

mission in 1905, and being part of the Northeast Quarter of Section 28, Town 17, Range 18, Fairfield County, Ohio, and being a portion of the same land that was leased by the State of Ohio to D. W. Bennett, by lease dated November 14, 1905. Said half lot has a frontage of fifty feet, measured along the top of the outer slope of the reservoir embankment.

Upon examination of this lease, I find that the same has been properly executed by you as Conservation Commissioner, acting on behalf of the state of Ohio, and by D. W. and Nona J. Bennett, the lessees therein named. Upon examination of the provisions of this lease and the conditions and restrictions therein contained, I find the same to be in conformity with the provisions of section 471 and of other sections of the General Code relating to leases of this kind.

I am, accordingly, approving this lease as to legality and form, as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith returned.

Respectfully,

JOHN W. BRICKER,
Attorney General.

5775.

APPROVAL—BONDS OF AKRON CITY SCHOOL DISTRICT,
SUMMIT COUNTY, OHIO, \$10,000.00.

COLUMBUS, OHIO, July 1, 1936

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

5776.

APPROVAL—PETITION CONTAINING A PROPOSED CONSTITUTIONAL AMENDMENT AND SUMMARY OF SAME.

COLUMBUS, OHIO, July 1, 1936

CHARLES H. HUBBELL, ESQ., *10401 Almira Avenue, Cleveland, Ohio.*

DEAR SIR: You have submitted for my examination a written petition signed by one hundred qualified electors of this state containing a proposed constitutional amendment and a summary of the same under the provisions of Section 4785-175, General Code. It is proposed to amend the Constitution by repealing Section 12 of Article XI; by amending Sec-

tions 1, 2, 3, 6, 7, 10, 12, 13, 14 and 15 of Article IV; by adopting and adding to Article IV ten new sections, Sections 1a, 13a, 13b, 13c, 13d, 13e, 13f, 13g, 14a and 14b; by adopting and adding to Article X one new section, Section 18; and by amending Section 4 of Article IV and Section 2 of Article XVII.

SUMMARY OF PROPOSED AMENDMENT

IV-1. The proposed amendment to the constitution declares that the judicial power of the state is and shall be vested in certain courts and that certain courts shall be courts of record.

IV-1a. The proposed amendment also provides that the judges of certain specified courts in office at a certain specified time shall continue in office until the first of January next after the expiration of the terms for which they shall have been elected or appointed, and until the first of January next after they shall reach the age of 70 years, and that at such time they shall be retired.

IV-2. The proposed amendment also declares that the supreme court shall consist of seven supreme justices (i. e., one chief justice and six associate justices); provides for certain terms of said court; defines the jurisdiction of said court; provides that a majority of the supreme justices shall be necessary to constitute a quorum or pronounce a decision; provides that whenever the supreme justices shall be equally divided and unable to agree upon a judgment that fact shall constitute an affirmance of the judgment of the court below; provides that the decisions and certain rulings of said court shall be published; provides that no law shall be enacted and no rule made or enforced whereby any person shall be denied the right to invoke the original jurisdiction of said court; provides that no law shall be enacted and no rule made or enforced whereby any person cited for contempt of court (not committed in the presence of the court nor in violation of a court order) shall be denied the right to a jury trial or to have the case heard by a judicial officer other than the one by whom or at whose instance the contempt is charged; and provides that no law shall be enacted and no rule made or enforced whereby any officer of a bona-fide labor organization shall be denied the right to give aid or advice to any person or to recommend or employ counsel to give legal aid or advice to any person regarding any right of action arising from, growing out of or connected with the vocation or employment of any member of said labor organization, upon the basis of which right of action, or for the adjudication or enforcement thereof, proceedings may be instituted in any court.

IV-3. The proposed amendment also provides that the state shall be divided into not less than eleven appellate districts bounded by county lines, in each of which there shall be a court of appeals consisting of three

appellate judges; provides for certain terms of said courts; defines the jurisdiction of said courts; provides that no decision of any court of record shall be reversed by any court of appeals except by the concurrence of all the judges on the weight of the evidence or by a majority of the judges on other questions; provides for the certification to the supreme court, for review and final determination, of the record in any court of appeals case wherein the judgment is in conflict with a judgment pronounced upon the same question by another court of appeals in this state; provides that laws may be enacted for the decisions of the courts of appeal to be published; provides that each appellate judge may exercise judicial power in any district; provides that the chief justice of the supreme court shall pass upon the question of the disqualification or disability of any appellate judge, and may assign any appellate judge to any district; provides that, subsequent to January 1, 1943, laws may be enacted to increase the number of appellate districts or to alter the boundaries thereof, but that no such change shall abridge the term of any appellate judge; provides that no law shall be enacted to reduce the number of appellate districts; provides, after any increase in the number or change of boundaries of appellate districts, for the location as to districts of appellate judges; and defines eleven appellate districts effective on the first of January next after the proposed amendment becomes effective and continuing until laws shall be enacted establishing other and different appellate districts.

IV-6, IV-7. The proposed amendment also provides that in each county there shall be a court of common pleas and a court of probate, separate and distinct from each other, in each of which courts there shall be one resident judge and such additional resident judges as may be provided by law; provides that no law enacted to alter the number of counties in the state shall abridge the term of any such judge; provides that as many courts or sessions of either such court as are necessary may be held at the same time as may be provided by law or as the judge or judges may determine upon; provides that each common pleas judge and each probate judge may exercise judicial power in any county; and provides that the chief justice of the supreme court shall pass upon the question of the disqualification or disability of any such judge, and may assign any such judge to any county.

IV-10. The proposed amendment also provides that all other judges (i. e., other than supreme justices, appellate judges, common pleas judges and probate judges) shall, unless and until otherwise provided by law, be elected, but not for a longer term than fourteen years; provides that laws may be enacted for the appointment of such other judges in the same manner and for the same terms as common pleas judges; and provides that such other judges in office at a certain specified time shall hold

office for certain extended terms as specified in the proposed amendment.

IV-12. The proposed amendment also provides that, during not less than nine months in each year, all judges shall reside within the county, district or territory in which their courts have jurisdiction, and that any judge, who, for more than three months in any year, shall reside outside of said county, district or territory, shall be deemed to have forfeited his office.

IV-13. The proposed amendment also provides that vacancies in the office of supreme justice, common pleas judge or probate judge shall be filled by appointment by the governor, and that vacancies in the office of appellate judge shall be filled by appointment by the chief justice of the supreme court; provides that judges so appointed shall continue in office until the first of January next after they shall reach the age of 70 years, and that at such time they shall be retired; provides certain professional experience pre-requisites and certain other requirements for appointment to the office of judge of any court of record; provides certain restrictions against the approval (as subsequently in the proposed amendment required) by certain judicial officers of appointees to judicial office; and provides that any judicial officer, who shall fail or refuse to accept an appointment to a higher judicial office, shall be deemed to have forfeited his inferior judicial office.

IV-13a. The proposed amendment also provides certain age and other restrictions against appointees (appointed by the governor) to the office of chief justice; provides that, under certain specified conditions, no person other than an associate justice shall be eligible for appointment by the governor as chief justice; provides that the governor may, without the approval of any judicial officer, appoint any associate justice to the office of chief justice; provides that, if a vacancy in the office of chief justice be not filled by the appointment thereto of an associate justice, the appointment by the governor shall be restricted to persons meeting certain specified requirements and who shall be approved by certain specified judicial officers; and provides that, pending a permanent appointment to fill a vacancy in the office of chief justice, or in the event of the disqualification of the chief justice, the associate justice oldest in point of age shall temporarily act as chief justice.

IV-13b. The proposed amendment also provides certain age and other restrictions against appointees (appointed by the governor) to the office of associate justice; provides that, under certain specified conditions, no person other than an appellate judge shall be eligible for appointment by the governor as associate justice; provides that the governor may, without the approval of any judicial officer, appoint any appellate judge to the office of associate justice; provides that, if a vacancy in the office of associate justice be not filled by the appointment thereto of an ap-

pellate judge, the appointment by the governor shall be restricted to persons meeting certain specified requirements and who shall be approved by certain specified judicial officers; and provides that, if, in the event of the disqualification of any associate justice or in the event any associate justice shall temporarily be acting as chief justice, either the governor or the attorney general shall certify to the necessity therefor, the appellate judge oldest in point of age shall temporarily act as an associate justice.

IV-13c. The proposed amendment also provides certain age and other restrictions against appointees (appointed by the chief justice) to the office of appellate judge; provides that, under certain specified conditions, no person other than a judge of a court of record inferior to the court of appeals shall be eligible for appointment by the chief justice as appellate judge; provides that the chief justice may, without the approval of any judicial officer, appoint any judge of a court of record in any appellate district to the office of appellate judge in said district; and provides that, if a vacancy in the office of appellate judge in any district be not filled by the appointment thereto of a judge of a court of record, the appointment by the chief justice shall be restricted to qualified persons approved by certain specified judicial officers.

IV-13d. The proposed amendment also provides certain age restrictions against appointees (appointed by the governor) to the office of county judge (i. e., common pleas judge or probate judge); and provides that appointments by the governor of a county judge shall be restricted to qualified persons approved by certain specified judicial officers.

IV-13e. The proposed amendment also provides that vacancies in the office of any judge of a court of record, other than the supreme court, court of appeals, court of common pleas and court of probate, before the expiration of the term thereof, shall be filled by appointment by the governor; provides that judges so appointed shall continue in office until the expiration of the terms of their predecessors in office; provides certain age restrictions against appointees (appointed by the governor) to any office of any judge of any court of record, *excepting the supreme court* and provides that appointments by the governor of judges of any court of record, *excepting the supreme court*, shall be restricted to persons approved by certain judicial officers.

(But see the provisions of Sections 13a and 13b in connection with the two clauses underlined in the summary of Section 13e and reading as follows: "*excepting the supreme Court.*")

IV-13f. The proposed amendment also provides that the provisions thereof shall be subject to certain special exceptions which are set forth therein in detail.

IV-13g. The proposed amendment also provides that, in the event a vacancy in any judicial office be not filled by appointment by the governor or by the chief justice of the supreme court (as aforesaid) prior to the fourth Wednesday after it shall occur, it shall be deemed to be a protracted vacancy; provides certain professional experience pre-requisites and certain other restrictions for and against appointments to protracted vacancies; states the procedure (which is other than by appointment by the governor or the chief justice) for making appointments to protracted vacancies; and provides that any judicial officer appointed to a protracted vacancy shall continue in office for the same term as though appointed by the governor or by the chief justice.

IV-14. The proposed amendment also provides that each judicial officer shall receive such compensation as may be provided by law, the amount of which shall not be diminished, but may be increased, during the term of office of any judicial officer, but that no law passed by the general assembly increasing the compensation of any judicial officer shall become effective unless and until referred to the electors and be approved by a majority voting on the question; prohibits judicial officers from receiving fees and perquisites and from holding other offices; and provides that the compensation of any judicial officer assigned elsewhere than where he resides and regularly holds court shall be paid into the funds from which said judicial officer receives his regular compensation, but that the aforesaid provision shall not be construed so as to prevent any judicial officer from being reimbursed for reasonable expenses in connection with the discharge of official duties outside the county in which he resides.

IV-14a. The proposed amendment also provides for annuities, equal to one-half regular compensation, to be paid to certain retired judicial officers, and for annuities, equal to one-fourth regular compensation, to be paid to the widows of certain retired (or deceased) judicial officers; and provides that laws may be enacted for like annuities to be paid to certain other judicial officers and their widows.

IV-14b. The proposed amendment also declares it to be against public policy for any judicial officer to engage in certain specified business or commercial activities; and provides that any judicial officer who shall engage in any such specified business or commercial activity shall be deemed to have forfeited his office.

IV-15. The proposed amendment also provides that laws may be enacted to increase beyond one or to decrease to one the number of common pleas judges or probate judges in any county, or to establish or abolish courts other than the supreme court, court of appeals, court of common pleas and court of probate, but that no such increase or reduction or other change shall vacate the office of any judge; provides that

all existing courts shall continue in operation, unless and until abolished by law, excepting that all municipal courts established prior to the effective date of the proposed amendment (other than municipal courts established subsequent to June 1, 1936, and which shall apply uniformly to all municipal court jurisdictions throughout the state) shall be abolished on January 1, 1948; provides that laws may be enacted establishing municipal courts in any jurisdiction in this state, but that all such laws shall apply uniformly to all municipal court jurisdictions throughout the state; and provides that, if no such uniform municipal court law shall have been enacted prior to July 1, 1947, the chief justice of the supreme court shall, on or before October 1, 1947, issue his order establishing provisional courts in all municipal court jurisdictions throughout the state, and defining uniform procedure on said provisional courts.

X-18, XV-4. The proposed amendment also provides certain requirements as to the eligibility of county or municipal officers, officials and employees, and as to the eligibility of state officers, officials and employees.

XVII-2. The proposed amendment also specifies that the terms of all elected officers shall be such even number of years as are prescribed in the constitution or as may be provided by statute; provides that all vacancies in such offices shall be filled in such manner as is prescribed in the constitution or as may be provided by statute; and restricts the terms of elective judges to fourteen years and the terms of other elective officers to six years.

I am of the opinion that said summary is a fair and truthful statement of the proposed constitutional amendment and accordingly submit for uses provided by law the following certification:

“Pursuant to the duties imposed upon me under the provisions of Section 4785-175, General Code, I hereby certify that the attached summary is a fair and truthful statement of the proposed amendment to the Constitution of Ohio by repealing Section 12 of Article XI; by amending Sections 1, 2, 3, 6, 7, 10, 12, 13, 14 and 15 of Article IV; by adopting and adding to Article IV ten new sections, Sections 1a, 13a, 13b, 13c, 13d, 13e, 13f, 13g, 14a and 14b; by adopting and adding to Article X one new section, Section 18; and by amending Section 4 of Article XV and Section 2 of Article XVII. JOHN W. BRICKER, Attorney General.”

Respectfully,

JOHN W. BRICKER,
Attorney General.