

SPECIAL MEETING OF THE COMMISSIONERS OF THE CITY OF SAN ANTONIO:

SATURDAY APRIL, 18TH, A. D. 1931, 10:30 A.M.

PRESENT: Honorable C. M. Chambers, Mayor, presiding, and Commissioners, Bushick, Rubiola, Steffler, Wright.

The Clerk read the following call to-wit:

San Antonio, Texas.
April 18th, 1931.

To the Commissioners of the
City of San Antonio.

Gentlemen:-

I hereby call you in Special Session this 18th day of April, 1931, at 10:30 a. m., for the purpose of receiving the written opinion of the City Attorney in reference to certain matters pertaining to the election to be held in this City on Tuesday, May 12, 1931.

Respectfully,

C. M. Chambers.
Mayor.

The City Attorney submitted the following:

To the Honorable Mayor and Commissioners
of the City of San Antonio,
Building.

Gentlemen:

In response to the inquiry of the Commissioners of the City of San Antonio in the matter of the representation of the various factions and candidates in the polling places, at the election on the 12th of May, 1931, and in accord with the specific request of Mayor Chambers, to present a plan which would insure a fair and impartial election, and an opportunity for all electors to express and honest selection of officers to administer the government of the City of San Antonio for the ensuing term, it is my pleasure to express to you the following conclusions:-

Section 12, Paragraph 1, of the Charter of the City of San Antonio stipulates among other things, that the officers of all elections shall be elected by the Commissioners in open meeting and shall be qualified voters of the City and of the precinct in which they are to serve; provided that each candidate for Mayor or any two candidates for Commissioner, shall have the right to select a supervisor in and for each precinct who shall watch the marking of ballots of illiterate voters and perform such other duties as shall be prescribed by the General Laws of the State, and such candidates shall furnish the names of the supervisors to the Commissioners at least five days before said election.

All officers of election selected by the Commissioners shall be selected not less than ten days before the election, and no person shall be selected as an officer of election, who holds any office of trust, or profit, or employment, under the City of San Antonio or any of its Departments.

In the case of O. B. Black, et al., vs. John W. Tobin, et al., 250 SWR 257, in an appeal from the District Court of Bexar County, Robert W. B. Terrell, Judge, on an application by John W. Tobin for an injunction to restrain O. B. Black and another, from issuing certain commissions, wherein an order granting a temporary writ as prayed for was affirmed, the Court of Civil Appeals at San Antonio on the 2nd of April, 1923, acting by Fly, C. J. in

construing the stipulation of the City Charter substantially as transcribed above, makes the following statement:-

"It will be noted that the latter paragraph provides in clear and unmistakable terms that after June 1, 1915, 'all officers of all elctions' shall be chosen by the commissioners, not in secret conclave, but 'in open meeting', and provides the qualifications of each of said officers. They shall be qualified voters of said City and of the precinct in which they are to serve. These provisions are intended to guard the local rights of the citizens of each precinct and requires an open appointment that protests may be heard and entertained against the men appointed to preside over the elctions in the different precincts. That paragraph is succinct and clear, and gives the commissioners authourity to appoint all election officers - not all except the pre-siding officers, but all from presiding officers down."

Under the present Charter of the City of San Antonio, there is no provisions for handling "party tickets", and the names of all candidates for each office shall be arranged alphabetically on the ballot according to their surnames, regardless of any faction or affiliation substantially in the manner in which names are arranged on the ballot in so-called "primary" elections, the latter having been abolished in San Antonio.

Under Section 4 of the City Charter, it is provided that all elections shall be held in accordance with the Laws of the State and this Charter and returns of such election shall be made in the same manner as such returns are made under the State Laws governing elections, but the City Council may adopt such other methods and regulations to protect the purity of the ballot as it may deem proper, not contrary to the Laws of the State of Texas; and under this stipulation my answer is negative to your inquiry as to whether the appointment of partisans of any faction or candidate would invalidate the election.

It is well established principal of law that Statutes with reference to the appointment of election officers are directory, and that a substantial compliance therewith in matters of affiers election are relegated to the sound judgment of the body in which is vested the power of appointment and, therefore, I am of the opinion that the Commissioners of the City of San Antonio may select such persons for election officers as they believe will honestly and fairly conduct the election, regardless of the source from which the suggested name may come.

But this selection must be in open meeting not less than ten days before the election, and if any faction or candidate wishes to suggest names from which the selection is made, the list must be submitted in ample time prior to the expiration of the date of appointment, so that the Commissioners will have an opportunity to study the qualifications.

If it is practicable, the judges and the clerks of election may be divided ratably among the candidates who have filed with the City Clerk, or selected in such other manner as may be reasonably calculated to result in the fair and orderly conduct of the business witin the voting places, but no faction can demand arbitrarily that you shall appoint a person chosen by it without alternative.

Credentials and identifications should be issued at the office of the City Clerk to the election officers and to the supervisors, so that confusion and friction at the polling places will be reduced to a minimum.

Anticipating that this will answer your inquiry, I beg to remain

Yours very truly,

T. D. Cobbs, Jr.
City Attorney.

Mayor Chambers made the following remarks and recommendation:

I shall recommend to the Commissioners that we adopt the opinion of the City Attorney and arrange for reasonable and fair representation for all candidates that have filled their application for places on the ballot.

Section 6 of the charter provided that all officers of election shall be selected by the council. I think this provision is mandatory and for that reason, so that there will be no questions raised as to the legality of the election, all candidates desiring representation are requested to submit lists containing the names and addresses of persons they wish appointed as officers of election. If the council finds these persons to be qualified voters, persons of good moral character and resident in the election precinct in which they are suggested to serve, we will consider all such request and will endeavor to appoint as many of them as will insure to each candidate an orderly and honest election, and a fair count.

It has always been the desire of the council, insofar as it is practicable to do so, and without incurring any unnecessary and useless expense to the City, to afford every candidate offering for office, reasonable representation, and we will endeavor to appoint a sufficient number of judges and clerks from each group submitting lists to insure this result.

In discussing the matter, all we ask is that political partisanship for the time being be eliminated from the discussion. That if anyone has any suggestions to make, the suggestions be offered without indulgence in personalities and abuse of this council. This body represents the citizenship of the city and officially, at least, is entitled to the ordinary civilities that should obtain between citizens of this community.

Personally, the members of the Council are thoroughly unconcerned about any abuse that may be heaped upon us by officer seekers from the stump or in political meetings, having full faith that the good people of this city will resent this type of campaign and will properly repudiate such candidates at the polls.

We wish to avoid the disgraceful procedure that was had in this council chamber last Thursday, when, without regard for order or decorum, the Commissioners were subjected to every indignity and abuse that an angry and fanatical mob could conceive of, and one gentleman in his bitter partisanship so far forgot himself as to indulge in useless profanity.

Every citizen has the right to present any grievance he may have to this Council, and it is our duty to give him respectful and patient consideration, but it does not follow that we must submit to unwarranted abuse and insult. So long as I am Mayor of the City, I intend to uphold the honor and dignity of our official proceedings.

C. M. Chambers.
Mayor.

On motion of Commissioner Steffler, seconded by Commissioner Rubiola, the opinion of the City Attorney was adopted by the following vote on roll call, to-wit: Ayes, Chambers, Bushick, Rubiola, Steffler, Wright.

On motion, duly seconded and carried, the meeting adjourned.

APPROVED

C. M. Chambers
MAYOR.

ATTEST:

Las Orizman
CITY CLERK.