SEVENTY-SECOND DAY

AFTERNOON SESSION.

CHILlicothe, O., Thursday, May 9, 1912.

The Convention met pursuant to adjournment, was called to order by the president and opened with prayer by the Rev. Howard B. Cooper, of Chillicothe, Ohio.

The journal of yesterday was read and approved.

Mr. DOTY: I demand a call of the Convention.

The PRESIDENT: A call of the Convention is demanded. The sergeant-at-arms will close the doors and the secretary will call the roll.

The roll was called when the following members failed to answer to their names:


The PRESIDENT: There are one hundred and six members present.

Mr. DOTY: I move that further proceedings under the call be dispensed with.

The motion was carried.

Mr. DOTY: I have a resolution that is necessary for the conduct of our future business, and I would like to dispose of that before we go any farther.

The resolution was read as follows:

Resolution No. 124:

Resolved, That when the Convention adjourns at Chillicothe, May 9, 1912, it be to meet in the hall of the house of representatives, in the state house, in Columbus, Ohio, at the time regularly set.

The PRESIDENT: The question is, Shall the rules be suspended and this resolution be considered at this time?

The rules were suspended.

The PRESIDENT: The question is now on the adoption of the resolution.

The resolution was adopted.

Mr. KERR: I desire unanimous consent to offer a resolution at this time.

The PRESIDENT: Will the member withhold the resolution for a moment?

Mr. KERR: Yes.

The PRESIDENT: Chillicothe, the first capital of Ohio, was founded in April, 1796, by Nathaniel Massie, of Virginia. In 1800 it became the capital of the Northwest Territory.

Chillicothe grew rapidly, and in 1798 the honorable court of quarter sessions, authorized Thomas Worthington and others, designated "gentlemen", to buy a site and build a court house. This was the old stone square state house, which stood on the site of the present Ross county court house. It was the first public stone building in the territory. The territorial legislature met in it in 1801, and here, on Monday, November 1, 1802, met the first constitutional convention, authorized by the enabling act passed by congress, April 30, 1802. The first state assembly met here in April, 1803. The first constitutional convention, was composed of thirty-four members and was in session twenty-nine days. The members were:

Adams county—Joseph Darlington, Israel Donalson, Thomas Kirker.
Belmont county—James Caldwell, Elijah Woods.
Clermont county—Philip Gatch, James Sargent.
Fairfield county—Henry Abrams, Emanuel Carpenter.

The grandson of Jeremiah Morrow is with us today, and he bears the same name. I ask him to arise.

The PRESIDENT: There are descendants present of two of Ross county's delegates to this first convention. The great-grandson of Edward Tiffin is here and I ask Hon. Robert W. Manley to arise. [The gentleman indicated arose.]

The grandson of Nathaniel Massie, the Hon. D. M. Massie, is also present, and I will ask him to arise. [The gentleman indicated arose.]

Trumbull county—David Abbott, Samuel Huntington.
Washington county—Ephraim Cutler, Benjamin Ives Gilman, John McIntyre, Rufus Putnam.

Edward Tiffin was president and Thomas Scott, secretary, both of Chillicothe. The Convention was in session only twenty-nine days, for on November 29, 1802, the first constitution was signed.

The old state house stood until 1852, when it was torn down to make way for the present court house. The fence in front of the jail, on Main street, is part of the original fence around state house square.

Chillicothe remained the state capital until 1810, and again from 1812 to 1816. From the old town came the following governors: Edward Tiffin, 1803-'07; Thomas Worthington, 1814-'18; Duncan McArthur, 1830-'32; William Allen, 1874-'76.

The great-grandson of Governor McArthur and grandson of Governor Allen, in the person of William Allen Scott, is here today, and I ask him to arise. [The gentleman indicated arose.]

A plaster medallion of Edward Tiffin is above my head. An oil portrait of Governor St. Clair is beneath the medallion of Tiffin. Over the door to my right is a picture of Governor Allen. On the wall to my right is an oil painting of Nathaniel Massie. Over the door to my left is a portrait of Governor McArthur. On the wall to my left is a portrait of James Ross, the pioneer whose name Ross county bears. Before me is the constitutional convention table, the old journal, the weather vane and the bell of the first capitol building of Ohio.

The president recognized the member from Ashtabula [Mr. LAMPSON].

Mr. LAMPSON: As you were reading this most interesting bit of history, I was reminded of the fact that
Resolution of Thanks to Citizens of Chillicothe.

this section of Ohio is sometimes called the “Southern Reserve.” There are many delegates of this Convention who come from the Western Reserve, and as you read that Chillicothe was first settled in 1796, it reminded me of the fact that the first settlement in the Western Reserve was in my county of Ashtabula in the same year of 1796. Eighty-four years after the first constitutional convention of Ohio was held in this city I served in the general assembly of Ohio with the representative from this county, John C. Entriken, who was then speaker of the house of representatives. It was my fortune to succeed him as speaker of the house of representatives. As you read further along I was agreeably reminded of the fact that Senator D. M. Massie, who was mentioned in your report and who arose on the right of the hall, also served with me in the senate of Ohio. So while the Western Reserve and the Southern Reserve of Ohio are widely separated, after all we have been most closely associated in building up one of the greatest states of our great republic.

Since we came into your beautiful city today we have been many times reminded of the fact that Chillicothe is all right, and the first thing that impressed me with that feeling was the happy, hearty welcome that was extended to us by innumerable school children, indicating conclusively that in the creed of Chillicothe there is no place for race suicide. And it is in these innumerable school children that the hope, not only of our great commonwealth, but of our great republic rests.

Mr. STOKES: Mr. President: This Convention should not recess until it is satisfied that it has treated every individual and every proposal and the work of every committee with absolute fairness. I voted yesterday morning to table the proposal of the gentleman from Athens [Mr. ELSON] feeling that the majority of the Convention was against the proposal; and because we had so much to do, I thought it was proper to dispose of the proposal in that way. Since that time I have regretted my vote, and for the purpose of placing this Convention absolutely right before the people and so we can go from here without a single regret, I move that the vote by which the proposal was laid on the table be reconsidered.

Mr. DOTY: I make the point of order that the motion to reconsider such a motion is out of order.

The PRESIDENT: The point is well taken.

Mr. WOODS: I move that the Elson proposal be taken from the table.

Mr. DOTY: That motion is out of order at this time.

I call for the regular order.

The PRESIDENT: Resolution No. 118—Mr. Lampson, is the regular order.

Mr. KERR: I offered a resolution a while ago and withdrew it at the request of the president. It will take only a moment to dispose of it.

The PRESIDENT: Does the member from Ashtabula yield?

Mr. LAMPSON: Yes.

Mr. KERR: I offer a resolution.

The resolution was read as follows:

Resolution No. 125:

WHEREAS, The table upon which the first constitution of the state of Ohio was signed by the members of the constitutional convention in 1802 is yet in existence and in possession of Mr. Frederick A. Stacy at Chillicothe; therefore, be it Resolved, That Mr. John L. Baum, delegate to this Convention from Ross county, be appointed a committee of one to procure, if possible, the loan of said table for the purpose of signing thereon by the members of this Convention the fourth constitution of the state of Ohio.

Mr. KERR: I move that the rules be suspended and that the resolution be considered immediately.

The motion was carried.

The PRESIDENT: The question now is on the adoption of the resolution.

The resolution was adopted.

Mr. CRITES: I offer a resolution:

The resolution was read as follows:

Resolution No. 126:

Be it resolved by the Fourth Constitutional Convention of the state of Ohio, assembled this ninth day of May, 1912, on the historic site on which the first constitution of the state was drafted and amid surroundings reminiscent of the great men of the past who have helped to lay broad and deep the foundations on which the “free institutions and prosperity of our state have been erected,

That, in token of our appreciation of the hospitality this day extended to us, we tender our sincere thanks to the citizens of Chillicothe for their kind invitation to visit a city which has played so important a part in the history of our state and for the royal manner in which we have been entertained by them.

We congratulate them on the many evidences of enduring prosperity which are apparent on every hand and we hope that Chillicothe, which has in the past produced so many whose names are blazoned forth on the pages of our nation’s history, may continue to be the mother of statesmen among the cities of Ohio.

We desire especially to emphasize our thanks to Colonel Enderlin and the ladies of Chillicothe for the bountiful and delicious luncheon with which they provided us. By their presence and efforts they have done much to add to the enjoyment of this happy occasion and to render our session here an event to which we, one and all, will look back with pleasure.

Mr. CRITES: I move that the rules be suspended and the resolution be considered at once.

The motion was carried.

Mr. FESS: Mr. President and Gentlemen of the Convention: I think we ought to express the unanimous appreciation of the Convention of this great courtesy which has given us so much pleasure. I am sure there is not a member here, no matter how much he feels the honor of being a member of the Convention, who does not feel a still greater honor in sitting in this place. Therefore, I hope the roll will be called and that all of us may be found on the roll answering in favor of the resolution.

The question being “Shall the resolution be adopted?”
The yeas and nays were regularly demanded; taken and resulted—yeas 106, nays none, as follows:

Those who voted in the affirmative are:


The PRESIDENT: The yeas are 106, all of the members voting in the affirmative, and the resolution is adopted.

Mr. DOTY: Do I understand that Mr. Brattain even voted in the affirmative?

Mr. BRATTAIN: Yes, and I voted for other good things too.

RESOLUTIONS LAID OVER.

The PRESIDENT: The order of business is Resolution No. 118. The member from Ashtabula [Mr. LAMPSON] is recognized.

The resolution was read.

Mr. LAMPSON: I shall occupy but a very few moments. A few days ago I introduced Resolutions Nos. 118 and 119, suggesting plans of ballots for the submission of the work of the Convention. Since that time Mr. Donahay has introduced a further resolution upon the same subject. My idea in introducing these resolutions was simply to get before the delegates of the Convention a basis upon which to construct some plans for the submission of our work. The first plan of ballot will be found on page 4 in the journal. You will notice that there is a circle at the top of the ballot, “To vote for all the amendments mark X within the circle.”

If a voter desires to vote for all the amendments he can mark an X in the circle. If he desires to vote for nearly all of them, it would be easier to mark within a circle and then go down the column and mark a cross in the square against those that he didn’t want to vote for.

Mr. HOSKINS: Are you working on Resolution No. 118 or Resolution No. 119?

Mr. LAMPSON: No. 118. Now, I am committed personally, but I am not going to make any sort of argument for or against any of these different plans. I will say first that the committee on Arrangement and Phraseology, of which I am a member, has agreed to report the titles as indicated here as far as they go. Of course this only goes down to title No. 9. The first proposal, amendment No. 1, is an amendment to article I, section 5, “Reform of the Civil Jury System.” That is the title the committee has agreed to recommend for that amendment, and it connects up with what precedes the ballot in the printed part of the resolution, the idea being that preceding the resolution finally, when we come to agree upon all of our work, will be all of the amendments in one grand review, as Mr. Doty expresses it here, so that the resolution that is adopted, if one should be adopted on this plan, will be referred back to all the amendments, put upon one piece of paper and then entered up with the resolution. “Article I, section 5, Reform of the Jury System,” will be a sufficient description to connect it with the amendment in detail as it appears, my idea being that every delegate will sign a piece of paper having all the amendments we adopt certified to by the president and secretary.

In this first ballot the affirmative and negative are printed, the negative immediately following the affirmative, and there is an opportunity for any one who desires to vote against any amendment or all amendments to do so by placing an X in the space before the word “against,” but the affirmative has somewhat the advantage, the voter being able to vote for all the amendments at once by simply making one mark and the advantage might very likely belong to the affirmative. The presumption might be fairly said to be that the work of the Convention was going to be approved, and if any one was opposed to it he should be put to a little more trouble to vote against all amendments than if he wanted to vote for all. That is the theory of that ballot.

The next ballot contains simply the titles, “Reform of the Civil Jury System.” This ballot was not completed when sent to the printer. Instead of using “for” and “against” the words “yes” and “no” are used, the idea being to put a cross mark before the word “yes” if you desire to vote for it, and before the word “no” if you desire to vote against it.

While we have been laboring under the impression that the ballot would be very long, as a matter of fact it will not be very long, even with the titles of all our proposals printed upon a single ballot.

The other plan, which is in Resolution No. 119, involves double columns with a circle at the head of each column, with the affirmative in the first column and the negative in the second column, and opportunity to vote for all the proposals by putting a cross mark in the circle at the head of the first column and also opportunity to vote against all proposals by putting a cross mark in the circle at the head of the second column. Having placed a mark in the circle at the top of the first column, if the voter desires to vote against some one or two amendments, he can go over to the second column.
and place his cross mark before the word "against" in the space provided for it there, just as you do with the two-party ticket. If you have a republican and democratic ticket and you want to vote largely for the democrats you mark in the circle, and then if you want to vote for a few of the republicans, you go over and go down the column and mark opposite the name you desire to vote for.

There is opportunity on either of these ballots, as far as that is concerned, for every voter to vote his choice.

Now I do not desire to take up much of the time, because the best way to understand these ballots is for the individual delegates first to read the resolution to see what is aimed at and then examine carefully the ballot.

Mr. ANTRIM: How many people in the state of Ohio would vote against the whole forty-two amendments we have adopted?

Mr. LAMPSON: I would not think very many intelligent voters would vote against all.

Mr. ANTRIM: For that reason I think only one circle would be necessary. I do not think even Mr. Brattain would vote against all of them.

Mr. BRATTAIN: I promise not to vote against all of them.

Mr. PECK: I desire to make a suggestion for the benefit of the committee and the Convention. It is primarily for the committee. Perhaps it might be a good idea to print this ballot in the form of a pamphlet, the first page to be the ballot and the remaining pages to contain the constitution with all the amendments so that every man who votes for it will vote for the constitution before him.

Mr. LAMPSON: That is a good suggestion. My purpose is that the two resolutions I have introduced and the one by Mr. Donahay may all go to the committee on Submission, but I do not want to cut off anybody from expressing an opinion.

The PRESIDENT: The member moves that these ballots, together with the suggestion from Mr. Peck, be referred to the committee on Submission and Address to the People.

Mr. LAMPSON: If any delegate wishes to make any remarks or ask any questions I shall be glad to hear him.

Mr. KING: I think the resolutions should be referred, but perhaps the Convention might avoid getting into a snarl by giving instructions that the blanks should be filled with the words, "September 14, 1912."

Mr. DOTY: I make that motion, only I believe I would rather have it "September 6, 1912."

Mr. KING: Do you want it on Friday?

Mr. DOTY: No.

Mr. EARNHART: A number of us—at least in my case—in campaigning for election to the position we occupy, expressly promised that the much mooted liquor question should be offered in a separate amendment and on a separate ballot. That was incorporated in the proposal as the proposal passed. It is also in the woman's suffrage proposal.

Mr. CROSSLER: I rise to a point of order. It does not strike me that matter is up for consideration. It must be referred to the committee.

The PRESIDENT: The question is debatable and the member from Warren has the floor.

Mr. EARNHART: I move that as provided in the Donahay resolution, the liquor license proposal and the woman's suffrage proposal shall be separate from the others. My reasons for that are, as I commenced to state before I was interrupted, that in the Convention and before the election to the Convention, when these matters were being discussed, it was the opinion and understanding and desire, so far as I could find out, that these matters should be submitted separately.

Mr. LAMPSON: I rise to a point of order. The question of amending these resolutions is not now up.

The PRESIDENT: The point is well taken and the motion is not in order.

Mr. EARNHART: I fully believe we should give this matter a little more consideration. I am only actuated by a desire to secure the approval of our work here.

Now let us be fair with ourselves and let us be fair with the people. I believe if we put the circle at the top whereby we can vote for the whole thing and do not put a circle at the top whereby we can vote against everything, the newspapers will come out and say we are seeking to take undue advantage. You know in the debate that followed the matter of exemption of bonds from, or rather the restoration of bonds to, taxation, it was asserted, and truthfully so, that the people were tricked in the matter of exempting bonds from taxation because of the fact that the parties had indorsed it and the people voted for the exemption without any knowledge of what they were doing. Now let us be fair with the people and with ourselves, and let us submit at least those two separately. The rest I do not care for.

Mr. PRICE: I think we are at liberty to make a suggestion now, and I suggest that when the committee takes the matter under consideration that the time for opening and closing the polls, 5:30 o'clock a.m. and 5:30 o'clock p.m., be changed to 6 o'clock as the statute fixes now. I suggest that that be considered. Quite a number of us have discussed the matter and have another suggestion. We think that all of the circles should be kept off the top and that each one of these amendments should be voted on separately. I do not think there should be any circles on the top at all. I think every man who votes should vote for or against a particular amendment.

Mr. NYE: I would like to have our work approved, but if this is submitted so that a voter can vote for all of the amendments by making one cross mark, it seems to me an equal right should be given to vote against all by making one cross mark. If you wish to submit so each voter must vote for or against each proposition, I am content with that, but it seems to me it would not be fair to the voters of the state to permit them to make a cross mark in the circle to vote for all the propositions and not allow the same privilege in the way of voting against the propositions by one cross mark. The same right should be extended in the one case as in the other.

Mr. MARRIOTT: May I inquire whether the Convention will or will not have a right to consider all of these matters when the committee reports back, and is there any necessity that we take up the time now on this matter?
Mr. NYE: Certainly, but I understood that suggestions were in order.

Mr. HOSKINS: Just a matter of information to find out where we are. As I understand it, there is a motion pending to insert a date, September 6 or 7.

Mr. DOTY: That was out of order.

Mr. HOSKINS: I didn't know you ever did anything out of order.

Mr. DOTY: I did this time.

Mr. HOSKINS: To what committee is this question fixing the date or reporting it out to the Convention be assigned?

The PRESIDENT: The committee on Submission and Address to the People.

Mr. HOSKINS: Another question: Is that committee to take care of the question as to when these different amendments will go into effect?

The PRESIDENT: No; the committee on Schedule will attend to that.

Mr. HOSKINS: For instance, I am concerned about the question of the election of common pleas judges. Will the committee on Schedule report the time and manner of that amendment's going into effect?

The PRESIDENT: Yes.

Mr. DOTY: If I may give some information that will help the committee on Phraseology, we are to have a joint meeting of the committees on Arrangement and Phraseology and Schedule and Submission to the People, so we can do our work together and submit the reports to the Convention.

Mr. HOSKINS: I want some information on that because some of the amendments that we have adopted conflict with existing provisions.

Mr. DOTY: That is always the case and that will be provided for by the Schedule committee.

The chair recognized the gentleman from Greene [Mr. Fess].

Mr. ELSON: The chair recognized me.

The PRESIDENT: The chair recognized the gentleman from Greene [Mr. Fess].

Mr. FESS: We can not do anything here except simply refer these resolutions to the committee and let the committee bring them back. Then we can amend any way we wish. I therefore move the previous question on this matter.

Mr. MILLER, of Crawford: I believe the president recognized the gentleman from Athens [Mr. Elson].

The PRESIDENT: The question is, Shall debate close?

Mr. EBY: I rise to a point of order, or rather to ask for information. If this goes to that committee, is the committee bound by the three suggestions only?

The PRESIDENT: No.

The main question was ordered.

Mr. EBY: The motion to refer was carried.

The PRESIDENT: The member from Portage will make a statement unless there is objection.

Mr. COLTON: I ask unanimous consent to make a brief statement.

The PRESIDENT: The member from Portage will make a statement unless there is objection.

Mr. COLTON: Upon solicitation of the committee on Arrangement and Phraseology it was thought best to state to the delegates the manner in which we proposed to submit our reports to the people for consideration, as that report will be one of the main things before you after you come back from recess. We propose when you come back to have a book containing all of the proposals that have been passed. The proposals will be arranged in the order submitted, and each proposal will be printed on white paper as passed by the Convention. Then following that, on a different colored paper, will be our report, containing every suggestion we make, which will follow line for line the engrossed copy, and following that on a different colored paper still, so that you can distinguish them readily, will be the proposal as it will appear if the suggestions of the committee on Arrangement and Phraseology are approved. We hope in this way to put the matter before you so you can decide easily whether our changes are proper or not, and we hope also that you will be able after the first meeting of the Convention to study beforehand and be ready to approve or disapprove when the matter comes before you.

The PRESIDENT: The president will ask Judge Dennis Dwyer, the senior member of the Convention, to take the chair.

Mr. Dwyer thereupon took the chair as presiding officer.

The PRESIDENT PRO TEM: Gentlemen of the Convention: I express to the president and to you my hearty thanks for the honor you now confer upon me. It is really gratifying to occupy a chair in the city where the first constitutional convention in the state of Ohio was held. My age gives me this honor and I am proud of my age and I am proud of the honor, and I am glad to meet you all and be here in the city of Chillicothe where the first convention was held. I thank you, gentlemen, for the courtesy you have extended me.

Mr. LAMPSON: I suggest that before we adjourn we unite in singing "America", and I ask Mr. Stewart and Mr. Redington and any other good singers to lead.

VOICES: Mr. Campbell.

Messrs. Stewart, Redington and Campbell came forward and led in the singing of "America", which was joined in by the entire Convention and visitors.

PETITIONS AND MEMORIALS.

Mr. Bigelow presented the petitions of the Rev. J. F. Olmstead and ninety-two other citizens of Columbus; of J. E. Parker and one hundred other citizens of Cleveland; of E. R. Handley and two hundred ten other citizens of Mt. Vernon; of S. D. Phillips and fifty other citizens of Toledo; of Henry Pieper and sixteen other citizens of Wheelersburg; of R. L. Turner and one hundred sixty other citizens of Logan county; of R. J. Bartlett and fourteen other citizens of Jackson Center; of Geo. A. Keppeler and ninety other citizens of Hamilton; of F. H. Henderson and forty other citizens of Zanesville; of L. D. Gallion and nineteen other citizens of Killbuck; of Albert E. BlakeSlee and twenty-six other citizens of Oakwood; of L. Lehman and thirty-five other citizens of Dayton; of R. H. Patterson and fifty-four other citizens of East Liverpool; of W. H. Sander and one hundred other citizens of Ravenna; of I. C. Jaynes and twenty-five other citizens of Grogan; of W. J. Gerst and thirty-three other citizens of Fulton.
county; of B. J. Ferciot and forty other citizens of Canton; of A. M. Nicholas and twenty other citizens of Toledo; of L. R. Williams and twenty-five other citizens of St. Marys; of D. D. Miller and forty other citizens of Tuscarawas county; of J. B. Hagmann and thirty other citizens of Lorain county; of E. H. Peabody and other citizens of Polk; of E. H. Gyde and fifty-five other citizens of Oak Harbor; of A. E. Rolls and twenty-five other citizens of Coshocton; of G. G. Williamson and fifty other citizens of Defiance; of E. B. Carnes and twelve other citizens of Mansfield; protesting against the passage of Proposals Nos. 65 and 321; which were referred to the committee on Education.

On motion of Mr. Fess the Convention adjourned.