the question or questions so certified; and the supreme court [~~of appeals~~] shall certify to the appellate division its determination upon such question or questions.

(5) From an order of the appellate division of the [~~supreme~~] superior court in any department, in a proceeding instituted by or against one or more public officers or a board, commission or other body of public officers or a court or tribunal, other than an order which finally determines such proceeding, where the supreme court [~~of appeals~~] shall allow the same upon the ground that, in its opinion, a question of law is involved which ought to be reviewed by it, and without regard to the availability of appeal by stipulation for final order absolute.

(6) From a judgment or order entered upon the decision of an appellate division of the ~~[supreme]~~ superior court which finally determines an action or special proceeding but which is not appealable under paragraph (1) of this subdivision where the appellate division or the supreme court ~~[of appeals]~~ shall certify that in its opinion a question of law is involved which ought to be reviewed by the supreme court ~~[of appeals]~~. Such an appeal may be allowed upon application (a) to the appellate division, and in case of refusal, to the supreme court ~~[of appeals]~~, or (b) directly to the supreme court ~~[of appeals]~~. Such an appeal shall be allowed when required in the interest of substantial justice.

(7) No appeal shall be taken to the supreme court ~~[of appeals]~~ from a judgment or order entered upon the decision of an appellate division of the ~~[supreme]~~ superior court in any civil case or proceeding where the appeal to the appellate division was from a judgment or order entered in an appeal from another court, including an appellate or special term of the ~~[supreme]~~ superior court, unless the construction of the constitution of the state or of the United States is directly involved therein, or unless the appellate division of the ~~[supreme]~~ superior court shall certify that in its opinion a question of law is involved which ought to be reviewed by the supreme court ~~[of appeals]~~.

(8) The legislature may abolish an appeal to the supreme court ~~[of appeals]~~ as of right in any or all of the cases or classes of cases specified in paragraph (1) of this subdivision wherein no question involving the construction of the constitution of the state or of the United States is directly involved, provided, however, that appeals in any such case or class of cases shall thereupon be governed by paragraph (6) of this subdivision.

(9) The supreme court ~~[of appeals]~~ shall adopt and from time to time may amend a rule to permit the court to answer questions of New York law certified to it by the Supreme Court of the United States, a court of appeals of the United States or an appellate court of last resort of another state, which may be determinative of the cause then pending in the certifying court and which in the opinion of the certifying court are not controlled by precedent in the decisions of the courts of New York.

§ 6. Resolved (if the Assembly concur), That subdivisions b, c, h, j and k of section 4 of article 6 of the constitution be amended to read as follows:

b. The appellate divisions of the ~~[supreme]~~ superior court are continued, and shall consist of seven justices of the ~~[supreme]~~ superior 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.

c. The governor shall designate the presiding justice of each appellate division, who shall act as such during his or her 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]~~ superior court, for terms of five years or the unexpired portions of their respective terms of office, if less than five years.

h. A justice of the appellate division of the ~~[supreme]~~ superior court in any department may be temporarily designated by the presiding justice of his or her department to the appellate division in another judicial

1 department upon agreement by the presiding justices of the appellate
2 division of the departments concerned.

3 j. No justice of the appellate division shall, within the department
4 to which he or she may be designated to perform the duties of an appel-
5 late justice, exercise any of the powers of a justice of the [~~supreme~~]
6 superior court, other than those of a justice out of court, and those
7 pertaining to the appellate division, except that the justice may decide
8 causes or proceedings theretofore submitted, or hear and decide motions
9 submitted by consent of counsel, but any such justice, when not actually
10 engaged in performing the duties of such appellate justice in the
11 department to which he or she is designated, may hold any term of the
12 [~~supreme~~] superior court and exercise any of the powers of a justice of
13 the [~~supreme~~] superior court in any judicial district in any other
14 department of the state.

15 k. The appellate divisions of the [~~supreme~~] superior court shall have
16 all the jurisdiction possessed by them on the effective date of this
17 article and such additional jurisdiction as may be prescribed by law,
18 provided, however, that the right to appeal to the appellate divisions
19 from a judgment or order which does not finally determine an action or
20 special proceeding may be limited or conditioned by law.

21 § 7. Resolved (if the Assembly concur), That subdivisions c, d and e
22 of section 6 of article 6 of the constitution be amended to read as
23 follows:

24 c. The justices of the [~~supreme~~] superior court shall be chosen by the
25 electors of the judicial district in which they are to serve. The terms
26 of justices of the [~~supreme~~] superior court shall be fourteen years from
27 and including the first day of January next after their election.

28 d. The [~~supreme~~] superior court is continued. It shall consist of the
29 number of justices of the [~~supreme~~] superior court including the
30 justices designated to the appellate divisions of the [~~supreme~~] superior
31 court, judges of the county court of the counties of Bronx, Kings,
32 Queens and Richmond and judges of the court of general sessions of the
33 county of New York authorized by law on the thirty-first day of August
34 next after the approval and ratification of this amendment by the
35 people, all of whom shall be justices of the [~~supreme~~] superior court
36 for the remainder of their terms. The legislature may increase the
37 number of justices of the [~~supreme~~] superior court in any judicial
38 district, except that the number in any district shall not be increased
39 to exceed one justice for fifty thousand, or fraction over thirty thou-
40 sand, of the population thereof as shown by the last federal census or
41 state enumeration. The legislature may decrease the number of justices
42 of the [~~supreme~~] superior court in any judicial district, except that
43 the number in any district shall not be less than the number of justices
44 of the [~~supreme~~] superior court authorized by law on the effective date
45 of this article.

46 e. The clerks of the several counties shall be clerks of the [~~supreme~~]
47 superior court, with such powers and duties as shall be prescribed by
48 law.

49 § 8. Resolved (if the Assembly concur), That section 7 of article 6 of
50 the constitution be amended to read as follows:

51 § 7. a. The [~~supreme~~] superior court shall have general original
52 jurisdiction in law and equity and the appellate jurisdiction herein
53 provided. In the city of New York, it shall have exclusive jurisdiction
54 over crimes prosecuted by indictment, provided, however, that the legis-
55 lature may grant to the city-wide court of criminal jurisdiction of the
56 city of New York jurisdiction over misdemeanors prosecuted by indictment

1 and to the family court in the city of New York jurisdiction over crimes
2 and offenses by or against minors or between spouses or between parent
3 and child or between members of the same family or household.

4 b. If the legislature shall create new classes of actions and
5 proceedings, the [~~supreme~~] superior court shall have jurisdiction over
6 such classes of actions and proceedings, but the legislature may provide
7 that another court or other courts shall also have jurisdiction and that
8 actions and proceedings of such classes may be originated in such other
9 court or courts.

10 § 9. Resolved (if the Assembly concur), That section 8 of article 6 of
11 the constitution be amended to read as follows:

12 § 8. a. The appellate division of the [~~supreme~~] superior court in each
13 judicial department may establish an appellate term in and for such
14 department or in and for a judicial district or districts or in and for
15 a county or counties within such department. Such an appellate term
16 shall be composed of not less than three nor more than five justices of
17 the [~~supreme~~] superior court who shall be designated from time to time
18 by the chief administrator of the courts with the approval of the
19 presiding justice of the appropriate appellate division, and who shall
20 be residents of the department or of the judicial district or districts
21 as the case may be and the chief administrator of the courts shall
22 designate the place or places where such appellate terms shall be held.

23 b. Any such appellate term may be discontinued and re-established as
24 the appellate division of the [~~supreme~~] superior court in each depart-
25 ment shall determine from time to time and any designation to service
26 therein may be revoked by the chief administrator of the courts with the
27 approval of the presiding justice of the appropriate appellate division.

28 c. In each appellate term no more than three justices assigned thereto
29 shall sit in any action or proceeding. Two of such justices shall
30 constitute a quorum and the concurrence of two shall be necessary to a
31 decision.

32 d. If so directed by the appellate division of the [~~supreme~~] superior
33 court establishing an appellate term, an appellate term shall have
34 jurisdiction to hear and determine appeals now or hereafter authorized
35 by law to be taken to the [~~supreme~~] superior court or to the appellate
36 division other than appeals from the [~~supreme~~] superior court, a surro-
37 gate's court, the family court or appeals in criminal cases prosecuted
38 by indictment or by information as provided in section six of article
39 one.

40 e. As may be provided by law, an appellate term shall have jurisdic-
41 tion to hear and determine appeals from the district court or a town,
42 village or city court outside the city of New York.

43 § 10. Resolved (if the Assembly concur), That section 11 of article 6
44 of the constitution be amended to read as follows:

45 § 11. a. The county court shall have jurisdiction over the following
46 classes of actions and proceedings which shall be originated in such
47 county court in the manner provided by law, except that actions and
48 proceedings within the jurisdiction of the district court or a town,
49 village or city court outside the city of New York may, as provided by
50 law, be originated therein: actions and proceedings for the recovery of
51 money, actions and proceedings for the recovery of chattels and actions
52 and proceedings for the foreclosure of mechanics liens and liens on
53 personal property where the amount sought to be recovered or the value
54 of the property does not exceed twenty-five thousand dollars exclusive
55 of interest and costs; over all crimes and other violations of law; over
56 summary proceedings to recover possession of real property and to remove

1 tenants therefrom; and over such other actions and proceedings, not
2 within the exclusive jurisdiction of the [~~supreme~~] superior court, as
3 may be provided by law.

4 b. The county court shall exercise such equity jurisdiction as may be
5 provided by law and its jurisdiction to enter judgment upon a counter-
6 claim for the recovery of money only shall be unlimited.

7 c. The county court shall have jurisdiction to hear and determine all
8 appeals arising in the county in the following actions and proceedings:
9 as of right, from a judgment or order of the district court or a town,
10 village or city court which finally determines an action or proceeding
11 and, as may be provided by law, from a judgment or order of any such
12 court which does not finally determine an action or proceeding. The
13 legislature may provide, in accordance with the provisions of section
14 eight of this article, that any or all of such appeals be taken to an
15 appellate term of the [~~supreme~~] superior court instead of the county
16 court.

17 d. The provisions of this section shall in no way limit or impair the
18 jurisdiction of the [~~supreme~~] superior court as set forth in section
19 seven of this article.

20 § 11. Resolved (if the Assembly concur), That subdivisions d and f of
21 section 12 of article 6 of the constitution be amended to read as
22 follows:

23 d. The surrogate's court shall have jurisdiction over all actions and
24 proceedings relating to the affairs of decedents, probate of wills,
25 administration of estates and actions and proceedings arising thereunder
26 or pertaining thereto, guardianship of the property of minors, and such
27 other actions and proceedings, not within the exclusive jurisdiction of
28 the [~~supreme~~] superior court, as may be provided by law.

29 f. The provisions of this section shall in no way limit or impair the
30 jurisdiction of the [~~supreme~~] superior court as set forth in section
31 seven of this article.

32 § 12. Resolved (if the Assembly concur), That subdivisions c and d of
33 section 13 of article 6 of the constitution be amended to read as
34 follows:

35 c. The family court shall also have jurisdiction to determine, with
36 the same powers possessed by the [~~supreme~~] superior court, the following
37 matters when referred to the family court from the [~~supreme~~] superior
38 court: habeas corpus proceedings for the determination of the custody of
39 minors; and in actions and proceedings for marital separation, divorce,
40 annulment of marriage and dissolution of marriage, applications to fix
41 temporary or permanent support and custody, or applications to enforce
42 judgments and orders of support and of custody, or applications to modi-
43 fy judgments and orders of support and of custody which may be granted
44 only upon the showing to the family court that there has been a subse-
45 quent change of circumstances and that modification is required.

46 d. The provisions of this section shall in no way limit or impair the
47 jurisdiction of the [~~supreme~~] superior court as set forth in section
48 seven of this article.

49 § 13. Resolved (if the Assembly concur), That subdivisions b, c and d
50 of section 15 of article 6 of the constitution be amended to read as
51 follows:

52 b. The court of city-wide civil jurisdiction of the city of New York
53 shall have jurisdiction over the following classes of actions and
54 proceedings which shall be originated in such court in the manner
55 provided by law: actions and proceedings for the recovery of money,
56 actions and proceedings for the recovery of chattels and actions and

1 proceedings for the foreclosure of mechanics liens and liens on personal
2 property where the amount sought to be recovered or the value of the
3 property does not exceed fifty thousand dollars exclusive of interest
4 and costs, or such smaller amount as may be fixed by law; over summary
5 proceedings to recover possession of real property and to remove tenants
6 therefrom and over such other actions and proceedings, not within the
7 exclusive jurisdiction of the [~~supreme~~] superior court, as may be
8 provided by law. The court of city-wide civil jurisdiction shall further
9 exercise such equity jurisdiction as may be provided by law and its
10 jurisdiction to enter judgment upon a counterclaim for the recovery of
11 money only shall be unlimited.

12 c. The court of city-wide criminal jurisdiction of the city of New
13 York shall have jurisdiction over crimes and other violations of law,
14 other than those prosecuted by indictment, provided, however, that the
15 legislature may grant to said court jurisdiction over misdemeanors pros-
16 ecuted by indictment; and over such other actions and proceedings, not
17 within the exclusive jurisdiction of the [~~supreme~~] superior court, as
18 may be provided by law.

19 d. The provisions of this section shall in no way limit or impair the
20 jurisdiction of the [~~supreme~~] superior court as set forth in section
21 seven of this article.

22 § 14. Resolved (if the Assembly concur), That section 19 of article 6
23 of the constitution be amended to read as follows:

24 § 19. a. The [~~supreme~~] superior court may transfer any action or
25 proceeding, except one over which it shall have exclusive jurisdiction
26 which does not depend upon the monetary amount sought, to any other
27 court having jurisdiction of the subject matter within the judicial
28 department provided that such other court has jurisdiction over the
29 classes of persons named as parties. As may be provided by law, the
30 [~~supreme~~] superior court may transfer to itself any action or proceeding
31 originated or pending in another court within the judicial department
32 other than the court of claims upon a finding that such a transfer will
33 promote the administration of justice.

34 b. The county court shall transfer to the [~~supreme~~] superior court or
35 surrogate's court or family court any action or proceeding which has not
36 been transferred to it from the [~~supreme~~] superior court or surrogate's
37 court or family court and over which the county court has no jurisdic-
38 tion. The county court may transfer any action or proceeding, except a
39 criminal action or proceeding involving a felony prosecuted by indict-
40 ment or an action or proceeding required by this article to be dealt
41 with in the surrogate's court or family court, to any court, other than
42 the [~~supreme~~] superior court, having jurisdiction of the subject matter
43 within the county provided that such other court has jurisdiction over
44 the classes of persons named as parties.

45 c. As may be provided by law, the [~~supreme~~] superior court or the
46 county court may transfer to the county court any action or proceeding
47 originated or pending in the district court or a town, village or city
48 court outside the city of New York upon a finding that such a transfer
49 will promote the administration of justice.

50 d. The surrogate's court shall transfer to the [~~supreme~~] superior
51 court or the county court or the family court or the courts for the city
52 of New York established pursuant to section fifteen of this article any
53 action or proceeding which has not been transferred to it from any of
54 said courts and over which the surrogate's court has no jurisdiction.

55 e. The family court shall transfer to the [~~supreme~~] superior court or
56 the surrogate's court or the county court or the courts for the city of

1 New York established pursuant to section fifteen of this article any
2 action or proceeding which has not been transferred to it from any of
3 said courts and over which the family court has no jurisdiction.

4 f. The courts for the city of New York established pursuant to section
5 fifteen of this article shall transfer to the [~~supreme~~] superior court
6 or the surrogate's court or the family court any action or proceeding
7 which has not been transferred to them from any of said courts and over
8 which the said courts for the city of New York have no jurisdiction.

9 g. As may be provided by law, the [~~supreme~~] superior court shall
10 transfer any action or proceeding to any other court having jurisdiction
11 of the subject matter in any other judicial district or county provided
12 that such other court has jurisdiction over the classes of persons named
13 as parties.

14 h. As may be provided by law, the county court, the surrogate's court,
15 the family court and the courts for the city of New York established
16 pursuant to section fifteen of this article may transfer any action or
17 proceeding, other than one which has previously been transferred to it,
18 to any other court, except the [~~supreme~~] superior court, having juris-
19 diction of the subject matter in any other judicial district or county
20 provided that such other court has jurisdiction over the classes of
21 persons named as parties.

22 i. As may be provided by law, the district court or a town, village or
23 city court outside the city of New York may transfer any action or
24 proceeding, other than one which has previously been transferred to it,
25 to any court, other than the county court or the surrogate's court or
26 the family court or the [~~supreme~~] superior court, having jurisdiction of
27 the subject matter in the same or an adjoining county provided that such
28 other court has jurisdiction over the classes of persons named as
29 parties.

30 j. Each court shall exercise jurisdiction over any action or proceed-
31 ing transferred to it pursuant to this section.

32 k. The legislature may provide that the verdict or judgment in actions
33 and proceedings so transferred shall not be subject to the limitation of
34 monetary jurisdiction of the court to which the actions and proceedings
35 are transferred if that limitation be lower than that of the court in
36 which the actions and proceedings were originated.

37 § 15. Resolved (if the Assembly concur), That section 20 of article 6
38 of the constitution be amended to read as follows:

39 § 20. a. No person, other than one who holds such office at the effec-
40 tive date of this article, may assume the office of judge of the supreme
41 court [~~of appeals~~], justice of the [~~supreme~~] superior court, or judge of
42 the court of claims unless he or she has been admitted to practice law
43 in this state at least ten years. No person, other than one who holds
44 such office at the effective date of this article, may assume the office
45 of judge of the county court, surrogate's court, family court, a court
46 for the city of New York established pursuant to section fifteen of this
47 article, district court or city court outside the city of New York
48 unless he or she has been admitted to practice law in this state at
49 least five years or such greater number of years as the legislature may
50 determine.

51 b. A judge of the supreme court [~~of appeals~~], justice of the [~~supreme~~]
52 superior court, judge of the court of claims, judge of a county court,
53 judge of the surrogate's court, judge of the family court or judge of a
54 court for the city of New York established pursuant to section fifteen
55 of this article who is elected or appointed after the effective date of
56 this article may not:

(1) hold any other public office or trust except an office in relation to the administration of the courts, member of a constitutional convention or member of the armed forces of the United States or of the state of New York in which latter event the legislature may enact such legislation as it deems appropriate to provide for a temporary judge or justice to serve during the period of the absence of such judge or justice in the armed forces;

(2) be eligible to be a candidate for any public office other than judicial office or member of a constitutional convention, unless he or she resigns from judicial office; in the event a judge or justice does not so resign from judicial office within ten days after his or her acceptance of the nomination of such other office, his or her judicial office shall become vacant and the vacancy shall be filled in the manner provided in this article;

(3) hold any office or assume the duties or exercise the powers of any office of any political organization or be a member of any governing or executive agency thereof;

(4) engage in the practice of law, act as an arbitrator, referee or compensated mediator in any action or proceeding or matter or engage in the conduct of any other profession or business which interferes with the performance of his or her judicial duties.

Judges and justices of the courts specified in this subdivision shall also be subject to such rules of conduct as may be promulgated by the chief administrator of the courts with the approval of the supreme court ~~[of appeals]~~.

c. Qualifications for and restrictions upon the judges of district, town, village or city courts outside the city of New York, other than such qualifications and restrictions specifically set forth in subdivision a of this section, shall be prescribed by the legislature, provided, however, that the legislature shall require a course of training and education to be completed by justices of town and village courts selected after the effective date of this article who have not been admitted to practice law in this state. Judges of such courts shall also be subject to such rules of conduct not inconsistent with laws as may be promulgated by the chief administrator of the courts with the approval of the supreme court ~~[of appeals]~~.

§ 16. Resolved (if the Assembly concur), That subdivision a of section 21 of article 6 of the constitution be amended to read as follows:

a. When a vacancy shall occur, otherwise than by expiration of term, in the office of justice of the ~~[supreme]~~ superior court, of judge of the county court, of judge of the surrogate's court or judge of the family court outside the city of New York, it 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 the senate not be in session, the governor may fill such vacancy by an appointment which shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

§ 17. Resolved (if the Assembly concur), That section 22 of article 6 of the constitution be amended to read as follows:

§ 22. a. There shall be a commission on judicial conduct. The commission on judicial conduct shall receive, initiate, investigate and hear complaints with respect to the conduct, qualifications, fitness to perform or performance of official duties of any judge or justice of the unified court system, in the manner provided by law; and, in accordance

1 with subdivision d of this section, may determine that a judge or
2 justice be admonished, censured or removed from office for cause,
3 including, but not limited to, misconduct in office, persistent failure
4 to perform his or her duties, habitual intemperance, and conduct, on or
5 off the bench, prejudicial to the administration of justice, or that a
6 judge or justice be retired for mental or physical disability preventing
7 the proper performance of his or her judicial duties. The commission
8 shall transmit ~~[an]~~ **any** such determination to the chief judge of the
9 **supreme** court ~~[of appeals]~~ who shall cause written notice of such deter-
10 mination to be given to the judge or justice involved. Such judge or
11 justice may either accept the commission's determination or make written
12 request to the chief judge, within thirty days after receipt of such
13 notice, for a review of such determination by the **supreme** court ~~[of~~
14 ~~appeals]~~.

15 b. (1) The commission on judicial conduct shall consist of eleven
16 members, of whom four shall be appointed by the governor, one by the
17 temporary president of the senate, one by the minority leader of the
18 senate, one by the speaker of the assembly, one by the minority leader
19 of the assembly and three by the chief judge of the **supreme** court ~~[of~~
20 ~~appeals]~~. Of the members appointed by the governor one person shall be a
21 member of the bar of the state but not a judge or justice, two shall not
22 be members of the bar, justices or judges or retired justices or judges
23 of the unified court system, and one shall be a judge or justice of the
24 unified court system. Of the members appointed by the chief judge one
25 person shall be a justice of the appellate division of the ~~[supreme]~~
26 **superior** court and two shall be judges or justices of a court or courts
27 other than the **supreme** court ~~[of appeals]~~ or appellate divisions. None
28 of the persons to be appointed by the legislative leaders shall be
29 justices or judges or retired justices or judges.

30 (2) The persons first appointed by the governor shall have respective-
31 ly one, two, three, and four-year terms as the governor shall designate.
32 The persons first appointed by the chief judge of the **supreme** court ~~[of~~
33 ~~appeals]~~ shall have respectively two, three, and four-year terms as the
34 governor shall designate. The person first appointed by the temporary
35 president of the senate shall have a one-year term. The person first
36 appointed by the minority leader of the senate shall have a two-year
37 term. The person first appointed by the speaker of the assembly shall
38 have a four-year term. The person first appointed by the minority leader
39 of the assembly shall have a three-year term. Each member of the commis-
40 sion shall be appointed thereafter for a term of four years. Commission
41 membership of a judge or justice appointed by the governor or the chief
42 judge shall terminate if such member ceases to hold the judicial posi-
43 tion which qualified him or her for such appointment. Membership shall
44 also terminate if a member attains a position which would have rendered
45 him or her ineligible for appointment at the time of appointment. A
46 vacancy shall be filled by the appointing officer for the remainder of
47 the term.

48 c. The organization and procedure of the commission on judicial
49 conduct shall be as provided by law. The commission on judicial conduct
50 may establish its own rules and procedures not inconsistent with law.
51 Unless the legislature shall provide otherwise, the commission shall be
52 empowered to designate one of its members or any other person as a
53 referee to hear and report concerning any matter before the commission.

54 d. In reviewing a determination of the commission on judicial conduct,
55 the **supreme** court ~~[of appeals]~~ may admonish, censure, remove or retire,
56 for the reasons set forth in subdivision a of this section, any judge of

1 the unified court system. In reviewing a determination of the commission
2 on judicial conduct, the supreme court [~~of appeals~~] shall review the
3 commission's findings of fact and conclusions of law on the record of
4 the proceedings upon which the commission's determination was based. The
5 supreme court [~~of appeals~~] may impose a less or more severe sanction
6 prescribed by this section than the one determined by the commission, or
7 impose no sanction.

8 e. The supreme court [~~of appeals~~] may suspend a judge or justice from
9 exercising the powers of his or her office while there is pending a
10 determination by the commission on judicial conduct for his or her
11 removal or retirement, or while the judge or justice is charged in this
12 state with a felony by an indictment or an information filed pursuant to
13 section six of article one. The suspension shall continue upon
14 conviction and, if the conviction becomes final, the judge or justice
15 shall be removed from office. The suspension shall be terminated upon
16 reversal of the conviction and dismissal of the accusatory instrument.
17 Nothing in this subdivision shall prevent the commission on judicial
18 conduct from determining that a judge or justice be admonished,
19 censured, removed, or retired pursuant to subdivision a of this section.

20 f. Upon the recommendation of the commission on judicial conduct or on
21 its own motion, the supreme court [~~of appeals~~] may suspend a judge or
22 justice from office when he or she is charged with a crime punishable as
23 a felony under the laws of this state, or any other crime which involves
24 moral turpitude. The suspension shall continue upon conviction and, if
25 the conviction becomes final, the judge or justice shall be removed from
26 office. The suspension shall be terminated upon reversal of the
27 conviction and dismissal of the accusatory instrument. Nothing in this
28 subdivision shall prevent the commission on judicial conduct from deter-
29 mining that a judge or justice be admonished, censured, removed, or
30 retired pursuant to subdivision a of this section.

31 g. A judge or justice who is suspended from office by the supreme
32 court [~~of appeals~~] shall receive his or her judicial salary during such
33 period of suspension, unless the court directs otherwise. If the court
34 has so directed and such suspension is thereafter terminated, the court
35 may direct that the judge or justice shall be paid his or her salary for
36 such period of suspension.

37 h. A judge or justice retired by the supreme court [~~of appeals~~] shall
38 be considered to have retired voluntarily. A judge or justice removed by
39 the supreme court [~~of appeals~~] shall be ineligible to hold other judi-
40 cial office.

41 i. Notwithstanding any other provision of this section, the legisla-
42 ture may provide by law for review of determinations of the commission
43 on judicial conduct with respect to justices of town and village courts
44 by an appellate division of the [~~supreme~~] superior court. In such event,
45 all references in this section to the supreme court [~~of appeals~~] and the
46 chief judge thereof shall be deemed references to an appellate division
47 and the presiding justice thereof, respectively.

48 j. If a court on the judiciary shall have been convened before the
49 effective date of this section and the proceeding shall not be concluded
50 by that date, the court on the judiciary shall have continuing jurisdic-
51 tion beyond the effective date of this section to conclude the proceed-
52 ing. All matters pending before the former commission on judicial
53 conduct on the effective date of this section shall be disposed of in
54 such manner as shall be provided by law.

§ 18. Resolved (if the Assembly concur), That subdivisions a and b of section 23 of article 6 of the constitution be amended to read as follows:

a. Judges of the supreme court [~~of appeals~~] and justices of the [~~supreme~~] superior 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.

b. Judges of the court of claims, the county court, the surrogate's court, the family court, the courts for the city of New York established pursuant to section fifteen of this article, the district court and such other courts as the legislature may determine 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.

§ 19. Resolved (if the Assembly concur), That section 24 of article 6 of the constitution be amended to read as follows:

§ 24. 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 supreme 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 or her office after articles of impeachment against him or her shall have been preferred to the senate, until he or she 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.

§ 20. Resolved (if the Assembly concur), That subdivisions a and b of section 25 of article 6 of the constitution be amended to read as follows:

a. The compensation of a judge of the supreme court [~~of appeals~~], a justice of the [~~supreme~~] superior court, a judge of the court of claims, a judge of the county court, a judge of the surrogate's court, a judge of the family court, a judge of a court for the city of New York established pursuant to section fifteen of this article, a judge of the district court or of a retired judge or justice shall be established by law and shall not be diminished during the term of office for which he or she was elected or appointed. Any judge or justice of a court abolished by section thirty-five of this article, who pursuant to that section becomes a judge or justice of a court established or continued by this article, shall receive without interruption or diminution for the remainder of the term for which he or she was elected or appointed to the abolished court the compensation he or she had been receiving upon the effective date of this article together with any additional compensation that may be prescribed by law.

b. Each judge of the supreme court [~~of appeals~~], justice of the [~~supreme~~] superior court, judge of the court of claims, judge of the county court, judge of the surrogate's court, judge of the family court, judge of a court for the city of New York established pursuant to section fifteen of this article and judge of the district court shall

1 retire on the last day of December in the year in which he or she
2 reaches the age of seventy. Each such former judge of the ~~supreme~~ court
3 ~~[of appeals]~~ and justice of the ~~[supreme]~~ ~~superior~~ court may thereafter
4 perform the duties of a justice of the ~~[supreme]~~ ~~superior~~ court, with
5 power to hear and determine actions and proceedings, provided, however,
6 that it shall be certificated in the manner provided by law that the
7 services of such judge or justice are necessary to expedite the business
8 of the court and that he or she is mentally and physically able and
9 competent to perform the full duties of such office. Any such certifi-
10 cation shall be valid for a term of two years and may be extended as
11 provided by law for additional terms of two years. A retired judge or
12 justice shall serve no longer than until the last day of December in the
13 year in which he or she reaches the age of seventy-six. A retired judge
14 or justice shall be subject to assignment by the appellate division of
15 the ~~[supreme]~~ ~~superior~~ court of the judicial department of his or her
16 residence. Any retired justice of the ~~[supreme]~~ ~~superior~~ court who had
17 been designated to and served as a justice of any appellate division
18 immediately preceding his or her reaching the age of seventy shall be
19 eligible for designation by the governor as a temporary or additional
20 justice of the appellate division. A retired judge or justice shall not
21 be counted in determining the number of justices in a judicial district
22 for purposes of subdivision d of section six of this article.

23 § 21. Resolved (if the Assembly concur), That subdivisions a, b, c, d,
24 e, f and g of section 26 of article 6 of the constitution be amended to
25 read as follows:

26 a. A justice of the ~~[supreme]~~ ~~superior~~ court may perform the duties of
27 office or hold court in any county and may be temporarily assigned to
28 the ~~[supreme]~~ ~~superior~~ court in any judicial district or to the court of
29 claims. A justice of the ~~[supreme]~~ ~~superior~~ court in the city of New
30 York may be temporarily assigned to the family court in the city of New
31 York or to the surrogate's court in any county within the city of New
32 York when required to dispose of the business of such court.

33 b. A judge of the court of claims may perform the duties of office or
34 hold court in any county and may be temporarily assigned to the
35 ~~[supreme]~~ ~~superior~~ court in any judicial district.

36 c. A judge of the county court may perform the duties of office or
37 hold court in any county and may be temporarily assigned to the
38 ~~[supreme]~~ ~~superior~~ court in the judicial department of his or her resi-
39 dence or to the county court or the family court in any county or to the
40 surrogate's court in any county outside the city of New York or to a
41 court for the city of New York established pursuant to section fifteen
42 of this article.

43 d. A judge of the surrogate's court in any county within the city of
44 New York may perform the duties of office or hold court in any county
45 and may be temporarily assigned to the ~~[supreme]~~ ~~superior~~ court in the
46 judicial department of his or her residence.

47 e. A judge of the surrogate's court in any county outside the city of
48 New York may perform the duties of office or hold court in any county
49 and may be temporarily assigned to the ~~[supreme]~~ ~~superior~~ court in the
50 judicial department of his or her residence or to the county court or
51 the family court in any county or to a court for the city of New York
52 established pursuant to section fifteen of this article.

53 f. A judge of the family court may perform the duties of office or
54 hold court in any county and may be temporarily assigned to the
55 ~~[supreme]~~ ~~superior~~ court in the judicial department of his or her resi-
56 dence or to the county court or the family court in any county or to the

1 surrogate's court in any county outside of the city of New York or to a
2 court for the city of New York established pursuant to section fifteen
3 of this article.

4 g. A judge of a court for the city of New York established pursuant to
5 section fifteen of this article may perform the duties of office or hold
6 court in any county and may be temporarily assigned to the [~~supreme~~
7 superior] court in the judicial department of his or her residence or to
8 the county court or the family court in any county or to the other court
9 for the city of New York established pursuant to section fifteen of this
10 article.

11 § 22. Resolved (if the Assembly concur), That section 27 of article 6
12 of the constitution be amended to read as follows:

13 § 27. The governor may, when in his or her opinion the public interest
14 requires, appoint extraordinary terms of the [~~supreme~~] superior court.
15 The governor shall designate the time and place of holding the term and
16 the justice who shall hold the term. The governor may terminate the
17 assignment of the justice and may name another justice in his or her
18 place to hold the term.

19 § 23. Resolved (if the Assembly concur), That subdivisions a and c of
20 section 28 of article 6 of the constitution be amended to read as
21 follows:

22 a. The chief judge of the supreme court [~~of appeals~~] shall be the
23 chief judge of the state of New York and shall be the chief judicial
24 officer of the unified court system. There shall be an administrative
25 board of the courts which shall consist of the chief judge of the
26 supreme court [~~of appeals~~] as chairperson and the presiding justice of
27 the appellate division of the [~~supreme~~] superior court of each judicial
28 department. The chief judge shall, with the advice and consent of the
29 administrative board of the courts, appoint a chief administrator of the
30 courts who shall serve at the pleasure of the chief judge.

31 c. The chief judge, after consultation with the administrative board,
32 shall establish standards and administrative policies for general appli-
33 cation throughout the state, which shall be submitted by the chief judge
34 to the supreme court [~~of appeals~~], together with the recommendations, if
35 any, of the administrative board. Such standards and administrative
36 policies shall be promulgated after approval by the supreme court [~~of~~
37 appeals].

38 § 24. Resolved (if the Assembly concur), That subdivision a of section
39 29 of article 6 of the constitution be amended to read as follows:

40 a. The legislature shall provide for the allocation of the cost of
41 operating and maintaining the supreme court [~~of appeals~~], the appellate
42 division of the [~~supreme~~] superior court in each judicial department,
43 the [~~supreme~~] superior court, the court of claims, the county court, the
44 surrogate's court, the family court, the courts for the city of New York
45 established pursuant to section fifteen of this article and the district
46 court, among the state, the counties, the city of New York and other
47 political subdivisions.

48 § 25. Resolved (if the Assembly concur), That subdivisions a and b of
49 section 34 of article 6 of the constitution be amended to read as
50 follows:

51 a. The supreme court [~~of appeals~~], the appellate division of the
52 [~~supreme~~] superior court, the [~~supreme~~] superior court, the court of
53 claims, the county court in counties outside the city of New York, the
54 surrogate's court and the district court of Nassau county shall hear and
55 determine all appeals, actions and proceedings pending therein on the
56 effective date of this article except that the appellate division of the

1 ~~[supreme]~~ superior court in the first and second judicial departments or
2 the appellate term in such departments, if so directed by the appropri-
3 ate appellate division of the supreme court, shall hear and determine
4 all appeals pending in the appellate terms of the ~~[supreme]~~ superior
5 court in the first and second judicial departments and in the court of
6 special sessions of the city of New York and except that the county
7 court or an appellate term shall, as may be provided by law, hear and
8 determine all appeals pending in the county court or the ~~[supreme]~~ supe-
9 rior court other than an appellate term. Further appeal from a decision
10 of the county court, the appellate term or the appellate division of the
11 ~~[supreme]~~ superior court, rendered on or after the effective date of
12 this article, shall be governed by the provisions of this article.

13 b. The justices of the ~~[supreme]~~ superior court in office on the
14 effective date of this article shall hold their offices as justices of
15 the ~~[supreme]~~ superior court until the expiration of their respective
16 terms.

17 § 26. Resolved (if the Assembly concur), That subdivisions b, m and n
18 of section 35 of article 6 of the constitution be amended to read as
19 follows:

20 b. The judges of the county court of the counties of Bronx, Kings,
21 Queens and Richmond and the judges of the court of general sessions of
22 the county of New York in office on the effective date of this article
23 shall, for the remainder of the terms for which they were elected or
24 appointed, be justices of the ~~[supreme]~~ superior court in and for the
25 judicial district which includes the county in which they resided on
26 that date. The salaries of such justices shall be the same as the sala-
27 ries of the other justices of the ~~[supreme]~~ superior court residing in
28 the same judicial district and shall be paid in the same manner. All
29 actions and proceedings pending in the county court of the counties of
30 Bronx, Kings, Queens and Richmond and in the court of general sessions
31 of the county of New York on the effective date of this article shall be
32 transferred to the ~~[supreme]~~ superior court in the county in which the
33 action or proceedings was pending, or otherwise as may be provided by
34 law.

35 m. In the event that a judgment or order was entered before the effec-
36 tive date of this article and a right of appeal existed and notice of
37 appeal therefrom is filed after the effective date of this article, such
38 appeal shall be taken from the ~~[supreme]~~ superior court, the county
39 courts, the surrogate's courts, the children's courts, the court of
40 general sessions of the county of New York and the domestic relations
41 court of the city of New York to the appellate division of the ~~[supreme]~~
42 superior court in the judicial department in which such court was
43 located; from the court of claims to the appellate division of the
44 ~~[supreme]~~ superior court in the third judicial department, except for
45 those claims which arose in the fourth judicial department, in which
46 case the appeal shall be to the appellate division of the ~~[supreme]~~
47 superior court in the fourth judicial department; from the city court of
48 the city of New York, the municipal court of the city of New York, the
49 court of special sessions of the city of New York and the city magis-
50 trates' courts of the city of New York to the appellate division of the
51 ~~[supreme]~~ superior court in the judicial department in which such court
52 was located, provided, however, that such appellate division of the
53 ~~[supreme]~~ superior court may transfer any such appeal to an appellate
54 term, if such appellate term be established; and from the district
55 court, town, village and city courts outside the city of New York to the
56 county court in the county in which such court was located, provided,

1 however, that the legislature may require the transfer of any such
2 appeal to an appellate term, if such appellate term be established.
3 Further appeal from a decision of a county court or an appellate term or
4 the appellate division of the [~~supreme~~] superior court shall be governed
5 by the provisions of this article. However, if in any action or proceeding
6 decided prior to the effective date of this article, a party had a
7 right of direct appeal from a court of original jurisdiction to the
8 supreme court [~~of appeals~~], such appeal may be taken directly to the
9 supreme court [~~of appeals~~].

10 n. In the event that an appeal was decided before the effective date
11 of this article and a further appeal could be taken as of right and
12 notice of appeal therefrom is filed after the effective date of this
13 article, such appeal may be taken from the appellate division of the
14 [~~supreme~~] superior court to the supreme court [~~of appeals~~] and from any
15 other court to the appellate division of the [~~supreme~~] superior court.
16 Further appeal from a decision of the appellate division of the
17 [~~supreme~~] superior court shall be governed by the provisions of this
18 article. If a further appeal could not be taken as of right, such appeal
19 shall be governed by the provisions of this article.

20 § 27. Resolved (if the Assembly concur), That section 36-a of article
21 6 of the constitution be amended to read as follows:

22 § 36-a. The amendments to the provisions of sections two, four, seven,
23 eight, eleven, twenty, twenty-two, twenty-six, twenty-eight, twenty-nine
24 and thirty of article six and to the provisions of section one of article
25 seven, as first proposed by a concurrent resolution passed by the
26 legislature in the year nineteen hundred seventy-six and entitled
27 "Concurrent Resolution of the Senate and Assembly proposing amendments
28 to articles six and seven of the constitution, in relation to the manner
29 of selecting judges of the supreme court [~~of appeals~~], creation of a
30 commission on judicial conduct and administration of the unified court
31 system, providing for the effectiveness of such amendments and the
32 repeal of subdivision c of section two, subdivision b of section seven,
33 subdivision b of section eleven, section twenty-two and section twenty-
34 eight of article six thereof relating thereto", shall become a part of
35 the constitution on the first day of January next after the approval and
36 ratification of the amendments proposed by such concurrent resolution by
37 the people but the provisions thereof shall not become operative and the
38 repeal of subdivision c of section two, section twenty-two and section
39 twenty-eight shall not become effective until the first day of April
40 next thereafter which date shall be deemed the effective date of such
41 amendments and the chief judge and the associate judges of the supreme
42 court [~~of appeals~~] in office on such effective date shall hold their
43 offices until the expiration of their respective terms. Upon a vacancy
44 in the office of any such judge, such vacancy shall be filled in the
45 manner provided in section two of article six.

46 § 28. Resolved (if the Assembly concur), That section 1 of article 7
47 of the constitution be amended to read as follows:

48 Section 1. For the preparation of the budget, the head of each department
49 of state government, except the legislature and judiciary, shall
50 furnish the governor such estimates and information in such form and at
51 such times as the governor may require, copies of which shall forthwith
52 be furnished to the appropriate committees of the legislature. The
53 governor shall hold hearings thereon at which the governor may require
54 the attendance of heads of departments and their subordinates. Designated
55 representatives of such committees shall be entitled to attend the
56 hearings thereon and to make inquiry concerning any part thereof.

1 Itemized estimates of the financial needs of the legislature, certi-
2 fied by the presiding officer of each house, and of the judiciary,
3 approved by the ~~supreme~~ court [~~of appeals~~] and certified by the chief
4 judge of the ~~supreme~~ court [~~of appeals~~], shall be transmitted to the
5 governor not later than the first day of December in each year for
6 inclusion in the budget without revision but with such recommendations
7 as the governor may deem proper. Copies of the itemized estimates of
8 the financial needs of the judiciary also shall forthwith be transmitted
9 to the appropriate committees of the legislature.

10 § 29. Resolved (if the Assembly concur), That the fourth undesignated
11 paragraph of subdivision C of section 5 of article 8 of the constitution
12 be amended to read as follows:

13 Except as otherwise provided herein, the legislature shall prescribe
14 the method by which and the terms and conditions under which the propor-
15 tionate amount of any such indebtedness to be so excluded shall be
16 determined and no proportionate amount of such indebtedness shall be
17 excluded except in accordance with such determination. The legislature
18 may provide that the state comptroller shall make such determination or
19 it may confer appropriate jurisdiction on the appellate division of the
20 [~~supreme~~] ~~superior~~ court in the judicial departments in which such coun-
21 ties, cities, towns or villages are located for the purpose of determin-
22 ing the proportionate amount of any such indebtedness to be so excluded.

23 § 30. Resolved (if the Assembly concur), That subdivision A of section
24 7 of article 8 of the constitution be amended to read as follows:

25 A. Indebtedness contracted prior to the first day of January, nineteen
26 hundred ten, for dock purposes proportionately to the extent to which
27 the current net revenues received by the city therefrom shall meet the
28 interest on and the annual requirements for the amortization of such
29 indebtedness. The legislature shall prescribe the method by which and
30 the terms and conditions under which the amount of any such indebtedness
31 to be so excluded shall be determined, and no such indebtedness shall be
32 excluded except in accordance with such determination. The legislature
33 may confer appropriate jurisdiction on the appellate division of the
34 [~~supreme~~] ~~superior~~ court in the first judicial department for the
35 purpose of determining the amount of any such indebtedness to be so
36 excluded.

37 § 31. Resolved (if the Assembly concur), That the second undesignated
38 paragraph of subdivision B of section 7-a of article 8 of the constitu-
39 tion be amended to read as follows:

40 In determining whether indebtedness for transit purposes may be
41 excluded under this paragraph of this section, there shall first be
42 deducted from the current net revenue received by the city from such
43 railroads and facilities and properties used in connection therewith and
44 rights therein and securities owned by the city: (a) an amount equal to
45 the interest and amortization requirements on indebtedness for rapid
46 transit purposes heretofore excluded by order of the appellate division,
47 which exclusion shall not be terminated by or under any provision of
48 this section; (b) an amount equal to the interest on indebtedness
49 contracted pursuant to this section and of the annual requirements for
50 amortization on any sinking fund bonds and for redemption of any serial
51 bonds evidencing such indebtedness; (c) an amount equal to the sum of
52 all taxes and bridge tolls accruing to the city in the fiscal year of
53 the city preceding the acquisition of the railroads or facilities or
54 properties or rights therein or securities acquired by the city here-
55 under, from such railroads, facilities and properties; and (d) the
56 amount of net operating revenue derived by the city from the independent

1 subway system during such fiscal year. The legislature shall prescribe
2 the method by which and the terms and conditions under which the amount
3 of any indebtedness to be excluded hereunder shall be determined, and no
4 indebtedness shall be excluded except in accordance with the determi-
5 nation so prescribed. The legislature may confer appropriate jurisdic-
6 tion on the appellate division of the [~~supreme~~] superior court in the
7 first judicial department for the purpose of determining the amount of
8 any debt to be so excluded.

9 § 32. Resolved (if the Assembly concur), That subdivision (d) of
10 section 1 of article 9 of the constitution be amended to read as
11 follows:

12 (d) No local government or any part of the territory thereof shall be
13 annexed to another until the people, if any, of the territory proposed
14 to be annexed shall have consented thereto by majority vote on a refer-
15 endum and until the governing board of each local government, the area
16 of which is affected, shall have consented thereto upon the basis of a
17 determination that the annexation is in the over-all public interest.
18 The consent of the governing board of a county shall be required only
19 where a boundary of the county is affected. On or before July first,
20 nineteen hundred sixty-four, the legislature shall provide, where such
21 consent of a governing board is not granted, for adjudication and deter-
22 mination, on the law and the facts, in a proceeding initiated in the
23 [~~supreme~~] superior court, of the issue of whether the annexation is in
24 the over-all public interest.

25 § 33. Resolved (if the Assembly concur), That subdivision (a) of
26 section 13 of article 13 of the constitution be amended to read as
27 follows:

28 (a) Except in counties in the city of New York and except as author-
29 ized in section one of article nine of this constitution, registers in
30 counties having registers shall be chosen by the electors of the respec-
31 tive counties once in every three years and whenever the occurring of
32 vacancies shall require; the sheriff and the clerk of each county shall
33 be chosen by the electors once in every three or four years as the
34 legislature shall direct. Sheriffs shall hold no other office. They may
35 be required by law to renew their security, from time to time; and in
36 default of giving such new security, their offices shall be deemed
37 vacant. The governor may remove any elective sheriff, county clerk,
38 district attorney or register within the term for which he or she shall
39 have been elected; but before so doing the governor shall give to such
40 officer a copy of the charges against him or her and an opportunity of
41 being heard in his or her defense. In each county a district attorney
42 shall be chosen by the electors once in every three or four years as the
43 legislature shall direct. The clerk of each county in the city of New
44 York shall be appointed, and be subject to removal, by the appellate
45 division of the [~~supreme~~] superior court in the judicial department in
46 which the county is located. In addition to his or her powers and duties
47 as clerk of the [~~supreme~~] superior court, he or she shall have power to
48 select, draw, summon and empanel grand and petit jurors in the manner
49 and under the conditions now or hereafter prescribed by law, and shall
50 have such other powers and duties as shall be prescribed by the city
51 from time to time by local law.

52 § 34. Resolved (if the Assembly concur), That section 5 of article 14
53 of the constitution be amended to read as follows:

54 § 5. A violation of any of the provisions of this article may be
55 restrained at the suit of the people or, with the consent of the

1 [~~supreme~~] superior court in appellate division, on notice to the attor-
2 ney-general at the suit of any citizen.

3 § 35. Resolved (if the Assembly concur), That the opening paragraph of
4 section 4 of article 18 of the constitution be amended to read as
5 follows:

6 To effectuate any of the purposes of this article, the legislature may
7 authorize any city, town or village to contract indebtedness to an
8 amount which shall not exceed two per centum of the average assessed
9 valuation of the real estate of such city, town or village subject to
10 taxation, as determined by the last completed assessment roll and the
11 four preceding assessment rolls of such city, town or village, for city,
12 town or village taxes prior to the contracting of such indebtedness. In
13 ascertaining the power of a city, or village having a population of five
14 thousand or more as determined by the last federal census, to contract
15 indebtedness pursuant to this article there may be excluded any such
16 indebtedness if the project or projects aided by guarantees representing
17 such indebtedness or by loans for which such indebtedness was contracted
18 shall have yielded during the preceding year net revenue to be deter-
19 mined annually by deducting from the gross revenues, including periodic
20 subsidies therefor, received from such project or projects, all costs of
21 operation, maintenance, repairs and replacements, and the interest on
22 such indebtedness and the amounts required in such year for the payment
23 of such indebtedness; provided that in the case of guarantees such
24 interest and such amounts shall have been paid, and in the case of loans
25 an amount equal to such interest and such amounts shall have been paid
26 to such city or village. The legislature shall prescribe the method by
27 which the amount of any such indebtedness to be excluded shall be deter-
28 mined, and no such indebtedness shall be excluded except in accordance
29 with such determination. The legislature may confer appropriate juris-
30 diction on the appellate division of the [~~supreme~~] superior court in the
31 judicial departments in which such cities or villages are located for
32 the purpose of determining the amount of any such indebtedness to be so
33 excluded.

34 § 36. Resolved (if the Assembly concur), That the foregoing amendments
35 be referred to the first regular legislative session convening after the
36 next succeeding general election of members of the Assembly, and, in
37 conformity with section 1 of article 19 of the constitution, be
38 published for 3 months previous to the time of such election.