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NEW MEXICO CONSTITUTIONAL CONVENTION

By REUBEN W. HEFLIN

FOREWORD: In offering the accompanying manuscript on the New Mexico Constitutional Convention of 1910 that wrote the fundamental law of our beautiful and beloved state, I have for obvious reasons left much unsaid concerning that important event. What is said has been with the thought of giving a true but limited word picture of the beginning of a self governing state within the Union of States.

The first thing of moment after organizing the convention was the presentation of a gavel by the Territorial Regent of the Daughters of the American Revolution of New Mexico accompanied by a letter that read as follows:

"Santa Fe, New Mexico

October 3, 1910

To the President of the Constitutional Convention.

Dear Sir:

It gives me great pleasure to present to the convention for your use the accompanying gavel. It is made from a portion of the mantelpiece in the room in which Mary, the mother of Washington, spent the greater part of her life and in which she died.

The piece of bark which ornaments the handle is from one of three oaks planted by General Washington at Mount Vernon when he was president of the United States, and which served the distinguished owner of that historic residence nearly 90 years. May the deliberations of the convention over which you preside be as fruitful of good works, wise legislation and just laws as were those which were enacted under the beneficent judgment of the father of our country.

Sincerely yours,

Mary C. Prince

State Regent

Daughters of the American Revolution of New Mexico."

- On June 20, 1910. Enabling Act passes Congress
September 6, 1910. Election of delegates to the Constitutional Convention
October 3, 1910. Constitutional Convention organizes
November 21, 1910. Proposed Constitution finished and convention adjourned
January 21, 1911. Constitution adopted by vote of the people by a majority of 18343
August 21, 1911. Congress passes Act admitting New Mexico to Statehood
January 6, 1912. Proclamation by President Taft admitting New Mexico as the 47th State of the Union.
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On October 3, 1910, the elected delegates of the several counties of the New Mexico Constitutional Convention met at Santa Fe in the Hall of Representatives at the Territorial Capitol Building. Charles A. Spiess, delegate from San Miguel County was elected president of the convention. Capt. George W. Armijo, who was not a delegate, but had been one of Teddy Roosevelt's Rough Riders, was elected as secretary, and the Reverend Julius Hartmann of Santa Fe, now of Roswell, was made chaplain.

The New Mexico Constitutional Convention was many-sided and colorful, being as it was on the border line where two civilizations had met, fused and developed a society of its own composed of the Anglo American from the States and the Spanish American who had come up through Mexico. The membership stood 35 members of Spanish descent, and 65 members of the so-called Anglo American descent. Politically there were 71 republicans, 28 democrats and one socialist. The 35 Spanish speaking members, many of whom spoke English, formed a comparatively solid block welded by a common interest, i. e. the preservation of their traditional way of life and the language of their fathers. The 65 Anglo members, of whom some spoke Spanish, and a few had married native women, held to their common heritage of American institutions, and were not alarmed, or bound by a common fear of some impending evil as felt

by our Spanish American members. Therefore, a tolerant view was taken by those of Anglo extraction, with the thought that differences because of national origin could be ironed out somehow. All believed in the democratic processes of self government.

Most special interests concerned in New Mexico affairs had not overlooked having friendly representation among the elected members, such as railroads, coal mining companies, copper mines, sheep industry and the cattle interests. The most powerful group of all was the land grants. All the interests grouped together made a combination in which the general public was almost helpless. It soon became apparent that a lot of backscratching would be developed.

The Spanish speaking members who had inherited a code of honor and chivalry from the Spain of the past were worried about their voting rights, with a general concern as to their traditional habits and common welfare. There had been prevalent among the native people a fear ever since the American occupation following the war with Mexico that the "Gringo" would dispossess them of their inheritance. As a result of this inbred fear that portion of the constitution covering the elective franchise took precedence over all else, and the drastic provisions incorporated in the constitution covering the elective franchise are almost impossible of amendment. The constitutional provisions are as follows: "and the provisions of this section and of section one of this article shall never be amended except upon a vote of the people of this state in an election at which at least three fourths of the electors voting in the whole state, and at least two thirds of those voting in each county of the state, shall vote for such amendment."

The special groups mentioned heretofore had much to do with putting the franchise provisions as quoted in the constitution, as it had been made a trading proposition.

Marked personal feelings soon came to the surface between individual members of the convention, aside from conflicting business and political connections. Within three weeks from the convening of this select body of men one member retired, never again to set foot within its precincts.

This followed a spurt of oratory that scorched the rafters. One of several who made the walls ring was Albert Bacon Fall, of Otero County, who was followed by Jacob H. Crist, of Rio Arriba County, who was fond of quoting the classics. Crist had with great feeling and in thrilling oratorical tone, quoted a portion of "The Raven" by Edgar Allen Poe, and then switched to quoting the Bard of Avon. The effect was startling, Judge Fall sprang to his feet livid with rage, and with menacing gestures and a mouthful of invectives, approached delegate Crist, uttering dire threats. Crist stood rigid, face white demanding protection from the chair, as Fall was armed, as was his habit. After a great deal of confusion delegate Crist left the hall, and delegate Fall was prevailed upon to take his seat. Delegate Holm O. Bursum of Socorro County was in the chair during this exciting episode.

Another rather disturbing matter to me at the beginning of the session was the action of the delegate who sat directly in front of me, John W. Childers of Curry County. We both had main aisle desks. He was an elderly man of powerful build. He appeared very uneasy from the start and would turn and look at me from time to time, but said nothing. Not knowing the cause for his unseemly behavior I became somewhat irritated and determined to ascertain the cause. I made inquiry of my immediate fellow members but they could not give me the reason. I was advised to make inquiry of delegate Arthur H. Harllee, from Grant County, as he was an old timer and was supposed to know men of consequence throughout the Territory. I then asked Mr. Harllee if he knew the man, stating my reason for asking. He replied, yes, he knew the reason, and said the gentleman's uneasiness was caused by the fact that he was the father of the man who shot Thomas Starley Heflin in a gun fight at Silver City, in 1902. Delegate Childers thinking, I suppose, that blood was thicker than water, and that I was not a safe man to sit at his back, kept a watchful eye on what I might, or might not do to his broad posterior. As the days passed we both maintained a zone of strict neutrality. Delegate Childers bore an excellent reputation

and was considered a man of integrity who had a sincere desire to represent well his constituency. Young Childers after an attempt on the life of Thomas J. Mabry, who at that time was an editor and publisher in Clovis, was in turn shot and killed by the town marshal while resisting arrest.

Still another more or less interesting incident was connected with one of the delegates (Green B. Patterson) whom the delegates deemed a nuisance. After much parleying among a group of members it was decided that everyone would be happier if the member would be away for a few days. Therefore, he was reported to the Santa Fe health authorities as having been exposed to small pox and was placed in quarantine. Whether he had actually been exposed was an open question. He may have been for there was plenty of small pox in the city at the time, he, at least, was out of circulation during the period of incubation which was fully appreciated by 99 per cent of the membership of the convention.

There were, as already stated, 28 elected democratic delegates, but of this number only 18 could be depended upon as organization democrats with no private interests to serve. These interests worked on both sides of party lines. The republicans were well organized, and ruled the convention with an iron hand. The minority caucused regularly and endeavored to understand the provisions to be submitted for adoption and supported or opposed such measures as they thought in the interest of the people as a whole, seeking to publicize their point of view.

We had nothing to lose or gain except good government. We were not tied up with special interests or persons. We were termed, by some, as "irreconcilables," but we did not so consider ourselves, and the record shows that I and others of the group signed the constitution as the product of the convention. Our purpose was entirely patriotic with the thought that a united minority would work for the ultimate good of all people. However, we were not bound by the unit rule. Remember this was in the days of big bosses, railroad passes, etc. The old territorial gang was

in full swing (read the local newspapers of that period). The minority did a lot of squawking but little of it got into the record. The permanent record was written up, at times, days after the actual proceedings. It took a pretty good guesser to write them up.

On October 17, 1910, Delegate Crist offered Resolution No. 14 which read as follows:

"Resolved that the President of the convention be instructed to designate a sufficient number of the expert among the stenographers now in employ to take down verbatim full proceedings of the convention each day, and that the printing committee on Printing be instructed to arrange for printing of 500 copies of the stenographers report of each day's proceedings and the delivery of five copies thereof on the desk of each member of the convention at the incoming of the next day's session of the convention; the said report to be called the Journal of the Constitutional Convention of New Mexico."

On October 20, 1910, Delegate Lindsey, as chairman of the Committee on Ways and Means, reported back to the convention Resolution No. 14, which had been referred to it for action, without recommendation and the same was read in full. Delegate Roberts moved that the original Resolution be laid on the table indefinitely, which motion being duly seconded and a division called for, the result was as follows: Ayes 57, Nays 23, and Resolution No. 14, was laid on the table indefinitely.

In a large body of men drawn together at random by popular vote, personalities are bound to clash, this was true of the members of the New Mexico Constitutional Convention. A certain delegate (the distinguished Albert Bacon Fall), bold, handsome and a natural born leader undertook the polling of the delegates, as was his right, regardless of the issue to be voted on. It was his manner of approach that was objectionable, as I can personally testify. One morning soon after roll call the regular business was proceeding on schedule when this delegate got busy on his personal poll with great self confidence. He began by

asking the members privately how they were going to vote, and that in a "I am telling you" tone of voice.

Approaching my desk he put the question in his usual manner; I told him to go to—and backed it up with an open topped ink-well held at the right and poised for best results. The ink-well was more than half full. He gulped and passed on.

Much has been said as to who had the greatest leadership among the 100 men composing the convention. In giving my opinion I take into consideration the environment from which the respective delegates came and ability to fraternize with their fellows, because leadership reached down under what appeared on the surface. New Mexico's native sons and daughters inherited a natural fear for their security, and justly so, as the history of the Anglo American settler has been that of aggression and direct action, while our Spanish American citizen came up under the "patron" system. They depended upon their leaders for protection of their community and individual rights. They were practically all of one religious faith, thus giving them a solidarity not enjoyed by the Anglo American, and all this entered into the membership of the convention. Therefore, their united interests were spontaneous among the Spanish American members and needed no organization. Their traditional instincts were personified in the person of Solomon Luna. Mr. Luna, in my opinion, was the most influential member of the convention, with Thomas D. Burns of Rio Arriba County, runner-up. I think Holm O. Bursum one of the outstanding members, and Harvey B. Fergusson the most eloquent and ablest defender of the rights of the common people. Reed Holloman was exceptionally active, and Charles Springer had a facile pencil that could whip suggestions into proper form quicker than any other member. Delegate C. J. Roberts, later chief justice of the New Mexico Supreme Court, had the best personal memorandum of the daily proceedings and could refer back in a jiffy to certain matters. Our present Chief Justice, Thomas J. Mabry, was the youngest member, and José D. Sena was deemed the handsomest. I think it can

be truthfully said that the personnel as a whole, of the 100 men that composed the convention, was exceptionally high in intelligence and citizenship. I would like to give each member mention as one and all so richly deserve, but I must for reasons desist from doing so. However, as a tribute to my good friend and colleague I must not pass up Dr. M. D. Taylor, now deceased, the other delegate from my home county of San Juan. For him I make an exception and take pleasure in saying that Dr. Taylor was among the ablest of the members; he took an active part in public health, water rights, educational and franchise matters. The state owes a lot to Dr. M. D. Taylor for his constructive work.

Woman's suffrage was widely discussed, but the very nature of New Mexico's background was against giving women the voting privilege equal with men, so when the right was given women by constitutional provision to vote in school board elections in school districts I felt a great forward step had been taken, more so because it was my bill. I was greatly gratified (see Art. 7 Sec. 109 of the Constitution).

This is written some 35 years following statehood and is gleaned from memory, notes and jottings made at the time. In looking back on the men who composed that gathering of rugged, but determined body of self-reliant individuals, coming as they did from remote ranches and villages hidden away by mountains and deep valleys; be it understood we had no paved highways, few bridges, but many mighty rivers and wide arroyos and high mountains with broad plains running into hundreds of miles, I find myself marveling that we had so few misunderstandings considering the vast territory from which we were drawn. Distance then as now, is measured in time rather than in miles, for instance when I left Farmington for the Constitutional Convention in 1910, it took me three days to reach Santa Fe, now the same trip can be made in 3½ hours by automobile and in about one hour by plane.

In this group of men were many of our most successful stock, business and professional men. New Mexico

after becoming a state drew from this same group three United States Senators, two members of Congress, one governor, two lieutenant governors, six members of the State Supreme Court, one cabinet member (the Harding administration) and various judicial, state and county officials. Of the 100 members, 24 are living at this time (July 1945)—14 republicans and 10 democrats.

May I call your attention to the ratio of democrats to republicans at the convening of the convention and the ratio of living members at this time as to their then party affiliations and the remark of Justice Thomas J. Mabry of the New Mexico Supreme Court at a recent meeting of the State Bar Association on the subject of the New Mexico Constitutional Convention when he said in effect (jokingly of course) "it may be that democrats do not live longer than republicans, but the record of the members of the New Mexico Constitutional Convention tends to indicate that they do."

To the best of my knowledge all 24 survivors of the New Mexico Constitutional Convention are in comfortable circumstances and have the respect of the communities in which they reside. It has been reported that one of the survivors (Hon. Victor Ortega) when the government called in all gold at the beginning of World War II, produced \$27,000.00 in gold coin.

The foregoing article on the New Mexico Constitutional Convention of 1910, is written without malice or intent to do wrong to any man, but only to give what I believe to be a true picture of the time and events as they were. It took strong men to subdue an untamed frontier and create a state to be admitted into the Union.

The custom of the time, countenanced the carrying of shooting arms, and well-intentioned men sometimes overstepped the bounds of reason, and the same may be said as to the indulgence in strong drink. In Territorial days liquor was plentiful and cheap, and it was not unusual for men to be armed, and at the same time more or less "liquored up." Guns and liquor many times changed the course of events.