

AMENDMENTS TO THE CONSTITUTION OF IOWA

By DAVID C. MOTT

AMENDMENTS SUBMITTED AND ADOPTED

I

Note.—All historical statements concerning the adoption of all the amendments are quoted from "The Constitution of the State of Iowa and Amendments from 1857 to 1919, with Historical Introduction," prepared for publication by W. C. Ramsay, Secretary of State.

Facsimiles of the first, second, third, fourth, and fifth amendments as engrossed and enrolled with the manuscript acts and joint resolutions of the Twelfth General Assembly, 1868:

- 1st. Strike the word "White" from section one of article two thereof.
- 2^d. Strike the word "White" from section thirty three of article three thereof.
- 3^d. Strike the word "White" from section thirty four of article three thereof.
- 4th. Strike the word "White" from section thirty five of article three thereof.
- 5th. Strike the word "White" from section one of article six thereof.

These amendments were proposed by the Eleventh General Assembly, 1866, agreed to by the Twelfth General Assembly, 1868, ratified at the general election of November 3, 1868, and proclaimed¹ adopted on December 8, 1868.

¹The Twelfth General Assembly, in agreeing to these amendments, enacted that if they should be adopted by the electorate, the governor should issue a proclamation announcing the fact. Governor Merrill proclaimed them to be a part of the Constitution. (See *Iowa State Register*, December 12, 1868, in the Newspaper Division of the Historical Department.) The Sixteenth General Assembly enacted that the returns of the votes on constitutional amendments should "be made in the same manner and by the same officers, and like returns be made thereof, as of the ballots cast for the secretary of state," and that they should declare the result and enter the same of record with the secretary of state. Thereafter the General Assembly, when agreeing to an amendment, did not direct the governor, in case of the adoption of an amendment by the people, to make proclamation of that fact, but left the canvassing board to certify the fact to the secretary of state; except, however, the Nineteenth General Assembly, when it agreed to the Prohibition Amendment directed that after it should be submitted to a vote of the people, the governor should "issue his proclamation declaring the result." Governor Sherman did this. (See *Waterloo Reporter* of August 2, 1882, in the Newspaper Division of the Historical Department.)

Facsimile of the sixth amendment as engrossed and enrolled with the manuscript acts and joint resolutions of the Eighteenth General Assembly, 1880:

Strikes out the words "free white" from the third line of section four (4) of article three (3) of said Constitution, relating to the legislative department.

This amendment was proposed by the Seventeenth General Assembly, 1878, agreed to by the Eighteenth General Assembly, 1880, ratified at the general election of November 2, 1880, and certified adopted on December 3, 1880.

Facsimiles of the seventh, eighth, ninth, and tenth amendments as engrossed and enrolled with the manuscript acts and joint resolutions of the Twentieth General Assembly, 1884:

Amendment 1

The general election for State, District, County and Township officers shall be held on the Tuesday next after the first Monday

in November.

Amendment 2.

At any regular session of the General Assembly, the State may be divided into the necessary Judicial Districts for District Court purposes, or the said Districts may be reorganized and the number of the Districts and the Judge of said Courts increased or diminished; but no re-organization of the Districts or diminution of the Judge shall have the effect of removing a Judge from office.

Amendment 3.

The Grand Jury may consist of any number of members not less than five, nor more than fifteen as the General Assembly may by law provide, or the General Assembly may provide for sending persons to answer for any criminal offense without the intervention of a Grand Jury.

Amendment 4.

That Section 13 of Article 5 of the Constitution be stricken therefrom and the following adopted as such Section.

Section 13. The qualified electors of each county shall, at the general election in the year 1856 and every two years thereafter elect a County Attorney, who shall be a resident of the county for which he is elected, and shall hold his office for two years, and until his successor shall have been elected and qualified.

These amendments were proposed by the Nineteenth General Assembly, 1882, agreed to by the Twentieth General Assembly, 1884, ratified at the general election of November 4, 1884, and certified adopted on December 10, 1884.

Facsimiles of the eleventh and twelfth amendments as engrossed and enrolled with the manuscript acts and joint resolutions of the Thirtieth General Assembly, 1904:

Add as Section 16, to Article 12 of the constitution, the following:

Sec. 16. The first general election after the adoption of this amendment shall be held on the Tuesday next after the first Monday in November in the year one thousand nine hundred and six, and general elections shall be held biennially thereafter. In the year one thousand nine hundred and six there shall be elected a governor, lieutenant-governor, secretary of state, auditor of state, treasurer of state, attorney general, two judges of the supreme court, the successors of the judges of the district court whose terms of office expire on December 31st, one thousand nine hundred and six, state senators who would otherwise be chosen in the year one thousand nine hundred and five, and members of the House of representatives. The terms of office of the judges of the supreme court which would otherwise expire on December 31st, in odd numbered years, and all other elective state, county and township officers whose terms of office would otherwise expire in January in the year one thousand nine hundred and six, and members of the general assembly whose successors would otherwise be chosen at the general election in the year one thousand nine hundred and five, are hereby extended one year and until their successors are elected and qualified. The terms of offices of senators whose successors would otherwise be chosen in the year one thousand nine hundred and seven are hereby extended one year and until their successors are elected and qualified. The general assembly shall make such changes in the law governing the time of election and term of office of all other elective officers as shall be necessary to make the time of their election and terms of office conform to this amendment, and shall provide which of the judges of the supreme court shall serve as chief justice. The general assembly shall meet in regular session on the second Monday in January, in the year one thousand nine hundred and six, and also on the second Monday in January in the year one thousand nine hundred and seven, and biennially thereafter.

That Sections thirty-four(34) thirty-five (35) and thirty-six(36) of Article three (3) of the constitution of the State of Iowa, be repealed and the following be adopted in lieu thereof.

Section 34. The Senate shall be composed of fifty members to be elected from the several senatorial districts, established by law and at the next session of the general assembly held following the taking of the state and national census, they shall be apportioned among the several counties or districts of the state, according to population as shown by the last preceding census.

Section 35. The House of Representatives shall consist of not more than one hundred and eight members. The Ratio of representation shall be determined by dividing the whole number of the population of the state as shown by the last preceding state or national census, by the whole number of counties then existing or organized, but each county shall constitute one representative district and be entitled to one representative, but each county having a population in excess of the ratio number, as herein provided of three fifths or more of such ratio number shall be entitled to one additional representative, but said addition shall extend only to the nine counties having the greatest population.

Section 36. The General Assembly shall, at the first regular session held following the adoption of this amendment, and at each succeeding regular session held next after the taking of such census, fix the ratio of representation, and apportion the additional representatives, as herein before required.

These amendments were proposed by the Twenty-ninth General Assembly, 1902, agreed to by the Thirtieth General Assembly, 1904, ratified at the general election of November 8, 1904, and certified adopted on November 29, 1904.

Facsimile of the thirteenth amendment as engrossed and enrolled with the manuscript acts and joint resolutions of the Thirty-second General Assembly, 1907:

That there be added to section eighteen (18) of article one (1) of the constitution of the State of Iowa, the following:

The general assembly, however, may pass laws permitting the owners of lands to construct drains, ditches, and levees for agricultural, sanitary or mining purposes across the lands of others, and provide for the organization of drainage districts, vest the proper authorities with power to construct and maintain levees, drains and ditches and to keep in repair all drains, ditches, and levees heretofore constructed under the laws of the state, by special assessments upon the property benefited thereby. The general assembly may provide by law for the condemnation of such real estate as shall be necessary for the construction and maintenance of such drains, ditches and levees, and prescribe the method of making such condemnation.

This amendment was proposed by the Thirty-first General Assembly, 1906, agreed to by the Thirty-second General Assembly, 1907, ratified at the general election of November 3, 1908, and certified adopted on November 23, 1908.

Facsimile of the fourteenth amendment as engrossed and enrolled with the manuscript acts and joint resolutions of the Thirty-sixth General Assembly, 1915:

To repeal section seven (7) of article two (2) of the constitution of Iowa and to adopt in lieu thereof the following, to-wit:

"The general election for state, district, county and township officers in the year 1916 shall be held in the same month and on the same day as that fixed by the laws of the United States for the election of presidential electors, or of president and vice-president of the United States; and thereafter such election shall be held at such time as the general assembly may by law provide."

This amendment was proposed by the Thirty-fifth General Assembly, 1913, agreed to by the Thirty-sixth General Assembly, 1915, ratified at the general election of November 7, 1916, and certified adopted on November 27, 1916.

PROPOSED AMENDMENTS THAT FAILED AT THE ELECTORATE OR IN
THE COURTS

II

It will be noticed that in Section 14 of Article XII of the Constitution it was provided that a proposition should be submitted to amend that instrument, at the same time it was submitted to the people for adoption, by striking out the word "white" from Article II, the one on the right of suffrage. This was done by furnishing a separate ballot to each voter. If the number of ballots cast in favor of the proposition should be equal to a majority of those cast for and against the Constitution then the word "white" would be declared stricken from said article. The election was held on August 3, 1857, and the number of votes cast for the Constitution was 40,311, while the number against it was 38,681. A majority of those "for and against" was 39,497. The number of votes cast for the proposed amendment was 8,489, while the number against it was 49,387,² therefore the proposed amendment was lost.³

In 1880 the General Assembly proposed and in 1882 agreed to an amendment as follows:

Add as Section 26 to Article I of said Constitution the following: Section 26. No person shall manufacture for sale, or sell or keep for sale, as a beverage any intoxicating liquors whatever, including ale, wine and beer.

The General Assembly shall by law prescribe regulations for the enforcement of the prohibition herein contained, and shall thereby provide suitable penalties for the violation of the provisions hereof.⁴

This amendment was ratified at a special election held June 27, 1882, by a vote of 155,436 for, to 125,677 against,⁵ a majority of 29,759, and was proclaimed adopted on July 28, 1882.

²Archives Division of the Historical Department of Iowa.

³It is interesting to know that with a population of 517,875 in 1856 the state in 1857 cast 78,922 votes for and against the Constitution, or 1 vote for each 6.56 persons in the state. On the proposed amendment it cast only 1 vote for each 8.95 persons. But this showed more interest in that proposed amendment than is sometimes manifested in amendments. For example, on the amendment submitted in 1884 to change the date of general election for state, district, county, and township officers, only 1 vote was cast for each 16.82 persons then in the state. However, in 1882 there was cast on the prohibition amendment 1 vote for each 5.77 persons, and in 1896 at the general election there was cast 1 vote for each 3.95 persons, which surely was almost a full vote.

⁴Enrolled acts and joint resolutions of the Nineteenth General Assembly, in the Office of the Secretary of State.

⁵Archives Division of the Historical Department of Iowa.

On April 21, 1883, the Supreme Court in *Koehler & Lange vs. Hill*, 60 Iowa, 543, held that the amendment was not legally submitted to the electors, and hence did not become a part of the Constitution. The history of the amendment shows that it was first proposed in the House of the Eighteenth General Assembly, adopted, and sent to the Senate. That body adopted a substitute and sent it to the House. The House agreed to the substitute, but in the enrolled proposed amendment, signed by the presiding officers of both the House and Senate, the language did not agree with the language of the substitute adopted by the Senate, as shown by the Senate's journal, the words "or to be used" being omitted in the enrolled proposed amendment. The proposed amendment in the enrolled form was agreed to by the Nineteenth General Assembly, and was adopted by the people at the special election, but the court held that as its language materially differed from that of the one proposed by the Senate of the Eighteenth General Assembly that the provisions for amending the Constitution had not been complied with. Notwithstanding this, and the defeat at the polls of a like proposed amendment in 1917, the result aimed at was reached through statutory enactment, reinforced by the Eighteenth Amendment to the Federal Constitution, adopted in 1919.

In 1913 the General Assembly proposed and in 1915 agreed to a woman suffrage amendment as follows:

Section 1. That the following amendment to the Constitution of the state of Iowa is hereby proposed, to wit:

Repeal Section 1 of Article II of the Constitution of the state of Iowa and in lieu thereof enact and adopt the following to wit:

Section 1. Every citizen of the United States, of the age of twenty-one years, who shall have been a resident of this state six months next preceding the election, and of the county in which he or she claims his or her vote, sixty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law.⁶

This amendment was submitted to vote at the primary election on June 5, 1916, the result being 162,683 for, to 173,024 against,⁷ which defeated it by 10,341 votes.

It was proposed again in practically the same form by the

⁶Enrolled acts and joint resolutions of the Thirty-sixth General Assembly, in the Office of the Secretary of State.

⁷Archives Division of the Historical Department of Iowa,

General Assembly in 1917. The Constitution provides that an amendment proposed by one general assembly shall be referred by it to the legislature to be chosen at the next general election, "and shall be published as provided by law, for three months previous to the time of making such choice," and Section 55 of Chapter V of the Code provides that "the secretary of state shall cause the same to be published, once each week, in two newspapers of general circulation in each congressional district in the state, for the time required by the Constitution." This required publication was neglected, which resulted in the proposed amendment's second failure. It was proposed once more, this time by the General Assembly in 1919. On July 2, 1919, the General Assembly was called in special session and on that date ratified an amendment to the Federal Constitution providing for woman suffrage. That amendment was ratified by a sufficient number of states so that it became a part of the Federal Constitution, which made further action on the subject by the General Assembly unnecessary.

In 1915 the General Assembly proposed and in 1917 agreed to the following amendment:

Section 27. The manufacture, sale, or keeping for sale, as a beverage, of intoxicating liquors, including ale, wine and beer, shall be forever prohibited within this state. The General Assembly shall by law prescribe regulations for the enforcement of the prohibition herein contained, and shall provide suitable penalties for the violation of the provisions hereof.⁸

This amendment was submitted to a vote of the people at a special election on October 15, 1917. There were 214,693 votes cast for the amendment and 215,625 against it, so it was defeated by 932 votes.⁹

In 1923 the Fortieth General Assembly proposed an amendment to remove the obstruction to women being elected to membership in our legislative department, and it now awaits action by the Forty-first General Assembly. It is in the following language:

Section 1. That the following amendment to the Constitution of the state, be and the same is hereby proposed, viz:

⁸Enrolled acts and joint resolutions of the Thirty-seventh General Assembly, in the Office of the Secretary of State.

⁹Election Returns of 1917, in the Office of the Secretary of State.

Strike out the word "male" from Section 4 of Article III of said Constitution, relating to the legislative department.¹⁰

A CONVENTION TO AMEND

III

Section 3 of Article X of the Constitution provides "at the general election to be held in 1870 and in each tenth year thereafter, and also at such times as the General Assembly may by law provide, the question, 'Shall there be a convention to revise the Constitution and amend the same?' shall be decided by the electors qualified to vote for members of the General Assembly." This question was submitted in 1870, and regularly each tenth year thereafter, and always the majority was in the negative until 1920 when the result was: for the convention, 279,652; against the convention, 221,763; majority for the convention, 57,889. Section 3 of Article X reads further, "and in case a majority of the electors so qualified, voting at such election, for and against such proposition, shall decide in favor of a convention for such purpose, the General Assembly, at its next session, shall provide by law for the election of delegates to such convention." The Thirty-ninth General Assembly, which met January 10, 1921, was the "next session" and four bills were introduced on the subject, two in the Senate and two in the House. The first was on January 20, House file 307, by Calhoun of Van Buren and Rankin of Lee, "a bill for an act making provision for a convention to revise and amend the Constitution, naming the number of delegates and districts, fixing the time for the convening of the Convention and provision for submitting the amendments and additions to a referendum."

February 12, Carter of Hardin introduced one of similar purport, House file 501, but on March 15 withdrew it. On January 25, Senator Wichman of Hancock introduced Senate file 343. It was reported out favorably on March 15 from the Committee on Constitutional Amendments of which Senator Wichman was chairman. A few days later it was taken up, amended, and the following day withdrawn by the author, evidently in the interest

¹⁰Enrolled acts and joint resolutions of the Fortieth General Assembly, in the Office of the Secretary of State.

of House file 307. On February 12 Senator Cessna of Poweshiek introduced Senate file 492, but on March 20 withdrew it.

House file 307 was reported out February 22 by the House Committee on Constitutional Amendments, of which Edson of Buena Vista was chairman. The report recommended all be stricken out after the enacting clause and a substitute adopted, which was done. Later amendments were filed and on March 15 the bill was taken up, the amendments adopted and the bill passed. April 1 it was received back from the Senate, having been amended and passed. April 6 the House refused to concur in the Senate amendments and appointed a Conference Committee. On April 8 the House adopted the report of the Conference Committee, but the same day reconsidered its action, defeated the report of the committee, appointed a second Conference Committee, then asked the Senate to return the bill to the House, which the Senate did, and the final adjournment of the session occurred the same day, leaving no enactment for the decennial election upon a constitutional convention.

RETURNED TO HIS FIRST LOVE

We see by the *North-West* that Charley Aldrich, one of the staunch pioneers in newspaper enterprises in the northwestern part of the state, has bought out Mr. Henderson of the *Marshalltown Times* and will enter upon his editorial duties on the 20th inst. Like a good many other men, Charley got a little tired of the drudgery of his profession and turned farmer. But how can a regularly born-and-bred quill driver like him be content while disconnected from the editorial sanctum? The idea of his finding permanent delight in raising grapes and melons is absurd. He is a born newspaper man and has no moral right to desert that profession which nature and education designed and fitted him to follow. Come back to your first love, friend, and don't desert it again. We assure the people of Marshalltown that they will find Mr. Aldrich a ready writer, a genial companion, a hard-working, radical politician, and an experienced editor, every way qualified to make for them a first-class paper.—*Iowa State Register*, September 6, 1866. (In newspaper collection of the Historical Department of Iowa.)

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