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Ballot Reform



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BALLOT REFORM ESSENTIAL TO FREE
AND EQUAL ELECTIONS.

A PAPER

READ BEFORE THE

Pennsylvania Civil Service Reform Association

AND THE

Philadelphia Social Science Association,

MARCH 1, 1889,

BY CHARLES CHAUNCEY BINNEY,

Of the Philadelphia Bar.

PHILADELPHIA:

Published by the

PENNSYLVANIA CIVIL SERVICE REFORM ASSOCIATION,

218 SOUTH FOURTH STREET,

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Holland P. Falkner

12 Jan 1911

A PAPER
ON THE BALLOT REFORM BILL NOW BEFORE
THE LEGISLATURE OF PENNSYLVANIA.

“To find the honest men,” says Mr. Bryce, “and having found them, to put them in office, and keep them there, is the great problem of American politics.”* My present object is to direct your attention to a reform, which, it is firmly believed, will materially aid in the satisfactory solution of that problem, a result to be obtained by the exercise of the right of free and equal elections, a right recognized by our State constitution, but not practically secured by our laws.

Ballot reform has received no little attention in this country of late, but as up to this time the essential features of the reformed system have only been established by law in Massachusetts and the city of Louisville, and in that city alone have been in actual operation, we are not yet too familiar with the subject, and can afford the time to examine it from its foundation.

Let us stop and consider a moment what elections are—what really are the means by which, as Mr. Lowell puts it, “in a society like ours, every man may transmute his private thought into history and destiny by dropping it into the ballot box.” They are not, as many seem to think, mere contests of force or skill, deserving attention only if their closeness gives a chance for heavy betting, more interesting than a race or a ball-match perhaps, only because they take place on a larger field, and their results are due to more varied or more fluctuating causes. Still less are they, as they seem to others, battles in a sort of civil war, in which every weapon may properly be used to defeat the enemy, every ruse adopted to deceive or outwit him—battles which differ from those of ordinary warfare most notably, perhaps, in this, that the victors claim and seize as spoil that which belongs to friend and foe alike.

*“The American Commonwealth,” Vol. II, p. 385.

They are (or they ought to be) the recognized and legitimate means of ascertaining the will of the people, that will which lies at the foundation of our government. They are (or they ought to be) the visible mainspring which sets in motion, mediately or immediately, all the wheels of government—National, State, and local. They are absolutely indispensable to the continuance of constitutional government, as at present established in this country. If they are not what they ought to be, if this constitutional mainspring be itself subordinate to another “machine,” not contemplated by the constitution, we must look for results equally little contemplated by it. Whatever affects elections touches our government, our property, our liberties, our very lives. Without free and equal elections our government, as at present constituted, cannot be free or equal. Bribery, intimidation, and fraud cannot give us good public officers, upright judges, honest and wise administration. A corrupt tree cannot bring forth good fruit.

Our State constitution acknowledges this. It declares that “elections shall be free and equal,” and that “no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.” This is no new law. As early as 1682 it was established that elections should be free, and their equality also has been enjoined since 1790. It is right that it should be so. Opinions may differ as to equality among men, but never as to the right of all qualified voters to equal facilities for voting, or that of all candidates to equal facilities for receiving votes.

Now the constitution does not mean only that the civil and military powers shall keep their hands off, and leave the citizens to hold and regulate their elections for themselves; that the law shall neither impose restrictions upon the time, place, and manner of exercising the right of suffrage, nor protect the citizens in this right and guarantee to them a free and equal mode of exercising it, for the constitution itself governs many of these points. As little does it mean that elections shall be free and equal for voters only, not for candidates; that the law may authorize or permit the existence of any methods of voting which necessarily give the candidate of any party, however numerous

or powerful, any advantage over the candidate of any other party or body of citizens whatever. A citizen's right to be voted for by any voter who may wish to support him is correlative to that of the voter, nor can the one right be impaired without harm to the other. Taken in connection with the provisions in Article VIII., in regard to the qualifications of voters, the days for elections, etc., the words under consideration have always been held to mean that elections shall be so regulated by law, and the rights of voters and candidates so protected, that no impediment which it is within the province of the law to prevent shall be thrown in the way of any one of either class; that every qualified voter who comes to the proper polling place at the proper time shall have an equal right to cast a lawful ballot for the candidates of his choice, without intimidation, inconvenience, or any legally avoidable hindrance whatever, and to have that ballot officially and fairly counted; that bribery shall not be allowed; and especially that no power of the government shall ever interfere in elections, except to protect their freedom and equality.

While this view is right as far as it goes, I would submit that it does not go far enough. It only takes into consideration the casting and counting of the votes, and though it is true that the will of the people, in a free and equal election, is expressed by the votes that are cast, it is not the whole truth. Were this all, then, in view of the proverb, "many men, many minds," one might expect that under universal suffrage the persons voted for for any office would be legion, whereas in fact the contest is usually between two only, almost never between more than three. The natural tendencies of men to seek strength by union, and to follow, if only a leader comes forward, are as operative in regard to elections as to anything else, and must be taken into account. Combinations among the voters (in other words, nominations) are inevitable, and are as essential to a complete expression of the will of the people as are the votes themselves. If the people have no voice in the nominations, then their votes may show their preferences as between the candidates, but are no proof that even the majority really desire, except as a choice of evils, to see in office the man for whom they have voted. The right to suggest to others for whom to vote is at least as important

as the right to vote oneself, and should be as scrupulously protected by law. If the right to nominate be not free and equal, if any body of voters, whether organized as a party or not, be not entitled to choose candidates who shall stand, as regards the method by which votes are cast, on an equal footing with all other candidates, then whatever safeguards be thrown about the ballot, the election will not be "free and equal," according to the true spirit of the words as used in our State constitution.

The great part which nominations play in elections, and the consequent right of voters to nominate, have unquestionably been too little regarded in this country, and to this cause, as well as to defective methods of voting, we owe it that our elections do not put in office, as a general rule, men who even fairly represent the ability and integrity of our people, still less those who, from their superior attainments, deserve to be selected from the mass of the community.

So little has this most important matter been thought of that we may even doubt whether the conventions that have framed and the voters who have adopted our successive constitutions ever considered the question of nominations at all, in connection with the guarantee of free and equal elections, but however this may be, one thing is certain, viz., that they intended to secure as perfect a system for obtaining the expression of the people's choice as the ingenuity of man could at any time suggest and the power of the government maintain. Anything else would be to admit that the constitution did not contemplate popular government at all, but a government in which the lawful utterance of the popular voice should be arbitrarily checked and impeded, that Lincoln's ideal "government of the people, by the people, and for the people," was something with which we had nothing to do. Such a self-stultification as this cannot be for a moment suggested of those who framed and adopted an instrument which solemnly declares that "All power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety and happiness. For the advancement of these ends, they have, at all times, an inalienable and indefeasible right to alter, reform, or abolish their government, in such manner as they may think proper." And if the

most perfect attainable expression of the popular will be indeed the end in view, then if any change in our existing laws, whether in regard to nominations or any other feature of elections, tends to secure this end, and does not contravene other parts of our constitution, it is not only in harmony with, but is demanded by that constitution.

Admitting, then, that our present election laws are not as "the law of the Medes and Persians, which altereth not," it will be well to consider what they are, and wherein they are at fault. Over three hundred sections of various acts testify to the Legislature's belief that elections cannot be left to manage themselves, and that their regulation is one of the duties of government. The law provides for ballot-boxes, voting-places, and officers to receive and count the votes, the cost of this machinery to be paid by the counties; also for the prevention and punishment of bribery, intimidation, fraudulent voting, and other offences; for contesting the vote as officially returned, and for many other matters. These laws are certainly well-meant, and seem to be in the main well observed, except as to bribery, which can only be successfully dealt with by being made either impossible or unprofitable. But in the light of modern experience some of the most effectual safeguards of the ballot are conspicuously absent from our laws. Nominations are practically overlooked (the two recent acts punishing bribery and official misfeasance at primary elections and party conventions being all that even incidentally bear on this point); the ballots, which must always be used, are left wholly to be supplied by unregulated private action; while secret voting, though evidently contemplated, is far from being secured. If, then, our elections fail to indicate "the unbiassed wish and mind of the voters," we are forced to attribute it less to disregard of the laws we have, than to the absence of other and more effective laws.

And is this the truth in regard to our elections? Has the voter's natural right to nominate become the exclusive property of a party caucus, controlled by a single knot of self-chosen dictators; I think you will all agree that there is but one answer to that question. Again, do bribery, intimidation, and trading influence the choice of public servants, and through them the

policy of the government? That such is the case, and that in proportion to the magnitude of the interests at stake, seems to be indisputable. The purchase of "floaters," both individually and "in blocks of five;" the dictation of employers to workmen, of public officers to their subordinates; bargains between the leaders of opposite parties or factions for the distribution of combination ballots in the interest of certain candidates, to the loss of others of the same party—these and many like practices are but too well known. Even if Pennsylvania offends less in these respects than the "doubtful States," as they are called, why wait to reform until some contingency makes our vote doubtful, why endure at all the loss of our constitutional rights?

If we wish to regain these rights, our present election machinery must be changed in some constitutional way. Some new machinery must be added, and the best machinery for this purpose is the Australian ballot system. The adoption of this system will work a radical cure of very many of the evils that mar our elections, and will pave the way for other reforms. It will do this, and I do not believe that anything else can. Until we adopt it we shall continue, in spite of all our efforts, to see our so-called popular elections go by default through indifference or carried by bribery and trickery, to see really representative candidates succumb to machine nominees, and the will of the favourites of the majority of a party, no matter by what means that majority was obtained, tyrannically override the better judgement of the community at large.

What, then, is this system for which so much is claimed? Briefly stated, it comprehends three principal features, all of them new to our election laws.

(1.) Nominations, which may be made either by a party convention, or by a paper signed by a certain number of qualified voters, are received by a public officer a certain time before every election.

(2.) Uniform ballots, with the names of all the candidates grouped under the titles of the respective offices, with blanks for the insertion of one other name for each office to be filled, are printed at public expense, and distributed, inside the voting room, to those who are entitled to vote.

(3.) A place is provided where, immediately after receiving and before depositing his ballot, each voter shall privately mark the name of every candidate thereon for whom he wishes to vote, and fold his ballot so that its contents cannot be known until it is unfolded to be counted.

There are various minor provisions which I shall refer to in due course, but bearing in mind what I have said about elections, it is easily seen that the adoption of these cardinal features—legally recognized nominations, uniform ballots printed at the public expense and distributed only at the polls, and secret voting,—is so far reaching in its consequences as to constitute as important and fundamental a reform as any that has been attempted since the foundation of our government.

The reformed system is, I have said, Australian. A brief review of its history may not be uninteresting. As the intercourse between Australia and our Atlantic States is rather limited, most people know of the system chiefly from its use in England, and the objection may possibly be raised that, being English, it is un-republican, or as we say, un-American. Of course no intelligent mind needs to be disabused of such an idea as that, but it is interesting to note that the system, in point of fact, took its rise in a country governed by universal suffrage, in a new and rapidly developing country, where the social conditions are almost identical with our own. If it has spread to older and even monarchical countries, it is because, as their governments became more democratic, more American, the necessity for the most perfect attainable expression of the popular will grew more apparent. It started almost simultaneously in the colonies of South Australia and Victoria. In both, but especially in the former, rioting, bribery, intimidation, and fraud had characterized the elections, even before universal suffrage or purely representative governments had been established. The secret ballot was first proposed as a cure for these evils by Mr. Francis S. Dutton, in the Legislative Council of South Australia, in 1851. The reform did not come all at once, but in 1857, a year after popular representation and universal suffrage had been granted, Mr. Dutton, being again a member of the government, succeeded in conjunction with Attorney General Hanson, (after-

wards Chief Justice), in framing a bill which, after receiving some modifications and additions in the House, became a law. In Victoria, Mr. William Nicholson led the movement in favour of the reform, and finally carried it through in 1856, when himself head of the colonial government, after a representative legislature had been established for two years. At first applying to legislative elections only, its merits were so evident that it was gradually extended to all elections alike. Nor were its benefits long confined to these two colonies. It was adopted by Tasmania and New South Wales in 1858, by South Australia, West Australia, and Queensland not many years later, by New Zealand in 1870. After it had been in operation fifteen years, Mr. Dutton was able to testify before a Parliamentary committee in England, "I can safely say that no act of my political life has given me so much satisfaction as what I did fifteen or sixteen years ago with reference to the ballot system. If that is possible, I am more strongly in favour of it now, after fifteen years' experience, than when I introduced it before I had any experience about it." And he added that, as a result of the new system, the very notion of exercising coercion or improper influence had "absolutely died out of the country." Think of this a minute. The Australians are not, so far as we know, exceptionally fitted for the millenium. They seem to be men of like passions with ourselves. And yet, by the introduction of a particular system of voting, the very notion of coercion or improper influence at elections is solemnly declared, by a man whose testimony can hardly be rejected, to have "absolutely died out" among them.

So much for the moral effects of the new law in Australia. As to the simplicity and smoothness of its working, perhaps the best evidence is that in nearly thirty years of its operation in Victoria, the Supreme Court was only called on sixteen times* to construe any point of the acts (experimental as they were) which established this wholly new system, far newer be it

*The same smoothness of working has attended the English ballot laws. The legal controversies to which they have given rise have been surprisingly few. See "The Ballot in England: Its Legal Incidents" by H. M. Asquith, M. P., in the *Political Science Quarterly*, vol. III., p. 676, (Dec., 1888.)

observed, and requiring far more change of habits, for the Australians than it would for us. We are accustomed at least to the use of the ballot, and to some attempts, though of little effect, at secrecy. They had known only the old English system of *viva voce* polling, which exposed every man, even before he left the booth, to all the consequences of casting an unpopular or undesired vote. The greatness of the change only increases the glory of those who made it. The struggling colony, remote from the civilizing influences that characterize older countries, advanced at once beyond even those lands that boasted themselves the foremost in political science and experience.

Apparently the mother country was the first to follow the example of her colonies, but she did not do so until the change was solely needed. The earliest method of choosing members of Parliament in England was the ultra-primitive one of a show of hands. There seems to be no record of a poll being taken till the early part of Henry VI's reign. Human nature was about the same then as now, and the evil effects of the lack of secrecy were evident from the first. For instance, the preamble to a statute of 23 Hen. VI. recites that "divers sheriffs of the counties of England, for their singular avail and lucre, have not made due elections," which would seem to point to a practice of "counting out;" and in 1451, in the same reign, certain freemen of Huntingdonshire, protesting against the election of two knights returned from the shire, complained of the threats of armed opponents at the polls, causing them to depart "for dread of the inconveniences that was likely to be done for manslaughter." Such a state of affairs is perhaps not to be wondered at, at a time when the Wars of the Roses were laying all England waste, but what is remarkable is that, in the face of these and various minor abuses, no substantial change in the English mode of voting took place for over four centuries. Such an example of conservatism is one that we should scarcely be safe in following.

The show of hands was held sufficient in law till the sixteenth century, and the right to demand a poll was not finally established till 1696. (7 and 8 Will. III., c. 125). In case of such a demand, which was a matter of course when there was

more than one candidate, the election was declared adjourned to a given date, when the poll was held. The method of polling was for each voter to enter the booth, and when his right to vote was established, to declare for whom he voted, and the clerk checked a vote for that candidate opposite the voter's name in the poll-book. The only notable variation from this system was that latterly in some boroughs the voter wrote the candidate's name on a voting-paper, signed it, and gave that to the poll-clerk. Elections frequently lasted eight or nine days. In fact once in this century the polls were open in county Mayo for fifty-seven days; but later laws made a limit of two days in the country and one in the boroughs.

For the scenes of violence and corruption that invariably attended these open elections I shall refer you to the pages of Dickens, Thackeray, Warren, and other portrayers of modern English life, reminding you only that their descriptions, vivid as they are, are but of what took place on the surface, the depths of corruption and political disorder being scarcely hinted at.

The era of reform that began with William IV., and still shows no sign of coming to a close, was early marked by more enlightened views in regard to elections. Of course the extension of the suffrage only intensified the evils of open voting, by giving them a larger field in which to operate, and petitions for the establishment of a ballot system became more and more frequent. Tenants complained of the interference of their landlords, small tradesmen of that of their customers, and their cause found able advocates. Some of the foremost thinkers, writers, and statesmen of the day—James Mill and the followers of Bentham, Grote, the historian of Greece, Peel, Lord John Russell, Macaulay, Daniel O'Connell, and that true friend to America, John Bright—men who on other questions differed widely among themselves, were united in furthering this reform. From O'Connell's motion in connection with the East Retford bill in 1830, and Grote's maiden speech in 1833, till June, 1872, when the Lords finally passed the election bill through a second reading by a vote of 86 to 56, the attack was repeatedly renewed. A Ballot Society was formed, which was active in the distribution of tracts and pamphlets, and its ultimate victory should be a stimulus to similar organizations among ourselves.

The persistent opposition to the reform, though offered chiefly by the Conservative party, cannot justly be charged to mere conservatism. Curiously enough, one of the best characteristics of Englishmen, the love of frankness and openness in speech and action proved generally hostile to all attempts to secure, by any such apparently questionable means as secret voting, what was really but the application to elections of the boasted English principle of fair play. "Secret voting has in England always had to encounter a special argument of predominant influence. It is difficult to sum it up in a few words, but its burden is that the open vote tends to create and maintain the self respect of the voter, and that the secret vote is the parent of hypocrisy."* In clubs, indeed, the ballot had long been used, but the Earl of Shaftesbury was opposed even to this. In the debate on the ballot schedule of the elementary education act, in 1870, he said, "I detest secret voting. I never blackballed a man but once, and then I told him of it immediately afterwards." It must also be remembered that what was originally proposed was merely our American ballot system, and its value as a practical improvement on *viva voce* polling was seriously, and not unjustly, doubted. When the reformers were able to point to the good results of an unquestionably secret ballot, they appealed no longer to theory, but to the practical common-sense of the English people, and their cause rapidly gained strength. In the election of 1868 the evils of the old methods were peculiarly noticeable, and the next year a committee was appointed to inquire into them, and to provide further guarantees for the "tranquillity, purity, and freedom" of parliamentary and municipal elections, and three years later the elections act was passed. Though limited to expire December 31st, 1880, it has been regularly continued in force from year to year, and its perpetuity is now as secure as that of the mutiny act itself. Subsequent investigations have only added testimony to its successful working, and its scope has been repeatedly extended, so that

* "The Australian Ballot System," by John H. Wigmore, (Boston, 1889,) p. 13
To this most interesting historical sketch of the system, followed by a full compilation and comparison of all the laws based thereon, I am indebted for much valuable material.

now, since its application to county elections in August last, it governs all elections in England and Wales, and practically in Scotland and Ireland also.

“Considering the ferocity of its assailants, and the zeal they displayed in prophecy, it is very remarkable that the ballot has so generally and completely fitted itself into the British constitution. It has worked admirably. There is no wish for any change. The country squires do not suggest it. Large employers of labour never dream of it. Irish priests barely think of it. Yet these classes can no longer poll their men as they used to do, leading them up in procession, standing alongside the booths, and hearing them vote. No ‘states of the poll’ can now be issued by political parties, at hourly intervals, to fan excitement and to indicate how contests are going. Except that conveyances (lent by friends of the candidates, as they cannot now be hired by the candidates themselves) are rapidly moving about, bringing up voters, there is scarcely any bustle. The ballot itself is rapidly and quietly taken; and the voter is often surprised to note how quickly the votes are recorded and the voters pass away, while the exterior of a polling station is apparently so lifeless The counting is officially made quite as soon as it used to be under the old plan.”*

“All those disorders,” said Sir Joseph Heron, town clerk of Manchester, before the Parliamentary Committee in 1876, “that used to occur under open voting have ceased altogether. I believe that such a thing as bribery does not exist at Manchester.”

“It is admitted,” says a recent writer,† “that the English system is simple, protected from fraud, and absolutely successful. There is positively no record of attempts to defeat its secrecy or to organize fraud, and if they were made, they would be instantly discovered and punished. It was worth waiting a little longer to attain this degree of perfection, and to have a reform buttressed by public opinion.”

Let me here observe that while a secret ballot prevents the

* From “The Ballot in England,” by Edwin Goadby, *Political Science Quarterly*, vol. III., p. 654, 664. (Dec., 1888.)

† Mr. Goadby, in the article already cited, p. 672.

grosser and more direct forms of bribery, the remarkable purity of recent English elections is also due to subsequent laws, which limit election expenses, require all payments to be made by the candidate or his agent, and compel a detailed statement of disbursements to be filed. These most practical laws, however, were but the natural outgrowth of the reformed system of voting. Before it was adopted all attempts to stem the tide of bribery and fraud seemed so futile that such measures as these would never have been thought of, much less enacted. They do not detract from, but rather increase the value of Australia's gift to England—greater than all the gold from every mine in the colony.

Not to detain you further with these matters of history, I shall only state that all the essential features of the Australian system have since been adopted in Canada, Belgium, and Luxembourg, and some of them in Austria, Hungary, France,* Italy, and Greece. In the Prussian Landtag the repeated demands for a secret ballot have not yet been granted, from which we may infer a fear that it would not harmonize with the paternal policy of a Bismarck.

We Americans are sometimes disposed to think our national character and institutions so unique that the political experiences of other nations can be no guide or criterion for us. It is with peculiar satisfaction, therefore, that reformers can now point to the Australian ballot system as having within the past year found a home on American soil at last, and as having already shown in its operation the same good results here as elsewhere. The sturdy old Commonwealth of Massachusetts, whose founders chose to brave all the toils and dangers of an infant settlement in a land of scant fertility, rather than comply with religious teachings and observances, which, rightly or wrongly, they did not approve, and whose sons at Lexington and Bunker Hill led the van in our struggle for civil independence also, has struck another blow for liberty by assuring to all her people the full and free expression of their voice at the polls. Even before

* In France the need of further reform has already made itself felt, and this very week the Chamber of Deputies passed a bill to secure the secrecy and consequent purity of the ballot.

the Australian movement, attempts to secure a secret ballot were made in Massachusetts, but were frustrated by party spirit. At length, after some years of consideration and discussion by intelligent and patriotic men, four bills on the subject were introduced in the Legislature early last year, and were backed by numerous petitions. The committee to which they were referred reported a bill containing the best features of these four, and of the laws already in force in Australia and elsewhere. With but slight change, it passed by a practically unanimous vote, was approved on May 30th, and will take effect first at the election to decide the question of prohibition next month.

Though to Massachusetts belongs the glory of the first State ballot reform law, Kentucky was even before her in granting free municipal elections to one of her cities, and history will record the Louisville election of December 4th, 1888, as the first instance of the practical working of equal nominations, uniform and official ballots, and secret voting within the United States. How well the system worked I shall have occasion to tell when I proceed to examine it in detail.

The other States follow close upon the lead of Massachusetts and Kentucky. With the fate of the Yates-Saxton ballot-reform bill in New York, you must be all sufficiently familiar. The flimsy and insincere pretexts on which it was vetoed only served to make that action the more significant. When it is again presented to Governor Hill for his signature, even these objections can no longer be made. What new ones he will decide upon, time alone can show.

In Michigan the two branches of the Legislature failed to agree upon the bill presented to them last year, and it was lost in consequence, but action will doubtless be renewed.

Wisconsin adopted, in 1887, a system securing to each voter the right to select and arrange his ballots inside the voting room, without interference or solicitation. While this is effectual to prevent disorder, and intimidation by force, it is inferior as to secrecy to the "bull-fence" used in some parts of Indiana, a curved passage-way between high solid fences, leading to the polls on one side and away from them on the other. This gives

the voter a moment or two free from observation, so that he does not always vote the ticket that was put into his hand when he entered the passage.

Such devices may be commended as steps in the right direction, but the people are not likely to be satisfied with them as substitutes for the complete Australian system. If employed by legislators as a cheap means of staving off reform by appearing to grant it, they are doomed to failure. The demand for reform grows louder day by day. The bribery and trading that marked last November's election in all the doubtful States have unquestionably shocked the moral sense of the country, and ballot reform is everywhere looked to to prevent the repetition of this national disgrace and crime. California, Colorado, Connecticut, Dakota, Delaware, Illinois, Indiana,* Iowa, Kansas, Louisiana, Maine, Maryland, Missouri, Montana, Nebraska, New Hampshire, New Jersey, Ohio, Oregon, Pennsylvania, Rhode Island, (where the bill has already passed the House,) Tennessee, and Virginia have joined the States already mentioned in either presenting ballot reform bills to their Legislatures, or preparing to do so. Such a current of public opinion cannot be withstood.

Our own State of Pennsylvania has not been backward in joining the ranks. After preparation by a committee of the Association to which many of you belong, and approval by the Citizens' Municipal Association of this city, a bill modelled on the Massachusetts law was introduced in our House of Representatives by Hon. Jesse M. Baker of Delaware county, on January 24th, and in the Senate by Hon. John J. MacFarlane of this city on January 30th; and to them the thanks of all good citizens are due. The adoption or rejection rests with the Legislature, but public opinion is so strong in favour of the bill that our people are not likely to forget that the Legislature sits at Harrisburg by their will and on their account, and its action in this matter is sure to be followed by the due reward of praise or blame. If the bill become a law, there could not be a better or more useful opportunity of putting it in force than at the election on the prohibition amendment next June.

*Since this paper was read, a bill, said to contain the Australian system in all its completeness, has become a law in Indiana.

The main features of the system proposed by this bill, I have already enumerated:—official equality of party and independent nominations, ballots publicly printed and distributed, and secret voting. I shall now proceed to make a complete but brief review of the whole bill, and then point out its great superiority over our present system in securing those free and equal elections (equal and free for both candidates and voters) which our constitution requires.

In the first place, nominations may be made in either of two ways. (1.) Any convention of a political party which, at the preceding election, polled at least three per cent. of the entire vote cast in the State or division thereof for which the election was held, may file with the Secretary of the Commonwealth certificates of nomination for all State officers, including members of Congress and of the Legislature and presidential electors, at least twenty-one days before the election, and for all other officers, a like certificate is to be filed with the county commissioners at least fourteen days before the election. Such certificates must be signed by the presiding officer and secretary of the convention. (2.) Any qualified voters of the State, to the number of at least one thousand, may nominate candidates for any office to be filled by the voters of the State at large, by signing their names and addresses to papers to that effect, and filing them as certificates of party nominations are filed. Similarly two hundred voters of a city, county, or district may nominate for city or county officers, Congress, or either branch of the Legislature, and twenty-five voters* of a district for all minor offices. No person can sign more than one nomination paper for each office, and the signatures to each paper must be vouched for by affidavit of at least two persons.

Certificates of nomination and nomination papers must

*The object of these minima of signatures is “to prevent the ballot from being encumbered with the names of unbalanced persons and men of straw.” Public opinion and the interest of the aspirants are also effective restraints. “As English and Australian experience shows, the former will throw ridicule on a candidacy which has no support; and the latter will, as now, have a powerful influence wherever there is not some strong ground for the candidacy.” Wigmore, p 53. The minima chosen are believed to give the restraint above mentioned, without pledging any large number of voters before hand.

specify the names and residences of the candidates, the offices for which they are nominated, and the party or political principle they represent, expressed in not more than three words. In the case of presidential electors the names of the candidates for President and Vice-President may be added to the party or other name.

Nomination certificates and papers shall be open to public inspection. Objections thereto must be made in writing and filed in the office where the paper objected to is filed. Formal objections only will be considered in such office, and the parties filing the paper must be at once notified of all objections filed or defects found, and all defects must be rectified within the time fixed for filing the certificates or papers. All material objections must be settled in the courts.

A candidate may withdraw by filing a request to that effect, signed and acknowledged, in the office where the nomination certificate or paper is, at least fifteen days before election for State offices; and ten days for county offices. In case of the death or withdrawal of any candidate, his supporters may nominate another in his place.

Next, as to the means of voting. The printing of all ballots shall be a county charge as other election expenses are. Every ballot used at the same election shall be alike, printed on white paper, at least four inches long and five inches wide, and shall contain the names, residences, and party or political designation of all candidates, arranged alphabetically by surnames* under the designations of the respective offices, but the names of presidential electors shall be arranged in groups with the party designation. At the end of each list of candidates for an office shall be as many blank spaces as there are persons to be voted for, so that the names of persons not actually nominated can be

*The question whether the alphabetical arrangement should be by the surnames of the candidates or the titles of the parties is a much disputed one. The former effects the greatest possible equality among candidates, and favours independent voting, as the task of selecting is exactly the same whether one votes for candidates all of one party, or not. The latter way gives, possibly, an unfair advantage to such party names ("American," "Democrat," etc.) as would always bring their candidates to or near the head of each list. In some countries the candidate's party is shown by the colour of ink used, but this adds to the expense.

inserted.* Questions to be voted upon shall be printed after the lists of candidates. If a candidate die or withdraw after the ballots are printed, "stickers"† with the substituted name shall be supplied to each voter. At the right of each candidate's name shall be space enough for a voter to mark a cross, and the words "vote for one," "vote for two," "yes," "no," and the like shall be printed on the ballots when necessary. Ballots shall have an official endorsement, with place and date of election printed on the back, and shall be bound in books, with stubs.

The county commissioners shall provide two sets of ballots for each voting place, each set containing one hundred ballots for every fifty or fraction of fifty voters on the assessor's list. They shall also provide specimen ballots printed on tinted paper, and cards containing full instructions as to the manner of voting and the penal clauses of the act. They shall also publish the names of the candidates by posting and advertising. The two sets of ballots, together with specimen ballots and cards of instruction, shall be sent to the judges of election, in separate packages, at least forty-eight and twenty-four hours respectively before the election. In case neither set is duly received, or both have been destroyed or stolen after being received, the judges of election shall proceed to prepare other ballots substantially in the form of the missing ones, and to enable them to do this the county commissioners shall send them complete specimens of the ballots and other necessary papers by registered letter at least four days before the election.

Voting places shall be provided with not less than three voting shelves or compartments,‡ one for every fifty voters on

*This is absolutely essential, as otherwise the voter's right to vote for any one, whether nominated or not, would be unconstitutionally restricted. Many of the sample ballots that have appeared in the newspapers lately are fatally defective in this respect.

†The words of the proposed law are: "suitable slips of paper bearing the said name, together with the title of the office, and having adhesive paste upon the reverse side, which shall be offered to each voter with the regular ballot, and may be affixed thereto." This exactly describes what is known in Philadelphia by the rather inelegant term, "sticker."

‡"A very simple and inexpensive structure will suffice to furnish entire secrecy in marking the ballot." A row of open stalls, or compartments, (like those in safe-deposit buildings, except that the voter would stand, not sit,) is the best arrangement. "While the act of marking should be screened from all observation, yet the person of the voter should remain in plain sight. This is necessary in order to prevent attempts at fraud—substitution of non-official ballot, exhibiting the ballot, etc." Wigmore, p. 59.

the list, where voters may conveniently mark their ballots, screened from observation, and a guard-rail shall be constructed at least six feet from the ballot-boxes and compartments. Only the election officers, supervisors authorized by the laws of the United States, watchers appointed by the courts, and voters to the number of not more than four in excess of the number of compartments shall be within the rail at once during the voting. Watchers to the number of one for each party or group of citizens that have made nominations, and also voters who are waiting for their turn, to the number of ten, may remain in the room outside the enclosed space.*

Thirdly, as to the voting. At the opening of the polls the seals of one package of ballots, cards of instruction, etc., shall be publicly broken, and the package opened by the judge of elections, the other package being kept till needed. Cards of instruction shall be at once posted in each compartment, and not less than three cards, and not less than five specimen ballots, posted in or about the room outside the guard-rail. Each voter's name shall be distinctly announced by an election officer, and if it be on the check-list, by the officer in charge of it, and the voter shall be allowed to pass the guard-rail. If he be challenged, or his name be not on the list, he must prove his right to vote, as now required by law, before he can pass the guard-rail. The voter's right being admitted, the officer in charge of the ballots shall write the name on the stub of a ballot, detach the ballot from the book, fold it so that only the official caption can be seen, and give it to the voter.

Having received his ballot, the voter must at once go alone to a compartment, and there put a cross mark against the name of each candidate he wishes to vote for, and against the proper answer to any question submitted, fold his ballot as it was when he took it, and so as not to show the marks, deposit it in the box with the official endorsement uppermost, and quit the enclosed

*This is a great improvement on our present system, by which the public have usually no means of seeing what is going on inside the room, except while the hole through which the votes are handed in is open, and the election officers have every facility for tampering with ballots and stuffing boxes. It is of immense importance that all their actions, while the polls are open, should be done under the eyes of the citizens.

space without delay. No voter can enter a compartment occupied by another, nor occupy one more than five minutes. A voter who declares under oath to the presiding officer that he cannot read, or is physically unable to see or mark his ballot, may be helped to mark it by one or more election officers, who shall certify on the outside of the ballot that it was so marked.

If a voter inadvertently spoils a ballot, he may obtain another upon returning the spoiled one and satisfying the officer of the fact of the inadvertence, and the ballot returned shall be immediately canceled and preserved together with those not issued.*

Fourthly, as to what is done after the polls are closed. Before the ballot-boxes are opened, the stubs containing the voters' names and the number of their ballots, and the lists of voters, shall be put in sealed packages, not to be opened except in case of a contested election or upon an order of court. No list or memorandum of voters' names or ballot numbers, not expressly authorized by law, shall be made or kept by any person or officer.

If it be impossible to determine a voter's choice for any office to be filled, his ballot shall not be counted for such office. Only ballots provided in accordance with the act shall be counted. Ballots not counted shall be marked "defective," and preserved.

Lastly, the following offences are made punishable by fine or imprisonment, or both:—The showing of his ballot by a voter, except as permitted by the act in the case of illiterate persons and others, and with the apparent intention of letting his vote be known. False statements by a voter as to inability to mark his ballot. Interference, actual or attempted, with any voter inside the enclosed space. Attempting to induce any voter to show the marks on his ballot. Defacing, destroying, or removing any officially posted list of candidates, card of instruction, or

*It is essential that the spoiled ballot should not be retained by the voter. Otherwise, pretending to have marked it wrongly, he could take it out, and have it marked outside and given to another, who could substitute it for the one he received, and give this up outside in his turn. The extensive use of this dodge for destroying the secrecy of the ballot first led, in Australia, to the adoption of this rule.

specimen ballot. Removing or destroying any of the supplies or conveniences for marking ballots. Wilfully hindering the voting of others. Falsely making or wilfully defacing or destroying any certificate of nomination or nomination paper, or any part thereof, or letter of withdrawal. Filing any such papers or letter, knowing the same or any part thereof to be falsely made. Suppressing any such papers or any part thereof, after the filing. Forging the official endorsement to a ballot. Wilfully defacing or destroying a ballot. Wilfully delaying the delivery of ballots. Misfeasance or nonfeasance of any official duties imposed by the act.

Such is in substance the election law proposed for this State. How is it to give us the free and equal elections which the constitution guarantees?

Let us consider first the provisions in regard to nominations and the providing of ballots. The great objects in view are to make independent nominations practicable, and to prevent trading. Under our present system, party nominations have a wholly undue importance. Where the usual party majority is large, nomination is equivalent to election, and the choice of public servants is transferred from the voters at large to the comparatively small number who attend primaries and compose conventions, or rather to that still smaller body who compose the "machine" and by whom the primaries and conventions are controlled. The machine leaders see to it, through their subordinates, that a majority of the primaries in the city, ward, or district, as the case may be, send to the conventions followers of the machine. In Pennsylvania, the rules governing admission to primaries are much less strict than in some other States (a fact greatly to the credit of the party managers here), but even here all contest with the machine is usually regarded as hopeless, and the primaries are chiefly attended by public officers and employees, employees of members of the machine, and the friends of these various classes. Besides, the machine only has to control a majority of the primaries, and then, no matter how strong its opponents are in the others, its working is undisturbed. The machine-made majority of the convention usually makes the pre-arranged nominations, or elects the pre-appointed delegates

to some higher convention, and thus the "slate" goes through. Factional fights sometimes occur even among strictly party men, but the machine is rarely beaten in the end, and the nominations once made, the weaker faction usually finds it to its advantage to "wheel into line," along with the thousands of other voters who have taken no part in the contests and often know nothing of the candidates, or at most little that is to their credit. And yet the voters whose dreaded independence excluded them from the primaries, those who were outvoted at the primaries, or would have been had they attended, and those whose delegates, though elected at the primaries, were beaten in the convention, often constitute a majority, and if added to the minority party, a very large majority, and ought, under what is supposed to be the American practice and by the principle of free elections, to rule instead of the machine and its followers. Why, then, do they not combine with the other party when they disapprove the machine candidates, or some of them? Sometimes this is done to some extent, but generally not, because, first, as they would have no voice at the primaries or conventions of the other party, its candidates would not be chosen by them, and might very likely be as displeasing to them as those of their own party; and, secondly, because if a man believes in his party at all, he rarely likes to substitute for any of its candidates those of a party with whom he is not in accord. Why then do they not at least combine together and nominate one of their own party in whom they will have confidence? Sometimes, as is well known, they do, but usually not, because apart from the risk of merely giving the victory to the other party, there are two potent considerations:—first, the expense, and secondly, that their candidates would not stand on an equality with the regular ticket at the polls.

(1.) The expense. Our laws require ballots to be used, and separate ballots with a proper caption, for State, county, judiciary, and other tickets. As the supporters of each candidate or set of candidates must print and distribute their own ballots, very considerable expense is involved, often much greater for each party than the public printing for all parties under the proposed system. Not only ballots and "stickers" enough must be

provided by each party for the use of all who come to the polls, but also enough must be sent to the voters' houses to show them that there is a ticket, and if possible to induce them to take one with them to the polls. Then the supporters of each ticket must man the polls with ticket-peddlers, window-book men, etc., usually paid, not only to see that all voters are given a chance to vote that ticket or a part of it, but also to note the character of each vote as it is cast. At the New York election of November, 1887, for instance, 80,000,000 ballots were printed, but only 1,200,000, or a little over one in seventy actually used, whereas under the proposed law but about four times as many ballots as there are names on the assessor's lists would be printed. The printing, folding, addressing, and mailing of the ballots costs the three leading party organizations of New York city (*i. e.* Tammany, County Democracy, and Republican), \$25,000 a piece for each election, exclusive of the pay of ticket-peddlers.* In Philadelphia the party treasuries are not so plethoric. Ballot printing costs each party at least \$2000 an election, or \$4000 a year. The folding and addressing are usually done gratuitously, but the mailing costs at least \$3000 for each election, and the ticket-peddlers \$4000 more. Certainly each party needs \$9,000 at every election to enable voters to comply with the law requiring ballots to be used; and when in a close contest it becomes expedient to man the polls more thoroughly or to buy up the adversary's ticket-peddlers and window-book men, the expense is proportionately increased.

Now the supporters of an independent ticket must of course have as much of this indispensable machinery as their opponents have, and \$25,000 for New York, or \$9000 for Philadelphia, or even a less amount for a ward or district contest, is a serious drain upon an independent treasury, in view of the other electioneering expenses, including meetings, distribution of circulars, etc., that have to be paid for. The machines have plenty of money, as I shall have occasion to show, and this gives them an advantage like that of the bank at roulette or any like game. They can keep on playing when the independents have to stop.

*See "Electoral Reform" by William M. Ivins, Chamberlain of the City of New York.

Now the working effect of the proposed law would not only give equal publicity to the names of all candidates, by the posting and publication, which would curtail some items of expense, but it would do away with all expense that is now incurred simply that a candidate's supporters may exercise in the manner required by law their constitutional right of voting. If the law requires ballots to be used, the law should supply them. Its failure to do so practically imposes a penalty on all who enter political life, and thereby transgresses the constitutional requirement of free elections.

(2.) But the expense is not the only factor in deterring independent nominations. As most voters belong to one or other of the two great parties, an independent candidate has not a fair chance with our present methods of voting. First, because it is easier to vote a straight ticket than a mixed one, and human nature being what it is, thousands of voters will take the easiest way; and secondly, because our voting not being secret, thousands of voters will object to be seen bolting their party ticket. As to the first reason; as our voting in this city is usually done from a street or alley, outside the window of the back room of a tavern, with nothing but a sense of the duties of citizenship performed, or of the dollars or drinks to be forthcoming, to mitigate the discomforts of rain, snow, driving wind, or biting frost, the voter, who has to battle with the elements as well as with his political foes, may certainly be excused for voting "straight," instead of stopping to erase names, put on "stickers," select tickets, and what not. If, however, he were inside a room, in a compartment by himself, and only called upon to make a mark against one name in each list, the exertion required to select the candidates of one party would be exactly the same as to select those of the other, or of an independent body of citizens. Again, if he could do this secretly, without any fear of being called to account by his friends for "going back on the party," or by his employer for opposing his fancied interests, the influence of the party nomination would not be as controlling as it is.

The consideration of the voter's convenience may seem trifling, but it is just such trifles that turn the scale in an election;

and if our methods of election, as established by law, are such that one man can receive the votes of his supporters with less trouble to them, even to a trifling extent, than another man can, then the constitutional guarantee of equal elections is violated both as to candidates and as to voters. The constitution knows nothing of "straight tickets." It gives them no privileges. If I choose to vote for candidates of different parties, or representing different bodies of citizens, a "split ticket" as it is called, I have a constitutional right to do so with exactly the same ease and facility with which my neighbour votes his "straight ticket." By the Australian system, when properly carried out, this right is secured; for, with the name of every candidate presented to the voter on the ballot, whatever selection be made, the mode of selection, *i. e.* the marking, is as the constitution intended it should be, exactly as easy in one man's case as in another's.

This of itself, as well as the decreased cost of political contests, tends to some extent to do away with the importance of a party nomination, and hence of a party machine; but there is another respect in which the operation of the Australian system is still more effectual and still more salutary. I refer to its complete prevention of trading, and of the control that may thereby be gained by party leaders over the candidates that have been nominated.

Trading is the great bane of American elections, a worse perversion of the whole spirit and purpose of an election than bribery itself. Bribery is where a man for a corrupt consideration, but at least voluntarily, votes a particular ticket. Trading not only involves bribery in many cases, but it also takes advantage of carelessness, ignorance, drunkenness, or machine subordination to turn the current of a party's strength into whatever channels the machine leader may desire. By our present system every candidate, though he may have received the coveted party nomination, is at the mercy of the machine and its henchmen at every polling-place. If for any reason it is desired to sacrifice any candidate for the benefit of the rest, a bargain is made with the other side, tickets are printed or "bunched" accordingly, (and our system of separate ballots facilitates this "bunching") and distributed instead of the reg-

ular party tickets, and are voted by hundreds who do not know the difference, and by other hundreds who *must* vote the ticket that the machine puts into their hands. At last November's election for instance, it is not denied that at several voting-places in New York city the Tammany and Republican tickets supplied to voters were substantially the same, *i. e.*, the Harrison electors, Hill for governor, and Grant for mayor, and similar combinations are not absolutely unknown among us.

The machine's control of the printing, bunching, and distributing of ballots gives it a tremendous hold on the candidates, and can be made a great source of revenue. I have said that a machine always has money. Its greatest resources are usually the assessments levied on office holders, the contributions of contractors and others who look to the party for their livelihood, and also those of men, both in and out of politics, who deem the party's success advantageous to their private business; but these are not all. Since, under our present system, both nomination and election are usually within the machine's control, it often happens that its aid can only be secured on payment of a high price; and if this price be not paid, the machine can often make up the loss by selling its support to the other side.

What the sums are that are paid by candidates in the city of New York is instructive. Mr. William M. Ivins, Chamberlain of that city,* states that an average year would show the following assessments on candidates in that city by their party machines, the assessments being entirely distinct from the money paid voluntarily by candidates in the course of their canvass, independent of, or accessory to, the work of the machines.

Two Aldermanic candidates at \$15 per district for 812 districts,	\$21,360.
“ Assembly “ 10 “ “ “ “	16,240.
“ candidates for Congress or State Senate at \$25 per election district,	40,600.
Four “ “ Judgeships at \$10,000 each,	40,000.
Two “ “ Mayor at \$20,000 each,	40,000.
“ “ “ Sheriff, County Clerk, Register, or other county office, at \$10,000 each,	20,000.
“ “ “ Comptroller at \$10,000 each,	20,000.
“ “ “ District Attorney at \$5,000 each,	10,000.
Total,	<u>\$211,200.</u>

*“ Electoral Reform,” p. 15.

Two hundred and eleven thousand dollars extorted from candidates at our elections, to be used as the machine leaders may see fit! And that on a basis of two candidates only in each district, and in an "off-year," with no President or governor to be voted for. What a commentary on American public life! The right to receive the suffrages of a so-called free people put up at auction, and knocked down to the highest bidder!

Of course I am speaking of New York. We are apparently more virtuous here than they are in New York. At any rate, our city is not so large. No one accuses our mayor or judges of buying their offices in this way; and yet, only two years ago, we read in the papers of a contract alleged to have been made some years before between a candidate and a machine leader, granting a share in the profits of an important office in return for nomination and election.

Certainly our present system provides no practical check on such contracts, and our superior virtue may not hold out forever. The character of the New York population may intensify the evils of machine rule, but the difference in its results between one place and another can only be one of degree. Whether the existence of a machine be right or wrong, avoidable or inevitable, are questions that I cannot stop to answer now; but one thing is certain, that as long as our present constitution lasts, no machine, no matter who compose it, ought to be allowed to restrain or control in any way the free exercise of the right of the people to nominate and to elect. The law cannot make candidates equal in all respects. The more able candidate ought to have an advantage; the more popular or the wealthier one can hardly help having it; but what the law can and ought to do, is to put all candidates on an equality as regards such election machinery as the law establishes, and to make the use of such machinery free to them all. Now this is exactly what the Australian system does. All the candidates' names are brought to the attention of the people at the people's cost only. Each stands on an equal footing, as far as any law can affect this, and none can have his name withheld except by his own consent. The supporters of each can vote freely, as their own wishes may dictate, with no inducement to sell their support for lucre or to withhold it from fear.

Let us now consider the distribution of the ballots, and the method of secret voting, and we shall find that in these features also the Australian system operates to make elections free and equal. It makes them equal by giving to all voters, irrespective of party, equal facilities for voting. It makes them free by securing absolutely the voter's enjoyment of the right to vote as he pleases.

Of the equality I have already spoken. As to the freedom, it is clear that elections cannot be free unless every elector can vote without the risk of being called to account for the vote which he has cast. To attain this, an absolutely secret ballot is indispensable. Undoubtedly our present ballot is intended to be secret. The law requires it to be folded so as to conceal its contents, and that the election officers be sworn not to disclose them. But what is this worth when there is no such thing as privacy at the polls, when a voter's every action is closely watched by the window-book men, ticket-peddlers, and hangers-on of both parties? If he puts on a "sticker," it is seen. If he erases a name, it is seen. If he keeps his ballot folded, the caption required by law is recognized and noted, the type used indicating what candidate or party he has voted for. Some little secrecy is gained by making up the ballots at home, but even then the distinctive caption tells its tale to some extent, and besides, one rarely has all the tickets or stickers he needs for a thoroughly independent ballot. Moreover this slight measure of privacy is usually a luxury of the upper classes. Men of the humbler sort (whether from the circumstances of their employment, their connection with the employees of the public offices and departments, their desire to share in the loaves and fishes, or from association and natural affinity,) are, as a general rule, much more closely connected with the political machines than are their richer fellow-citizens. In fact, it is on the votes of the poorer element that the machines chiefly depend. Any attempt at secrecy by such men would at once attract suspicion and investigation. They take their tickets from the party ticket-peddlers at the polls, and vote them straight, because they do not wish or do not dare to do anything else. It is not too much to say that their ballots are in the main no more secret than if the law required them to be shown before they were cast.

I need not dwell on the results of a man's voting contrary to the wishes of his employer or his friends. I do not mean to say that all employers stoop to control their workmen's votes. But we know well enough how sometimes a large employer of labour becomes a power in local politics, and how the source of his power is his ability to know how his men vote. We know, too, that the vote of office-holders and public employees (except so far as affected by a conscientious administration of the National civil-service law) is usually "solid," and that this is as likely to be for fear of unpleasant consequences as from conviction. In short, we know that our ballot is not free, and this because it is not secret.

Archbishop Trench points out in his "Study of Words" that language is fossil history; that is to say, that words embody historical facts. We have an instance of this in the word "bull-doze." Unless the practice of influencing a man's vote by some sort of coercion (ridicule, abuse, hints of discharge from his employment, threats of bodily injury, or what not,) had become only too well known in this country, we should never have had a particular word to express it. So long as this word has any meaning for us in regard to elections, our elections are not free. Now it is just here that the Australian system protects the poor against the rich, the honest against the unscrupulous, the weak against the strong. "By compelling the honest man to vote in secrecy, it relieves him not merely from the grosser forms of intimidation, but from more subtle and perhaps more pernicious coercion of every sort."* Commands are useless when it cannot be known whether or not they have been obeyed, Threats are useless when it can never be known whether or not the act against which they are directed is done. Force is useless when it is impossible to put a particular ballot in a man's hand and compel him to vote it.

Another means for protecting the freedom and equality of the ballot is to secure its purity. It should never be forgotten that this latter quality is inseparable from the two former. The citizen must not only be free to cast his vote, but he must cast it freely. A vote that is bought and sold is not a free vote. It

*Wigmore, p. 32.

is no vote for a free man to cast. Again, it is not an equal vote. Each citizen has an equal right to vote in accordance with his convictions, but to cast one vote only for any one office to be filled. When it becomes possible for a man to cast not only his own vote, but as many others as he can buy up from men of no convictions whatever, this equality is destroyed.

Now the increased purity of the ballot is, perhaps, the most obvious of all the results of the Australian system. Its operation in this respect is the more effective because it is indirect. "Statutes which seek to prevent by imposing a penalty (like our bribery laws) are in numerous classes of cases practically of no effect; not only because satisfactory evidence of the violation is hard to obtain, but because through public indifference or private favour, prosecutions for the offence are rare—perhaps also because the prosecution of single offences cannot, in the nature of the offence, prove any serious check upon its repetition; perhaps also for other reasons. Whatever the causes, it has become apparent that the best results are to be reached, when preventive legislation is planned, by taking one of three courses: 1st. By making the detection of the offence absolutely certain; 2nd. By taking away all interest in its commission, or by making it profitable to refrain; 3rd. By making the offence physically impossible."* The effect of the Australian system on the trading-off of candidates is an instance of the third method; its effect upon bribery, of the second. "No man has ever placed his money corruptly without satisfying himself that the vote was cast according to the agreement, . . . that the goods were delivered; and when there is no proof but the word of the bribe-taker (who may have received thrice the sum to vote for the briber's opponent), it is idle to place any trust in such a use of money. . . . By compelling the dishonest man to mark his vote in secrecy, it renders it impossible for him to prove his dishonesty, and thus deprives him of the market for it."†

I have referred to the experience of England and Australia in proof of this. Mr. Joseph Chamberlain, when in this country

* Wignore, pp. 29-30.

† Wignore, pp. 31-32.

last year about the fisheries negotiations, testified to the same effect. "In my opinion," he said, "there is at the present moment exceedingly little electoral bribery and corruption in the United Kingdom. The elections are singularly pure, and are daily, if it were possible, improving in that respect. Corruption indeed is almost an impossibility, owing to the fact that the briber is absolutely dependent upon the bribe-taker's observance of the motto, 'Honour among thieves,' for the former has no means of ascertaining how the latter votes. This is due to the secrecy in which ballots are cast; so very different from here, where the voter practically casts his vote in public." When one learns that at the very first election in England under the new system, election expenditures dropped to but little over one quarter of what they had been, one begins to realize the change.

It is always more pleasant to contemplate others' faults than our own. Hence to see how bribery flourishes under the present American system we may perhaps prefer to turn our eyes again to New York city. It has long been customary there, says a reliable authority,* for bribers "to require the man whose vote has been bought to walk to the polls with the folded ballots which have been given to him held erect in the air, with the hand about shoulder-high, where they can be seen every moment by the watcher until they are deposited in the boxes. It is not an unusual thing in many of the worst districts of the city to see squads of men, ranging from five to ten in number, marching to the polls with their ballots thus held in view." And it may be stated as a general rule that wherever bribery prevails, and under whatever device it is carried on, the briber or his agent never allows the bribed voter a moment out of his sight after he has received his ballot, until he has deposited it.

Bribery is carried on under many forms, and apart from the deterring effect of the Australian system upon it in general, there is one form which is absolutely prevented by official ballots and secret voting. I mean the employment of ticket-peddlers and window-book men. The men at each voting place who supply ballots, and those who mark how each man votes,

*See *The Nation* for Nov. 22, 1888.

are almost always paid, and that they and their friends should vote for the party that pays them is a part of the bargain performance of which is strictly looked for.

In Philadelphia, ten to twenty dollars must be spent for ticket-peddling at each of our eight hundred odd voting places, and some five thousand men are by this means directly paid for their votes. This practice may be used on a large scale to cover very extensive bribery. A resident of Hartford, Conn., thus describes the methods in vogue there. The "*modus operandi* of bribery as employed in the city of Hartford is very simple and effective. . . . All our ballots are handed the voter, as he approaches the voting-place, by men who are hired by the committee of the party The law does not set any limit on the number of ticket-peddlers that may be employed, and so one can often see seven or more men distributing the ballots of a certain party. This carelessness about ballot distributors gives a chance to get in some fine work as far as bribery is concerned. The method is as follows: A person who desires to sell his vote is known to the ward committee, and when he reaches the polls he is seen by them, taken to the committee room, and is there hired to 'peddle ballots' for the party. . . . He is given two or three ballots, and goes out and stands around the polls for perhaps two or three minutes, then he goes in and votes, and his business of 'peddling tickets' is over for the day. The 'ticket-peddler' is watched from the time he leaves the committee room until he casts his ballot and is seen to vote the 'correct' ticket. Then if he has not been paid for 'peddling ballots,' he re-enters the committee-room and receives his pay for the work he has done When any questions are asked of the bribers regarding the matter, all they say is that the men were hired to 'peddle ballots,' and were paid for so doing as all the other peddlers were." *

In pleasing contrast to all these details of rascality, let me read you what is said of the efficacy of the Australian system in operation in Louisville as already stated. "In addition to demon-

* From "The Methods of Bribery and its Prevention at our National Elections," by Frederic J. Stimson, published by the Massachusetts Reform Club, 1889.

strating its perfect practicability, the election tested the power of the law to prevent bribery. It can hardly be possible that there is a city in the Union where open corruption has been more generally practiced than in Louisville. The city swarms with a large floating vote by which every contest can be determined. The evil has been universally admitted and deplored, but all efforts to effect some lasting change by vigilance committees among the citizens, or by prosecution of those notoriously guilty has come to nought. We admit the fact of this corruption with great regret, and we would not desire to be lulled into any false security respecting the efficacy of the means just tried to stamp it out. But it is an undeniable fact that in the late election there was, except in one place [where the officers were manifestly dishonest, and the police made no effort to enforce the secrecy required by the law,] no corruption successful and but little attempted. With this evidence of the successful working of the ballot law, the chances are that bribery will be greatly lessened A man whose conscience permits him to sell his vote, will not be restrained by any 'compunctious visitings' from voting as he really prefers, even after having received his hire to do otherwise; nor are election agents men whose confidence in human nature will permit them to take the risk of buying a support of whose delivery they can never have any knowledge." In proof of this theory, it is stated that the only plan as yet suggested to defeat the working of the law, is one easily detected and calling for great skill in its execution, and which would only be possible where, as in Louisville, the ballot has to be put in an envelope. *

To pass to another point. The right to cast a free and equal ballot involves correlative responsibilities, and a further good effect of the Australian system is that it tends to impress upon each voter a sense of his responsibility, by compelling him to make the ultimate selection of candidates by and for himself,

*From "The New Ballot Law in Operation," by Abram Flexner, of Louisville, Ky. The scheme proposed is that some early voter deposit an empty envelope and retain his ballot, which will be marked outside and given to some hired voter, who will place it in his envelope and bring back the ballot given him, to be used in like manner. Under our proposed law even such an ingenious trick as this could not be carried out.

without its being easier to vote for one man rather than another. I have already touched on the right of each voter to equal voting facilities, and to freedom from all bias due to fear or favour. A voter who has these rights owes to the community which grants them the duty of not voting blindly. It ought not to be possible that any free American citizen should cast his ballot without once looking at it, without stopping for a moment to consider the relative claims of the candidates upon his support, or even to see who they are, and yet we know that thousands, including even men of intelligence, habitually vote with little or no reflection or attention. This evil cannot be wholly cured by any system of voting, but the method proposed is at least a help. A man must read his ballot and exercise his choice to some extent in order to place his marks and vote for any candidate at all. Of course no man is compelled to read his ballot and exercise his choice. You may remember Punch's rustic who, when the village doctor asks, "Well Blundy, how did you vote after all?" replies, "Well, sir, I prom'sed the Blews, but the Yallers got over my missus, and I says, yes! So when I went to the bewth, and they gives me my ballot-paper, 'Conscience forever!' says I to myself, goes into the box, shuts my eyes, an' makes a big cross, promisc'ous—and Lord knows how I voted!" This may do very well to give point to the picture it accompanies, but in the first place such exceptional conscientiousness ended in the man's not voting at all, for it was a thousand to one that the mark put "promisc'ous" on the paper was not counted, because wholly unintelligible; and secondly, the tendency of the system is all the other way. The mere fact that a choice has to be made is a motive for taking some thought in the matter, and the opportunity to make a free choice will bring the habit of choosing in its train. The act of voting will become more personal, less mechanical, a sense of responsibility will be developed, and each voter will feel that his unit will count for more when it cannot be buried beneath a hundred or a thousand others, cast practically *en bloc*, at the command of one man or party, whose word supersedes the will of their obedient followers.

There are, of course, some exceptions to a theoretically perfect working of the law, but they are in the first place compar-

atively unimportant, and secondly they would exist under any system.

The first is in regard to nominations. If on account of a candidate's death or withdrawal after the ballots are printed, another name is substituted, it would have to be printed on a separate "sticker," and it would require a little more trouble to vote for him. So if a nomination be made too late, or for any reason a voter desires to vote for a name not on the ticket, he must take the trouble to write it (or, presumably, a "sticker" could be used) in the blank left for the purpose. But in all these cases the candidate's disadvantage is reduced to a minimum, and in point of fact the contingencies would rarely happen.

A more frequent exception is the case of illiterates, the blind, and those physically incapacitated from writing. The inconvenience in regard to such cases is more apparent than real. Mr. Goadby states that in England "taking such votes requires a few minutes extra, but no difficulties have been suggested. Blind men are as common in some districts as illiterates, and they are passed on to the care of the policeman at the door. Instead of their infirmity proving a hindrance to them, they are delighted to exercise the franchise. Illiterates are not quite so eager to vote, except during municipal contests; and when they have children attending board schools, they have been known to practice reading and filling up to escape that sense of inferiority they might otherwise feel Further, where there are only two or three names on a ballot-paper, the position of a candidate for whom an illiterate wishes to vote can easily be made clear to a voter by his friends before he enters the booth."

Any possible inconvenience to blind and illiterate voters, however, is far less important than the fact that when election officers have to assist a voter to mark his ballot, the secrecy and security are to some extent impaired. That they are so impaired is undeniable, but the risk should not be exaggerated. If the officers are reliable, there is no risk; and if the help is given by two officers of different parties, it is but small. A blind or illiterate voter must be at some one's mercy, and what the mercy of the average party heeler, into whose hands he is likely to fall under our present system, is, we know well enough. That any

voter should be blind or an illiterate may be his own misfortune or fault, but it is no fault of the law, and if the law appoints sworn officers, whose duty it is to aid him, and who are punishable for neglect of that duty, this is as much as any human law can do. If a further remedy be needed, the cure for illiteracy, at least, is found in our public schools. These exceptions, therefore, clearly do not impair the great result that in the four important points that I have mentioned, in the freedom, equality, and consequent purity and individuality of the ballot, the proposed reform, "by tending to eradicate corruption and by giving effect to each man's innermost belief, secures to the Republic what at such a juncture is the thing vitally necessary to its health—a free and honest expression of the convictions of every citizen.' *

It remains to notice some objections that have been made to the proposed ballot reform.

(1.) The time required for voting. It is repeatedly stated that it would take too much time, that men could combine to practically block the polls and keep others from voting towards the close of the day, etc. In point of fact, while each man may possibly stay a trifle longer at the polls than at present, the aggregate amount of time required is calculated to be just about the same under both systems.

It should not be supposed, from the fact that a man *may* stay five minutes in a compartment, that it takes at least five minutes for every vote to be cast—that not more than twelve votes an hour, or one hundred and forty-four during the day, could be cast at any one voting-place. There is no change in the mode of establishing the right to vote, and the inspector's action in writing the voter's name on the stub, detaching the ballot, folding it, and giving it to him, can hardly take longer than to number each ballot and put them all in their separate boxes as done at present. Practically the preliminaries are all that takes time, for while one voter is marking his ballot, the next in the line is going through them, and as there must be one compartment for every fifty or fraction of fifty voters, and not less than three in any case, some compartment is sure to be

*Wigmore, p. 32.

vacant as soon as any man receives his ballot. Suppose each man received his ballot in one minute from the time he presented himself at a voting place, then with five or more compartments, even if every man stayed five minutes in a compartment, a new man could come up every minute, or the whole two hundred and fifty in four hours and ten minutes, three hundred in five hours, etc., which gives plenty of spare time for challenges, swearing in names not on the list, etc. Clearly, nothing is to be feared on this score.

(2.) The opposite objection was made by Governor Hill as an excuse for his veto last year, viz., that the five minutes allowed for the marking do not give the voter time enough. He says: "The anxiety, the deliberation, the care, the caution, with which the electors at present prepare their ballots, meditating them for days, reconsidering and changing them down to the last moment, exhibits by experience that the hurry, confusion, and precipitancy, to which this bill compels the voter, is fatal to the free and full operation of his own intelligent volition in the direction of his vote." For a strict party man the governor is extraordinarily patient with independents, for they alone would need time to reconsider and change their minds. Certainly the followers and friends of "Kid" McManus, "Red" Sullivan, "Juggy" McCarthy, "Yaller" Cullen, and other devoted admirers of the governor, reach their conclusions much more rapidly.* But, as Mr Ivins points out, "the governor answers his own objections." The official publication, before election, of the list of candidates and the printing of their names upon one ballot are an immense help to the exercise of deliberation, care, and caution. "No man will be driven from pillar to post on election day, getting various bunches of tickets out of which to select those he desires to vote, and no one will be compelled to spend thousands of dollars in distributing tickets to electors through the mails prior to election. This will all be done by official publication. What the voter would do in the booth is virtually what he now does when he goes to the line. It is assumed that he knows for whom he is to vote before he gets there, and if he

*See the description of their methods in Mr. Ivins' "Electoral Reform," pp. 25-28.

has failed to get some of the tickets he desired to vote, he is the sufferer. The new law assumes that he must go to the booth prepared in the same general way that the present law assumes that he must go to the line. There is this, however, in favor of the proposed new law over the present law. It supplies him in advance with means of knowing who all the candidates are, and then puts him in the peculiarly favourable position of having the names of all the candidates before him when he comes into the booth, so that he may be perfectly sure that he has a chance to exercise his choice as between all of the candidates in the field."

(3.) Another objection, is the length of time before election, two weeks, required for the nomination of township and other petty officers. The best answer is that the change is of great advantage. Though the offices may be petty as compared with some others, they are of considerable importance in their way, and the nomination of candidates to fill them should never be hurried through at the last moment without notice. It is only just to the body of voters that they should know beforehand who solicits their support for any office, even one supposed to be of minor importance.

(4.) Objection has been made to the increased expense to the counties. Let us see what this expense will be. I shall take first the present cost to Philadelphia county of the two elections held each year; there being at present eight hundred and three election divisions, in thirty-nine of which the elections are held in school houses:—

Sheriff's proclamation and posting,	\$ 1,000.
Advertising proclamation,	4,000.
Pay of Assessors,	36,135.
Books, blanks, &c., for Assessors,	800.
Copying Assessors' lists,	2,500.
Printing " "	8,030.
Distributing ballot boxes,	200.
Rent of rooms,	7,640.
Pay of election officers,	41,150.
" court clerks, &c., for computing returns,	1,000.
Books, blanks, printing, &c., for election officers,	1,500.
	<hr/>
Total annual cost,	\$103,955.

Now the additional annual cost of the reformed system cannot be calculated with certainty, but would probably be:—

Printing ballots,	\$5,000
Posting and publishing candidates' names,	4,000.
Distributing ballots and cards,	500.
Increased rent of larger rooms,	7,640.
Conveniences for marking,	1,000.
Putting up the compartments and rails,	1,000.
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Total,	\$19,140.

I have calculated an additional cost of \$4000 for posting and publishing the candidates' names, but if the present law in regard to the sheriff's proclamation were amended, so as to let the county commissioners issue the proclamation, they could combine the names of the candidates with it, and thus reduce the expense.

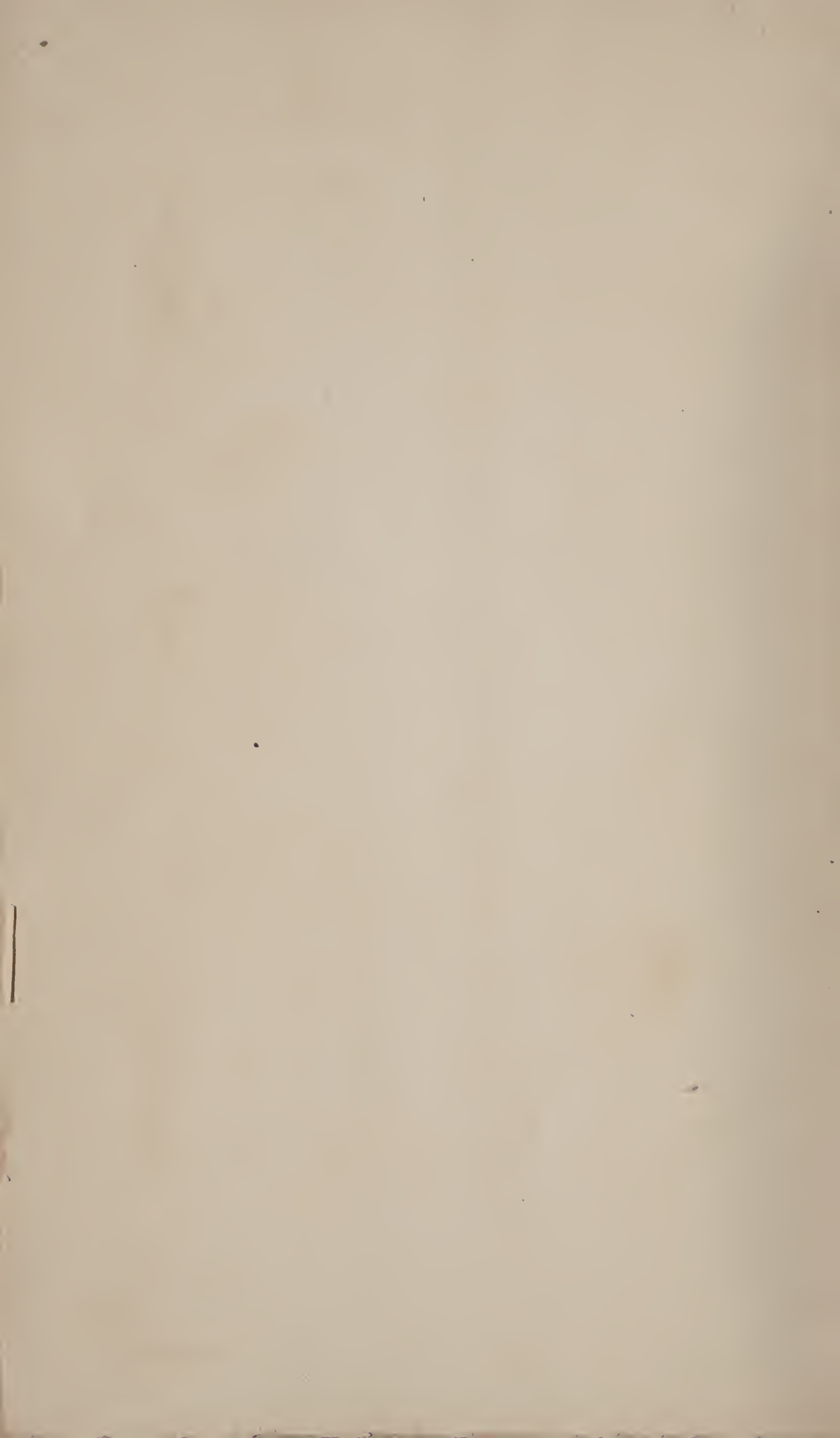
As larger voting places would be needed, I have allowed \$7640 for additional rent, on the fair supposition that the average rent would be doubled. In country districts, where large rooms are almost always used as it is, there would be no extra cost for this item, and the percentage of increase would be less than in the cities. I have seen it suggested in the newspapers that permanent voting rooms would be necessary. This is not the case, as the compartments and rails would be movable, and could be stored in small quantities in different parts of the city, probably in school-houses, police-stations, and other public buildings. They would be a permanent plant, just as ballot-boxes are now, and from the estimate of a reliable wood-working mill, their total first cost for this county would be about \$20,000. New and larger ballot-boxes would probably also be needed, but this cost would be much less than to renew our present plant, as has to be done from time to time, as but a third of the boxes now in use would be required, and none of the cases which are used to hold the various boxes for each division. The cards of instruction would not vary from one election to another, and could be struck off from stereotype plates at small expense.

On the whole we may calculate an increased annual cost of

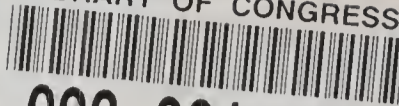
not over \$20,000 (or less than one-fifth of the present cost), for the elections of Philadelphia. A city whose real estate alone is assessed for taxation at over six hundred and sixty-six millions of dollars can surely afford that, and the counties of this prosperous commonwealth can certainly bear their proportion also. And is not ballot reform worth the expense? To take the lowest view, are not free, pure, and equal elections cheaper in the long run than those we pay for now? If a reformed system of voting gives us better candidates and better officers, a more intelligent and honest administration of the public business, is that not cheaper? If the doing away with ticket-peddlers, window-book men, and other irregular accessories of elections curtails the political energy of some of our public employees, is that not cheaper? Then, to rise to a higher argument, is it not worth the expense to make our elections free and equal, as our constitution declares they shall be? Is it not worth it to obtain a genuine expression of the will of the people, to make the people's voice heard without unlawful or unwise let or hindrance? Shall we weigh a few thousands of dollars against the exercise of the right of freemen?

Of course even so practical a law as that now proposed cannot execute itself. With dishonest and corrupt election officers no system of voting can work well, but a system which minimizes fraud as regards the casting of votes and tends to restrict the possibility of it to the counting is a great advance; and besides, when fraud is so restricted, its detection will be much easier than it is now. It is true that "the price of liberty is eternal vigilance," but the difficulty of maintaining this vigilance may be greater or less, and we ought not to require more of ourselves than humanity is able to accomplish. We realize the value of new inventions and improved methods in our private business—the stage-coach has given place to the railroad, the sailing vessel to the steamship, the hand-loom to the untiring machinery of a great factory,—so in regard to elections, *viva voce* polling gave place in this country to the ballot, and now it is time that the privately printed ballot should be superseded by the improved machinery of the Australian system. If posterity find some-

thing better still, let posterity adopt it, but let not posterity have cause to reproach us with shutting our eyes to all political progress and refusing to avail ourselves of new methods whose utility has been amply demonstrated. Above all, let us stand by our constitution, and suffer no minor considerations to prevent the fulfillment of its solemn promise that "elections shall be free and equal."



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