

ordered to strike out "third" in sixth line and insert "eighth," which was done. Lost.

The question then was the adoption of the article and Mr. Stiles moved the following amendment: "And provided that whenever the United States shall cease to own any of the lands hereinabove provided for, the provisions of this article shall thereafter no longer apply to such lands." Mr. J. Z. Moore moved an amendment to the amendment to strike out "now" in third line and insert from "time to time." Ruled out of order.

Mr. Turner gave notice that he would at the proper time move an important amendment. Mr. Comegys moved that the article and the amendments lay on the table and it was so ordered.

Mr. P. C. Sullivan moved that Mr. Henry D. Blackwell be invited to address the members of this Convention at Tacoma Hall on Thursday evening next. Mr. Power moved to amend by inserting the Convention Hall instead of Tacoma Hall.

Mr. Buchanan moved to indefinitely postpone. Mr. Suksdorf moved to adjourn. Lost.

Mr. Sullivan then withdrew his motion, the other movers consenting, and stated to the members of the Convention that he had been requested to say that Mr. Henry D. Blackwell extended them an invitation to attend a lecture to be given by him on the subject of women's suffrage on Thursday evening next at the Tacoma Hall.

Mr. Shoudy at 10:25 a.m. moved to adjourn. Agreed to and the Convention stood adjourned to July 24, 1889, at 9 a.m.

### July 24th, 1889

Convention called to order by the President at 9 a.m. Prayer by the Rev. Mr. Lee. On roll call all the members were present except Mr. Dallam and Mr. Willison on leave. Mr. Fairweather asked that Mr. Dallam be excused for the day. Granted. Minutes read and approved.

The President submitted a telegram from the American Sabbath Union of New York City relating to the observance of the Sabbath. Signed by Elliott Shepard and others. Read and referred to the Committee on Preamble and Bill of Rights.

Mr. Eshelman presented a petition relative to prohibition. Read and referred to the Committee on Miscellaneous Subjects, Schedule and Future Amendments.

Mr. Dunbar presented a petition relative to state, county and municipal indebtedness. Read and referred to the Committee on State, County and Municipal Indebtedness.

The judicial article was then taken up, read a third time and the question was upon the final passage of the article. Mr. Eldridge moved that the article be laid on the table. Lost. Mr. Turner moved an amendment that in Section 10 page 6, after "courts of record" the words "except that justices of the peace may be made police justices of incorporated cities and towns" be inserted. Adopted. Mr. Power moved to recommit the article with instructions as follows: to provide for the continuance of the probate for the several counties separate from the Superior Court. Lost.

Mr. Weisenburger offered the following amendment. Strike out the word "two" and insert "one" and figure "two hundred dollars" and insert "one hundred dollars" in line five of Section 4. Mr. Turner objected. Mr. Prosser asked that the rules be suspended and Mr. Weisenburger's motion be sustained and a sufficient number having seconded this request. Mr. Turner objected and the objection was sustained.

The question was then as before stated on the final passage and the ayes and noes were ordered. A majority of all the members voting aye on the judicial article, it was adopted. The following sixty-seven members voted aye: Allen, Berry, Blalock, Bowen, Browne, Burk, Clothier, Coey, Comegys, Cosgrove, Crowley, Dickey, Dunbar, Durie, Dyer, Eshelman, Fairweather, Fay, Glascock, Godman, Gray, Griffiths, Hayton, Henry, Hicks, Hungate, Jamieson, Jeffs, Jones, Joy, Kellogg, Kinnear, Lillis, Lindsley, Manly, McCroskey, McDonald, McElroy, McReavey, Minor, Mires, J. Z. Moore, R. S. More, Morgans, Neace, Power, Prosser, J. M. Reed, T. M. Reed, Schooley, Sharpstein, Shoudy, Sohns, Stiles, Sturdevant, E. H. Sullivan, P. C. Sullivan, Tibbetts, Travis, Turner, Van Name, Warner, Weir, Weisenburger, West, Winsor, Mr. President. And the following six no: Buchanan, Eldridge, Gowey, Newton, Stevenson, Suksdorf. Mr. Willison not voting and Mr. Dallam on leave. The article was adopted as follows.

In the Convention  
Committee on Judicial Department  
Article

**Section 1.** The judicial power of the state shall be vested in a Supreme Court, Superior Courts, Justices of the Peace and such inferior courts as the Legislature may provide.

**Section 2.** The Supreme Court shall consist of five judges, a majority of whom shall be necessary to form a quorum and pronounce a decision. The said court shall always be open for the transaction of business except on nonjudicial days. In the determination of causes all decisions of the court shall be given in writing and the grounds of the decision shall be stated. The Legislature may increase the number of judges of the Supreme Court from time to time and may provide for separate departments of said court.

**Section 3.** The judges of the Supreme Court shall be elected by the qualified electors of the state at large at the general state election at the times and places at which state officers are elected, unless some other time be provided by the Legislature.

The first election of judges of the Supreme Court shall be at the election which shall be held upon the adoption of this Constitution and the judges elected thereat shall be classified by lot, so that two shall hold their office for the term of three years, two for the term of five years, and one for the term of seven years.

The lot shall be drawn by the judges who shall for that purpose assemble at the seat of government and they shall cause the result thereof to be certified to the Secretary of State and filed in his office. The judge having the shortest term to serve not holding his office by appointment or election to fill a vacancy shall be the Chief Justice, and shall preside at all sessions of the Supreme Court, and in case there shall be two judges having in like manner the same short term, the other judges of the Supreme Court shall determine which of them shall be Chief Justice.

In case of the absence of the Chief Justice the judge having in like manner the shortest or next shortest term to serve shall preside. After the first election the terms of judges elected shall be six years from and after the first Monday in January next succeeding their election.

If a vacancy occurs in the office of a judge of the Supreme Court the Governor shall appoint a person to hold the office until the election and qualification of a judge to fill vacancy, which election shall take place at the next succeeding general election, and the judge so elected shall hold the office for the remainder of the unexpired term. The term of office of the judges of the Supreme Court first elected shall commence as soon as the state shall have been admitted into the Union and continue for the term herein provided, and until their successors are elected and qualified. The sessions of the Supreme Court shall be held at the seat of government until otherwise provided by law.

**Section 4.** The Supreme Court shall have original jurisdiction in habeas corpus and quo warranto and mandamus as to all state officers and appellate jurisdiction in all actions and proceedings, excepting that its appellate jurisdiction shall not extend to civil actions at law for the recovery of money or personal property when the original amount in controversy or the value of the property does not exceed the sum of two hundred dollars, unless the action involves the legality of a tax, impost, assessment, toll, municipal fine, or the validity of the statute. The Supreme Court shall also have power to issue writs of mandamus, review, prohibition, habeas corpus, certiorari and all other writs necessary and proper to the complete exercise of its appellate and revisory jurisdiction. Each of the judges shall have power to issue writs of habeas corpus to any part of the state upon petition by or on behalf of any person held in actual custody and may make such writs returnable before himself or before the Supreme Court or before any Superior Court of the state or any judge thereof.

**Section 5.** There shall be in each of the organized counties of this state a Superior Court for which at least one judge shall be elected by the qualified electors of the county at the general state election. Provided that until otherwise directed by the Legislature one judge only shall be elected for the counties of Spokane and Stevens; one judge for the county of Whitman; one judge for the counties of Lincoln, Okanogan, Douglas and Adams; one judge for the counties of Walla Walla and Franklin; one judge for the counties of Columbia, Garfield and Asotin; one judge for the counties of Kittitas, Klickitat and Yakima; one judge for the counties of Clark, Skamania, Pacific, Cowlitz and Wahkiakum; one judge for the counties of Thurston, Chehalis, Mason and

Lewis; one judge for the county of Pierce; one judge for the county of King; one judge for the counties of Jefferson, Island, Kitsap, San Juan and Clallam, and one judge for the counties of Whatcom, Skagit and Snohomish. In any county where there shall be more than one Superior Judge there may be as many sessions of the Superior Court at the same time as there are judges thereof and whenever the Governor shall direct a Superior Judge to hold court in any county other than that for which he has been elected there may be as many sessions of the Superior Court in said county at the same time as there are judges therein or assigned to duty therein by the Governor, and the business of the court shall be so distributed and assigned by law, or in the absence of legislation therefor by such rules and orders of court as shall best promote and secure the convenient and expeditious transaction thereof. The judgments, decrees, orders and proceedings of any session of the Superior Court held by any one or more of the judges of such court shall be equally effectual as if all the judges of said court presided at such session. The first Superior Judges elected under this Constitution shall hold their offices for the period of three years and until their successors shall be elected and qualified and thereafter the term of office of all Superior Judges in this state shall be four years from the first Monday in January next succeeding their election and until their successors are elected and qualified.

The first election of judges of the Superior Courts shall be at the election held for the adoption of this Constitution. If a vacancy occurs in the office of Judge of the Superior Court the Governor shall appoint a person to hold the office until the election and qualification of a judge to fill the vacancy, which election shall be at the next succeeding general election, and the Judge so elected shall hold office for the remainder of the unexpired term.

**Section 6.** The Superior Court shall have original jurisdiction in all cases in equity and in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll or municipal fine, and in all other cases in which the demand or the value of the property in controversy amounts to one hundred dollars, and in all criminal cases amounting to felony and in all cases of misdemeanor not otherwise provided for by law; of actions of forcible entry and detainer, of

proceedings in insolvency, of actions to prevent or abate a nuisance, of all matters of probate, of divorce, and for annulment of marriage and of such special cases and proceedings as are not otherwise provided for. The Superior Court shall also have original jurisdiction in all cases and of all proceedings in which jurisdiction shall not have been by law vested exclusively in some other court, and said court shall have the power of naturalization and to issue papers therefor. They shall have such appellate jurisdiction in cases arising in justice and other inferior courts in their respective counties as may be prescribed by law, they shall be always open except on nonjudicial days and their process shall extend to all parts of the state. Said courts and their judges shall have power to issue writs of mandamus, quo warranto, review, certiorari, prohibition and writs of habeas corpus on petition by or on behalf of any person in actual custody in their respective counties. Injunctions and writs of prohibition and of habeas corpus may be issued and served on legal holidays and nonjudicial days.

**Section 7.** The judge of any Superior Court may hold a Superior Court in any county at the request of the judge of the Superior Court thereof and upon the request of the Governor it shall be his duty to do so. A case in the Superior Court may be tried by a judge pro tempore who must be a member of the bar agreed upon in writing by the parties litigant or their attorneys of record approved by the court and sworn to try the case.

**Section 8.** Any judicial officer who shall absent himself from the state for more than sixty consecutive days shall be deemed to have forfeited his office; provided, that in cases of extreme necessity the Governor may extend the leave of absence such time as the necessity therefor exists.

**Section 9.** Any judge of any court of record, the Attorney General or any prosecuting attorney may be removed from office by joint resolution of the Legislature, in which three-fourths of the members elected to each house shall concur, for incompetency, corruption, malfeasance or delinquency in office or other sufficient causes stated in such resolution. But no removal shall be made unless the officer complained of shall have been served with a copy of the charges against him as the ground of removal and shall have an opportunity of being heard in his defense. Such resolution shall be entered at length on the journal of both houses

and on the question of removal the ayes and noes shall also be entered on the journal.

**Section 10.** The Legislature shall determine the number of justices of the peace to be elected in incorporated cities or towns and in precincts and shall prescribe by law the powers, duties and jurisdiction of justices of the peace. Provided that such jurisdiction granted by the Legislature shall not trench upon the jurisdiction of superior or other courts of record, except that justices of the peace may be made police justices of incorporated cities and towns in incorporated cities or towns having more than five thousand inhabitants. The justices of the peace shall receive such salary as may be provided by law, and shall receive no fees for their own use.

**Section 11.** The Supreme Court and the Superior Courts shall be courts of record and the Legislature shall have power to provide that any of the courts of this state, excepting justices of the peace, shall be courts of record.

**Section 12.** The Legislature shall prescribe by law the jurisdiction and powers of any of the inferior courts which may be established in pursuance of this Constitution.

**Section 13.** No judicial officer, except court commissioners and unsalaried justices of the peace, shall receive to his own use any fees or prerequisites of office. The judges of the Supreme Court and judges of the Superior Courts shall severally at stated times, during their continuance in office, receive for their services the salaries prescribed by law therefor which shall not be increased after their election nor during the term for which they shall have been elected. The salaries of the judges of the Supreme Court shall be paid by the state. One-half of the salary of each of the Superior Court judges shall be paid by the state, and the other one-half by the county or counties for which he is elected. In cases where a judge is provided for more than one county, that portion of his salary which is to be paid by the counties shall be apportioned between or among them according to the assessed value of their taxable property, to be determined by the assessment next preceding the time for which such salary is to be paid.

**Section 14.** Each of the judges of the Supreme Court shall receive an annual salary of four thousand dollars; each of the



Superior Court judges shall receive an annual salary of three thousand dollars, which said salaries shall be payable quarterly. The Legislature may increase the salaries of judges herein provided.

**Section 15.** The judges of the Supreme Court and the judges of the Superior Court shall be ineligible to any other office or public employment than a judicial office or employment during the term for which they shall have been elected.

**Section 16.** Judges shall not charge juries with respect to matters of fact, nor comment thereon, but shall declare the law.

**Section 17.** No person shall be eligible to the office of judge of the Supreme Court, or judge of a Superior Court, unless he shall have been admitted to practice in the courts of record of this state or of the territory of Washington.

**Section 18.** The judges of the Supreme Court shall appoint a reporter for the decisions of that court, who shall be removable at their pleasure. He shall receive such annual salary as shall be prescribed by law.

**Section 19.** No judge of a court of record shall practice law in any court of this state during his continuance in office.

**Section 20.** Every cause submitted to a judge of a Superior Court for his decision shall be decided by him within ninety days from the submission thereof. Provided, that if within said period of ninety days a rehearing shall have been ordered, then the period within which he is to decide shall commence at the time the cause is submitted upon such a rehearing.

**Section 21.** The Legislature shall provide for the speedy publication of opinions of the Supreme Court, and all opinions shall be free for publication by any person.

**Section 22.** The judges of the Supreme Court shall appoint a clerk of that court who shall be removable at their pleasure, but the Legislature may provide for the election of the clerk of the Supreme Court and prescribe the term of his office. The clerk of the Supreme Court shall receive such compensation by salary only as shall be provided by law.

**Section 23.** There may be appointed in each county, by the judge of the Superior Court having jurisdiction therein, one



or more court commissioners, not exceeding three in number, who shall have authority to perform like duties as a judge of the Superior Court at chambers, subject to revision by such judge, to take depositions, and to perform such other business connected with the administration of justice as may be prescribed by law.

**Section 24.** The judges of the Superior Courts shall from time to time establish uniform rules for the government of the Superior Courts.

**Section 25.** Superior judges shall, on or before the first day of November in each year, report in writing to the judges of the Supreme Court such defects and omissions in the laws as their experience may suggest, and the judges of the Supreme Court shall on or before the first day of January in each year report in writing to the Governor such defects and omissions in the laws as they may believe to exist.

**Section 26.** The County Clerk shall be by virtue of his office Clerk of the Superior Court.

**Section 27.** The style of all process shall be "the State of Washington" and all prosecutions shall be conducted in its name and by its authority.

**Section 28.** Every judge of the Supreme Court and every judge of a Superior Court shall, before entering upon the duties of his office, take and subscribe an oath that he will support the Constitution of the United States and the Constitution of the State of Washington and will faithfully and impartially discharge the duties of judge to the best of his ability, which oath shall be filed in the office of the Secretary of State.

Ordered sent to the Committee on Revision, Adjustment and Enrollment to perfect and enroll.

The special order, being the reports of the Committee on Miscellaneous Subjects, Schedule and Future Amendments, was then taken up and the pending motion was stated to be the minority report of the committee. Mr. Sharpstein moved to amend by striking out "minority" and inserting "majority" thereof. Mr. Warner moved to recommit the report to the Committee on Miscellaneous Subjects, Schedule and Future Amendments.

Mr. Moore moved the previous question, it was so ordered

and on the question (to recommit) being put it was lost. And on a vote on the amendment of Mr. Sharpstein it was carried. The question then was shall the majority report be adopted. It was carried. For majority report, see last of day's proceedings (omitted from here by mistake).

Mr. Dickey moved that the minority report be adopted; ruled out of order.

Mr. McCroskey moved that the recommendation of the Committee on Miscellaneous Subjects, Schedule and Future Amendments be adopted. On a submission to the Convention as to whether Mr. McCroskey's motion would be entertained it was ordered ruled out of order.

The question was then upon the report of the Committee on County, City and Township Organization. Mr. Stiles moved that the Convention resolve itself into a committee of the whole for the purpose of considering the report of the Committee on County, City and Township Organization. Carried with Mr. Dunbar [called to] \* in the chair. At 12 noon the Convention rose and the President resumed the chair.

The committee reported that they had had under consideration the article on County, City and Township Organization and had made progress, but come to no resolution thereon and asked leave to sit again. Granted.

Mr. Turner asked leave for today and balance of tomorrow. Granted.

Mr. Dyer moved to take recess until 2 p.m. Mr. Fay moved to amend by striking out 2 p.m. and inserting 1:30 p.m. Agreed to and at 11:55 a.m. the Convention took a recess until 1:30 p.m. this day.

At 1:30 p.m. the Convention was called to order by the President. On roll call all the members were present except Mr. Allen and Messrs. Turner and Dallam on leave. Mr. Dunbar asked to have Mr. Allen excused for the balance of the day. It was so ordered.

At 1:35 p.m. Mr. Dunbar moved that the Convention resolve itself into a committee of the whole for the purpose of further

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\* Stricken in journal.

considering of the report from the Committee on County, City and Township Organization. Carried. Mr. Dunbar was called to the chair. At 2:30 p.m. the Convention rose and the President resumed the chair.

The committee reported that they had had under consideration the article from the Committee on County, City and Township Organization and had made sundry amendments thereto and recommend that the amendments be concurred in and when such concurring is had that the article be adopted as amended. They also recommend that the matter of County Clerk be referred to the Committee of Miscellaneous Subjects, Schedule and Future Amendments.

The question then being "Shall the Convention concur in the amendments to the article" and a vote being had the amendments were concurred in.

The question then was shall the article as amended be considered engrossed and passed to a third reading, pending which Mr. Crowley moved to amend by adding the word "sheriff" after the words "except that" in line two of Section 8 and demanded the ayes and noes. They were so ordered. The following twenty-nine members voted aye: Berry, Buchanan, Burk, Clothier, Comegys, Cosgrove, Crowley, Dunbar, Eldridge, Godman, Gowey, Gray, Jeffs, McDonald, [McElroy] \*, McReavey, Minor, Mires, J. Z. Moore, Morgans, Power, Prosser, Schooley, Sohns, Stevenson, Sturdevant, P. C. Sullivan, Tibbetts, Weir, Mr. President. And the following thirty-six members voted no: Blalock, Bowen, Browne, Coey, Dickey, Durie, Dyer, Eshelman, Fay, Glascock, Griffiths, Hicks, Hungate, Joy, Kellogg, Kinnear, Lillis, Lindsley, McCroskey, McElroy, R. S. More, Neace, Newton, J. M. Reed, T. M. Reed, Shoudy, Stiles, Suksdorf, E. H. Sullivan, Travis, Van Name, Warner, Weisenburger, West, Willison, Winsor. The following members not voting: Fairweather, Hayton, Henry, Jamieson, Jones, Manly, Sharpstein, Messrs. Allen, Dallam and Turner being absent on leave. The amendment was lost.

Mr. Glascock moved to amend Section 2 by striking out the words "a majority" in lines one and three and insert therefor the words "two-thirds" and demanded the ayes and noes. They were so ordered and the question was then shall the amendment of Mr.

\* Stricken in journal.

Dyer be adopted. On a call of the roll the following thirty-eight members voted aye: Berry, Blalock, Browne, Buchanan, Clothier, Coey, Cosgrove, Crowley, Dunbar, Durie, Dyer, Eshelman, Glascock, Gowey, Gray, Hicks, Jamieson, Kinnear, McCroskey, McDonald, McElroy, Minor, R. S. More, Morgans, Neace, Newton, J. M. Reed, T. M. Reed, Shoudy, Sohns, Suksdorf, E. H. Sullivan, P. C. Sullivan, Tibbetts, Warner, Weisenburger, Willison, Mr. President. The following twenty-six members voted no: Bowen, Burk, Comegys, Dickey, Eldridge, Fay, Griffiths, Hungate, Jeffs, Joy, Lillis, Lindsley, McReavey, Mires, J. Z. Moore, Power, Prosser, Schooley, Stevenson, Stiles, Sturdevant, Travis, Van Name, Weir, West, Winsor. Messrs. Allen, Dallam and Turner absent on leave and the following members not voting: Fairweather, Godman, Hayton, Henry, Jones, Kellogg, Manly, Sharpstein. The amendment was adopted.

The question was then on the adoption of the amendment as amended pending which Mr. McReavey moved for a call of the house. Lost.

Mr. J. Z. Moore moved to adjourn. Lost.

Mr. Griffiths moved for a call of the house. Lost.

Mr. Sohns moved the previous question and it was so ordered. The question then being shall the amendment as amended be adopted, the ayes and noes were ordered and the following forty-two members voted aye: Blalock, Browne, Buchanan, Clothier, Coey, Cosgrove, Crowley, Dunbar, Durie, Dyer, Eldridge, Eshelman, Glascock, Godman, Gowey, Gray, Griffiths, Hayton, Hicks, Jamieson, Kellogg, Kinnear, McCroskey, McDonald, McElroy, McReavey, Minor, Mires, R. S. More, Morgans, Neace, Newton, T. M. Reed, Shoudy, Sohns, Suksdorf, E. H. Sullivan, P. C. Sullivan, Tibbetts, Warner, Weisenburger, Willison. The following twenty-six members voted no: Berry, Bowen, Burk, Comegys, Dickey, Fay, Hungate, Jeffs, Joy, Lillis, Lindsley, J. Z. Moore, Power, Prosser, J. M. Reed, Schooley, Stevenson, Stiles, Sturdevant, Travis, Turner, Van Name, Weir, West, Winsor, Mr. President. Messrs. Allen, Dallam and Turner absent on leave and the following members, Fairweather, Henry, Jones, Manly and Sharpstein not voting. The amendment as amended was adopted.

Mr. Mires moved to adjourn. Lost.

Mr. J. Z. Moore moved to lie on the table. Lost.

The question then was shall the article be considered engrossed and passed to a third reading.

Mr. Kinnear offered an amendment as follows. Amend Section 3 by striking out the words "There shall be no territory stricken from any county unless a majority of the voters living in such territory shall petition for such division" in lines three, four and five of said Section 3, commencing with "There" in line three and ending with "division" in lines four and five. Pending which Mr. Comegys moved to adjourn at 5:30 p.m. Agreed to and the Convention stood adjourned to July 25th, 1889, at 9 a.m.

Majority Report

In the Convention

Committee on Miscellaneous Subjects, Schedules and Future Amendments

Miscellaneous Department

Prohibiting the Manufacture and Sale of Alcoholic and Malt Liquors as a Beverage.

Majority

Mr. President and members of the Convention:

Your Committee on Miscellaneous Subjects, Schedule and Future Amendments, to whom was referred numerous petitions praying that a clause be placed in the Constitution prohibiting the manufacture and sale of alcoholic and malt liquors as a beverage have had the same under consideration and respectfully report the same back to the Convention and recommend that the prayer thereof be not granted.

Respectfully submitted,

B. L. SHARPSTEIN,  
*Chairman*

D. BUCHANAN

W. B. GRAY

MATT J. MCELROY

GEO. COMEGYS

H. M. LILLIS