



The Flynn Report

December 15, 2007

Greetings Friends, Constituents and Supporters:

Attorney General Gregg Abbott issued his opinion affirming Speaker Craddick's position on all issues raised at the close of the 80th Session of the Texas Legislature, including that the speaker is an officer of the state. I am sending a copy of the information that was sent to the media from the Speaker's Press Office because I feel it is important since so many have been concerned and questioned the status of the Attorney General (AG) Opinion that was requested upon the close of the session.

I feel this should settle the questions of the Speaker's power under the Rules of the House. Those that attempted to remove the Speaker along with the group that never accepted the change of power will probably not accept this AG opinion.

This opinion vindicates the House leadership and the majority of the members that chose to stand with the Speaker. I trust that those that raised the questions will now go forward with the business of the people of Texas. We do not need to continue the destructive maneuvers that are not unlike those maneuvers that began in the 2000 presidential election that has divided our country with partisanship politics. During the 140 day Legislative Session fair and rational Texans want their elected officials to be about solving the challenges of border security, property tax relief, restoring our traditional families values and addressing health care, education and transportation concerns rather than bickering with partisan politics.

Under the current leadership that pushed forward with tough decisions when we had a deficit. Two sessions later, when the 80th Legislative Session came to a close, those same conservative leaders had kept their promise to maintain fiscal accountability in state government. We resisted the attempts by liberals to spend. Our commitment remains the same to keep our Texas economy strong through low taxes and to move forward the common sense, conservative agenda the people of Texas have demanded. Texas now enjoys record surplus and has become the most desired place in America to live, raise your family and do business.

FOR IMMEDIATE RELEASE

Saturday, December 15, 2007

Supplemental Information from the Speaker's Press Office

(Austin) - The following information is a summary of the attorney general's opinion, and an explanation of the misconceptions about the arguments addressed in his opinion.

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Attached is the December 14, 2007 ruling from Attorney General Greg Abbott on the opinion request that had been submitted to his office regarding the procedures of the House of Representatives. Also attached is Speaker Craddick's May 26, 2007 House Journal entry.

Speaker Craddick commends General Abbott and his office for an excellent analysis of these important legal issues. The Speaker believes the analysis will be of tremendous assistance to the House of Representatives well into the future.

BACKGROUND AND SUMMARY

A "motion to vacate the chair" is not authorized by House rules. Speaker Craddick declined to recognize members for such a motion in the waning days of the 80th legislative session.

As the attorney general opinion shows, the motion violated constitutional provisions that define the specific means for removing a speaker from his constitutional office. The speaker also recognized the policy reasons as to why the motion should be declined, including that it would have placed before the House a speaker's race at the expense of displacing legislative business, including the budget. The House rules vest the speaker with the authority and responsibility to exercise and enforce his discretion regarding what subject matter he will recognize during floor proceedings. Speaker Craddick outlined his legal reasoning for declining to entertain such a motion during the floor proceedings and also in his May 26, 2007 House Journal entry (attached). The principles of law Speaker Craddick enumerated were entirely confirmed by the attorney general's opinion.

The specific findings in the opinion include:

The Speaker of the House is a state officer and serves a two-year term of office;

A Speaker can be removed from office only by means authorized by the constitution;

The rules of the House, including necessarily the House rules giving the Speaker recognition authority, are exclusively the province of the House.

* * *

CLARIFICATION OF FACTS

There are several misreported facts that merit correction from our office:

THE SPEAKER NEVER SAID THAT REMOVAL WAS LIMITED TO IMPEACHMENT

Speaker Craddick never said that the removal of a speaker was limited to “impeachment”, as has been erroneously reported. ***On the contrary, Speaker Craddick correctly recounted to the members each of the various constitutional methods for removal*** (e.g., by expulsion upon a two-thirds vote; upon conviction for bribery; etcetera). The speaker addressed these specifics during the floor proceedings and also in his May 26, 2007 House Journal entry. The attorney general notes that impeachment is not the only means for removal, which is in agreement with the legal position that had been asserted by Speaker Craddick.

THE SPEAKER NEVER SAID HE WAS A “STATEWIDE” OFFICEHOLDER

The speaker correctly stated that his position is that of a constitutional “state officer” (that being an official who exercises autonomous constitutional authority --- not necessarily a “statewide” official). The speaker’s legal assertion in that regard was challenged by Keffer/Cook et al, who argued the speaker is not a state officer and their arguments were variously reported to be that the speaker was trying to say that his position is one of a “statewide” official, which the speaker has never said. ***General Abbott’s opinion concluded that the speaker of the Texas House of Representatives is indeed a constitutional state officer*** envisioned within the terms of Art 15, Sec 7 (an “officer of the state”), and thus any method for removing a speaker would have to comply with that provision of the constitution, though not to the exclusion of other, existing constitutional removal processes --- all of which Speaker Craddick stated in his May 26, 2007 Journal entry.

A SPEAKER CANNOT BE REMOVED BY MOTION

The attorney general’s opinion acknowledges that Art 3, Sec 9(b) of ***the Texas Constitution vests the Speaker with a two-year term of office***. That term is limited by constitutionally-enumerated grounds for removal, or by grounds for removal enacted by law pursuant to the constitution (Art 15, Sec 7), again, just as Speaker Craddick had explained from the House floor.

THE ATTORNEY GENERAL AFFIRMED A HOUSE SPEAKER’S POSITION AS RULES ARBITER

This was a complete, not partial victory for Speaker Craddick’s legal position. The attorney general acknowledged the constitutionally-mandated separation of powers doctrine dictated by Tex Const Art 2, Sec 1 which leaves the interpretation of the House rules exclusively to the legislative branch. The speaker’s recognition authority is derived from long-standing House rules (Texas House Rules, Rule 1, Sec 9 and Rule 5, Sec 24). When the House convenes for the next legislative session on January 13, 2009, members may choose to debate the wisdom of departing from the long-existing rules on recognition. However, the decisions made under the rules in the past session were consistent with prior House practice going back as far as House Journals have been recorded. House Rule 1, Sec 1 reads, ***“The speaker shall enforce, apply, and interpret the rules of the house. . . .”***

The attorney general's opinion upholds the speaker on every disputed issue. Not a single legal or rules argument asserted from the floor or argued in the opinion request found support within the attorney general's opinion. On the other hand, the opinion makes clear the decisions made by Speaker Craddick during the session were based on the rule of law and authorized by House rules. Furthermore, all of Speaker Craddick's actions were in careful deference to the Texas Constitution, upholding the integrity of not only the Office of the Speaker, but also the House of Representatives as a whole.

I trust this provides answers to your questions and concerns concerning the issues that came up in the final days of the 80th legislative session.

It remains my pleasure and honor to represent all the people of House District 2. My staff and I continue to welcome your input and your questions. Contact our office located in the Capitol extension: E1.302. Mailing address: P. O. Box 2910, Austin, TX 78768. Email District2.Flynn@house.state.tx.us. Toll free number 1-800-734-9515.

May God bless you and our great state of Texas,

**Dan Flynn
State Representative, District 2**

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