

1892

Ballot Reform

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B A L L O T R E F O R M .

W R I T T E N F O R T H E D E G R E E O F L L , B .

B Y

G E O R G E D . R I C H E Y .

C O R N E L L U N I V E R S I T Y S C H O O L O F L A W .

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I N T R O D U C T I O N .

Where a community has reason to believe itself to be numbered among the enlightened ones of its age , and its institutions to be pre-eminent among those of civilized mankind as types of liberty and progress , it some times relaxes the constant strain of watchfulness; an easy complacency settles down upon it ; and it awakes some day to find that some corrupting influence is striking at its varying existance; that as a matter of fact it is far from perfect ; and that some other country with no pretensions to such a prominent rank , is in reality ahead in the march of progress, and stands pointing the path for its more eminent followers to pursue.

It is with some such reflection as this that the United States and other countries should look upon the history of Ballot Reform in the last half century

But our people are good soil in which to plant good fruit. They are chary to support a novelty or sham, but bold and staunch in upholding true merit. The record of the progress of ballot reform in this country ought to give new faith and courage to even the most despondent reformer, no matter how often it has happened to him to be "in at the death" with other good causes. It is barely five years since the agitation of the reform began, yet the reform itself is to-day an accomplished fact. Three-fourths of all the States of the Union have adopted the new system in one form or another and will vote under its provisions in the next Presidential election. The remaining States are certain to fall into line within a very short period. The Australian system, which in 1872, fourteen years after its birth, became by adoption the English system, and a few years later the Canadian system, becomes now, with some modifications, the American system. The period of agitation in England was about the same in duration as it was here, beginning in 1868 and ending in the enactment of a law in 1872. Systematic agitation in this country began in the winter of 1887 in the discussions of the Commonwealth Club in New York City, though a bill embodying in crude

form some of the principals of the Australian system were under consideration in the Michigan legislature in the winter of 1885 .

The chief reason for this rapid progress is to be found in the chaotic condition of our election laws at the outset of the agitation . There could not be said to be at that time any thing like an American system of voting. In all our election laws there was elapsus at a critical point which put our elections completely in the control of the political organizations. Those laws provided for the form of the ballots and the methods of printing them in various States , and provided also for counting the results and declaring the same; but they were dumb as to the rest; the politicians did the rest.

All these dangers of political machine control of elections, the enumeration of which seems now like an old story to ballot-reform advocates, were for the first time placed before the public in a clear and systematic manner when agitation for ballot-reform began five years ago. The peril of the situation , as then disclosed, was so obvious that intelligent public sentiment throughout the country may be said literally to have been educated at the first glance . What the advocates of the Australian system proposed was in fact not the

substitution of a new system for an old one, but the adoption of a system in place of none at all. The country had been blundering along under the primitive election methods which had been adopted in the town meetings of its earliest history. It had been the custom in those assemblies for the candidates, or the political committees, to meet the expence of providing the few ballots needed, and we had continued the custom, more or less oblivious of the fact that our elections had grown from the simple and inexpensive town meeting into contests involving millions of voters and entailing an expenditure of millions of dollars. The advocates of the new system simply said that we could not as a nation continue to blunder along in this way without grave peril of many obvious kinds, and that the need of the time was the adoption of the most thoroughgoing ballot system that could be devised—a system which should take control of the ballots from the political organizations and put it in the hands of the responsible agents of the State, and should give us an absolutely secret ballot, free from espionage and intimidation of all kinds.

It is a curious argument against any reform that it will not bring in the millenium, yet this is about what certain objections to ballot reform amount to that

are extremely received in some quarters. The type of foe to reform who is entirely devoted to the object sought, but who cannot approve any specific method because it will not fully, certainly, and forever accomplish that end is an old one. Like the Prohibition party in this country at the present time. Instead of advocating such partial relief as can be obtained, and as is consistent with the present sentiment of the people, or by supporting in a body the party that will aid them, they cling to absolute revolution without accomplishing anything.

It has been fairly well established by long experience that in order to prevent an abuse that has become general, the best way is to aim at the conditions of its practice, to make it as difficult as you can, to bring out as clearly as possible its real character, so as those who engage in it will know what they are doing, and so that the community will also know. This is what the ballot reform seeks to do. Its friends do not hope to make bribery and intimidation absolutely impossible under it, but they claim that it will be made very much harder than it now is, and that, on the other hand, any person who wishes to cast a perfectly secret ballot, for which he cannot be punished or in any way held to account, can do so.

But it is said that the politicians will "beat" the law. This cannot be done where the conditions of success are so extremely hazardous.

But this is not the only use the law may serve. Under the old law large sums of money were raised to pay for printing and distributing the ballots, and getting them into the boxes. Under the reform law there is no excuse for raising this money, except in New York for posters as is shown by the sworn statements of candidates at recent elections. Formerly no candidate stood any chance who would not give more or less money to the organization which had this matter in charge. Much of this money was wasted for the method was clumsy and extravagant. As the contributions for these purposes are intended for corruption, and the professed purpose was merely a blind, under the reform law at least the waste and the stealing of these funds must be stopped, and the corruption will be made much more obvious. That is clearly a gain. Even if it remain true that money will still be raised and used for corruption, it will also be true that one of the chief covers under which money has been so raised in the past will be torn away. The chances of exposure will be very much greater than they have been.

H I S T O R Y .

The history of voting by ballot in the early times is somewhat meagre . There are data to the effect that the Greeks voted by ballot in the fifth century before Christ. Democracy was comparatively unknown before the discovery and use of the ballot. In these times leaves were used to express the popular will. They were rejected when it was found that they could be easily broken and tampered with to secure false counts. Then black and white balls , small pieces of brass etc., were used to the time when paper was introduced. Athens set a high price on her citizenship after the great principle of popular representation was adopted. Citizens who did not come out and vote were fined. The Syracusans used at one time olive leaves for ballots . Rome at an early day after democracy was introduced , borrowed the ballot system of the Greeks but never took very kindly to it. The Australian system of to-day is the counter part of the practice in Rome 2000 years ago. The voting classification in Greece in olden times was both social and territorial, not unlike the arrangement in this country

during Presidential elections. Many of the ancient systems were corrupted by extragant favoritism, and bribery was not uncommon. Probably the most extraordinary system of voting was in Hungary, where the ballot boxes were immense casks, and the ballot poles from four to six feet long which the citizen carried and deposited for his favorite candidate with peculiar pride.

Ballot reform in Australia was first passed in 1856. It was substantially the same law that was passed in this country later on, and will be described in another section. It caused a great improvement in the elections and moral tone party politics. It increased the number of able and honest men who came into leadership in public affairs and suppressed much of the old activity of mercenary voters and partisan schemers. It raised politics in public estimation.

The secret ballot first became a law in England in 1872. For nearly three centuries the viva voce system had expressed the popular will. The usual process was some thing like this: the voter entered the polling-booth, gave his name to the clerk, and, if successful in replying to his qualifications was required to declare aloud for whom he voted, and the clerk checked a vote for that

candidate opposite his name in the poll-book. This system naturally led to great abuses. Landlords intimidated their tenants, and marched detachments to the polls to vote in their interests. The controlling influence of large customers over tradesmen of all sorts; employers over employees; and trades unions over their members, was notorious. Worse than all, and hardly to be believed, in larger cities hired mobs often patrolled the streets, keeping away hostile voters and intimidating those who ventured to the polls. The adoption and success of the movement in England gave the system of secret voting a standing that it could not otherwise have had. Several of the European countries adopted it together with Canada. Although there was considerable agitation in this country, there was no legislative action taken until in the spring of 1888. In that year bills embodying the essentials of the Australian system were introduced in Michigan, New York, and Massachusetts. The Michigan bill failed in the legislature, the New York bill was vetoed by Governor Hill, and the Massachusetts bill alone became a law. Since that time the plan has become a law in thirty-three States of the Union.

A U S T R A L I A N S Y S T E M .

The cardinal features of the ideal ballot law as developed in this age of the world are (1), compulsory secrecy , (2), official ballots printed by the State , (3), and free nominations.

Let us glance at the first .

I. S E C R E C Y .

The conditions of life among us now seem to be such that our statutory prohibitions , to be effective, must aim to operate chiefly by indirect methods. Statutes which seek to prevent by imposing a penalty are in numerous classes of cases of no effect , not only because evidence is hard to obtain , but because , through public indifference or private favor, prosecutions for the offence are rare. It has become apparent that the best results are to be reached , when preventive legislation is planned , by taking one of three courses: (1), by making the detection of the offence absolutely certain; (2) , by taking away all interest in its commission , or making it profitable to refrain;(3), by

making the offence physically impossible. If we look for an illustration of the second plan we are reminded of the fire-escape and building-inspection laws, and the extreme difficulty which is found in enforcing their observance; yet when the insurance companies but suggest an increase of rates upon structures which violate the laws of safety, improvements are speedily made. These truths underlie the effectiveness of the secret ballot and its usefulness for our political condition.

The Australian system makes secrecy compulsory and absolute. This is done by means of the booth which the voter must enter in every case to prepare his ballot.

Another provision to aid the secrecy of the voter and shield him from undue influence, is the regulation as to the presence of the public in and around the polling place. But while the main object should be carried out, still it is not prudent that the public be excluded altogether thus giving power for evil into the hands of the election inspectors. These reasons of safety make it absolutely indispensable that access to a reasonable portion of the voting-room should be permitted to any and every citizen during the entire course of the election. In England and Australia they are excluded

from the entire polling-room. The New York plan seems to be the best: (1), to exclude the public from the railed space only ; (2), forbid solicitation or canvassing of any sort in the remainder of the polling-room , and within 100 feet from the exterior.

It has been said that voting is discharging a trust, and that every trust ought to be discharged openly and courageously . That publicity is one of the essentials of representative government , and that secret voting implies cowardice. This reasoning , however , is certainly opposed to the universal experience of the action of the ballot. The ballot need not of itself involve any concealment of a voters political character, intentions , or acts. All it does is to prevent the forcible exposure of a political act to the eyes of persons who have no claim whatever to be acquainted with it, and still less to control it .

II. O F F I C I A L B A L L O T .

It has been argued that the State has no right to furnish official ballots ; that each individual has a right to provide his own. But this position cannot be sustained. It is not an interference with individual rights for the state to furnish the ballot. The State requires each man to express his opinion at his discretion, given him an opportunity to do so, and it has the right to regulate it in any manner that is deemed wise. The rights of one may be curtailed for the benefit of all.

The official ballot in most of the States means the so called "blanket" ballot , i.e., one official ballot containing the names of all the candidates for all the offices to be voted for at an election. These candidates are grouped in columns under party names ; the Republican candidates in one column , the Democratic candidates in another , and so on . At the head of each party column is a space inclosed in black lines , two inches in height . In this space the party name is printed and a figure or device to distinguish each party , as a guide for illiterate voters. Under the party name and device follow the names of each office and under the

name of each office the names of the candidate for such office. At the right hand side of each column , opposite the name of each candidate , there is a square four-tenths of an inch in length and width , in which the voter places a mark to indicate his choice of candidate for any office .

In Massachussetts the ballot has no party symbols, because there is an educational qualification there. But they would be needed in New York if we had the blanket ballot , because of the large number of illiterate voters. But in some States without the party group such voters are assisted by the election officers-- a very undesirable thing for many reasons . For instance the officers put in such places then would be "ward healers" who would ruin the seerecy of the ballot . To have a person of their choice assist them is not good for the same reason . If he were left without assistance he would be practically disfranchised. But where the State has no compulsory law it is the one to blame , and should not inflict punishment on the illiterate voter because of the sin of his parentsand the State .

As to the grouping of the candidates names by

parties or with respect to the offices to be filled the former method should be more preferable for the present condition of the country , and for those who desire to vote a "straight ticket". It is objected that this would not give any stimulus to independent voting , as then separate names would have to be marked . To this may be answered that the main purpose of the ballot is not to secure either party or independent voting but secret voting . If it secures that the great object for which it was designed will be accomplished , and the other which is only an incident will take care of itself. When that is secured the form that is the simplest and best should be used, and any body who has a genuine desire to vote independently will have no difficulty in doing so , if he can read , as independent voters can .

III. N O M I N A T I O N .

Another feature of the Australian system which is important to the cause of good politics is a development of the independent system of nomination . "To find the honest men " , says Professor Bryce in " The American Commonwealth " , "and having found them , to put them in office , and keep them there , is the great problem in American politics " .

We cannot put them there because our way is blocked by a corrupt party machine , and since we have no opportunity to vote for the desirable men, we cannot of course elect them .

system

The Australian provides for free nominations , independent of party caucuses ,by allowing a certain number of persons to file a petition in favor of some particular candidate. The number of electors necessary to sign a petition varies. The object is to place all on an equal footing . In Massachusetts a minimum of fifty is required; inAustralia two . As long as the fact remains that names can be readily obtained , it would seem that a higher requisite would be better, but as this is a means of disclosing the political preferences of the signers , and also of making them morally bound to support the candidate , it would seem well ,not to require too many signatures. In Australia a deposit is required of every candidate and only returned in case he receives one-fifth the vote of the successful candidate . This provision would not be expediant in our country , because it would bear unfairly upon the labor and prohibition vote , who run candidates not with the hope of electing them , but for the purpose of

showing their strength and thus securing legislation in their favor.

In the bill before the legislature last winter the number of signatures required to the original petitions is large enough to prevent any abuse of the nomination privilege , and is not too large to hinder desirable independent movements. For a State office , 2,000 names are required ; for office in a district less than the State and greater than a county, 300 ; for a city office in New York or Brooklyn , 500, and in other cities or counties 300 ; in all Assembly and School-commissioner districts , except New York and Brooklyn , 150, and in those cities 250; for office in a ward , town , or village , outside New York and Brooklyn , 50 . These are all reasonable limits , and are much fairer to every body than the requirements of the present law in New York which is some what higher.

Where there is an independent set of nominations for local officers , and none for the State and Nation , it would be at a disadvantage with the local nominations which had a full party ticket under the party group system. For the illiterate voter would simply select his party for National and State officers etc, and mark

opposite his party emblem, thus voting for their local officers and not take the care to discriminate as to the local officers. This is a matter of great importance for the cause of "Home rule" for cities. It could be remedied quite easily by dividing each ticket into two parts, one general and the other local, and both blanket. Such is the arrangement in California, under our present method by several tickets and boxes thus discrimination is favored. The new law introduced last winter to remedy this defect, provides that a certificate of nomination of one or more candidates, regularly filed with the requisite number of signatures, may upon its face appoint a special committee of one or more persons who shall have power to fill out the ticket thus put in nomination with names selected from the ticket of other political parties or nominating bodies. This is designed to aid independent nominations by making it unnecessary to get a new set of names for every candidate put in nomination, or to find independent candidates for every office to be filled, in order to go before the voters with a complete ticket.

C O R R U P T P R A C T I C E S A C T S .

The whole sale bribery of voters is the most dangerous evil that threatens free institutions. The secrecy of the ballot alone will not altogether prevent the buying of votes . It is argued that as the evidence that the voter carries out his promise is lacking that bribers will hesitate to place their money in such enterprises when they are not sure that "the goods were delivered". But the bribe giver will confidently and safely rely upon the promise of the elector to vote the ticket agreed upon. The claim made that the briber would fear that the voter would cheat him and vote some other ticket rests upon theoretical speculation and not upon practical knowledge of the class of men who sell their votes. There is an old adage that there is "honor among thieves " --the same kind of honor would, in nine cases out of ten, deliver the purchased vote as promised.

The New York Corrupt Practices Act is a very

good one as far as it goes. It makes it a misdemeanor to buy or sell votes in any way , or to hire voters to stay away from the polls, or to use intimidation to influence the voter. It also provides for the publication of all election expenses by the candidate , but fixes no limit to his expenditure ,and does not compel committees to make sworn statements of their disbursements . It further provides for the regulation of primary elections in cities and villiages of over 5,000 inhabitants. This is an excellent provision , and is to be found in but few of the States. The caucus has long been the prime evil of our electoral system, and still requires much to make it perfect.

While the law practically prevents direct bribery , as the purchase of votes from the opposit party, yet there are two species of indirect bribery that it will be hard to stop under the present situation of the public mind : (1), there are electors who would not vote against principals yet seldom vote for them unless paid . They resort to some subterfuge such as demanding payment for a days work or other equally bald pretext for obtaining money. Such voters can be trusted to retire in private and mark the names of the candidates for whom they are

thus paid to vote. (2), Bribing voters to stay at home . This provision is self explanatory.

Possibly when public opinion becomes sufficiently educated a compulsory election law may be enforced with severe penalties. It is believed that any attempt to enact such a law now would prove futile, owing to a want of preparation in the public mind, without which no effective legislation can be secured. Of course it is a duty for a man to take part in the affairs of government , but can he not do this by refraining from voting when occasion offers? Many voters while dissatisfied with the course of their own party , have a still greater aversion to the others , and there is no better way for them to express their feelings than to stay at home.

The English Corrupt Practices Act was passed by Parliament in 1883. It forbade the undue use of money and influence in every conceivable way , and fixed a maximum limit for all expenditures , requiring the sworn publication after election of every penny spent. When it was under discussion it was constantly predicted that it must fail of its purpose because the evils complained of were not such as could be reached by legislation, and the opinion was almost universal that the maximum limits of expenditure were far too low.

Yet it was a complete success at its first trial , and practically abolished corruption in English politics at a single blow. When the grand total of expenditures in the election had been footed up , it was discovered that it was only a little more than one-half of the grand total allowed by the law , so that , instead of being too low , the maximum limits were at least one-third higher than they needed to be . This demonstration has been repeated in every subsequent election. When one candidate does not bribe , his opponent has no insentive to outbid him ; and the result is that elections are not only decided on the merits of the candidates as they appear to the uninfluenced judgment of the electors, but they are so cheap that the poor man has equal chance with the rich as a candidate .

It has been stoutly maintained that if we had a law in this country fixing maximum limits for the expenditures in behalf of all candidates from aldermanic to presidential , and requiring sworn publication of all expenditures after election , by both candidates and committees or agents, that the profuse use of money in elections would be stopped at once upon the laws going into effect. It is said that if both campaign committees in 1888 had made their expenditures with the knowledge

that at the end of their work they would be required to make public , under oath , a full statement of all the money they had received and spent , the out lay would have been much less than it was .

We have , by passing ballot-reform laws , made the use of money for bribery difficult if not impossible, and have , therefore , cut off one of the avenues for large expenditures; but we must not stop there . So long as extragavant expenditures are permitted , they will be made . Our experiance is like that of all other nations. There has never been a government under which the rich have not bought votes and the poor have not sold them , provided that the law permitted such barg-ains to be made in secret.

Four States have also " corrupt practices " acts. The NewYork law of 1890 is followed very closely by Colorado , but with heavier penalties. South Dakota adopts part of the New York law , but omits the provision relating to the publication of candidates ' expenses. Michigan requires a statement of the expenses in gross, with affidavit that there have beenno illegal expenses. In Kansas , all primary elections are brought under legal regulation. In Washington, West Virginia , and Wyoming,

it is left optional with those taking part in primaries to accept the conditions of the law or remain irresponsible. In Missouri a very rigorous enactment, designed to apply only to the city of St. Louis, makes it the duty of the public recorder of votes to call all primary elections, furnish ballots, and certify the result.

N E W Y O R K .

One of the most cheering signs of the times is the increasing interest that is shown in the reforms that have taken place, and in the proposals to still further increase the safety of our elections. That the laws on this subject in New York and many other States is still gravely defective will be denied by no competent observer. They fail to prevent frauds or to stay corruption. It is true the last decades have witnessed wonderful progress in the perfecting of our electoral system. Under the compelling power of public opinion, various abuses have been corrected or mitigated. Yet our existing laws still offer opportunity for iniquitous abuses that demand reform. Within the memory of men still young, the practice of " voting early and often" prevailed to an almost unlimited extent. Bribery and ballot-box stuffing were easy feats. But a change was effected. To a considerable extent these abuses have been swept away. The halcyon days of the " heeler" are gone. The registry law, new ballot-boxes , the booth system, and semi-official ballots,

have all contributed to bring our election nearer to what every election in a Republic should be. Yet there remains much in our present electoral system that justifies the new demand for a more radical reform. Republican form of government , by its very nature, demands absolutely exact electoral returns. For if the people, as democracy implies, are fitted to select their own representatives they are certainly entitled to every known method of insurance against fraud and misrepresentation.

The single ballot is preferable in many ways to the separate party tickets. It prevents the inspectors from marking their initials upon the stubs in such a way as to determine which ticket is voted. Again our paster is a great help to ascertain how the voter votes, and serves no good purpose anyway. An inspector may be in league with the politician outside who is giving the voters blank pasters; the inspector in placing the vote in the box can easily tell by its thickness as to whether the paster has been used. The paster ballot vitiates the whole system, as it is exactly equivalent to permitting the use of an unofficial ballot, furnished outside the polling places, the official ballot upon which the paster is stuck merely serving the purpose of an envelope to inclose it.

It is an excuse for assessing candidates , and adds to the inconvenience of the voter.

The present law is very combersome. The seperate party tickets confuse the ordinary voter. In the rural districts of this State thousands of voters stay at home rather than be embarrassed before their fellows in folding and handling so many tickets. It is estimated that at least 100,000 staid at home at the last State election on this account alone. The ordinary voter is not a lawyer . He wants some thing that he can understand, and something at the same time that is swift and sure. The blanket ballot has been proved to be the remedy. The necessity which that exists for the ammendment of our present election law by the substitution of a single official blanket ballot containing the names of all the candidates of all the parties , in the place of the present system of providing a seperate official ballot for the candidates of each party, is forcibly shown by the decision of the court of appeals in what is commonly known as the Onondaga case.

The fundamental principle undelying our system of government, both in the State and in the Nation, is that , within certain limits assigned by the constitution,

the will of the majority of the citizens shall be supreme. Election laws can be justified only upon the theory that they aid in the ascertainment of the popular will, and that they give effect to the popular will when once ascertained. Any law which in its practical operation defeats the will of the majority and prevents it from being carried into effect, should be promptly condemned as dangerous to our republican form of government.

The present election law requires that a separate official ballot shall be printed for each political party which shall have made nominations, and which shall contain only the names of the candidates of that party. None but official ballots can be voted, and on the back of all official ballots, must be printed the indorsement, the polling place for which the ballot was prepared, the date of the election and a facsimile of the signature of the county clerk. It is also provided by the present law that no inspector shall deposit or shall count any ballot that has not the printed official indorsement.

The case now under consideration arose in the twenty-fifth senatorial district, which consists of the counties of Onondaga and Cortland. The canvass of votes showed that Peck, the Republican candidate, received a

plurality of 378 votes over Nichols, his Democratic competitor. But among the ballots counted for Peck there were 1,252 which were, when voted, indorsed with a number which did not correspond with the number of the district in which they were cast or with the number which was indorsed upon all other ballots cast in the same district.

These erroneous indorsements were found only upon the Republican ballots, and in each of the nine districts in which these erroneously indorsed Republican ballots were cast the ballots of all the other parties were properly indorsed and numbered. Since, therefore, all of the Republican ballots in each of these nine election districts were erroneously indorsed, and as the ballots of all of the other parties in the same districts were properly indorsed, it followed as a necessary sequence that every voter who voted one of the erroneously indorsed ballots proclaimed thereby to all who saw the casting of his vote that he was voting the Republican ticket.

Upon these facts the court of appeals held that the 1,252 erroneously indorsed ballots which were cast for Peck, the Republican candidate, were void and should not be counted, and by this decision Peck's apparent plurality

of 378 votes was nullified and an apparent plurality of 874 votes was given to his Democratic copetitor, wh^o was subsequently declared to be elected.

A dangerous precedent was thus established. The will of the majority was set aside and a candidate representing an actual minority was awarded an important elective office. And yet the decision of the court of appeals is open to know just criticism.

It will thus be seen that the court could not have held the erroneous indorsed ballots which were cast for Peck to be valid without disregarding the express prohibition of the act, and with out violating and destroying its very purpose ans intention by decraring legal a ballot which bore upon it a mark which necessarily showed for whom the voter voted. This was substantially the course of reasoning adopted by the court, and starting from these premises the conclusion that the erroneously indorsed ballots were wholly void and should not be counted was inevitable.

But the conclusion reached by the court of appeals calls imperatively for an immediate amendment of the law, for as it now stands the power is lodged in the hands of any county clerk to virtually disfranchise the electors

of any particular party or parties within his county by withholding their ballot or by sending them to the wrong election districts, and while it is not to be lightly assumed that public officers will violate their official duty, still, as was said by Professor Bryce , "the stake played for (in presidential elections) is so high that the temptation to fraud is immense, and as the ballots given for the electors by the people are received and counted by State authorities, under State laws, an unscrupulous State faction has opportunities for fraud at its command ."

What , then , is the remedy for the evils and dangers which are shown by the decision in the Onondaga case ? Clearly the adoption of a single official blanket ballot containing the names of all of the candidates nominated by all parties. This was pointed out by the opinion of Judge Gray in the Onondaga case (45 A.L.J.113). "The difficulty in this case , "he said , "was enabled to occur by the requirement of our law that there shall be as many separate kinds of ballots as there are different political parties represented. Had there been but one ballot required , this occurrence would not have been possible."

It needs but little thought to see the full force of this suggestion. If there is but one form of official ballot, each ballot being precisely similar, and each containing the names of all candidates of all parties, it would be a matter of but slight moment whether they were correctly indorsed or not, since it would be impossible to tell from an erroneous indorsement for which party's candidates the voter had voted; and, furthermore, even if the accuracy of the indorsement were a material fact, the county clerk could not disfranchise the voters of the opposing party without equally disfranchising those of his own faction. If the present system of separate ballots were entirely wiped out and the blanket ballot substituted in its stead, no voter could be disfranchised unless he himself should mark his ballot for the purpose of identifying it.

O U T L O O K .

The presidential election of this year will be the first one in the history of the country to be decided by a secret ballot. Three quarters of all the States will cast their vote in that election in accordance with some form of the Australian system, and these three quarters include the most powerful States in all sections except the south. They include all the New England and Middle States ,and all the Western and Northwestern States except Iowa , Kansas , Nevada ,and Idaho . Four Southern States will have the system in operation this year ,--- Arkansas , Tennessee , Mississippi , and West Virginia ,---and Kentucky and Texas have adopted constitutions directing their legislatures to enact laws embodying its principles. One other Southern State Tennessee , has had the system in successful operation since 1889 , but the South as a whole has been very backward in awaking to the merits of the reform. Seven Southern States have, for some inexplicable reason,

failed to realize the value of a reform which is of even greater importance to the South than it is to any other part of the Union. This is some what unexplainable in view of the obvious special advantages which the new system has for the Southern people. It furnishes them with the only method by which they can get rid of the great bulk of the colored vote in a legal, peaceable, and unobjectionable manner . Northern critics cannot complain of them if they exclude the negroes from the exercise of the franchise by means of a system of voting which the North has accepted . But beyond and above the importance of silencing criticism should be reckoned the moral gain to the South itself which would come from the abolition of the present means employed to keep the negroes from voting --intimidation , bribery, tissue-ballots , false counting , and all the rest of the train of testiferous devises. No man can estimate the harm which persistant , systematic , and undisguised cheating at the polls does to a people who practice it. The rising generation is brought up to believe that such cheating is patriotic and right , is in fact not merely a part of the political machinery but a recognized principle in the code of political ethics.

The so called Myer's Voting Machine which was tried at the spring election in the city of Lockport in this State , with success , promises to again change our methods of voting . As far as secrecy is concerned, the Australian system is equal to it , but the main benefits to be derived from the "machine" , aside from secrecy , are the saving of the expence of providing ballot s and an army of inspectors , and an immediate and sure count of the votes . Perhaps when the change is made in our present complicated system , which change must be made , it will be direct to the Machine system. Thus may the old notion of "Machine and Corruption" be changed to a Machine and Purity of elections .

The New York legislature has already passed a permissive statute allowing it to be used at the will of the district voting.

It follows that in this campaign that the professional corruptionists will be less in demand as the chairman of campaign committees than heretofore because they will be less useful ; but we cannot hope to be rid of them until the ballot-system which has made bribery difficult and unprofitable , by breaking the connection between the briber and the bribed at the critical mom-

ent , shall have been supplemented by thorough and highly penal corrupt-practice laws. It was admitted in the last election in New York State that the corruption-ists had hit upon a new plan for buying votes.

They would not trust a bribed man to vote in secret , so they hired him to refrain from registering. If his name did not appear upon the registration lists the briber had evidence that the bargain had been kept. This method of bribery is forbidden by the present corrupt-practices act of New York , but it is very difficult to obtain proof of its practice .

If campaign expenditures were limited and complete public accountability for every penny received and spent directly or indirectly were required from candidates , agents , and committees , this proof could not be concealed and the consciousness that it could not be concealed would put a stop to bribery. This has been the effect produced in England , where a corrupt-practices act was made the corollary of a ballot-act ;and English elections were far more corrupt than ours have ever been.

On the whole the new system wherever fully tried

has been a success . By it a new dignity is given to the mere act of voting . Scenes that have disgraced our elections heretofore are now nowhere repeated. Every thing is done decently and in order. There is evident about the polling places a certain quiet and decorum that in themselves impress the voter with respect for the law . "Universal education is the hope of America, and with a fair ballot and a free count our glorious Republic shall be perpetual".

A P P E N D I X .

Since the writing of the body of this thesis there have been, among several changes made in the New York law, two very important ones, which will now be briefly considered.

The first is in relation to the distribution of the ballots to the different election districts by the county clerks. It was enacted to offset the difficulty experienced at the last general election in the mistakes made in the distribution of the ballots to the wrong election districts, and thereby making the votes thus cast void under the letter and proper construction of the law. It provides that, where the ballots are sent to the wrong election district by the county clerk, and the vote for the candidates so changed extends over a county or more, they shall not be void if voted for, but shall be counted as if they had been sent to the election district named on the ballot. This is supplemented by leaving the number of the ballot on the back of the stub instead of on the face as formerly, and by putting the name of the election district on the face of the stub where it cannot be

seen by the inspectors or any one when folded. Thus the secrecy is fully maintained, and the innocent voter is not disfranchised. This practically does away with the law in the Onondaga case, and makes a repetition of that unfortunate event impossible. Of course where there are local officers on the ballots changed to another part of the county, this principle could not apply, and the ballots thus voted as to them would be void. It would seem that if the local candidates were all on separate ballots, that the difficulty as to them might likewise be avoided; but by having so many more ballots the plan could not work. Here again is seen the necessity and advantage of having a blanket ballot. The amendment is certainly a great reform in the existing law, and simplifies it as well as obviates one of its worst evils.

The second amendment is aimed against the evil resulting from having a companion in the booth because of physical disability. The new provision is not general in its terms like the old one, but specifies the cases where the voter will be allowed to have an assistant. It provides that the voter, who declares under oath, that by reason of total blindness, loss of both hands, such total inability in both hands that he cannot use either hand

for ordinary purposes, or physical disability by reason of crippled condition or disease to enter the booth alone, he is unable to receive or prepare his ballots without assistance, may select a person to aid him to prepare them.

This will make the law a great deal stronger in that respect, and make it a great deal harder for the corrupt politician to exercise his direct influence on the voter.

But while the law for the State as a whole has been improved so much, there has been a local law passed which it would seem will do as much harm as the other will do good. It is the new law in regard to the election inspectors of New York City. The law before the amendment provided that the police board should appoint four inspectors, two from each of the great parties, -two to be appointed by the majority and two by the minority of the board. The amendment changes the law in both particulars by reducing the number of inspectors to three, and by allowing the majority of the police board to appoint them all. This practically gives the control all to one party by giving them the decision on all disputed questions, and by allowing them to select such men for the opposite party as they think will best subserve their interests. This law was passed in the pretended interests of economy, but it is

hard to see how economy can compensate for the control of our elections and the safety of our republic.