have instructed me to report the following article, and to recommend the adoption of the same as a part of the Constitution.

Respectfully submitted,

F. S. Stockdale, Chairman.

"ARTICLE—.

"Section 1. The powers of the government of the State of Texas shall be divided into three distinct departments, each of which shall be confined to a separate body of magistracy, to-wit: Those which are legislature to one; those which are executive to another, and those which are judicial to another; and no person or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted."

One hundred copies ordered printed.

On motion of Mr. Ramey, the Convention adjourned until 9 o'clock, A. M., Monday.

SIXTIETH DAY.

HALL OF REPRESENTATIVES,
AUSTIN, TEXAS, NOVEMBER 15, 1875.}

Convention met pursuant to adjournment; roll called; quorum present. Prayer by the Rev. J. S. Groety, of the Presbyterian Church at Austin.

Journal of Saturday read and adopted.

Journal of the evening session of November 11th read and adopted.

On motion of Mr. Roberston, of Bell, Mr. Gaither was granted unlimited leave of absence, to take effect from to-morrow.

Mr. Ballinger presented the petition of the bar of Galveston. Referred to the Committee on Judicial Apportionment.

Mr. Blassingame's motion to reconsider the vote adopting Mr. King's amendment to section 13, lines 163 and 164, was called up, and the Convention reconsidered the vote by the following vote.

YEAS—Abernathy, Abner, Allison, Arnim, Ballinger, Barnett, Blake, Blassingame, Brady, Brown, Bruce, Burleson, Chambers, Cooke of San Saba, Darnell, Davis of Wharton, DeMorse, Dillard, Douglas, Fleming, Flournoy, Gaither, German, Graves, Henry of Limestone, Holt, Johnson of Collin, Kilgore, Killough, Lacy, Lockett, McKinney of Denton, McKinney of Walker, McLean, Martin of Navarro, Martin of Hunt, Mills, Moore,
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NAYs—Cline, Crawford, Davis of Brazos, Dohoney, Ferris, Flanagan, Henry of Smith, King; McCabe, Mitchell, Murphy, Nunn, Pauli, Russell of Harrison, Smith, Stayton, West—17.

Mr. Gaither offered the following substitute for the amendment:

"He shall receive fees and perquisites of office as may be prescribed by law, including a docket fee for each civil case tried in the court; and the Commissioner's Court of any county may allow him such other compensation as in their discretion they may deem proper."

Lost.

Mr. King's amendment was lost by the following vote:

YEAS—Ballinger, Blake, Cline, Crawford, Darnell, Davis of Brazos, Davis of Wharton, DeMorse, Dohoney, Ferris, Flanagan, Ford, Henry of Smith, King, Lockett, Murphy, Nunn, Pauli, Rentfro, Russell of Harrison, Smith, Stayton, Stockdale, Waelder, West—25.


Mr. Henry, of Smith, offered the following as a new section:

"Sec. — The Legislature may, by local law, applicable to one or more counties, provide that the County Courts shall have jurisdiction in criminal cases below the grade of capital, and provide for the payment of a salary to the County Judge in such counties."

Lost by the following vote:

YEAS—Ballinger, Blake, Brown, Cline, Darnell, Davis of Brazos, Davis of Wharton, DeMorse, Dohoney, Douglas, Ferris, Henry of Smith, Kilgore, King, Lockett, McCabe, Mills, Mitchell, Nunn, Reynolds, Russell of Harrison, Smith, Stayton, Stockdale, Waelder, West, Whitfield—27.

NAYs—Abner, Allison, Arnim, Barnett, Blassingame, Brady, Bruce, Burleson, Chambers, Cooke of Gonzales, Cooke of San
Mr. Reagan offered the following amendment:

Amend section 14 by inserting after the word “misdemeanor,” in line 2, the words “of which exclusive original jurisdiction is not given to the Justices’ Courts.”

Adopted.

Mr. Waelder proposed to amend by adding to section 14, line 203, “and in all such cases an appeal shall lie from the District Court to the Court of Appeals.”

Adopted.

Mr. Davis, of Brazos, proposed to amend section 13 by inserting between the words “perquisites” and “as,” in line 164, the words “of office and such other compensation.”

Lost by the following vote:

YEAS—Ballinger, Blake, Brady, Cline, Crawford, Darnell, Davis of Brazos, DeMorse, Dohoney, Ferris, Flanagan, Ford, Henry of Smith, Kilgore, King, Lockett, McCabe, Mills, Mitchell, Moore, Murphy, Nunn, Pauli, Rentfro, Reynolds, Russell of Harrison, Smith, Stayton, Stockdale, Waelder, West, Whitfield—32.


Mr. Allison offered the following substitute for sections 14 and 15:

“Sec. — The County Court, for probate business, shall be holden by the Chief Justice, or County Judge, at the county seat once in each month, as may be prescribed by law, and shall have jurisdiction to probate wills, to appoint guardians of minors, idiots, lunatics, and persons non compos mentis (to grant letters testamentary and of administration, to settle the accounts of executors and administrators and guardians, to transact all business appertaining to the estates of deceased persons, minors,
idiots, lunatics, and persons non compos mentis), including the settlement, partition, and distribution of estates, and to apprentice minors under such regulations as may be prescribed by law. And such County Court may have such other jurisdiction, both civil and criminal, as may hereafter be prescribed by law.”

Mr. Reagan made the point of order that the amendment was out of order, containing the same subject matter of Mr. Flournoy’s substitute, voted down on a former occasion by the Convention.

Chair ruled against the point.

Mr. Nugent moved to lay the substitute on the table.

Carried by the following vote:


Mr. Henry, of Smith, moved to reconsider the vote refusing to adopt Mr. Flournoy’s substitute for section 13, taken Saturday last.

Mr. Fleming moved to lay the motion to reconsider on the table.

Lost by the following vote.


NAYS—Abernathy, Abner, Allison, Arnim, Barnett, Blake, Blassingame, Bruce, Crawford, Darnell, Davis of Brazos, Davis of Wharton, DeMorse, Dillard, Flanagan, Flournoy, Gaither, German, Graves, Henry of Smith, Johnson of Collin, Johnson of Franklin, Kilgore, Killough, King, Lacy, McCabe, McKinney of Denton, Moore, Norvell, Nugent, Nunn, Ramey, Reynolds, Robertson of Bell, Ross, Russell of Harrison, Russell of...
Wood, Sessions, Stayton, Stewart, Stockdale, West, Whitehead—42.

The question of reconsidering the vote was then put, and the yeas and nays being called, the motion to reconsider carried by the following vote:

**Yeas**—Abernathy, Abner, Allison, Arnim, Barnett, Blake, Blassingame, Bruce, Crawford, Darnell, Davis of Brazos, Davis of Wharton, DeMorse, Flanagan, Fleming, Flournoy, Gaither, German, Graves, Henry of Smith, Johnson of Collin, Kilgore, Killough, King, Lacy, McCabe, McKinney of Denton, Moore, Norvell, Nugent, Nunn, Ramey, Robertson of Bell, Ross, Russell of Wood, Stayton, Stewart, Stockdale, West, Whitehead—41.


Mr. Henry, of Smith, offered the following amendment to the substitute just reconsidered:

"Amend by inserting before the word "business" the words "civil and criminal," and between the words "as" and "business" the words "in one or more counties."

Adopted by the following vote:

**Yeas**—Abernathy, Allison, Ballinger, Barnett, Blake, Cline, Crawford, Darnell, Davis of Wharton, DeMorse, Dohoney, Ferris, Flanagan, Flournoy, Ford, German, Henry of Smith, King, Lacy, McCabe, McKinney of Walker, Mitchell, Moore, Murphy, Norvell, Nugent, Nunn, Ramey, Smith, Stayton, Stewart, Waelder, West, Whitehead—34.


Mr. Nugent offered the following amendment to the substitute:

"Provided, that the judges of said tribunals shall only be compensated by fees and perquisites of office."

Adopted by the following vote:

**Yeas**—Abernathy, Allison, Arnim, Barnett, Blassingame, Bruce, Burleson, Chambers, Cooke of San Saba, Darnell, Dillard,

NAYS—Abner, Ballinger, Blake, Brady, Cline, Crawford, Davis of Brazos, Davis of Wharton, DeMorse, Dohoney, Ferris, Flanagan, Ford, Gaither, Henry of Smith, Killough, King, Lockett, McCabe, Mitchell, Moore, Murphy, Nunn, Reagan, Rentfro, Reynolds, Russell of Harrison, Smith, Stayton, Stockdale, Waelder, West, Whitfield—33.

The question then recurring on the adoption of the substitute, as amended, the yeas and nays were called, and substitute lost by the following vote:


Mr. Wade offered the following new section, to follow section 14:

"The Legislature shall have power to relieve County Courts of civil and criminal jurisdiction in any county designated, and to increase or diminish the jurisdiction of Justices of the Peace."

Lost.

Mr. Scott offered the following amendment:

Amend the Waelder substitute for section 14 by striking out that portion of the substitute which gives the County Court concurrent jurisdiction with the Justice’s Courts of all suits in which the amount involved is not less than one hundred dollars and not more than two hundred dollars.

Adopted by the following vote:

[Mr. Stockdale in the chair.]

YEAS—Abernathy, Allison, Arnim, Barnett, Blassingame, Bruce, Burleson, Chambers, Cooke of San Saba, Dillard, Do-

Nays—Ballinger, Blake, Brady, Cline, Darnell, Davis of Brazos, Davis of Wharton, DeMorse, Fleming, Ford, Henry of Smith, McCabe, McKinney of Walker, Mills, Mitchell, Moore, Murphy, Norvell, Nugent, Nunn, Reagan, Rentfro, Reynolds, Sansm, Smith, Stayton, Stewart, Stockdale, Waelder, West—30.

Mr. Waelder offered the following as a substitute for section 15, from line 204 to the word "cares," in line 208:

"The County Court shall hold a term for civil business at least once in every two months, and shall dispose of probate business either in term time or vacation, as may be provided by law, and said court shall hold a term for criminal business once in every month, as may be provided by law."

Adopted.

Mr. Dohoney proposed to amend the following:

Amend section 15, line 212, by inserting before the word "misdemeanors" the word "such," and after the word "misdemeanors," the words "as may be authorized by law."

Withdrawn.

On motion of Mr. Mills, the Convention adjourned to 2½ o'clock p. m.

EVENING SESSION—2½ o'clock.

Convention met pursuant to adjournment; roll called; quorum present.

Pending question, viz., "Article —, Judicial Department."

Mr. Kilgore moved to amend by striking out "section 16."

On motion of Mr. Nunn, the amendment was laid on the table.

Mr. Nunn offered the following amendment:

Strike out in lines 213 and 214, after the words "County Courts," "or other inferior courts having jurisdiction to try them."

Lost by the following vote:

Yea—Ballinger, Blake, Cline, Cooke of San Saba, Davis of Wharton, DeMorse, Dohoney, Douglas, Ferris, Flanagan, Fleming, Henry of Smith, Johnson of Franklin, Lockett, McCabe, McKinney of Walker, Mitchell, Moore, Murphy, Norvell,
Nov. 15, 1875. CONSTITUTIONAL CONVENTION.


On motion of Mr. Dillard, Mr. Owens, Sergeant-at-arms, was excused for the evening.

Mr. Norvell offered to amend section 15, by striking out in line 219 the word "six" and inserting "twelve."

Lost.

Mr. Allison proposed to amend section 17, by inserting in line 232, between the words "unto" and "five," the words "not less than."

Mr. DeMorse offered the following substitute for the amendment:

Strike out all after "thereof," in line 234, down to line 237, and insert "one or more Justices of the Peace, as may be determined by the County Commissioners, who shall hold their offices for two years, or until such time as their successors may be qualified, who shall exercise such jurisdiction and perform such duties, and receive such compensation as may be prescribed by law."

Mr. Allison's amendment lost.

Mr. DeMorse's amendment lost.

Mr. Brown offered the following substitute for all of section 16 and the first paragraph of section 17:

"Sec. 16. Each organized county in the State, now or hereafter existing, shall be divided, from time to time, for the convenience of the people, into precincts, not less than four, and not more than eight. The present County Court shall make the first division. Subsequent divisions shall be made by the County Commissioners' Court provided for by this constitution. In each such precinct there shall be elected, at each biennial election, one Justice of the Peace, one Constable, and one County Commissioner, each of whom shall hold his office for two years, and until his successor shall be elected and qualified; provided, that in any precinct in which there may be a city of eight thousand or more inhabitants there shall be elected two Justices of the Peace. The County Commissioners so chosen, with the County Judge as presiding officer, shall compose the County Commis-
tioners' Court, which shall exercise such powers and jurisdiction over all county business as is conferred by this constitution and the laws of the State, or as may be hereafter prescribed by law."

Adopted by the following vote:

**Yeas**—Abernathy, Allison, Arnim, Ballinger, Barnett, Blake, Blassingame, Brown, Bruce, Chambers Cline, Cooke of San Saba, Crawford, Darnell, Davis of Brazos, DeMorse, Dohoney, Douglas, Ferris, Gaither, German, Graves, Henry of Limestone, Johnson of Collin, Killough, King, Lacy, McLean, Martin of Navarro, Martin of Hunt, Nugent, Nunn, Pauli, Ramey, Robertson of Bell, Sansom, Smith, Stayton, Stockdale, West, Whitehead—41.


Mr. Martin, of Navarro, offered the following amendment to the substitute just adopted:

Strike out "ten" and insert "eight."

Mr. Graves proposed to amend by striking out "one County Commissioner for each precinct," and insert "four County Commissioners, no two of which shall live in the same precinct."

Mr. Nugent moved to lay the amendment on the table. Lost.

Martin’s (of Navarro) amendment adopted.

Mr. Graves’ amendment lost.

Mr. Johnson, of Collin, offered the following amendment:

Section 17, strike out in line 41 “two,” and insert “five.”

Mr. Rentfro moved to lay the amendment on the table.

The yeas and nays being called, the motion to table was adopted by the following vote:

**Yeas**—Abernathy, Arnim, Ballinger, Blake, Cline, Crawford, Darnell, Davis of Wharton, DeMorse, Dillard, Dohoney, Douglas, Ferris, Fleming, Flournoy, Ford, Gaither, Graves, Henry of Limestone, Henry of Smith, Killough, King, Lockett, McCabe, McKinney of Walker, Martin of Navarro, Martin of Hunt, Mills, Mitchell, Moore, Murphy, Norvell, Nugent, Nunn, Reagan, Rentfro, Reynolds, Robertson of Bell, Ross, Sessions, Smith, Spikes, Stewart, Stockdale, Waelder, Whitehead—46.

Mr. Reagan offered the following amendment:
Amend by adding after the word "law," in line 244, the words "and appeals to the County Courts shall be allowed in all cases decided in Justice's Courts, where the judgment is for more than ten ($10) dollars, exclusive of costs."
Mr. Waelder moved to strike out "ten" and insert "twenty."
Adopted.
Amendment adopted.
Mr. Moore offered the following amendment:
In line 239 strike out the words "imposed in connection shall be" and insert the words "to be imposed by law may not be more than," and strike out "or less," in line 240.
Mr. Mills moved to reconsider the vote refusing to adopt Mr. Grave's amendment to Mr. Brown's substitute.
Carried, and amendment amended to read as follows:
Strike out "and County Commissioners," and insert "the county shall be divided into four Commissioner's precincts, in each of which shall be elected one Commissioner."
Adopted.
Mr. Reagan offered the following amendment:
Amend section 17 by adding before the word "and," in line 244, the words "under such regulations as may be prescribed by law."
Adopted.
Mr. McKinney of Walker offered the following amendment:
Add to section 17 the words "and in all criminal cases."
Adopted.
Mr. German proposed to amend section 18, in line 251, by inserting after the word "filled" the words "by an election to be ordered."
Lost.
Mr. Waelder proposed to insert after "courts," in line 249, the words "and recorder of the court."
Mr. Mills moved to lay the amendment on the table.
Lost, and the amendment adopted.
Mr. Nugent proposed to strike out "eight thousand" and insert "fifteen thousand" in line 254.
Lost.
Mr. —— offered the following:
In line 253 strike out "next general election" and insert "can be filled by election, as directed by law."
Lost.
Mr. Murphy moved to strike out "and," after duties, in line 250.
Adopted.
Mr. Brown offered the following amendment:

In Section 18, lines 251 and 252, strike out "Judge of the County" and insert "County Commissioners."

Adopted.

Mr. Stayton moved to strike out "eight thousand" and insert "twelve thousand" in line 254.

Adopted.

Mr. Darnell moved to reconsider the vote just taken.

Mr. Kilgore moved to lay the resolution on the table.

Lost by the following vote.


Nay—Abernathy, Allison, Arnim, Blake, Blassingame, Brady, Brown, Bruce, Chambers, Cooke of San Saba, Crawford, Darnell, Davis of Brazos, Davis of Wharton, DeMorse, Dillard, Douglas, Ferris, Flanagan, Flournoy, German, Henry of Limestone, Johnson of Collin, Johnson of Franklin, Killough, King, Lacy, Lockett, McCabe, Martin of Navarro, Martin of Hunt, Mitchell, Moore, Murphy, Pauli, Rentfro, Reynolds, Robertson of Bell, Ross, Russell of Wood, Sansom, Sessions, Spikes, Stewart, Wade, West, Whitefield—47.

The question recurring upon the motion to reconsider, the same was put and the vote reconsidered by the following vote:


Nay—Abner, Ballinger, Barnett, Bruce, Burleson, Cline, Davis of Wharton, Dohoney, Fleming, Gaither, Graves, Henry of Limestone, Henry of Smith, Kilgore, King, McKinney of Walker, Martin of Hunt, Mills, Mitchell, Moore, Murphy, Norvell, Nugent, Nunn, Reagan, Ross, Russell of Harrison, Smith, Spikes, Stayton, Stockdale, Waelder, West, Whitfield—34.

Mr. Kilgore proposed to substitute the amendment by striking out "twelve thousand" and inserting "ten thousand."

Mr. Stayton's amendment lost by the following vote:

Yea—Abner, Barnett, Bruce, Burleson, Cline, Dohoney, Fleming, Gaither, Graves, Henry of Limestone, Kilgore, King, McKinney of Walker, McLean, Martin of Hunt, all cases decided in Justice's Courts, where the judgment is for
Mr. Kilgore's amendment lost.

Mr. Pauli proposed to amend section 18 by striking out the proviso.

Mr. Graves moved to lay the amendment on the table.

Carried by the following vote:


Mr. Russell of Wood, offered to amend by adding to section 19 the words "by fees and perquisites of office."

Adopted.

Mr. Cline moved to reconsider the vote just taken.

Carried by the following vote:


Nays—Allison, Arnim, Barnett, Blassingame, Brown, Bruce, Burleson, Chambers, Cooke of San Saba, Darnell, DeMorse, Douglas, Flournoy, German, Graves, Henry of Limestone, Holt, Johnson of Collin, Johnson of Franklin, McLean, Martin of Na-

[Mr. Flanagan in the chair.]

Mr. Martin, of Navarro, proposed to amend the amendment by inserting the word "commissions," between "fees" "and," so as to read "fees, commissions and perquisites."

Accepted by Mr. Russell, of Wood.

On motion of Mr. Dillard, debate was closed, and the amendment lost by the following vote:


Nays—Abner, Ballinger, Blake, Brady, Cline, Crawford, Darnell, Davis of Brazos, Dohoney, Ferris, Flanagan, Fleming, Gaither, Henry of Limestone, Henry of Smith, Kilgore, Kilough, Lacy, Lockett, McCabe, McKinney of Walker, Martin of Hunt, Mills, Mitchell, Moore, Murphy, Norvell, Nunn, Pauli, Rentfro, Reynolds, Ross, Russell of Harrison, Smith, Stayton, Stockdale, Waelder, West—38.

Mr. Dohoney moved to adjourn to 9 o'clock a.m. to-morrow. Carried.

SIXTY-FIRST DAY.

HALL OF REPRESENTATIVES,
AUSTIN, TEXAS, NOVEMBER 16, 1875.

Convention met pursuant to adjournment; roll called; quorum present. Prayer by the Rev. J. S. Groety, of the Presbyterian Church.

Journal of yesterday read and adopted.

Mr. Chambers stated that in the several votes taken on salaries for judges he had agreed to pair off with Mr. McCormick, he (Chambers) voting for the lower salaries, and Mr. McCormick for the salaries reported by the committee.

The Secretary was instructed to make the necessary correction.

On motion of Mr. Reynolds, Mr. Davis, of Wharton, was indefinitely excused.

On motion of Mr. Cooke, of San Saba, Mr. West was excused for to-day.