

Proposed Amendments to the Constitution to be Submitted to the People in November

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DURING the busy legislative session which adjourned on March 18, 1947, one hundred and four bills were introduced proposing fifty separate amendments to the Constitution of this State. Of these proposals, thirty-eight were so-called "first-passage amendments," being presented for legislative endorsement for the first time. None received such endorsement. Twelve were "second-passage amendments," having once received the legislative stamp of approval at either the 1945 or 1946 session and been referred to the succeeding legislature for its approval in accordance with Article XIX, Section 1 of the Constitution. Six of these proposals were approved for the second time and will appear on the voting machines this fall.¹ An equal number failed to pass.

Among this unusually large number of proposals to effect changes in the organic law of the State upon which the people will be called upon to express their preference are several of primary interest and concern to members of the bench and bar. All warrant careful analysis and consideration by every voter.

ABSENTEE VOTING

Several changes in Article II, Section 2 of the Constitution are proposed with a view to liberalizing the existing limitations upon the use of the absentee ballot by qualified voters who may be unavoidably absent from their election districts on election day. It is proposed that the legislature be authorized to extend the privilege in all elections and not limited to "general" elections as is presently the case. The restriction that the absentee voter must be "within the United States" would also be deleted and it would thus be permissible to send such absentee ballots to qualified voters anywhere in the world. Further, the amendment would authorize the use of such ballots by all members of a family, otherwise qualified, who may be absent from their place of residence on election day by reason of the duties, occupation or business of any member thereof.

COMPENSATION OF MEMBERS OF THE LEGISLATURE

The proposed amendment of Article III, Section 6 would delete from the Constitution the provision fixing the annual salary of each

¹ In addition, three propositions will be submitted to the people at the general election this year: (1) to authorize additional state indebtedness of \$135,000,000 to provide funds for loans to municipalities and authorities for slum clearance and low-rent housing; (2) to increase from \$1,000,000 to \$1,500,000 the maximum aggregate payments which may be required in contracts for periodic subsidies for housing projects in any one year; and (3) to increase from \$9,000,000 to \$13,000,000 the maximum aggregate payments which may be required in contracts for periodic subsidies for housing projects outstanding at any one time.

member of the legislature at two thousand five hundred dollars. It would also eliminate the per diem allowance of ten dollars now provided for senators when the Senate is in extraordinary session, or when serving as members of the Court for Trial of Impeachments, and for such members of the Assembly as may be appointed managers of an impeachment. The legislature would be authorized to fix by law both the annual salaries, which must be identical for all members, and the per diem allowance for extra duty in the instances stated above. The legislature would likewise be authorized to provide for and fix an additional monetary allowance to be paid to any member of either house while serving as an officer of his house or in any other special capacity therein, other than those mentioned. This latter provision would include, among others, the Temporary President of the Senate, the Speaker of the Assembly, and chairmen of the various legislative committees whose duties in such capacities often extend beyond the ordinary legislative sessions or entail special duties and services.

The legislative authority thus to be provided is prospective only in its application and members will continue to receive the same salaries and allowances now provided until changed by law pursuant to this amendment. Neither salaries nor additional allowances as so fixed may be increased or diminished during the term of a particular member, with one exception. It is provided that the legislature may, by law enacted prior to April 1, 1948, and relating only to services performed after its enactment, fix the salaries and compensation of the members of the legislature then in office.

NEW JUDICIAL DISTRICT (TENTH)

On May 17, 1945 the Court of Appeals held in *Matter of Kuhn v. Curran*, 294 N. Y. 204, that the legislative authority provided in Article VI, Section 1 of the Constitution to "alter" the judicial districts of the State did not include the power to create additional judicial districts. Laws 1944, Chapter 617, creating the tenth judicial district out of the territory now constituting part of the second judicial district, encompassing the counties of Nassau and Suffolk, accordingly was declared to be unconstitutional.

One of the proposals to be voted upon in November of this year would amend Article VI, Section 1 specifically to authorize the legislature to erect out of the second judicial district as now constituted, another such district to consist of the counties of Queens, Nassau and Suffolk, to apportion the justices of the Supreme Court in office between the two districts, and provide for the election of additional justices in the newly erected judicial district.

REMOVAL AND RETIREMENT OF JUDGES AND JUSTICES

The Constitution now provides a rather cumbersome procedure by which judges and justices may be removed for cause by the Court for the Trial of Impeachments, composed of members of the Senate and the judges of the Court of Appeals. Article VI, Section 10. Judges of the Court of Appeals and justices of the Supreme Court may also be removed for cause by concurrent resolution of