

TWENTIETH DAY.

SIOUX FALLS, DAKOTA, July 23, 1889.

2 o'clock P. M.

Convention called to order by Judge Corson.

Prayer was offered by Rev. Matson.

Journal read and approved.

Communication from American Sabbath Union presented and referred to a special committee consisting of Messrs. Clough, Huntley, Willis, Wood of Pennington and Ramsey.

REPORTS OF STANDING COMMITTEES.

Report of Judiciary Committee submitted as follows:

MR. PRESIDENT:

Your Committee on Judiciary to whom was referred Article V of the Constitution entitled "Judicial Department," having had the same under consideration, together with those provisions of the "Omnibus Bill," relating to said department, beg leave to report as follows:

First. That upon the question of the power of the Convention to increase the number of Judicial circuits, the committee, after full discussion and examination conclude that under Section 5 of said "Omnibus Bill," allowing such changes in the Constitution as relate to the re-apportionment of Judicial districts, such increase by this Convention is clearly authorized.

Second. That the Committee have likewise carefully considered the expediency and the necessity of such increase. In the older and more thickly populated counties a large volume of business has been long pending before the courts; and new counties, largely settled since the apportionment by the Convention of 1885, have added to the litigation to be disposed of in all the circuits; and, from all the information before the Committee it is apparent that the six Judicial circuits as provided by the Constitution of 1885 are inadequate in number for the transaction of the business pertaining thereto, and that the creation of county courts with jurisdiction as limited by the Constitution will not afford the required relief.

Third: That in recommending an increase from six to eight judicial circuits the committee believe the interests of justice and economy will be subserved, and that such is the least increase consistent with a proper administration of the law.

Fourth: That in the re-apportionment made by the committee care has been taken that the circuits shall be formed by compact territory and bounded by county lines, and that, having reference to such compactness and the amount of business to be done, your committee believe that the apportionment, as shown by the amendment to Section 16 of Article V, herewith submitted, is a just and equitable apportionment of the State into judicial circuits. That such apportionment amends Section 16 of Article Five, so that the same shall read as follows:

SEC. 16. Until otherwise ordered by law said circuits shall be eight in number and constituted as follows, viz.:

First Circuit: The counties of Union, Clay, Yankton, Turner, Bon Homme, Hutchinson, Charles Mix, Douglas, Todd, Gregory, Tripp and Meyer.

Second Circuit: The counties of Lincoln, Minnehaha, McCook, Moody and Lake.

Third Circuit: The counties of Brookings, Kingsbury, Deuel, Hamlin, Codington, Clark, Grant, Roberts, Day and the Wahpeton and Sisseton Reservation, except such portion of said reservation as lies in Marshall county.

Fourth Circuit: The counties of Sanborn, Davison, Aurora, Brule, Buffalo, Jerauld, Hanson, Miner, Lyman, Presho and Pratt.

Fifth Circuit: The counties of Beadle, Spink, Brown and Marshall.

Sixth Circuit: The counties of Hand, Hyde, Hughes, Stanley, Sully, Potter, Faulk, Edmunds, Walworth, Campbell, McPherson and all that portion of said State lying east of the Missouri river and not included in any other judicial circuit.

Seventh Circuit: The counties of Pennington, Custer, Fall River, Shannon, Washington, Zeibach, Sterling, Nowlin, Jackson, Washabaugh and Lugenbeel.

Eighth Circuit: The counties of Lawrence, Meade, Scobey, Butte, Delano, Pyatt, Dewey, Boreman, Schnasse, Rinehart, Martin, Choteau, Ewing, Harding, and all that portion of said State west of the Missouri River and north of the Big Cheyenne River and the north fork of the Cheyenne River not included in any other judicial circuit.

Fifth: The committee further report amendments, as follows: In the first line of Section 38 of said Article V, insert the word "South" before the word "Dakota," and in the third line of said Section 38 insert the word "South" before the word "Dakota." And we herewith report Article V with the changes and amendments aforesaid incorporated therein which changes and amendments are necessary to comply with the provisions of the Omnibus Enabling Act and are authorized by the same, and the committee respectfully recommend the adoption of said Article as amended.

ARTICLE V.

JUDICIAL DEPARTMENT.

SECTION I. The judicial powers of the State, except as in this Constitution otherwise provided, shall be vested in a Supreme Court, circuit courts, county courts, and justices of the peace, and such other courts as may be created by law for cities and incorporated towns.

SUPREME COURT.

SEC. 2. The Supreme Court, except as otherwise provided in this Constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State, and shall have a general superintending control over all inferior courts, under such regulations and limitations as may be prescribed by law.

SEC. 3. The Supreme Court and the judges thereof shall have power to issue writs of habeas corpus. The Supreme Court shall also have power to issue writs of mandamus, quo warranto, certiorari, injunction and other original and remedial writs, with authority to hear and determine the same in such cases and under such regulations as may be provided by law, provided, however, that no jury trials shall be allowed in said Supreme Court, but, in proper cases, questions of fact may be sent by said court to a circuit court to a trial before a jury.

SEC. 4. At least two terms of the Supreme Court shall be held each year at the seat of government.

SEC. 5. The Supreme Court shall consist of three judges, to be chosen from districts by qualified electors of the State at large, as hereinafter provided.

SEC. 6. The number of said judges and districts may, after five years from the admission of this State under this Constitution, be increased by law to not exceeding five.

SEC. 7. A majority of the judges of the Supreme Court

shall be necessary to form a quorum or to pronounce a decision, but one or more of said judges may adjourn the court from day to day or to a certain day.

SEC. 8. The term of the judges of the Supreme Court, who shall be elected at the first election under this Constitution, shall be four years. At all subsequent elections the term of said judges shall be six years.

SEC. 9. The judges of the Supreme Court shall by rule select from their number a presiding judge, who shall act as such for the term prescribed by such rule.

SEC. 10. No person shall be eligible to the office of judge of the Supreme Court unless he be learned in the law, be at least thirty years of age, a citizen of the United States, nor unless he shall have resided in this State or Territory at least two years next preceding his election and at the time of his election be a resident of the district from which he is elected, but for the purpose of re-election, no such judge shall be deemed to have lost his residence in the district by reason of his removal to the seat of government in the discharge of his official duties.

SEC. 11. Until otherwise provided by law, the districts from which the said judges of the Supreme Court shall be elected, shall be constituted as follows:

First District: All that portion of the State lying west of the Missouri river.

Second District: All that portion of the State lying east of the Missouri river and south of the second standard parallel.

Third District: All that portion of the State lying east of the Missouri river and north of the second standard parallel.

SEC. 12. There shall be a clerk and also a reporter of the Supreme Court, who shall be appointed by the judges thereof, and who shall hold office during the pleasure of said judges, and whose duties and emoluments shall be prescribed by law, and by the rules of the Supreme Court not inconsistent with law. The Legislature shall make a provision for the publication and distribution of the decisions of the Supreme Court, and for the sale of the published volumes thereof. No private person or corporation shall be allowed to secure any copyright to such decisions, but if any copy rights are secured they shall inure wholly to the benefit of the State.

SEC. 13. The Governor shall have authority to require the opinions of the judges of the Supreme Court upon important questions of law involved in the exercise of his executive powers and upon solemn occasions.

CIRCUIT COURTS.

SEC. 14. The circuit courts shall have original jurisdiction of all actions and causes, both at law and in equity, and such appellate jurisdiction as may be conferred by law and consistent with this Constitution; such jurisdiction as to value and amount and grade of offense, may be limited by law. They and the judges thereof shall also have jurisdiction and power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, injunction and other original and remedial writs, with authority to hear and determine the same.

SEC. 15. The State shall be divided into judicial circuits in each of which there shall be elected by the electors thereof one judge of the circuit court therein, whose term of office shall be four years.

SEC. 16. Until otherwise ordered by law said circuits shall be eight in number and constituted as follows, viz.:

First Circuit: The counties of Union, Clay, Yankton, Turner, Bon Homme, Hutchinson, Charles Mix, Douglas, Todd, Gregory, Tripp and Meyer.

Second Circuit: The counties of Lincoln, Minnehaha, McCook, Moody and Lake.

Third Circuit: The counties of Brookings, Kingsbury, Deuel, Hamlin, Codington, Clark, Grant, Roberts, Day and the Wahpeton and Sisseton Reservation, except such portion of said reservation as lies in Marshall county.

Fourth Circuit: The counties of Sanborn, Davison, Aurora, Brule, Buffalo, Jerauld, Hanson, Miner, Lyman, Presho and Pratt.

Fifth Circuit: The counties of Beadle, Spink, Brown and Marshall.

Sixth Circuit: The counties of Hand, Hyde, Hughes, Sully, Stanley, Potter, Faulk, Edmunds, Walworth, Campbell, McPherson and all that portion of said State lying east of the Missouri river and not included in any other judicial circuit.

Seventh Circuit: The counties of Pennington, Custer, Fall River, Shannon, Washington, Ziebach, Sterling, Nowlin, Jackson, Washabaugh, Lugenebeel.

Eighth Circuit. The counties of Lawrence, Meade, Scobey, Butte, Delano, Pyatt, Dewey, Boreman, Schnasse, Rinehart, Martin, Choteau, Ewing, Harding, and all that portion of said State west of the Missouri river and north of the Big Cheyenne river and the north fork of the Cheyenne river not included in any other judicial circuit:

SEC. 17. The Legislature may, whenever two-thirds of the members of each house shall concur therein, increase the number of judicial circuits and the judges thereof, and divide the State into judicial circuits accordingly, taking care that they be formed of compact territory and be bounded by county lines, but such increase of number or change in the boundaries of districts shall not work the removal of any judge from his office during the term for which he shall have been elected or appointed.

SEC. 18. Writs of error and appeals may be allowed from the decisions of the circuit courts to the Supreme Court under such regulations as may be prescribed by law.

COUNTY COURTS.

SEC. 19. There shall be elected in each organized county a county judge who shall be judge of the county court of said county, whose term of office shall be two years until otherwise provided by law.

SEC. 20. County courts shall be courts of record and shall have original jurisdiction in all matters of probate guardianship and settlement of estates of deceased persons and such other civil and criminal jurisdiction as may be conferred by law, provided that such courts shall not have jurisdiction in any case where the debt, damage, claim or value of property involved shall exceed one thousand dollars, except in matters of probate guardianship and the estates of deceased persons. Writs of error and appeal may be allowed from county to circuit courts, or to the Supreme court in such cases and in such manner as may be prescribed by law, provided that no appeal or writ of error shall be allowed to the circuit court from any judgment rendered upon an appeal from a justice of the peace or police magistrate for cities and towns.

SEC. 21. The county court shall not have jurisdiction in cases of felony, nor shall criminal cases therein be prosecuted by indictment; but they may have such jurisdiction in criminal matters not of the grade of felony, as the Legislature may prescribe, and the prosecutions therein may be by information or otherwise as the Legislature may provide.

JUSTICE OF THE PEACE.

SEC. 21. Justices of the peace shall have such jurisdiction as may be conferred by law, but they shall not have jurisdiction of any case wherein the value of the property or the amount in controversy exceeds the sum of one hundred dollars, or where the boundaries or title of real property shall be called in question.

POLICE MAGISTRATE.

SEC. 23. The Legislature shall have power to provide for creating such police magistrates for cities and towns as may be deemed from time to time necessary, who shall have jurisdiction of all cases arising under the ordinances of such cities and towns respectively and such police magistrates may also be constituted ex-officio justice of the peace for their respective counties.

STATE'S ATTORNEY.

SEC. 24. The Legislature shall have power to provide for State's attorneys and to prescribe their duties and fix their compensation; but no person shall be eligible to the office of attorney general or State's attorney who shall not at the time of his election be at least twenty-five years of age and possess all the other qualifications for judges of circuit courts as prescribed in this article.

MISCELLANEOUS.

SEC. 25. No person shall be eligible to the office of judge of the circuit or county courts unless he be learned in the law, be at least twenty-five years of age, and a citizen of the United States; nor unless he shall have resided in this State or Territory at least one year next preceding his election, and at the time of his election be a resident of the county or circuit, as the case may be, for which he is elected.

SEC. 26. The judges of the Supreme Court, circuit courts and county courts shall be chosen at the first election held under the provisions of this Constitution, and thereafter as provided by law, and the Legislature may provide for the election of such officers on a different day from that on which an election is held for any other purpose, and may, for the purpose of making such provision, extend or abridge the term of office for any of such judges then holding, but not in any case more than six months. The term of office of all judges of circuit courts, elected in the several judicial circuits throughout the State, shall expire on the same day.

SEC. 27. The time of holding courts within said judicial circuits and counties shall be as provided by law; but at least one term of the circuit court shall be held annually in each organized county, and the Legislature shall make provision for attaching unorganized counties or territory to organized counties for judicial purposes.

SEC. 28. Special terms of said courts may be held under such regulations as may be provided by law.

SEC. 29. The judges of the circuit courts may hold courts in other circuits than their own, under such regulations as may be prescribed by law.

SEC. 30. The judges of the Supreme Court, circuit court and county courts shall each receive such salary as may be provided by law, consistent with this Constitution, and no such judge shall receive any compensation, perquisite or emoluments for or on account of his office in any form whatever, except such salary; provided, that county judges may accept and receive such fees as may be allowed under the land laws of the United States.

SEC. 31. No judge of the Supreme Court or circuit courts shall act as attorney or counselor at law, nor shall any county judge act as attorney or counselor at law in any case which is or may be brought into his court or which may be appealed therefrom.

SEC. 32. There shall be a clerk of the circuit court in each organized county, who shall also be clerk of the county court, and who shall be elected by the qualified electors of such county. The duties and compensation of said clerk shall be as provided by law and regulated by the rules of the court consistent with the provisions of law.

SEC. 33. Until the legislature shall provide by law for fixing the terms of courts, the judges of the Supreme, circuit and county courts, respectively, shall fix the terms thereof.

SEC. 34. All laws relating to courts shall be general and of uniform operation throughout the State, and the organization, jurisdiction, power, proceedings and practice of all the courts of the same class or grade, so far as regulated by law, and the force and effect of such of the proceedings, judgments and decrees of such courts severally shall be uniform, provided, however, that the Legislature may classify the county courts according to the population of the respective counties and fix the jurisdiction and salary of the judges thereof accordingly.

SEC. 35. No judge of the Supreme or circuit courts shall be elected to any other than a judicial office, or be eligible thereto, during the term for which he was elected such judge. All votes for either of them during such term for any elective office, except that of judge of the Supreme Court, circuit court or county court, given by the Legislature or the people, shall be void.

SEC. 36. All judges or other officers of the Supreme, circuit or county courts provided for in this article shall hold their offices until their successors respectively are elected or appointed and qualified.

SEC. 37. All officers provided for in this article shall respectively reside in the district, county, precinct, city or town for which they may be elected or appointed. Vacancies in the elective offices provided for in this article shall be filled by appointment until the next general election as follows: All judges of the Supreme, circuit and county courts by the Governor. All other judicial and other officers by the county board of the county where the vacancy occurs; in cases of police magistrates, by the municipality.

SEC. 38. All processes shall run in the name of the "State of South Dakota." All prosecutions shall be carried on in the name of and by authority of the "State of South Dakota."

THOS. STERLING, Chairman.

H. A. HUMPHREY.

CHAUNCEY L. WOOD,

SAMUEL A. RAMSEY.

H. W. EDDY.

CARL SHERWOOD.

S. B. VANBUSKIRK.

H. F. FELLOWS.

D. CORSON.

Mr. VanBuskirk moved

That the report be made a special order for Thursday.

Mr. Cooper moved

To amend by making report special order for tomorrow.

Vote being taken upon the longest time first,

The motion to make the report special order for Thursday was lost.

Ayes, 26; noes, 27.

The motion to make the report the special order for tomorrow was carried.

Committee on Names, Boundaries and Seat of Government submitted a report as follows:

SIoux FALLS, July 23, 1889.

MR. PRESIDENT:

Your Committee on Name, Boundaries and Seat of Government, to whom was referred Article I of the Sioux Falls Constitution, have considered the same and respectfully recommend that Section 1 of said Article I be amended by inserting the word "South" before the word Dakota.

That Section 2 of said Article I be amended by inserting the word "South" before the word Dakota, and by striking out the

words "forty-sixth parallel of north latitude; thence west along the forty-sixth parallel of north latitude," and in lieu thereof insert the words, "seventh standard parallel; thence west on the line of the seventh standard parallel produced due west;" and therefore respectfully recommend the following as Article I of the Constitution, the same being in accordance with the "Omnibus Bill."

ARTICLE I.

NAME AND BOUNDARY.

SECTION 1. The name of the State shall be South Dakota.

SEC. 2. The boundaries of the State of South Dakota shall be as follows: Beginning at the point of intersection of the western boundary line of the State of Minnesota with the northern boundary line of the State of Iowa, and running thence northerly along the western boundary line of the State of Minnesota, to its intersection with the seventh standard parallel; thence west on the line of the seventh standard parallel produced due west to its intersection with the twenty-seventh meridian of longitude west from Washington; thence south on the twenty-seventh meridian of longitude west from Washington, to its intersection with the northern boundary line of the State of Nebraska; thence easterly along the northern boundary line of the State of Nebraska to its intersection with the western boundary line of the State of Iowa; thence northerly along the western boundary line of the State of Iowa to its intersection with the northern boundary line of the State of Iowa; thence east along the northern boundary line of the State of Iowa to the place of beginning.

Respectfully submitted,

M. P. STROUPE, Chairman.
S. A. WHEELER,
W. T. WILLIAMS,
E. G. EDGERTON,
WM. VANEPS.

On motion of Mr. Davies

This report was made a special order for tomorrow.

Committee on Name, Boundaries and Seat of Government submitted the following report:

SIoux FALLS, July 23, 1889.

MR. PRESIDENT:

Your Committee on Name, Boundaries and Seat of Government, to whom was referred Article XX of the Sioux Falls Con-

stitution, have considered the same and beg leave to report the following as Article XX of the Constitution, and that the same is in accordance with the Sioux Falls Constitution, and the changes thereto authorized by the "Omnibus Bill," said Article XX being changed by substituting the words "South Dakota" in place of Dakota only.

ARTICLE XX.

SEAT OF GOVERNMENT.

SECTION 1. The question of the location of the temporary seat of government shall be submitted to a vote of the electors of the proposed State of South Dakota, in the same manner, and at the same election at which this Constitution shall be re-submitted, and the place receiving the highest number of votes shall be the temporary seat of government until a permanent seat of government shall be established as herein provided.

SEC. 2. The Legislature at its first session after the admission of this State, shall provide for the submission of the question of a place for a permanent seat of government to the qualified voters of the State at the next general election thereafter, and that place which receives a majority of all the votes cast upon that question shall be the permanent seat of government.

SEC. 3. Should no place voted for at said election have a majority of all votes cast upon this question, the Governor shall issue his proclamation for an election to be held in the same manner at the next general election to choose between the two places having received the highest number of votes cast at the first election on this question. This election shall be conducted in the same manner as the first election for the permanent seat of government, and the place receiving the majority of all votes cast upon this question shall be the permanent seat of government.

M. P. STROUPE, Chairman,
S. A. WHEELER,
E. G. EDGERTON,
W. T. WILLIAMS,
WM. VANEPS.

On motion of Mr. Stroupe.

The above report was made a special order for tomorrow.

The Legislative Committee report, not being in form, was referred back for amendment.

SPECIAL ORDER.

Report of Committee on Impeachment and Removal from Office read,

And on motion of Mr. Davies was adopted.

Report of Committee on Election and Right of Suffrage read.

Mr. Fellows moved

To amend the report by inserting the word "school" after the word "for" and before the word "purposes" in Section 9.

The report, as amended, was adopted.

Report of the Committee on Federal Relations, presenting an "Ordinance," was read and on motion of Mr. Dickinson, referred to the Committee on Schedule and Ordinance.

The report of the Committee on Federal Relations presenting A Memorial to the Congress of the United States in regard to a Geological and Hydrographic Survey, was read and on motion of Mr. Davies, adopted.

Consideration of the report of Committee on Education and School Lands, was deferred and the report was made the Special Order for tomorrow.

Report of the Committee on State Institutions and Public Buildings was read and on motion of Mr. Westcott, adopted.

Report of the Committee on Exemptions was read and on motion of Mr. Sterling, adopted.

Report of the Committee on Banking and Currency read and on motion of Mr. Young, adopted.

Report of the Committee on Seal and Coat-of-Arms read and on motion of Mr. Clough, adopted.

Report of the Committee on Agriculture and Manufactures read and on motion of Mr. Young, adopted.

Report of Committee on Military Affairs read and on motion of Mr. Young, adopted.

Report of the Committee on County and Township Organization read.

Mr. Dickinson moved to amend by inserting the word "other" after the word "such" and before the word "county" in the second line of Section (6). Motion carried.

Mr. Willis moved to amend by striking out the words "prefixing the word 'South to'" and in lieu thereof to place the words "inserting the word South before" in the last line of the introduction of the report. On motion of Mr. Ramsey the report as amended was adopted.

On motion of Mr. Fellows the Journal of the sixteenth day was approved.

Communication from the Prison Reform Society read.

On motion of Mr. Hall

The Convention adjourned.

TWENTY-FIRST DAY.

SIoux FALLS, DAKOTA, July 24, 1889.

2 o'clock P. M.

Convention called to order by the President.

Prayer was offered by Rev. Willis.

Journal read and approved.

PETITIONS AND COMMUNICATIONS.

A petition was received from a mass meeting held in Huron asking the adoption of the Australian system of voting.

Referred to the Committee on Schedule.

REPORTS OF STANDING COMMITTEES.

The committee on Congressional and Legislative apportionment submitted the following report.

SIoux FALLS, July 24, 1889.

MR. PRESIDENT:

Your Committee on Congressional and Legislative Apportionment, to whom was referred Article XIX of the Constitution having had the same under careful consideration, beg leave to submit the following report relative thereto, and in which report there are no changes of the Constitution, except as relates to the reapportionment of districts as provided for in the Omnibus Enabling Act, and adding thereto a provision that the State shall constitute one congressional district, from which two (2) congressmen shall be elected at large. All of which changes are within the provisions of the Enabling Act, and herewith report Article XIX with said changes incorporated therein and respectfully recommend the adoption of the changes and the resubmission of the article as amended.

ARTICLE XIX.

CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT.

SECTION 1. Until otherwise provided by law, the members of the House of Representatives of the United States, apportioned to this State, shall be elected by the State at large.