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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, 1875¹¹⁷

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

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

duties and compensation of the officers of the county courts when not fixed in the Constitution by salary should be left to the Legislature. He thought it one of those cases where the Legislature alone was able to decide in what manner the county judge should be compensated, for the reason that there were scarcely two counties in the State similarly situated. In many of the counties the fees and perquisites would not amount to a sum sufficient to secure the services of a competent judge, but the Legislature could determine where this would be so, and where they would be sufficient for the purposes of salary. He saw no way of relieving the district courts except in the manner proposed, and which was adapted to every section of the State. For these reasons he was in favor of the Legislature fixing the compensation of those officers. As the matter was left in the bill without his amendment the compensation was confined to fees and perquisites, which would greatly impair the county court system, if it did not destroy it altogether.

MR. DEMORSE said that he had voted for reconsideration of the amendment of the gentleman from Kendall, not because he was dissatisfied with the amendment as it stood, for on the contrary he was fully satisfied, but a large number of the members were not, and as he conceived that the proposition of the gentleman from Falls, including a docket fee on every civil case tried, would provide in most counties ample compensation. He was willing that that amendment should be substituted. Besides, as it had been said by the member from Tarrant, that there were counties whose necessities did not demand a county court, this amendment under the power conceded the county commissioners provided the flexibility to allow such county to dispense with a county court by failing to provide any compensation beyond the incidental fees. So the natural business of a county not providing adequate compensation to the officers, no court would be organized. If the business would provide adequate compensation, or nearly so, this would indicate the necessity and provide maintenance for the court, to which a small additional compensation might be added if the county commissioners deemed that the public interest demanded it.

Mr. Gaither's amendment was lost.

Mr. King's amendment was lost.

MR. DAVIS, of Brazos, offered to amend Section 13 by inserting, "of office and such other compensation." He said he was opposed to judges of county courts obtaining their salaries by fees and perquisites alone. It tended to create a cormorant to subsist and become bloated on the misfortunes of the people. He was opposed to a presiding officer getting his salary out of litigants, and would rather vote against the county court system altogether, than to establish one of that character.

MR. ROBERTSON, of Bell, opposed the amendment. It was the settled policy of the Convention to cut down the number of district judges to twenty-five, but this amendment would give the Legislature power to create 140 county judges. That was the question at issue, and the question involved in the amendment. It would be infinitely better to increase the number of district judges, for they carried an idea of fairness the others did not. He was utterly opposed to the legislative enactment of salaries for the county judges, and was opposed to the county court system as proposed in the amendment.

The amendment was lost.

MR. ALLISON moved an amendment for Sections 14 and 15. It contemplated a return to the probate system of the Constitution of 1845, and he said he was willing to have an amendment added to give to the Legislature power to grant still further jurisdiction to such courts.

MR. DOHONEY said he thought the substitute the same in principle as that of Mr. Flournoy, which had been voted down on the preceding Saturday.

The substitute was tabled.

MR. STAYTON moved to amend Section 18 by striking out "8,000." and inserting "12,000." It referred to the election of a single clerk, who should perform the duties of district and county clerk.

Mr. Stayton's amendment was adopted.

MR. DARNELL moved to reconsider the vote adopting the Stayton amendment, and was sustained.

MR. KILGORE moved to amend by making it "10,000." He said there was no more important office than that of county clerk. He offered that as a compromise, and he feared that the pay would be too small at that to secure the right kind of man.

Mr. Stayton's amendment was lost.

Mr. Kilgore's amendment was lost.