

# TEXAS LAW | Tarlton Law Library Jamail Center for Legal Research

Citation: *Debates in the Texas Constitutional Convention of 1875 Texas. Constitutional Convention (1875). Austin: Published by the University of Texas, c1930.*

Content downloaded from

Tarlton Constitutions 1824-1876 (<http://tarlton.law.utexas.edu/constitutions/>)

The text of these documents is in the public domain. That is, the original words and content are freely usable.

The images of the documents are copyrighted material; the copyright is held by the Tarlton Law Library. The copyrighted images may be used only with permission. Permission is granted to use the copyrighted materials in the classroom for educational purposes. Downloading, printing, publication, public display or otherwise using any of the copyrighted images, including on the web or in a forum other than a classroom, requires permission from Tarlton. Requests for permission to use these materials should be submitted online to [rarebooks@law.utexas.edu](mailto:rarebooks@law.utexas.edu).

If you are uncertain whether you need permission to use these materials, please contact us at [rarebooks@law.utexas.edu](mailto:rarebooks@law.utexas.edu).

is so meagre that he can lay aside nothing for his comfort in old age—if he serves the public while he is able to work—he is subject to charity when no longer able to earn the salary and goes off the bench.

“In the judicial districts comprising the cities of Galveston, Houston, Dallas, San Antonio, Jefferson, Austin, and Waco—being one-fourth of the entire number—I think it will be admitted that no man with a family can live decently upon the salary here proposed. Will you ostracise the talent of these cities or compel judges who live there to labor for the public good for about half what it costs them to live?”

“When we come to compute the amount saved the State, we find it much too small to justify the risk of the occupation of the bench by incompetent men. The destruction of the public confidence in the judicial tribunals—the greatest curse that can befall a country—and the demoralization consequent upon it, besides hundreds of thousands of dollars in costs and damages to the people, would result from cheap judges. For when they have no confidence in the court that adjudicates their rights, they will always appeal in search of justice to their great damage and the consequent detriment of the state by multiplying the cases on the docket, and delay the legitimate purpose designed to be attained through the courts.

“Then, it seems to me that when we realize the importance of this branch of the public service, as a matter of economy we should provide such salaries as to justify the most intelligent men to seek the positions.”

JUDGE REAGAN opposed the amendment. He thought, like the last speaker, that the State would suffer if the salaries were reduced.

MR. JOHNSON, of Collin, said that as a “rutabaga” he would protest against high salaries for the judiciary. He thought that \$2,500 was sufficient for any judge.

Upon motion of Mr. Gaither all the amendments were tabled.

## FIFTY-NINTH DAY

SATURDAY, NOVEMBER 13, 1875<sup>116</sup>

### *Article on Judiciary*

A motion was made to reconsider the vote on Mr. German's amendment, refusing to reduce the salaries of Supreme Court judges from \$4,000 to \$3,550.

<sup>116</sup>The proceedings for this day were taken from the *State Gazette* (Austin), November 14, 1875.

GENERAL WHITFIELD moved to amend Section 6 by adding, "that the district judges, for the first term under this Constitution, shall be appointed by the Governor, by and with the consent of the Senate, after which they shall be elected as in this section provided." He said he offered the amendment as a last lingering hope for his district.

MR. MILLS spoke against the amendment.

General Whitfield's amendment was defeated by a vote of 17 to 51.

The Convention voted to reconsider Mr. German's amendment by a total of 40 to 27.

JUDGE BALLINGER protested against the adoption of such an amendment, saying it would induce the bar of the State to vote against the new Constitution. He urged that it would be lowering the dignity of the Supreme Court. No Constitution that would pull down the judiciary would receive the support of any member of the bar.

MR. STAYTON endorsed the remarks of Judge Ballinger.

MR. DEMORSE said he had struggled for several weeks to obtain a decent compensation for the officers of the State, but the Convention had refused to give them anything less than what was absolutely necessary for their support. Now the House had gone to the other extreme and proposed to give large salaries to the Supreme Court judges. He believed that seven-eighths of the people would approve their action, if they adopted Mr. German's amendment. So far as North Texas was concerned, he was convinced that it would meet their approval.

MR. MURPHY said he would oppose the amendment. He was not in favor of putting up the Supreme Court at auction.

MR. WAELDER opposed the reduction in an earnest appeal.

MR. STOCKDALE said he regarded it as a practical question. Supreme Court judges required all the virtues and characteristics of the noblest of God's creatures. No lawyer in his district of the requisite attainments could take such a position at the salary offered.

MR. SANSOM said he did not want the salaries of the officers reduced to such an extent as to have the offices filled with inefficient men. He thought \$3,550 was a sufficient salary for Supreme Court judges. They were gentlemen who had acquired competency, and would not expect to save anything. It was a high honor. If they had not acquired a competency at the age at which they usually

reached the Supreme bench, they could not have earned any higher salary than it was proposed to give them.

MR. JOHNSON, of Franklin, favored the amendment.

The amendment was adopted by a vote of 36 to 27.

## SIXTIETH DAY

MONDAY, NOVEMBER 15, 1875<sup>117</sup>

### *The Judiciary*

On motion of Mr. Blassingame, Mr. King's amendment to Section 13, inserting "such compensation for his services" in the place of "he shall receive as a compensation for his services, such fees and perquisites as may be prescribed by law," referring to the payment of county judges, was reconsidered.

MR. DARNELL said he thought it ought to be left to the Legislature, for though some counties might require county courts, there were many others which would not require them. He wanted the word "may" and not "shall" inserted.

MR. NUNN said the people expected a judiciary that would be adequate to the wants of each community. He thought the county court system was efficient and economical. Without it, he did not see how they could get along with less than fifty or sixty judicial districts. The provision sought to be incorporated was the same as that of the Constitution of 1866.

MR. GAITHER proposed the following substitute for the amendment: "He shall receive such 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 commissioners' court of such county may allow him such compensation as in their discretion they may think proper."

MR. KING said he took it for granted that members were opposed to the amendment, judging by the last vote taken, and he rose merely to explain his reasons for offering it. These reasons had been so well stated by Mr. Darnell and Mr. Nunn that he need scarcely to say more to explain his position than to adopt the reasons expressed by them. Briefly, in his judgment, all the details pertaining to the

---

<sup>117</sup>The proceedings for this day were taken from the *State Gazette* (Austin), November 16, 1875.