

ARTICLE VIII

JUDICIAL DEPARTMENT

Section 1. [**Judicial powers, how vested.**] The Judicial power of the State shall be vested in the Senate sitting as a court of impeachment, in a supreme court, in district courts, in justices of the peace, and such other courts inferior to the Supreme Court as may be established by law

Sec. 2. [**Supreme court, how constituted. Terms..**] The Supreme Court shall consist of three judges; but after the year AD 1905, the Legislature may increase the number thereof to five. A majority of the judges constituting the court shall be necessary to form a quorum or render a decision. If a justice of the Supreme Court shall be disqualified from sitting in a cause before said court, the remaining judges shall call a district judge to sit with them on the hearing of such cause. The Judges of the Supreme Court shall be elected by the electors of the State at large. The term of office of the Judges of the Supreme Court, excepting as in this article otherwise provided, shall be six years. The Judges of the Supreme Court, immediately after the first election under this Constitution, shall be selected by lot, so that one shall hold office for the term of three years, one for the term of five years, and one for the term of seven years. The lots shall be drawn by the Judges of the Supreme Court, who, for that purpose, shall assemble at the seat of government; and they shall cause the result thereof to be certified by 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 terms of the Supreme Court, and in case of his absence, the judge, having in like manner, the next shortest term, shall preside in his stead.

Sec. 3. [**Id. Qualification of judges.**] Every Judge of the Supreme Court shall be at least thirty years of age, and, before his election, shall be a member of the bar, learned in the law, and a resident of the Territory or State of Utah for five years next preceding his election

Sec. 4. [**Id. Jurisdiction. Terms.**] The Supreme Court shall have original jurisdiction to issue writs of *mandamus*, *certiorari*, prohibition, *quo warranto* and *habeas corpus*. Each of the justices 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 the Supreme Court, or before any district court or judge thereof in the State. In other cases the Supreme Court Shall have appellate jurisdiction only, and power to issue writs necessary and proper for the exercise of that jurisdiction. The Supreme Court shall hold at least three terms every year, and shall sit at the capital of the State.

Sec. 5. [**District courts, how constituted. Terms. Jurisdiction. Judge pro tempore.**] The State shall be divided into seven judicial districts, for each of which, at least one, and not exceeding three judges, shall be chosen by the qualified electors thereof. The term of office of the district judges shall be four years. Except that the District Judges elected at

the first election shall serve until the first Monday in January, AD 1901, and until their successors shall have qualified. Until otherwise provided by law, a district court at the county seat of each county shall be held at least four times a year. All civil and criminal business arising in any county, must be tried in such county, unless a change of venue be taken, in such cases as may be provided by law. Each judge of a District Court shall be at least twenty-five years of age, a member of the bar, learned in the law, a resident of the Territory or State of Utah three years next preceding his election, and shall reside in the district for which he shall be elected. Any District Judge may hold a District Court in any county at the request of the judge of the district, and upon a request of the Governor, it shall be his duty to do so. Any cause in the District Court may be tried by a judge *pro tempore*, who must be a member of the bar, sworn to try the cause, and agreed upon by the parties, or their attorneys of record.

Sec. 6. [**Id. Legislature may change districts.**] The Legislature may change the limits of any judicial district, or increase or decrease the number of districts, or the judges thereof. No alteration or increase shall have the effect of removing a judge from office. In every additional district established, a judge shall be elected by the electors thereof, and his term of office shall continue as provided in section five of this article.

Sec. 7. [**Jurisdiction of district courts.**] The District Court shall have original jurisdiction in all matters civil and criminal, not excepted in this Constitution, and not prohibited by law; appellate jurisdiction from all inferior courts and tribunals, and a supervisory control of the same. The District Courts or any judge thereof, shall have power to issue writs of *habeas corpus*, *mandamus*, injunction, *quo warranto*, *certiorari*, prohibition and other writs necessary to carry into effect their orders, judgments and decrees, and to give them a general control over inferior courts and tribunals within their respective jurisdictions.

Sec. 8. [**Justices of the peace. Jurisdiction, etc.**] The Legislature shall determine the number of justices of the peace to be elected, and shall fix by law their powers, duties and compensation. The jurisdiction of justices of the peace shall be as now provided by law, but the Legislature may restrict the same.

Sec. 9. [**Appeals from district court: record, etc. From justices' courts.**] From all final judgments of the district courts, there shall be a right of appeal to the Supreme Court. The appeal shall be upon the record made in the court below, and under such regulations as may be provided by law. In equity cases the appeal may be on questions of both law and fact; in cases at law the appeal shall be on questions of law alone. Appeals shall also lie from the final orders and decrees of the Court in the administration of decedent estates, and in cases of guardianship, as shall be provided by law. Appeals shall also lie from the final judgment of justices of the peace in civil and criminal cases to the District Courts on both questions of law and fact, with such limitations and restrictions as shall be provided by law; and the decision of the District Courts on such appeals shall be final, except in cases involving the validity or constitutionality of a statute

Sec. 10. [**County attorneys. Election, term, etc.**] A County Attorney shall be elected by the qualified voters of each county who shall hold his office for a term of two years. The powers and duties of County Attorneys, and such other attorneys for the State as the Legislature may provide, shall be prescribed by law. In all cases where the attorney for any county, or for the State, fails or refuses to attend and prosecute according to law, the court shall have power to appoint an attorney *pro tempore*.

Sec. 11. [**Removal of judges from office.**] Judges may be removed from office by the concurrent vote of both houses of the Legislature, each voting separately; but two-thirds of the members to which each house may be entitled must concur in such vote. The vote shall be determined by yeas and nays, and the names of the members voting for or against a judge, together with the cause or causes of removal, shall be entered on the journal of each house. The judge against whom the house may be about to proceed shall receive notice thereof, accompanied with a copy of the cause alleged for his removal, at least ten days before the day on which either house of the Legislature shall act thereon.

Sec. 12. [**Judges' salaries to remain fixed.**] The Judges of the Supreme and District Courts shall receive at stated times compensation for their services, which shall not be increased or diminished during the time for which they are elected.

Sec. 13. [**Disqualification of judges.**] Except by consent of all the parties, no judge of the supreme or inferior courts shall preside in the trial of any cause where either of the parties shall be connected with him by affinity or consanguinity within the degree of first cousin, or in which he may have been of counsel, or in the trial of which he may have presided in any inferior court

Sec. 14. [**Clerks of courts. Reporter.**] The Supreme Court shall appoint a clerk, and a reporter of its decisions, who shall hold their offices during the pleasure of the Court. Until otherwise provided, County Clerks shall be *ex officio* clerks of the District Courts in and for their respective counties, and shall perform other duties as may be provided by law.

Sec. 15. [**Judges shall not appoint relatives to office.**] No person related to any judge of any court by affinity or consanguinity within the degree of first cousin, shall be appointed by such court or judge to, or employed by such court or judge in any office or duty in any court of which such judge may be a member.

Sec. 16. [**Judicial districts, how constituted.**] Until otherwise provided by law, the Judicial Districts of the State shall be constituted as follows:

First District:--The Counties of Cache, Box Elder and Rich.

Second District:--The Counties of Weber, Morgan and Davis.

Third District:--The Counties of Summit, Salt Lake and Tooele, in which there shall be elected three district judges.

Fourth District:--The Counties of Utah, Wasatch and Uintah.

Fifth District:--The Counties of Juab, Millard, Beaver, Iron and Washington.

Sixth District:--The Counties of Sevier, Piute, Wayne, Garfield and Kane.

Seventh District:--The Counties of San Pete, Carbon, Emery, Grand and San Juan

Sec. 17. [**Courts of record.**] The Supreme Court and District Courts shall be courts of record, and each shall have a seal.

Sec. 18. [**Style of process: "The State of Utah."**] The style of all process shall be, "The State of Utah," and all prosecutions shall be conducted in the name and by the authority of the same

Sec. 19. [**But one form of civil action.**] There shall be but one form of civil action, and law and equity may be administered in the same action.

Sec. 20. [**Salary of judges.**] Until otherwise provide by law, the salaries of supreme and district judges, shall be three thousand dollars per annum, and mileage, payable quarterly out of the State treasury.

Sec. 21. [**Judges to be conservators of peace.**] Judges of the Supreme Court, District Courts, and justices of the peace, shall be conservators of the peace, and may hold preliminary examinations in cases of felony.

Sec. 22. [**Judges to report defects in laws.**] District Judges may, at any time, report defects and omissions in the law to the Supreme Court, and the Supreme Court, on or before the first day of December of each year, shall report in writing to the Governor any seeming defect or omission in the law.

Sec. 23. [**Publication of decisions.**] The Legislature may provide for the publication of decisions and opinions of the Supreme Court, but all decisions shall be free to publishers

Sec. 24. [**Effect of extending judges' terms.**] The terms of office of Supreme and District Judges may be extended by law, but such extension shall not affect the term for which any judge was elected.

Sec. 25. [**Decisions of Supreme Court to be in writing.**] When a judgment or decree is reversed, modified or affirmed by the Supreme Court, the reasons therefor shall be stated concisely in writing, signed by the judges concurring, filed in the office of the Clerk of the Supreme Court, and preserved with a record of the case. Any judge dissenting therefrom, may give the reasons of his dissent in writing over his signature.

Sec. 26. [**Id. Court to prepare syllabus.**] It shall be the duty of the court to prepare a syllabus of all the points adjudicated in each case, which shall be concurred in by a majority of the judges thereof, and it shall be prefixed to the published reports of the case.

Sec. 27. [**Judge forfeits office by absence.**] Any judicial officer who shall absent himself from the State or district for more than ninety consecutive days, shall be deemed to have forfeited his office: Provided, That in case of extreme necessity, the Governor may extend the leave of absence to such time as the necessity therefor shall exist.