



GOV. A. B. CUMMINS SIGNING IOWA PRIMARY ELECTION LAW

Members of Elections Committee  
Thirty-second General Assembly

(Seated at Left) Sen. Warren Garst, (Seated at Right) Sen. A. C. Wilson; (Standing Left to Right) Sen. Wm. P. Whipple, Sen. Jas. A. Smith, Sen. Geo. W. Dunham, Sen. Shirley Gilliland, Sen. Chas. F. Peterson, Sen. Robert C. Stirton, Sen. Joseph Mattes, Sen. Chas. G. Saunders, Rep. John H. Darragh, Rep. L. D. Teter, Rep. Nels J. Lee, Sen. Dan W. Turner, Rep. Edw. McDonald.

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## EVOLUTION IN IOWA VOTING PRACTICES

By EMORY H. ENGLISH

Three co-operative elements were active and potent in the leadership of the Republican party in Iowa from the seventies to the nineties. First were the Civil war veterans—the citizen soldiers of the Union army. They were aggressive as well as numerous, and influential here, as elsewhere. Four Union generals, Grant, Hayes, Garfield and Harrison, and Major McKinley, reached the presidency; and Iowa had sent over seventy thousand men to the front in response to Lincoln's calls.

Then, there were the railroad corporations, lines of which traversed the state, likewise powerful in other northern states, with their vast army of officials and employees, particularly those in the legal and administrative departments, that maintained contacts with business institutions and public officials.

Associated with these influential groups, and affording vocal leadership in a most practical and effective way, was "The Regency", as the *Iowa State Register* at Des Moines, with its distinguished and talented editor, James S. Clarkson, was generally known in Iowa political circles.

In that peaceful and complacent era these coadjutant elements exerted almost complete control of the state, district and local Republican nominations for office, and for many years dominated and directed the party organization. The responsibility assumed and procedure resulting were known and clearly understood by everyone. Usually able and patriotic men were favored and put forward as candidates; and a directive party leadership,

holding itself answerable generally for the administration of public affairs, was successfully maintained for a long period of time.

The Civil war veterans, like those of all sanguinary conflicts, felt they justly were entitled to conduct public affairs and enjoy the distinction and privilege of filling official stations, the important as well as the less remunerative. Primarily they regarded this as reward for their successful efforts in holding together the nation and assisting President Lincoln in putting down the Rebellion. Among them were able men, and in time the Iowa delegations in congress, as well as state and local officials, were in large part selected from their ranks. The Republicans long held undisputed sway in Iowa, except during the early nineties, when the Republican espousal of prohibition of the sale of intoxicating liquors became an issue and resulted in election for two terms of Gov. Horace Boies, then a democrat; and again during the Herring-Kraschel regime.

Interest in politics by the railroads and kindred corporations in this and other states was purely selfish. Under the taxation system then operative here valuations of railroad properties, and those of telephone, telegraph and express companies, were fixed by the state Executive Council, an ex-officio body composed of the governor, the secretary of state, the state auditor and the state treasurer. The selection and nomination of men for these positions, as well as for congressmen in the several districts of the state, were made through a system of political party caucuses and conventions. United States senators were elected then by the general assembly and not by a popular vote. Therefore, the members of the assembly were of equal interest to those corporations, as they controlled legislation whereby changes could be made in methods of taxation and other laws.

The leadership of "The Regency" became acknowledged mostly by reason of the remarkable ability and patriotic personal worth of James S. Clarkson, a man of excep-

tional talent and resourcefulness, who was editor of the *Register* until he relinquished active relations with its publication in 1889, having been appointed assistant postmaster general, and his brother, Richard P. Clarkson, then became editor. The new editor was equally assertive, and somewhat resourceful, but lacked the agreeable and genial qualities that had made his brother personally popular and effective in political leadership. However, despite the change in editors, the *Register* for a few years continued the newspaper leadership it had so long enjoyed.

This, in brief, was the political setting and outline of the directive forces that governed the attitude and course of the Republican party in Iowa for a long period prior to advent, in the nineties, of the "progressive movement" within the party, that was to wrest from these not unpatriotic but determined elements the leadership which they had so long enjoyed.

Incidence of party custom, not subject to any regulation by law or official surveillance, had developed a pattern of political procedure known to all, in which the minimum of party membership enjoyed control of action. Within the dominant political party the congressmen next were influential in the selection of party candidates; while usually in the party of opposition the state and county organizations later prepared and announced party slates.

Due provision for definite responsibility in the operation of party machinery was needed, as well as individual participation in the nomination of party candidates, although it could not be made a popular election altogether and retain a needed degree of such responsibility. Self-government as we know it in America, and of which we are proud, augments and guarantees the strength and safety of the republic. To obtain this, party leadership and responsibility must be definite and recognizable. Therefore, the convention system or party councils, composed of elected delegates representing definite geograph-

ical areas, be they county or state, cannot with safety be abridged, encroached upon, nor supplanted in entirety by any system of limited popular elections open to participation by those not truly members of a party or sympathizing with its ideals and principles.

In the test for change to secure legal regulation, resistance was more stubborn and unyielding locally than among those in higher station. Elements outside the circle of control insisted upon some reform in election methods, although not all of the irregularities were attributable to any one faction. The general standards of existing election procedure were not commendable, and particularly the nominating machinery seemed very imperfect, being without legal control and open to manipulation and fraud. It must be said, however, in all truth and candor, that the output of party conventions was superior in quality in the majority of instances to that resulting later in the plural direct primary which supplanted them; there is no question about that! But those superior men accepted high stations with knowledge of the frauds and favoritism practiced in the caucuses preceding the conventions, and to a degree were sullied by them.

#### IMPORTANT REFORMS OBTAINED

The changes made in methods of conducting elections in Iowa in most part were intended to eliminate fraud in balloting and to obtain honest counting of votes cast. Agitation for reform in voting practices brought about wholesome improvement in methods long open to stratagem and trickery. So flagrant were the violations of the sacredness of the ballot, that countless restrictions have been required to protect the public interest and the voters' rights. The diversity of change included important reforms obtained in Iowa during the last half century.

Perhaps the first of these was the enactment of the Australian ballot law in 1892, operation of which was later augmented by authorization of the use of the vot-

ing machine. Another was the first primary election law, restricted to Polk county, adopted in April, 1904, providing legal regulations for nomination of party candidates. Also, in the same year, culminated the long fight for biennial elections, approved by popular vote in November, 1904.

Then, in 1907, came the enactment of a law by the legislature providing for a party primary election vote in nomination of candidates for United States senator, although actual election was still required to be made by the state legislature. The act of the congress of the United States submitting a constitutional amendment authorizing popular vote for the direct election of senators, was referred to the 48 states May 16, 1912, and was ratified after approval of 38 states on May 31, 1913. The first direct election of a United States senator was had in Iowa in 1914.

The Thirty-sixth General Assembly in 1915, enacted what has been termed the absent voters' act, to enable electors to vote at any general, special, primary, county, city or town election, when absent or anticipating being absent on the day of such election from the county in which they are electors. Also, the same legislature provided a statute regulating political advertising. Two noteworthy experimental acts tried out and subsequently repealed provided for the non-partisan nomination and election of judges, and a presidential preference primary law.

The purpose and intent of practically all this legislation was to secure for the voter and party member free and untrammled exercise of individual choice in selection of candidates and public officers, without interference or hinderance from any source. It was James Bryce, after a visit to this country, who said: "A final stage in the evolution of government by opinion would be reached if the will of the majority of citizens were to become ascertainable at all times." But, under prevailing procedure in Iowa elections at that time, with

so limited number of the electorate having opportunity of exercising choice in the framing of party tickets, their "will" was an unknown factor.

#### THE AUSTRALIAN BALLOT

In the matter of the Australian ballot reform, the voters previously were bewildered and annoyed by the multiplicity of tickets offered them, some being thrust into their hands even when they were in the act of voting. All manner of pressure and intimidation were practiced, and high-handed methods of voting and counting of votes were indulged in and tolerated. Edgar R. Harlan, in his *History of the Peoples of Iowa*, thus described conditions obtaining in the Iowa elections of 1888 and prior years:

... There were no provisions for secrecy in making out or casting the ballot. The official election machinery took control only after the vote was put into the ballot box. Each party would print its own ticket, and these tickets had no more official character than an ordinary handbill. Such a ballot would be handed a voter outside the polls, and a watcher could observe the voter until he deposited the ballot in the box.

Voting conditions had become intolerable; the imposition and intimidation practiced were unbearable; and under operation of the new law their disappearance was a distinct relief. During the period from 1889 to 1891 more than thirty states adopted the combined official ballot. In his concluding message Governor Larrabee recommended its adoption in Iowa. This law contains two essential provisions that safeguard the rights of the elector. All ballots used are official and contain the separate party tickets. They are printed by the county or city, or appear upon official voting machines, where same are used in balloting, and remain in the custody of election officials. The second favorable provision is the use of a booth or screen to afford seclusion for the voter while he prepares his ballot. Those of the present generation little appreciate the improved conditions secured. The system encourages party regularity and tends to preserve party responsibility, so essential in the two-

party system of our country. This is encouraged and emphasized in the privilege of using a party circle in voting a straight party ticket. It once was removed to induce independent voting, but later quite properly restored.

The tendency of groups to impose their will upon individual voters in the exercise of their franchise has been in evidence since the early days of the nation. Even after the adoption of the constitution it became necessary to add the "bill of Rights," to make secure the individual rights of American citizens. Those having opposing ideas of form of government and the management of public affairs then organized themselves into political parties representing opposing schools of thought or conflicting interests, which were influential in national, state and local affairs. Thus was secured responsibility through well-defined party organizations. Today we see great pressure groups organized and often controlled by individuals or interests having no party allegiance or responsibility, purely selfish in character, breaking into or joining some political party only temporarily and cooperating with or using it only so long as their selfish interest dictates, without first regard for the public welfare. To creditably maintain the two-party system upon which our form of government is based, more rigid legal requirements must regulate the registering of the party affiliation of the individual voter, who is presumed to have consistent and recognized membership in some political party not dominated by any other group.

#### BIENNIAL ELECTIONS

The benefits secured through biennial elections have been enjoyed in Iowa for almost fifty years, and a return to annual elections never has been suggested. In fact, with primary elections being held ever since the abandonment of the regular fall election in alternate years, a return now to annual general elections would be difficult, without the electorate being occupied constantly with candidates for something or other. Like-



wise, there is not the slightest thought in any quarter of abandonment of the Australian method of balloting.

#### PRIMARY ELECTIONS

With all the initial efforts to plan and organize local county and state governments in the great Northwest Territory and the Louisiana Purchase, and the states eventually carved therefrom, there was little thought or evidence of disposition on the part of any one to evolve any sort of legalized political party machinery for the nomination of partisan candidates for public office. From the beginning of participation in political maneuvering in the colonies, apart from the exercise of the appointive power, the town meeting or caucus and convention methods prevailed. Even the organization and establishment of local governments in the creation of townships, and providing for justice courts and other township officers, which was a departure for the New England practice and organization, did not lead to exercise of legal authority of any kind over the activities of political parties. Therefore, the providing of a system for conducting primary elections in effecting the nomination of party candidates was as distinct a reform as the securing of an improved method of balloting.

The party caucus was a closely managed and too often a manipulated event. It was an old-established and time-honored custom in Iowa, and in most other states. All political parties had used it from the early days of statehood. As a general rule cliques or groups within party organizations controlled. None other than well-known members of a political party were allowed to participate, and outsiders excluded. Party lines were closely drawn, and the precinct, county and district committeemen were looked upon as all-powerful, if not omnipotent. Only zealous workers in a controlling faction had opportunity of expression; in fact others would be lucky to know where and when the caucus would be held.

Frequently the precinct committeeman with a few others would assemble on a "snap" notice, elect a "slate"

of delegates, and quickly adjourn. Then, again, a reverse procedure would be resorted to, and a caucus would be "packed" in the interest of some candidate or set of delegates favored by those in charge.

A typical ruse to attract voters from a regularly called party caucus was to organize a competing event. In a north Iowa county the "fortunate" burning of an old shed in the outskirts of a small town at exactly the advertised hour of the holding of the caucus attracted nine-tenths of the people of the village, including members of the volunteer fire department. In the meantime, those in the "know" assembled at the caucus, the hour having been fixed, selected a "slate" of delegates without opposition and adjourned. This group of seven delegates were sufficient to secure control of the county convention, which in turn named an instructed delegation to the state convention. It may be said in extenuation of this particular occurrence that these means were resorted to by a minority in one precinct in order to circumvent the control of the county convention by the Republican county committee, which expected to "deliver" a delegation to the state convention favorable to a certain candidate for governor.

In operation it was a system of control through which, usually, the larger number of party voters were deprived of a voice in nomination preliminaries, a practice as abhorrent in its unfairness as it was dishonest in operation, continuing the same degree of disregard for the rights of the voter that had characterized general election practices prior to the adoption of the Australian ballot system. Citizens were outspoken in condemnation of the caucus, and newspapers were filled with recitals of its iniquities.

But no regulatory legislation on the subject was forthcoming. As a rule, and in the ordinary course of events, legislative bodies rarely take the initiative in the extension of greater privileges to the people; equally rarely is there refusal to make such grants when there is suffi-

cient importuning backed by popular pressure. Pages could be written upon the causes and course of the political democratization of official procedure in the newer states of America. During the period of the territorial phase, the government at Washington always held a tighter rein over local administration than ever had been true in the comparable British system, from which were derived forms developed in the United States. But the independence of the individual American in both thought and action must be reckoned with in the end. A desire to participate more actively in the affairs of government is present in the ambitions of every citizen. Urgings to that end operate with increasing pressure and arouse sentiment to carry into execution these promptings.

#### COUNTY PRIMARY RULES ADOPTED

In Butler county, the former home of the late Gov. Frank D. Jackson, a voluntary county primary plan was adopted by the Republican county committee, for use until a state law might be obtained. It combined a primary election with the convention system for nominations upon county tickets. There was no thought of dispensing with convention nominations. Commending this move the *Des Moines News*, led in urging such action in Polk county, saying:

This plan would not be a bad one here, if modified to suit our peculiar situation as to wards, townships, supervisor districts, etc. It would insure a wiser local distribution of candidates than the pure primary system, without sacrificing any of the fundamental advantages of the latter.

Whatever plan is adopted here should provide definite rules for the binding force of instructions voted at primaries. They should be held good and enforced for a certain number of ballots and then all delegates should be released from their binding force at the same time, so as to be free to vote their choice regardless of instructions. As present, the conscientious delegates stand by their instructions, while the tricky schemers violate them and make the nomination. This places a premium on rascality. . . A good primary election law is a prime need in Iowa.

Spirited campaigns for city offices were in progress in Des Moines and other cities in Iowa. The canvass

for nominees upon congressional and state tickets appeared in the immediate offing. One of the most bitter and savage congressional fights ever witnessed in the state occurred that year in Polk and surrounding counties comprising the Seventh district. James G. Berryhill, a former leader in the Iowa legislature, became a candidate for the Republican nomination in opposition to Congressman J. A. T. Hull. Aggressive campaign organizations spread over the district, and in Des Moines the rivalry and feeling were intense. The issues between the congressional candidates also involved the Des Moines city candidates in the election that spring of 1896. The city Republican committee arranged a limited form of primary nominations, with requirement for holding open the polls in all precincts during the same hours and secured agreement for selection of judges and clerks. Thereby partial improvement in practices were expected.

Quickly there came insistent demand that the Polk county Republican committee take similar action on the same voluntary basis. The situation was canvassed and on May 20th the committee authorized selection from its membership a representative from each of the Des Moines wards and the three supervisory districts in the rural section of the county, a total of ten, to constitute a committee to draft rules of procedure for holding a Republican primary election that year.

At the time the writer was the precinct committeeman in Walnut township, in the Fifth supervisory district, residing at Valley Junction, and editor of the *Valley Express*. I was selected by the committeemen in the several townships comprising that district to serve as a member of the rules committee, and assisted in writing the new party rules. Identified with party activities, as in later years, I was conversant with conditions, and now recall vividly the events herein recited. I am conscious of a responsibility in accurately detailing in this historical setting the developments and incidents of that period, which proved important steps in the evolution

of the primary election system that we now have in Iowa, with all its recognized imperfections, though asking indulgence in the incidental personal references.

As a method of political and official procedure the Iowa primary law now in use must be viewed in the light of its origin. General elections in the state had been fairly clean and honest in operation, and were decidedly improved following the use of the Australian ballot, although quite naturally sometimes disappointing in results as regards the individuals selected, as compared with those available. But, fraudulent, dishonest and downright unpatriotic practices obtained in the party nomination machinery then employed.

The committee thus named and authorized for the work of drafting the new rules, included the county chairman, and all members were experienced in details of party work. A majority of those selected were from the ranks of the supporters of Mr. Berryhill, which group originally had urged the desirability and need of the reform proposed. But all joined in the effort to formulate and present to the Republicans of Polk county rules that would be workable and fair, well calculated to improve in marked degree the conditions complained of, and receive approval of the voters. In the several meetings required the members worked zealously, but with care and deliberation, well understanding that the people of the whole state were much interested and looking to this county for leadership.

Upon completion of the final draft the new rules were promulgated June 12, 1896, prior to the county primary election of June 27th under the provisions authorized, and then were approved by the Republican voters of the county in that primary by a vote of 5,075 for, to 1,499 against, thereby pioneering in the new system. Happily the rules for the half-day primary proved corrective of many of the abuses previously experienced in the caucus system, and never were rescinded or modified until event-

ually superseded by the first Iowa primary election law enacted in 1904. Thus was bridged the hiatus between the old order and the new to come later.

Subsequently, upon removal to Mason City, as editor of the *Mason City Daily Times*, through advocacy of the need and desirability of such reform there, I assisted in securing the adoption and use of the same rules, only slightly modified, by the Cerro Gordo county Republican committee. While in neither county did the procedure thereunder completely purify political practices in vogue, "snap" caucuses were no longer possible, the primary polls being open during the same hours in all precincts for selection of delegates to county conventions, and expression secured of preference between candidates upon an official party ticket issued by the county committee, containing names of the county, state and congressional candidates who might desire to have them appear thereon, with report tabulated at close of the polls of votes cast, and delivery of the returns to the county committee headquarters.

So marked was the improvement in party practices under these voluntary rules that soon a widespread sentiment developed and demand expressed in various sections of Iowa for enactment of a state-wide primary election law, in which might be included legal penalties for fraudulent acts, which county organizations could not control.

#### GOVERNOR DRAKE'S RECOMMENDATION

Discussing legal preventatives for prevailing frauds so flagrantly perpetrated, the advocates of cleaner elections in Iowa earnestly sought effective means of reform. As early as 1897 Gov. Francis M. Drake had noted a widespread desire, "especially among people living in the city, that there be enacted a law for the regulation of primary elections." He referred to the Kentucky law upon the subject as perhaps the best enacted by any of the states. This statute provided that "each elector might, when registering his name, also enter his party

affiliation." Only those in that state, who at such time thus expressed a party preference, would be entitled to participate in the subsequent primary election making party nominations.

In the Twenty-sixth General Assembly Representative Charles Early, of Sac county, proposed a bill "for the control of primaries and caucuses in Iowa," based upon the laws of Illinois and Kentucky. It provided severe penalties for fraudulent voting and counting of ballots, placing control in the state government. At the time the *Des Moines News* said:

A law upon this subject has been needed in this state for years and will be worse needed in future as the state grows older and is invaded by the corrupt practices prevalent in many of the older states. . . Des Moines would heartily welcome the passage of a well-guarded law on this subject.

In urging immediate consideration of the subject by the legislature then in session, the *News* again commended the substitution of primaries for caucuses, saying:

The popular demand for the abolition of caucuses and the substitution of primary elections in our city and county politics has forced the politicians to give a reluctant consent, and all factions are now agreed that primaries will be held this year. Only those entitled to vote should be permitted to take part, and they should be permitted to vote in booths untrified by the thugs and heelers who infest polling places not thus protected. If possible the primaries should be conducted under a law promptly but carefully enacted by the present legislature. The primaries should be arranged for in the most careful manner.

#### PROGRESSIVE SENTIMENT GROWS

Significant events of political import in Iowa now were in the making. Anti-organization sentiment became bolder in many sections of the state. A railroad commission had been established to attend to a job of regulation; the war veterans were becoming fewer; J. S. Clarkson had gone to Washington, and thence to New York. He was no longer available here as the friendly and able political counsellor and leader of delegations to state and national conventions. Something of a revolution was taking place in Iowa in the thinking of individual

members of the dominant political party. A political dynasty was in the throes of dissolution. William Larabee had given voice to views that pointed the new way. The "progressive" wing in the party, which previously had barely a foothold, was emboldened with new hope, with promise of a day when men would not rule entirely through means of discipline and patronage. New men from their ranks began to take places in the state house and upon the Iowa congressional delegation. The "Progressive Republican Movement" began to flower; but that is another story embracing a wide range of reforms achieved, of which the state primary system of making party nominations eventually was one.

Dealing with the shortcomings in the election process in Iowa at that time, the *History of the Peoples of Iowa* says:

Students of politics had long recognized that many of the evils in government arose from the unregulated party nomination system. The electors as a rule had a choice between two or three candidates, but there was no power to compel a party to submit its choice of candidates to approval until the nomination had been made. To bring the party system under the law was one of the chief goals toward which political reform tended in the early years of the present century. Thus came about the agitation for the "direct primary," which had been urged as early as 1897 by Robert LaFollette, of Wisconsin, as a means of safeguarding the government against bosses and corrupt interests. Wisconsin was one of the first states to enact a primary election law. The discussion of such a measure was made a prominent feature by newspapers in Iowa during 1903.

In the Twenty-ninth General Assembly convened in January, 1902, Sen. James J. Crossley, of Winterset, Madison county, introduced a bill, Senate File No. 2, providing for the nomination of officials and the election of delegates to the conventions of political parties or organizations, by a primary election. Sentiment in the legislature at that time supporting enactment of a primary election law was not developed sufficiently to secure passage of this or any other bill upon the subject.



However, it was discussed and served to introduce to legislators the widespread demand that led to its presentation for consideration.

This bill was largely along lines of the voluntary county rules provided by Republican county committees; but, of course, was applicable to all political parties. While provision was made for direct nomination for county official tickets, the several district and state conventions would make nomination of candidates through delegates selected in county conventions. Names of candidates for state and district offices were to appear upon precinct ballots and results of the vote be reported to county auditors; but there were no provisions covering the significance or subsequent use of the tabulated vote for candidates for positions above the county ticket. Voters were entitled to receive a ballot of only one political party, that with which the elector then declared that he affiliated, and the nominees of which he would vote for at the next general election, though not required to specifically declare his past party affiliation.

#### LEGISLATIVE ACTION DELAYED

As a member of that assembly I acquainted myself with the provisions of the bill and favored its objectives. It was not well organized as to details and would have required rewriting to have proved successful in operation. The author refused to consider an amendment offered by opponents that would have made the measure optional by counties. The assembly really was not ready to enact a primary law, and the bill eventually was indefinitely postponed, a disappointment to those interested in the subject.

However, the ice was broken, and the period between the adjournment of the Twenty-ninth and the convening of the Thirtieth General Assembly was devoted to general discussion and arguments. Unquestionably the time was ripe for serious consideration of the enactment in Iowa of a primary election law. Party leaders were aware of it; newspapers discussed it; the demand among

voters was insistent for it; but county officers and many others differed as to its value and some deplored the possible expense involved in operation. They were used to the caucuses, and quite naturally questioned whether they could succeed themselves through means of a primary election nomination. Such reasoning was fallacious, for now, under operation of the primary system, county officers are renominated five and six or more times; not especially a recommendation for its satisfactory operation.

Aware of this agitation and having familiarity with the subject, after my renomination in 1903, I made a careful analysis of the whole situation. Learning with regret that Senator Crossley had abandoned his support of a legalized primary and convention system of making nominations, and instead would offer at the approaching session a bill for a direct plural primary method, similar in provisions to the Wisconsin law, I conferred with legislative acquaintances and reached the definite conclusion that the selection of delegates to conventions at primary elections would best serve to promote and retain party responsibility. With no legal penalties for wrongful practices under operation of the voluntary county rules, the provisions were being disregarded in many voting precincts, and a rigid law was clearly a necessity. Citizens of Polk county were outspoken in favor of a state law and I was urged to secure early and favorable action in the assembly.

A campaign for nomination of city officers in Des Moines started early in January, 1904, just prior to the opening of sessions of the Thirtieth General Assembly. It operated under rules adopted by the Republican city committee that had no legal standing or supervision, though called a "primary." Gross frauds, including stealing of ballots and ballot boxes were perpetrated, and the city and state was quite properly shocked and scandalized. This added new demand for the enactment

of a strict primary law with severe penalties for perpetrating of fraud, and taking from party committees the selection of judges, which was then the custom.

#### DEMANDS FOR A PRIMARY LAW

Des Moines citizens were quoted in the local papers in comment and criticism. From the public statements of many of the prominent people, I quote the following:

I know of no law so much needed as a good state primary law. . . . It should be of uniform application all over the state and no option about it.—Quincy A. Willis, Deputy State Treasurer.

A state primary law is needed and no mistake about it. The law should be compulsory and all counties and all parties should be treated alike under it. It is something the state of Iowa greatly needs.—Geo. A. Newman, Secretary of the Senate.

It is high time we had a state primary law started in Iowa. The fact was demonstrated in Des Moines. Something will have to be done to make fair and decent elections.—Oscar Strauss, Attorney.

I believe that Iowa should have a good primary election law and the recent primaries of the Republican party in Des Moines only emphasize what we have long known.—Robert O. Brennan, County Attorney.

The primaries should be conducted on as high a plane as the elections of the state. I believe that everyone regrets the manner in which they have been conducted, which can only be avoided in the future by a good primary law.—Fred A. Cope, County Auditor.

I favor a state primary law and its rigid enforcement. It is something we very much need in Iowa, especially in cities like Des Moines.—Ole O. Roe, State Insurance Division.

I would like to see a primary law which would give all men equal chances in politics and make it possible for every voter to cast his vote as he pleases and have it counted honestly.—Col. J. C. Loper, Sheriff, Polk County.

I am in favor of a primary law that will cut graft out of primary elections and give every honest man as good a chance as the rogue.—Charles Schramm, City Assessor.

Whether any statute can be devised that will make dishonest men honest in primary affairs may be questioned, but a carefully prepared law ought to minimize the evils. Anyway, I would like to see the experiment made.—Dwight N. Lewis, Secretary Railroad Commission.

We need a strict primary law which prevents repeaters and allows none but Republicans to vote in Republican primaries. As

it has been, there are no Democrats during Republican primary elections.—E. J. Frisk, Secretary City Central Committee.

There certainly should be a good primary election law. Some years ago when I was on the *Register* I endeavored to get such a bill passed.—R. P. Clarkson, former Editor *Iowa State Register*.

The primary election law has become a public necessity, not only that the voter may have his right of franchise reserved and a candidate get a fair expression from his party, but as a defense to public morals. Our election laws must be preserved in their purity or a frequent association with corrupt practices incidental to primary elections will soon permeate our general election.—W. N. Jordan, Attorney.

The need of a primary law is so obvious to a Des Moines citizen that it seems useless to discuss it. The Republican party is so overwhelmingly dominant in this state that a primary is equivalent to an election at the polls; there should be thrown about a primary election the same safeguards as protect a general election.—J. A. Dyer, Attorney.

Adopt a primary law which will contain every feature of the present general election law of Iowa. I would make it plain and explicit and make the punishment (for fraud) as severe as possible.—H. M. Belvel, Editor Des Moines Democrat.

I am in favor of primary law that will give honest candidates a chance.—John Lucas, City Auditor.

I am of the opinion that we should have a primary election law that would make it a misdemeanor for anyone other than members of the party to vote; that judges should be appointed by the party committee and that candidates before the primary should have nothing to say as to who the judges shall be.—E. R. Mason, former Clerk of Federal Court.

I want to see a primary law properly legalized which shall make it impossible for fraud to be perpetrated at such an election. I think there is no doubt such a law can be devised.—John C. Crockett, Clerk Iowa Supreme Court.

I am not so sure that a state primary law should be applicable to every county. It seems to me that counties like the one in which I live (Davis) ought not to be compelled to have it unless it is wanted. But a state primary law with optional features is feasible and we ought to have it at once.—B. F. Carroll, State Auditor.

I should say the state legislature cannot act too quickly nor too strenuously on a primary election law. We don't need it in Waterloo, but Des Moines does.—W. L. Illingworth, Member Waterloo City Council.

I am heartily in favor of a stringent primary law and believe it should be passed. It is apparent to everyone that our present system is becoming intolerable. Such a law should be hedged about with such restrictions as will prevent any person from voting who is not legally entitled to vote and such penalties should be attached for illegal voting that no one will dare present himself at the primaries unless legally entitled to vote. Governor Cummins found it necessary to advise in no uncertain terms the passage of a primary law. He recommends the delegate convention, which I believe would be a wise provision in such a law. Representative English from this county has devoted considerable time to the preparation of a bill which I am advised he will introduce in the legislature. I have been permitted to read a draft of English's bill and if it can be passed by the legislature, in my judgment, will effectually remove the unfortunate conditions that surround the selection of party candidates.—C. C. Dowell, Senator Polk County.

The above resumé of expressions from public men reflected the general sentiment. Some doubted the success of such a law, but desired the experiment made. It was well understood then, as now, that it is not possible to eliminate heat and rivalry from political campaigns, but everyone conceded that it would be wholesome to improve the mechanics of balloting and making nominations.

#### A PRIMARY BILL DRAFTED

After consulting the statutes of the states where primary election laws were in operation, and favoring the retention of party conventions as an integral part, thereby retaining party responsibility, I drafted a primary bill. This I submitted for study to a number of those who also had given the subject some consideration, not all of whom favored establishment of legalized primaries. Constructive criticisms and suggestions were received, and when the Thirtieth General Assembly convened I introduced the measure as House File No. 1. In general terms it was not entirely dissimilar to Senator Crossley's new "pure" primary bill, excepting in the sections included necessary to retain party conventions, being a bill for an act providing for the nomination of officers

and election of delegates to conventions of political parties or organizations by a primary election. The chief features were:

Australian ballot system to be used with ballots virtually the same as at general elections.

Compulsory and state-wide in scope for all state, district and county offices, filled by popular vote at the general election.

All parties participate on the same day, at the same place, and use the same ballot box.

Any party may be represented that polled ten per cent of the vote in the preceding general election, or presents a petition containing two per cent of the names of the qualified voters.

Delegates to party county conventions and party county committeemen also chosen at the primary.

Judges and clerks are chosen in the same manner as for general elections and with the same compensation.

Those desiring to vote at spring primary must register party affiliation at the prior fall election.

Candidates desiring names upon the official ballot must file statement with county auditor, stating they intend being candidates for a specified office.

Candidates for a state office must deposit \$200.00, and for district offices \$10 for each county in which they are filing, and for county and city candidates a fee of \$5 is required.

Delegates receiving highest vote shall be declared elected. Delegates may not appoint proxies.

The county convention, composed of the delegates chosen in the various voting precincts, is empowered to make nominations of candidates for the party for any office to be filled by the voters of a county. The county convention selects delegates to district and state conventions, who in turn nominate districts and state party candidates.

Each precinct committeeman may designate two challengers for his party to serve at the precinct polls.

Penalties are imposed for misconduct on part of officials, for bribery, perjury, repeating, etc., the same as at general elections.

The county conventions shall convene upon the Saturday next following the primary. The county auditor makes certification of returns of the primary to the party conventions.

When the convention is organized, if any candidate for county office has enough instructed delegates to constitute a majority of all, he shall be declared nominated without formality of ballot. Where no one has such majority the roll shall be called and the delegates from each precinct shall vote in turn until some candidate for each office to be filled receives a majority.

All delegates chosen and serving shall be considered as instructed to vote for, as long as good faith requires, and use their best endeavors to secure the nomination of persons for the various positions to be filled who have received the largest number of votes respectively in the precinct wherein the delegate was elected.

Among the many and varied comments and letters received discussing the bill and its merits, there was one from Mr. R. P. Clarkson, then U. S. Pension Agent at Des Moines, formerly editor of the *Iowa State Register*, who favored regulation of primary elections by law, but hesitated in creating the public expense involved, which was typical of the expressions of many others. He said:

My Dear Mr. English. I have endeavored to read your primary election bill "with the spirit and the understanding," but it is too long to be read and remembered. I do not like the fee feature of the bill. That alone will defeat it. Making counties responsible for the costs of the primary elections makes the bill unpopular with the people. These mainly are the objectionable features of the bill, as I view it. Of course, I may be wrong, but I have given you my candid opinion.

The people desire to stop all rascality in the nomination of candidates, but not to load the expense of the nominations on the taxpayers. We want a short primary election law that the people can comprehend—a law that will make the general election law apply to the primary elections. Very little more law is needed, but the needed portion must be direct and efficient.

Always sincerely yours,—R. P. CLARKSON.

Manifestly the expense of holding a primary election must be paid; if not by the candidates, then by the public. I had sought to equalize the burden by requiring candidates to pay stated sums for the privilege of having their names appear upon the primary ballots. This would assist in defraying the expense, and also have a tendency to limit the number of candidates. The fee feature was eventually eliminated.

#### GOVERNOR CUMMINS RECOMMENDS

In the biennial message of Governor Cummins delivered to the general assembly the urgency and need of a primary law was emphasized. He asked that the law might "surround the selection of candidates with the same safeguards against intrigue, dishonesty and un-

fairness, that already exist with regard to the election of candidates to office," and said that "the delegate convention ought to be preserved." The message stated:

There has been much discussion in Iowa during the past few years respecting a primary election law, and I believe that public opinion has gradually ripened so that now there is a great preponderance of sentiment in favor of some regulation that will insure common decency and fairness in the nomination of candidates for office. There is practically no fraud, dishonesty, or even unfairness in the conduct of general elections, but the manner in which caucuses, party primaries, and other proceedings leading up to nominations are held, and the practices which attend them in many parts of the state, have become intolerable with clean, fair-minded people.

Corruption in this important stage of government poisons free institutions at their fountain head, and there is nothing can be done for the removal of this blot upon our affairs too difficult nor too expensive to be undertaken. I need not recount the evidences of my statements. They are all around you, and are well known to every man who gives the most casual attention to what is going on.

I commend the subject to your careful consideration, and earnestly recommend the passage of a law which will surround the selection of candidates with the same safeguards against intrigue, dishonesty and unfairness, that already exist with regard to the election of candidates to office.

While I recognize that there are wide differences of opinion concerning the scope, as well as the detail of such a law, I venture to express the opinion that it should have the following features:

First—It should include all municipal, county, state, and congressional offices, filled by the voters.

Second—The primary election for all political parties should be held at the same place and time.

Third—It should include a system of registration, where registration is now required at general elections, and where registration is not required at general elections, it should include an adequate plan for identifying the voters.

Fourth—It should provide severe penalties for fraud, intimidation and bribery.

The greatest objections which I have found in studying the measures adopted by other states, and the subject generally, has been that in the complete primary election system, a plurality, instead of a majority, will nominate. I regard this as a weakness, because it prevents in some instances the exercise of a second choice, which is oftentimes of great value.



It seems to me, therefore, that the delegate convention ought to be preserved, and that the law should arrange for the selection of delegates. If any candidate, whether for a city, county, state or congressional office, receives a majority of the votes cast in the territory which fills the office, the delegates chosen would but have no other duty but to record the decision of the voters. If, however, no candidate receives a majority of the votes cast by his party, then the delegates chosen, with the instructions given them by the vote, should work out in the convention their second choice.

These suggestions are intended as a mere outline of the views I have formed in looking into the matter, and I lay them before you, not so much as a recommendation for any particular law, as a way of indicating to you my conviction that some adequate legislation is necessary.

When the election committees of the senate and house canvassed the primary bills wide differences in sentiment were quickly apparent. A substantial portion favored the direct voting method in making nominations popularized in Wisconsin; another large group demanded retention of political conventions for making final nominations favored by Governor Cummins; while a third element was against any such law, but some of them grudgingly indicated willingness to vote for a bill if it were made optional by counties, which had been the method employed in defeating the bill proposed two years previous. This was vigorously condemned by Senator Crossley, who voiced the common sentiment of all who favored enactment of a state-wide law, when he said:

Such a provision would emasculate the bill. An optional clause would rob the law of its chief source of strength and prevent the wholesale reforms contemplated. It was this self-same option clause that defeated the bill two years ago.

Actively lined up against any bill were the Democrats, and Rep. Will Whiting expressed their attitude in saying:

This bill is directly in opposition to the dominating sentiment of the legislature, which proposes to pass a biennial election amendment to the constitution in order to reduce the frequency and expense of elections. It would increase the expense and trouble to candidates and voters twofold without bringing any corresponding benefits.

A prominent Iowa Democrat, Editor G. L. Caswell, of Denison, later a member of the senate, was quoted as saying:

The proposed measures are the most infamous laws ever suggested for imposition by a majority upon a minority party. The clause which requires that the primary of each party be held on the same day, and that it be a joint affair, is intended to defeat the last chance of the Democratic party in Iowa to elevate its head above the surface of the sea of discontent. The one great hope of a Democrat rests in his ability to wait until the Republican conventions have been held and follow them with a convention that will nominate a ticket with the especial object of taking advantage of the weak spots in the enemy and nominating an able and popular Democrat for each office which the Republicans propose to fill with weak timber. Another feature especially objectionable is to require the voter to register his party affiliation at the preceding election in order to be entitled to vote at the succeeding primary.

These and other excerpts from the record disclose the divergent and conflicting views of prominent individuals who seriously considered and discussed the provisions of the bills introduced upon this subject.

#### PARTY LINES DISREGARDED

After all, perhaps the most valid objection urged to the adoption of a primary election system in Iowa was based upon a fear that voters from an opposing party, or the so-called independent voter not a member of any party in good faith, would find a means of voting in the primary of the leading party, with purpose of influencing or determining its nominations.

In the old days of holding caucuses members of the opposing party and independent voters rarely sought to participate in those of their opponents. It would not have been tolerated. However, in the operation of the voluntary county primary rules, under which the polls for voting upon nominations and delegates were kept open several hours, it became difficult to exclude any who might boldly declare their membership in the dominant party, the nominees of which were assured of election in the fall. This practice had become very distasteful to Re-

publicans, and many feared that it would continue in any legalized primary. Of course there was total lack of propriety in such an act. Individuals might just as properly expect to walk into a meeting of the membership of a church or other organization to which they did not belong and seek to control action had in the selection of officers or in naming a new minister for the flock.

So, there was real doubt in some quarters as to the merit and expediency of providing another popular election that might easily prove more or less open to voters other than of the political party the nominees of which they would seek to determine. Of course those who vigorously fought the adoption of such legislation emphasized every possible objection advanced. This one was most difficult to meet by the advocates of a legalized primary law. It spurred them to provide in the proposed act every possible safeguard to prevent the crossing of party lines by voters, and the law first enacted was as rigid in this respect as legislative ingenuity could devise. It was even required in House File No. 1 that at the previous general election a declaration of party affiliation must be made by every voter, which would govern his right to receive a primary election ballot of the party of his choice for selection of delegates and nomination of candidates.

But, unfortunately, those early rigid requirements safeguarding the party system were broken down in the direct voting law, particularly in the registration feature, substituting a provision that voters could change party affiliations any time prior to a ten-day dead line before a primary election day, which is practically an open invitation for voters to invade strict party lines and participate in making the nominations of a political party of which they are actually not members in good faith. This situation has gone far in causing general distrust of primary election results and discredits a system that has merit and originally designed to reform disreputable party practices which obtained in the old party caucus days.

The irregular practices prevailing in the Des Moines city election held during the session of the legislature so impressed the members that no argument was necessary to prove the need locally, although perhaps not much worse than employed in some other cities of the state. Finally rather than adjourn without any legislation on the subject, a beginning was made by enacting House File No. 1, providing for the delegate system, with amendments making it applicable only to counties having a population of 75,000 or more. Senator E. L. Hogue expressed the belief of many when he said:

It is very plain that Des Moines needs a primary election bill. It is doubtful if many other localities need it. Certainly less than half the counties want it. I believe we should pass a bill especially applicable to Des Moines. I also believe that there should be some bill passed right away that would make it a crime to vote fraudulently in the forthcoming congressional primary to be held in this city.

#### LAW ENACTED APPLYING TO POLK COUNTY

Understanding the futility of pressing further at this session, for a state-wide act, and earnestly desiring improvement of conditions in my own county, I supported this amendment of my bill by the committee on elections, of which I was a member, and secured adoption of the committee's report in the house, making the bill applicable to counties of 75,000 or more in population. On passage no votes were recorded against the measure. In the senate similar action was taken, Senator Lester W. Lewis, chairman of the committee on elections having in charge the bill, which was passed late in the session without opposing votes. Governor Cummins signed the bill, and this law was operative in Polk county until the state-wide law superseded it in 1907, the latter enactment being by the Thirty-second General Assembly.

In the intervening period there was renewed agitation for a primary law applying to all counties. By the terms of the biennial election amendment no election was held in 1905, and in the session of the Thirty-first General As-

sembly convened in January, 1906, the membership was composed almost entirely of those of the previous session. In his biennial message to this legislature Governor Cummins' recommendations were varied, the principal reforms urged being pure food legislation, restrictive insurance laws, reduced railroad fares, abolishment of railroad passes, enforcement of state liquor laws, adoption of indeterminate sentences for criminals, restriction of child labor, publication of roster of Iowa soldiers in the wars, erection of a state archives building in connection with the new state historical building, biennial elections and a statewide primary election law.

#### CUMMINS CHANGED TO DIRECT PRIMARY

Governor Cummins now said that he had reached the conclusion that the state "must either accept the primary system, in so far as it is applied, with direct nominations, as a whole, or the convention system as a whole." Therefore, he declared "for the primary system of nominations by plurality, rather than nominations by conventions." Then he added: "If there were any practical plan through which the voters could work out their second choice, I would gladly endorse it." Proceeding upon this basis he made a strong argument for the enactment of a direct primary law providing "that the person receiving the highest number of votes for any particular office should be the nominee of the party for such office."

Legislators compared this utterance with his statement two years previous, that he regarded a nomination by a plurality instead of by a majority "a weakness." Many considered his earlier judgement the more accurate, as it touched the vital weakness of direct nominations of candidates by only a plurality of the votes cast at a primary. One legislator pointed out that this country uses a delegate system in electing its presidents, the voters choosing state electors. These assemble in convention in the states and vote for president, clearly demonstrating the official process of our form of government as a parliamentary representative republic.

Two primary bills with state-wide application were introduced, Senate File 2, by Crossley, complying in a general way in its provisions with the governor's new recommendations, and House File No. 372, by Flenniken, being the recommendation of the house committee on elections of which he was chairman, which provided for primaries and conventions, similar to the English bill of 1904, then finally made applicable to Polk county only. The Flenniken bill contained a radical departure in that it proposed to except from voting in the primary upon candidates for the offices of state superintendent of public instruction, attorney general, clerk of the supreme court, reporter of the supreme court, judge of the supreme court, electors for president and vice president of the United States and judges of the district court. Both bills were defeated before the session closed.

The senate bill was amended in committee and recommended for passage. It again was amended on the floor, considered at length and defeated by a vote of 21 for and 29 against. The house bill suffered like experience being lost on passage by a vote of 45 for and 51 against. Indicative of the general attitude of groups in the assembly the Democrats and most of the stand-pat faction of the Republicans opposed the Crossley bill, and the progressive Republicans largely favored its passage. However, one of the strong progressives, Senator W. C. Hayward, of Scott county, afterwards secretary of state, filed an explanation of his vote against the bill as follows:

Mr. President: I desire to explain my vote as follows—I am in sympathy with the spirit and purpose of this bill. I heartily endorse the idea permitting all voters to express their choice in the selection of candidates for public position. In so far as this bill will effect such purpose, if it shall become a law, it has my approval. In some respects I deem it seriously defective. I do not endorse its plan of plurality nominations. . . .

In the house, Representative Thomas Geneva, of Keokuk county, a Democrat, felt that he should explain why he voted for the Flenniken bill. His explanation read:

Mr. Speaker: I am not fully decided as to the merits of this bill as a whole, House File No. 372. I have not had time to look

into its entire merits, but there are two points in the bill I am decided on; one is the manner provided to select United States senators, and the other is the bringing the choice of candidates to the individual voter; therefore I vote yea.

Thus, along with his primary law proposals, many of the reforms which Governor Cummins had urged were yet only recommendations. Apparently the sentiment favoring them was stronger back in the counties of the state than in the legislature which had just adjourned. Cummins determined to chance the possibility of re-election for a third time upon this issue. A spirited campaign took place the summer and fall of 1906, which resulted in his re-election for a third term. The canvass in the counties and the rivalry between the opposing factions in the Republican party at its state convention were heated and bitter. The success of the progressive movement in Iowa culminated that year in the election of a general assembly with the greater number of its members in sympathy with the governor's leadership for reform legislation.

#### BOTH PARTIES FAVORED PRIMARY LAW

In the state party platforms in 1906 of both Republicans and Democrats, appeared endorsements of legislation for state-wide primaries. The Republican plank read:

The Republican party has always stood for the enlarged participation of the individual voter in public affairs. To this end we pledge ourselves and our party in this state to the enactment of a wise and judicious primary election law which will provide for the nomination by direct vote of all candidates for office to be filled at the general election and an expression of party preference in the selection of United States Senators.

The Democratic plank pledged that party to enactment of a primary law without defining any particular plan:

We are in favor of a primary law giving to the people the selection as well as the election of all candidates from senators down, so drawn as to protect all parties. We favor the election of United States senators by direct vote of the people.

When the Thirty-second General Assembly convened in January, 1907, another vigorous biennial message from

Governor Cummins reaffirmed views previously expressed and recommendations made, but not fully covered by legislation secured in the first two sessions of his administration. To these were added as worthy of consideration the subjects—contributions by corporations for political purposes, lobbying and the lobbyists, further insurance regulations, express and telephone assessments, freight rates, hours of continuous rail labor, enlargement of scope of pure food act and voting machines. The renewed plea for establishing a system for the nomination of candidates for elective offices in Iowa contained practically the same features urged at the prior session. In part he said:

The experience of each year, as it passes, emphasizes the imperative need of a thorough-going reform in the methods of nominating candidates. We have long tried the plan of unregulated caucuses and conventions, and the defects discovered in this system have been so manifest that there is a universal demand for something better. I therefore earnestly recommend, as I have recommended before, an efficient primary election law.

I recognize that there are differences of opinion with respect not only to the scope but the details of such a law, but I sincerely hope that these differences may not be so broad or so fundamental that they cannot be reconciled. It should embrace the nominations of candidates for all elective offices, whether state, county, municipal or district, including the office of senator of the United States . . . by a primary vote, and should not remit nominations, under any circumstances, to a convention, except in the event of a tie.

I know that there are some thoughtful students of the subject who believe that a nomination by a mere plurality is unwise, and I grant that there may be instances in which the concurrence of a majority would be better, but to require a majority in all cases would be to make no substantial change in the present system, for conventions would still be compelled to nominate party candidates. If, therefore, we are to advance at all, it seems to me that we must adopt nominations by pluralities.

#### THIRTY-FIVE PER CENT RULE A COMPROMISE

Two bills for primary elections were introduced in the senate early in the 1907 session, Senate File No. 2 by Peterson, and Senate File No. 3 by Crossley, both of which were indefinitely postponed upon recommendation



of the committee on elections. Senate File No. 280, a committee bill on the subject, was later reported for passage by the committee chairman, Senator A. C. Wilson, of Fayette county. After prolonged discussion and amendment this bill, which most resembled the Crossley bill in its general provisions, passed the senate in the absence of that senator, who was quarantined because of diphtheria in his family, the vote being 46 for and 2 against. This degree of unanimity was finally attained after the rejection of a demand that "a fifty per cent clause" be incorporated in the bill, requiring that candidates not receiving fifty per cent of the votes cast in the primary be voted upon subsequently in a party convention. Finally this provision was adopted on the thirty-five per cent basis, as a compromise. This arbitrary percentage rule was unsatisfactory to both sides of the debate, but the enactment of a primary law depended upon its acceptance by the bill's sponsors. Through its operation one governor secured his place upon the state ticket, although he had received less votes in the primary than his competitor, but neither having thirty-five per cent of the total votes cast in the state.

Eleven Democratic senators filed a joint explanation of their votes in favor of the bill stating:

The following senators voting aye upon Senate File No. 280, known as the "Primary Election Bill," wish to explain their vote by saying that while they are not satisfied with the present bill in many particulars, it not being such a bill as they would have themselves prepared in the interest of the people of the state of Iowa, and in fairness to all political parties, but in view of the fact that there seems to be a general demand for a primary law, and for the reason that the Democratic party has declared in its convention in favor of a primary law, and for the further reason that the Democratic party is in favor of keeping all departments of the government as close to the people as possible, and that the proposed bill seems to be the best obtainable at the present time, we have voted for same.

One other Democratic senator from Scott county filed an individual explanation as follows:

Mr. President: I vote "no" on this bill for the reason that its main provisions are in direct violation of democratic principles and agrees with the Democratic idea of a primary only in name.

J. A. DeArmand.

In the house many and varied amendment were proposed, some friendly and corrective, while others were hostile. A few were adopted, which the senate refused to consider, and the bill went to a conference committee. The report of this committee was conciliatory in character and confined largely to presenting corrective amendments. In the house Representative John H. Darrah, of Lucas county, chairman of the elections committee, secured the adoption of the conference report and on passage the bill received 90 votes, with none against. In the senate a similar procedure obtained with Senator Crossley, chairman of the conference committee, submitting its report with the corrective amendments recommended which was adopted by a vote of 41 for and no nays on the final ballot had upon the bill.

The *History of the People of Iowa* speaks of the extraordinary course of this legislation in the assembly before its provisions were determined upon in final conference and balloting in both houses, saying:

The bill was subjected to hard usage from the time it was introduced until it was passed. It was amended piecemeal in both houses, and was finally referred to a conference committee. A number of senators and representatives explained their votes on the measure as derived not from a complete sense of satisfaction over the bill as an ideal measure, but because it was the best obtainable under the circumstances.

From the time of its enactment this primary law has weathered all suggestions and demands for repeal, and many attempts to amend it have failed, although some amendments have been adopted. In the beginning the law contained a restrictive provision designed to prevent the convention nomination of other than the candidates who participated in the primary. This provision in the statute of 1904 read: "and no person whose name shall not have appeared upon the primary ticket of his party in the primary election shall be entitled to receive votes

in said county convention." In the 1907 statute there was included no such limitation; but in the codification of the law in 1924 a minimum percentage vote restriction was provided, reading: "no candidate whose name is not printed upon on the official ballot who receives less than ten per cent of the whole number of votes cast in the county for governor on the party ticket with which he affiliates, at the last general election, shall be declared to have been nominated to any such office." The same percentage applies also to state and district nominations, and the provision remains in the code of 1946. But the provision restricting convention nominations to candidates voted upon in the primary has not been restored.

By far the greater number of amendments since adopted have been of a corrective nature, many of which clarified language and simplified procedure. Rotation of names upon the ballot in various precincts and counties balanced the advantage of a place at the top of the party listing of candidates for particular offices.

Perhaps the most discussed provision of the law is that relating to changing of party affiliation. The original law enacted in 1904 placed a limitation of a ten-day period between thirty and forty days prior to date of holding the primary, within which limit a voter could change his party designation. This was thought to be far enough in advance of the voting to preclude wholesale changes which might be made in the heat of a primary campaign, with the object of directly influencing results as to individual candidates. The act of 1907, containing many compromise provisions, reduced this to ten days prior to the date of the primary election. It so remained in the 1924 codification, and the provision still is unchanged, though subjected to many harsh comments.

#### GOVERNOR CLARKE ASKED REPEAL

The repeal that Governor Clarke in 1917 recommended to the legislature was not an entire abandonment of the local primary, for that was just where he would confine its operations. Clarke was the only governor to recom-

mend repeal, and upholding his views said first, that the presidential primary was a "farce," and with this the Thirty-seventh General Assembly agreed and repealed outright the Iowa presidential preference law. Then he said:

The nomination of candidates for public office in this state by a primary election has been in vogue for a period of ten years—a long enough time to give its efficiency and adaptability to the purpose designed by its advocates a reasonable test. Results from the beginning have not been entirely satisfactory. Changes from time to time have been made in the hope of making it an approved instrument of popular government. No improvement has been perceived.

The results of the effort to give the people more direct and greater participation in matters of government went to prove that such a large state as Iowa could not resolve itself into a "pure democracy" such as a New England town meeting. Under the new primary law the candidates "select themselves." The question of fitness is not discussed and passed upon by anybody. . . . The voter simply ratifies the candidate's selection of himself . . . The primary tends to exclude the best, most unselfish and capable men. The rule is that they will not undergo the methods which seem necessary to success—the meaningless circulation of petitions, the harassing and long drawn out primary campaign within the party, tending to disrupt and weaken the party, a great evil where government must proceed by parties, the enormous and disgraceful expenditure of money, all tending to corrupt morals, lower and contaminate the political and public ideals of youth . . . then must follow the campaign for the general election with all of the convulsion and disappointments and bitterness of the primary campaigns carried over into it. . .

I should like to see Iowa assume leadership by a true representative government. This legislature should provide a law for a primary in the township or precinct where all the voters can have a direct vote, at which all candidates for township or precinct offices could be nominated and, if deemed best, county officers. At this primary delegates to the county convention and alternates should be elected . . . the voter having once voted at a primary election and thus fixed his party affiliation he could not vote in any other, unless thirty days prior he had filed a declaration, under oath, of change of party affiliation. . . The law should also provide for election of delegates and alternates who shall be regarded as officers, their tenure being from the time of their election until the next election of delegates, so that in event of need, any convention could be reassembled on notice and another campaign and expense avoided. Under this kind

of legalized procedure it is hard to see how there could be any of the old time manipulations, sharp practices and packing of caucuses and conventions.

No bills were introduced, nor action taken upon Governor Clarke's recommendations, but a great deal of discussion over the state ensued during the next few years, much caustic criticism of the law resulting. It was in 1920 when the direct vote failed to nominate a Republican candidate for governor and four other state offices, none of the candidates receiving thirty-five per cent of the votes cast for those offices. In the same year both parties mentioned the operation of the law in platform utterances. The Republican state convention resolutions said in criticism:

Actual experience has demonstrated that great evils have arisen in the use of the present primary law of this state. It has been given a fair trial and found to be unwieldy, expensive and unsatisfactory. We favor its repeal, and the substitution therefor of such primary legislation as will guarantee to all voters the full right to take part and be heard in the councils of their party, and will provide for them an opportunity for free and fair expression as to both candidates and measures.

The Democratic state platform the same year assumed an opposite position in favor of adherence to the primary system. It said:

We believe the primary law should be amended to remove the existing cumbersome provisions and so as to furnish a practical method for obtaining the expressed will of the individual voter of each political party and that legislative restraints upon the prevailing corrupt practices be enacted. We believe that to take from the people the privilege of selecting candidates for public offices by a well regulated primary system is a violation of the true principles of our government.

Both platform expressions were a bit muddled and resulted in no action other than possibly the simplified codification of the law in 1924, which altered no essential feature of the direct voting method. Likewise the law survived two subsequent upheavals in party control of the state government, indicating that the principle is securely imbedded in Iowa election procedure.

One Iowan whose voice was strong and purposeful in comment was W. R. Boyd, a thoughtful man, then editor of the *Cedar Rapids Republican*, and since 1909 chairman of the finance committee of the state board of education. He doubted the wisdom and utility of a primary law in our representative form of government, although abhorring the evils of unregulated methods in making party nominations. And he has not altered the convictions expressed forty years ago. In recent years he complimented an article in *THE ANNALS* written by Ora Williams, entitled, "An Era of Open Debate in Iowa", adding:

I enjoyed it immensely! We did have a wonderful lot of men in Iowa, and continued to have them until the primary came along. I have always taken some pride in the fact that I fought that iniquity from the start . . . We have had it now for thirty-seven years. If one were to make a list of the public men, from that date forward, who were prominent in the public life of Iowa, and compare it with a list of the public men who since have figured in Iowa and national affairs from Iowa, what do you think the result would be? And what is true of Iowa is true of almost every other state in the Union.

There are a few states that have the primary which by-pass it. That is to say, they hold conventions and decide who is to run in the primary, and their recommendations or mandates are generally obeyed. That mitigates the evils of the system somewhat.

We know the evils of the old system—the chief one of which was the packed caucus; also the pass system. The pass system was abolished by law, and even the exchange of transportation for advertising by newspapers was abolished by orders of the interstate commerce commission.

The packed caucus evil could have been done away with by a brief statute legalizing the caucus and providing rules as to how and when it should be held and for the election of delegates to county, congressional and judicial conventions, by the Australian ballot; but, as democracies so often do, we burned down the house to get a few rats, and took the longest, indirect step away from representative government to pure democracy that was ever taken until the present administration came into power.

It is easy to discern resemblance in the character of the legalized nomination procedure favored by both Mr.

Boyd and Governor Clarke to the provisions of the first Iowa primary law that was made applicable to only Polk county.

Henry L. Stimson recalls in his short summary of his public life, the obstacles met by young Republicans in New York early in his political career. This is revealed in his biographical prelude to copious quotations from his war-time experiences recited in "On Active Service", Harper & Bros., to appear this month, anticipated in part in the January *Ladies Home Journal*, p. 86, col. 3. Mr. Stimson frankly acknowledges that the Republican organization in its ideals and practices in 1897 "was far below in character that which the younger group believed it should be." There was recognition of the imperfections of the primaries, so-called, with "no basis in law," created as they were by party organizations, and open to fraudulent use by reason of their defectiveness. Enactment of a primary election law in 1898, and its subsequent operation, is credited by him as making more possible than before effective participation in nominations by honest voters, and putting "an end to flagrant methods of previous years."

#### REPUBLICAN FACTIONS A FACTOR

The division of the Republican party into factions fifty years ago and the consequent struggle for supremacy early in the present century left its mark upon the primary election law. Then as perhaps always, the ambitions of men were wrapped up in the processes and progress of legislation, interfering often with calm consideration of methods and measures. The swing from majority action in making party nominations to the adoption of the plurality system was only partially successful, which many deemed fortunate in that it prevented candidates with low total vote securing nomination without general party approval. The thirty-five per cent requirement was a compromise limitation that Senators Saunders, Gilliland and Dunham insisted upon, and only through its acceptance was the enactment of the law made possible.

The moving forward of the limitation for filing of declaration of changes in party affiliation to ten days prior to the date of the primary constituted the greatest backward step. During most of the time since enactment of the law in the greater number of Iowa counties Republican majorities have prevailed. With spirited primary contests in the dominant party, and little prospects of the minority party electing their candidates, many such voters are prevailed upon by individual Republican candidates to qualify and vote for them. This practice has gradually become more prevalent, bearing out the criticism of opponents of the system. An example at this particular time, is the openly avowed intention of a formidable group from the Iowa industrial world of urging its voters to enter the primary election this year as members of one political party, regardless of their previous individual party alignments, to accomplish selfish purposes. This points with unerring accuracy to the weakness of the reconstructed registration feature of the Iowa primary election law, which as originally drawn would prevent just such excursions as well as making more difficult like depredations of those without party relations.

The independent thinker and voter has an important place and one of influence in public affairs. His attitude may be controlling in many elections, although himself not controlled in any way. But he is clearly out of place when seeking to direct the affairs of established political parties, usually finding himself only upon the fringe of any party, within which he has no inherent rights, as he never assumes responsibility for its announced principles nor the candidates selected. This element never had standing in a party convention, a determining factor in the conclusions of those who were reluctant to follow Senator Crossley's lead seeking the enactment of a direct primary law.

The attempts to break down definite party lines in nomination procedure has now reached definite form in several states. Particularly is this true where candi-



dates of one party may have their names appear upon either or both leading party ballots. This cross-filing permitted by the California law enabled Governor Warren to secure a renomination upon both the Republican and the Democratic tickets. His subsequent election thus became a certainty, and his Republican supporters felt a bit discomfited that their party leader had resorted to utilization of this hybrid statute to insure a personal victory, regardless of the political fortunes of his companions upon the ticket of his own party. The procedure is considered by conscientious party men as disorganizing in practice and productive of haphazard results.

#### PARTY LINES BROKEN DOWN

Twelve years ago the state of Washington modified its direct primary law, adopting a "blanket" form of ballot upon which candidates for all parties appear. This plan breaks down party lines completely, as no party affiliation declaration is required and the voter may choose candidates upon any or all party tickets—being free to vote for a candidate upon one party ticket for a single office, and for other candidates for different offices upon other tickets. It is a mongrel affair, permitting cross-over voting, and consequent nomination of party tickets by participation of those not members of an individual party, making party affiliation a complete farce. It has been termed "a hybrid form that defies classification;" and described as "the political millennium . . . for the independent voter and the party maverick." In operation it is credited with causing "complete abandonment of any real distinction between the parties."

In southern states the pre-election or "run off" primary is employed by the Democratic party in making its nominations, as that section is largely a one-party area in the United States. It was designed primarily to exclude the negro voters from participation in selection

of the party nominees, but is made useless for that purpose by the U. S. supreme court decision, and is being threatened by the "civil liberties" movement, which is gaining a foot-hold in the south.

In Illinois the primary law is charged with misfiring because of being liberalized in operation permitting Chicago municipal influences in reality to pick the candidates from whom the voters may choose their nominees. Thus is defeated the very purpose of the primary law, to enable the voters to make the selection of party candidates.

#### SURVIVING LEGISLATORS

The greater number of those serving in the general assemblies just after the turn of the century, who engaged in the arduous work of fashioning the primary proposals to the needs of Iowa voters, have long ago passed to their Eternal Reward. Only a small group of those who then were younger yet remain. Of the election committee members of the Thirty-second General Assembly grouped about Governor Cummins when he signed the law in 1907, shown herein as a frontis piece, who are now living, are Representatives John H. Darrah, L. D. Teter, Nels J. Lee, Senators Jas J. Crossley and Dan W. Turner. All these were among the original supporters of the movement that gave to Iowa the primary election law. In common with the writer they had no motives other than the public good in advocating and helping secure this reform, for it was vitally needed. It has been a satisfaction to have been in a position to assist in crystalizing the action to inaugurate in Iowa a reform in political practices, though always regretting that party conventions were shorn of almost all functions, so far at least as nominations of candidates upon party tickets are concerned. Unfortunately, also, in plural party primaries too many people confuse the rights enjoyed with those of the popular election where all are entitled to vote.

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