

DEBATES IN THE TEXAS CONSTITUTIONAL CONVENTION OF 1875

FIRST DAY

MONDAY, SEPTEMBER 6, 1875¹

Obeying the instructions of Governor Richard Coke in his proclamation of August 23, 1875, the delegates to the Constitutional Convention assembled in the Hall of Representatives, in the City of Austin, at noon on Monday, September 6, 1875.

Permanent Organization Effected

Major Charles S. West, of Travis, called the convention to order and suggested General J. W. Whitfield, of Lavaca, for temporary chairman. This was agreed to without opposition, and General Whitfield took the chair. Eighty-one delegates answered to their names, and permanent organization was effected. Mr. E. B. Pickett, of Liberty, was elected President of the Convention on the second ballot. Mr. Leigh Chalmers, of Travis, was made Secretary, and Mr. Joe Owens, of Galveston, Sergeant-at-Arms.

Organization for the first day was completed by the appointment by the President of a printing committee, a committee to determine rules of order, a committee on standing committees, and a committee to notify the Governor that the Convention was ready to proceed to business. The Sergeant-at-Arms was directed to arrange for the drawing of seats by the delegates.

SECOND DAY

TUESDAY, SEPTEMBER 7, 1875²

Judge John H. Reagan, of Anderson, reporting for the committee on additional officers for the Convention, suggested two Assistant Secretaries, one Assistant Sergeant-at-Arms, three pages, and two porters. The officers suggested by the committee were elected.

¹The proceedings for this day were taken from the *State Gazette* (Austin), September 7, 1875.

²The proceedings for this day were taken from the *State Gazette* (Austin), September 8, 1875

A message from the Governor was then read. In it the Governor stated that he had the honor to tender the earnest cooperation of all the officers of the State Government, as far as their aid might be desired, in furthering the labors and advancing the purposes of the Convention. With that purpose in view he had asked for reports from the heads of all the State Departments, and from the Chief Justice of the Supreme Court. The Governor said that the reports were then in the hands of the printer and would be laid before the Convention within the next two or three days.

JUDGE REAGAN moved that the Governor's message be laid on the table until the standing committees were appointed, at which time the message, or such portions as were thought necessary, might be referred to the appropriate committees.

MR. MCLEAN, of Titus, said he could not see the use or utility of referring the message and accompanying documents to committees of the convention. The information promised and the message might be of use to them as members of the Convention, but any further reference to any communication from any department of the Government was not applicable to the Convention. Of course they should feel grateful to the Governor for the information he had kindly tendered them, but he did not think any such information or document should take the course usually pursued in legislative bodies respecting such documents. He would, therefore, vote against the motion of the gentleman from Anderson.

JUDGE REAGAN said that they were informed by the message of the Governor that he had caused the heads of the different departments to prepare reports of official information for the use of the Convention. In some respect or other that information would be desired by committees of the Convention. As he understood it, parliamentary usage required that when a message came from the Executive Officer of the State to a legislative body, the several parts of the message requiring further consideration were referred to appropriate committees. He knew they did not occupy the usual relations of a legislative body to the executive, yet the cooperation of the executive department of the Government and the assistance it might give them, might be of great service in their deliberations, hence it seemed to him that the message should be laid on the table and when the

committees were formed, portions of it and the accompanying documents might be referred to the proper committees.

COLONEL CHARLES DEMORSE, of Red River, said that while he had the greatest feeling of respect for the Governor, he agreed with his colleague from Titus. He was of the opinion that neither the message nor any portion of it should be referred to any committee. At the same time he felt grateful to the Governor for his courtesy and attention. He desired to treat his Excellency with the greatest possible respect, but did not think it at all proper to refer the message to any committee.

MR. W. BLASSINGAME, of Grayson, said he concurred heartily with the member from Titus. They had no further use for the message. If they required any further information they would ask it respectfully and the Governor would give it cheerfully. It was not usual to refer such matters to committees in bodies like the Convention. They had all the authority and power to ask any information they wished, and it would, doubtless, be supplied them. He thought, however, that the message should be taken kindly by the delegates.

MR. MCLEAN rose to point of order. As he understood the gentleman from Anderson, he moved what the President stated and indicated, that the message—or rather the communication, for it was not a message—should take a particular course. If Judge Reagan would separate his motion, he had no objection to its being laid upon the table, but he did object to its reference to a committee.

JUDGE REAGAN stated that in making his motion to lay upon the table he went beyond what was first indicated in his suggestions, but the motion was simply to lay on the table.

THE PRESIDENT stated that the explanation was not regarded as any part of the motion.

MR. MCLEAN held that a motion to lay on the table was not debatable, and that the President had shown them great indulgence. It was not, however, a motion to lay on the table merely, and if it were, it would not be applicable, as they had no table, in a strictly parliamentary sense, to lay it on. He thought they should take no action on the communication from the Governor, sent in reply to the notification from the Convention that they were assembled in convention. He asked that the President explain the status of the motion.

THE PRESIDENT said a motion to lay on the table was debatable only by relaxation of the rules of the Convention. The absence of rules was the explanation of why the rule was not enforced when the motion was made. The Convention was being governed under general parliamentary law until it adopted rules of its own.

MR. GEORGE FLOURNOY, of Galveston, at this point moved that the Convention thank the Governor for his polite and patriotic communication, and that the members avail themselves of the communication as occasion might require. His motion was carried and thus was settled the question of the Governor's message.³

MR. E. L. DOHONEY, of Lamar, reported for the committee on the names and number of standing committees. A motion was made to adopt the report and it was adopted.

MR. F. J. LYNCH, of DeWitt, moved to strike out the Committee on Federal Relations. He said the Convention had nothing to do with the Federal Government, no "treason" was being thought of in the Convention, the State was supreme in its authority, and was capable of making a Constitution without conflicting with the Federal authorities at all, and hence he saw no good that was to result from submitting questions to a Committee on Federal Relations. There were able jurists in the Convention to see that a new Constitution should not conflict with the Federal powers.

MR. DOHONEY said the question had been raised in committee as to the necessity of a Committee on Federal Relations. They had found on examination of the precedents of a large number of states which had adopted new constitutions, that they had included a Committee on Federal Relations in their list of committees, and that but a few states had not done so. It was suggested and concurred in by the committee that Section II, Article 6, of the Constitution made it the supreme law of the land. Finding that the Convention in the discharge of its duties would be bound by and subject to the supreme law of the land, and thinking it would be well to have a Committee on Federal Relations, to whom should be referred any proposition which might conflict with Article 6, whose duty it should be to investigate and report, in order that they might steer clear of any collision with the Federal authorities, they had put

³*State Gazette* (Austin), September 8, 1875.
Journal Constitutional Convention, 1875, 13.

such a committee down on the list. There were persons in parts of the State who were under a misapprehension that the Convention might take some action conflicting in its character with the Federal Government, and such a committee as was proposed would reassure them.

MR. LYNCH replied with a repetition of his arguments. He had had reference more particularly to the amendments to the Constitution of the United States. He thought delegates should not carry their humility so far as to go out of their way and appoint a Committee on Federal Relations.

MR. R. SANSOM, of Williamson, had no objection to the appointment of the committee. He thought that the proper time for the argument of Mr Lynch would be when the report of the committee was submitted. The ayes and nays were called for. Mr. Lynch's motion to strike out the Committee on Federal Relations was lost and the report was adopted.

THIRD DAY

WEDNESDAY, SEPTEMBER 8, 1875⁴

JUDGE REAGAN, Chairman of the Committee on Per Diem and Mileage, reported a resolution providing that the pay of members of the Convention should be \$5 a day, and that their mileage in traveling to and from the Convention should be \$5 for every twenty-five miles traveled, the distance to be computed by the most direct route. The resolution provided also for the appointment of a committee to ascertain the distance to be traveled and the mileage due each member. Judge Reagan observed that the resolution would make the mileage of the Convention three-eighths less than the members of the Legislature had received for several years past, and would provide better restrictions for the computation of mileage by circuitous routes.

MR. MCLEAN submitted a minority report accompanied by a resolution providing for pay of \$4 a day for delegates with mileage at the rate of 15 cents a mile in going to and from the Convention, mileage to be computed by the most direct route. The minority

⁴The proceedings for this day were taken from the *State Gazette* (Austin), September 9, 1875