



The Passing of Alien Suffrage

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relating thereto." The bill provided, further, for investigation by the commission of the relationship between holding companies and operating companies, to the end that activities of holding companies in relation to operating companies "may be made a matter of public record."⁵² It is worthy of note that with no staff and a very small appropriation, the Vermont commission would have been in no position to make effective the general provisions of the bill.

Kentucky. Two bills were introduced in the Kentucky legislature relative to creating a public utilities commission. One provided for the abolition of the present railway commission and for vesting its powers in a public utilities commission.⁵³ The second provided, not for abolition of the railway commission, but for the transfer of its powers to a public service commission, except such as relate to steam railways.⁵⁴ Both bills provided for the abolition of the office of commissioner of motor transportation and for the transferring of its powers and duties to the public service commission. Neither bill was passed.

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The Passing of Alien Suffrage. For the first time in over a hundred years, a national election was held in 1928 in which no alien in any state had the right to cast a vote for a candidate for any office—national, state, or local. Because of a reversal of opinion by the state supreme court, alien suffrage in Arkansas became illegal in 1926, and the last vestige of this political anomaly passed from our election system, doubtless never to return.

During the nineteenth century, the laws and constitutions of at least twenty-two states and territories granted aliens the right to vote. This tendency reached its greatest extent about 1875. Even before then it had begun to recede. In the following decades a steady decline set in. The last state constitutions to grant aliens who had declared their intention to become citizens the full right of suffrage were those of the two Dakotas in 1889.

The movement to withdraw the right began with Illinois in 1848. At the opening of the present century, only one-half the original number, or eleven states, continued to grant this right. Prior to our

⁵² Vermont, *Senate Docs.*, 1929, pp. 205-206.

⁵³ Kentucky Legislature, *House Bill* No. 361.

⁵⁴ Kentucky Legislature, *House Bill* No. 391.

entrance into the World War, four of these withdrew the right by constitutional amendment—Alabama in 1901, Colorado in 1902, Wisconsin in 1908, and Oregon in 1914. In 1918, Kansas, Nebraska, and South Dakota adopted amendments limiting the suffrage to citizens of the United States, and Texas, by statute, barred aliens from voting at primary elections. In 1921, Indiana and Texas, and in 1924, Missouri, abolished alien suffrage by amending their constitutions. Aliens still had the right to vote in only the one state of Arkansas.

The longer survival of alien suffrage in Arkansas was not due to favorable popular sentiment. The opinion of the electorate, so far as disclosed by the votes cast, was very much more strongly opposed in Arkansas than in either Texas or Missouri.¹ The real reason was a conservative provision in the amending section of the state constitution, buttressed by a similar decision by the supreme court.

In 1919, the legislature of Arkansas provided for submission to the people, at the general election of 1920, of a constitutional amendment taking from aliens the right to vote. This amendment received a large majority of the votes cast thereon, namely, 87,237 in the affirmative and 49,757 in the negative. But the amending section of the original constitution of the state provided that, in order to become a part of the constitution, an amendment submitted by the legislature must be approved by "a majority of the electors voting at such election." The votes for the amendment in question, while a majority of those cast thereon, fell short of being a majority of the total of 190,113 votes cast at the election. Hence, after canvassing the vote "in the presence of both houses of the General Assembly," the speaker declared the amendment lost. And thus the matter stood for over five years, until the amendment was resuscitated and made a part of the constitution by the following complete "about face" by the supreme court.²

In 1910, the people of Arkansas adopted an initiative and referendum amendment to the state constitution. The right to initiate measures extended to constitutional amendments as well as statutes. This amendment also contained the following provision: "Any measure referred to the people shall take effect and become a law when it is

¹ The vote in Texas was 57,622 to 53,910; in Missouri, 175,580 to 152,713.

² This is no doubt the reason why all the latest and most authoritative works on our government continue to state that Arkansas permits aliens to vote. The resurrection of the amendment after the lapse of years is so unique that it is small wonder that it has escaped the attention of careful writers and investigators.

approved by a majority of the votes cast thereon, and not otherwise." A conservative decision rendered by the state supreme court in 1915 held that this provision did not apply to constitutional amendments, and that any amendment, even those proposed by initiative petition instead of by the legislature, must receive a majority of the votes of all the electors voting at the election in order to be adopted.³

For a decade this decision determined the law of the constitution on this point and was faithfully applied. In 1925, however, the court reversed its earlier decision in part, and held that an amendment proposed by the initiative was legally adopted when approved by a majority of the votes cast thereon.⁴ This decision was followed on April 12, 1926, by another that completely reversed the original opinion.⁵ The court now held that the provision of the 1910 amendment not only applied to amendments proposed by the initiative, but superseded the provision of the original constitution, and "meant that all constitutional measures, whether submitted by the legislature or directly by the people, . . . should take effect when approved by a majority of the votes cast thereon."

Two weeks later, the secretary of state requested an official opinion from the attorney-general as to whether the amendment denying the right of suffrage to aliens "was legally adopted and is now in full force and effect." This was rendered on the same day, and closed as follows: "It is therefore my opinion that the amendment . . . became a part of the constitution of the state of Arkansas on November 2, 1920, and is now a part of the constitution."⁶

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The Make-up of a State Legislature. Herewith is presented a brief analysis of the personnel of the lower branch of the Kentucky legislature which met in January, 1930.

The political complexion of this particular Assembly was 66 Democrats and 34 Republicans, while the Senate had 24 Democrats and 14 Republicans. This is, however, not a fair indication of the political complexion of the state. For example, in the last fourteen years the

³ *Hildreth v. Taylor*, 117 Ark. 465; 175 S. W. 40.

⁴ *Brickhouse v. Hill*, 116 Ark. 513; 268 S. W. 865.

⁵ *Combs v. Gray*, 281 S. W. 918.

⁶ *Biennial Report of the Secretary of State, 1925-1926*, pp. 226-227.